

REFERENCE TITLE: adequate water supply; statewide requirements

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2514

Introduced by
Representatives Stahl Hamilton: Garcia, Gutierrez, Sandoval, Simacek,
Travers, Villegas; Senators Gabaldón, Ortiz

AN ACT

AMENDING SECTIONS 9-463.01, 11-823, 32-2181, 32-2183, 32-2197.08, 33-406, 45-108 AND 45-108.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 45-108.02 AND 45-108.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-108.04, 45-576 AND 48-6414, ARIZONA REVISED STATUTES; RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended
3 to read:

4 9-463.01. Authority

5 A. Pursuant to this article, the legislative body of every
6 municipality shall regulate the subdivision of all lands within its
7 corporate limits.

8 B. The legislative body of a municipality shall exercise the
9 authority granted in subsection A of this section by ordinance
10 prescribing:

11 1. Procedures to be followed in the preparation, submission, review
12 and approval or rejection of all final plats.

13 2. Standards governing the design of subdivision plats.

14 3. Minimum requirements and standards for the installation of
15 subdivision streets, sewer and water utilities and improvements as a
16 condition of final plat approval.

17 C. By ordinance, the legislative body of any municipality shall:

18 1. Require the preparation, submission and approval of a
19 preliminary plat as a condition precedent to submission of a final plat.

20 2. Establish the procedures to be followed in the preparation,
21 submission, review and approval of preliminary plats.

22 3. Make requirements as to the form and content of preliminary
23 plats.

24 4. Either determine that certain lands may not be subdivided, by
25 reason of adverse topography, periodic inundation, adverse soils,
26 subsidence of the earth's surface, high water table, lack of water or
27 other natural or man-made hazard to life or property, or control the lot
28 size, establish special grading and drainage requirements and impose other
29 regulations deemed reasonable and necessary for the public health, safety
30 or general welfare on any lands to be subdivided affected by such
31 characteristics.

32 5. Require payment of a proper and reasonable fee by the subdivider
33 based on the number of lots or parcels on the surface of the land to
34 defray municipal costs of plat review and site inspection.

35 6. Require the dedication of public streets, sewer and water
36 utility easements or rights-of-way, within the proposed subdivision.

37 7. Require the preparation and submission of acceptable engineering
38 plans and specifications for the installation of required street, sewer,
39 electric and water utilities, drainage, flood control, adequacy of water
40 and improvements as a condition precedent to recordation of an approved
41 final plat.

42 8. Require the posting of performance bonds, assurances or such
43 other security as may be appropriate and necessary to assure the
44 installation of required street, sewer, electric and water utilities,
45 drainage, flood control and improvements meeting established minimum

1 standards of design and construction. The municipality may allow an
2 applicant to request a hold on the issuance of a certificate of occupancy
3 as a security required by this paragraph to assure the installation of the
4 required streets, sewer, electric and water utilities, drainage, flood
5 control and improvements meeting established standards of design and
6 construction.

7 D. The legislative body of any municipality may require by
8 ordinance that land areas within a subdivision be reserved for parks,
9 recreational facilities, school sites and fire stations subject to the
10 following conditions:

11 1. The requirement may only be made on preliminary plats filed at
12 least thirty days after the adoption of a general or specific plan
13 affecting the land area to be reserved.

14 2. The required reservations are in accordance with definite
15 principles and standards adopted by the legislative body.

16 3. The land area reserved shall be of such a size and shape as to
17 allow the remainder of the land area of the subdivision within which the
18 reservation is located to develop in an orderly and efficient manner.

19 4. The land area reserved shall be in such multiples of streets and
20 parcels as to allow an efficient division of the reserved area in the
21 event that it is not acquired within the prescribed period.

22 5. If groundwater savings credits have been pledged to a
23 certificate of assured water supply for a subdivision, a municipality may
24 not condition final approval of the subdivision plat on inclusion of a
25 school site within the subdivision plat unless all of the following apply:

26 (a) The municipality pledges to the certificate of assured water
27 supply a volume of water that is equal to the probable water use on the
28 school site as determined by the director of the department of water
29 resources.

30 (b) The water pledged by a municipality pursuant to this paragraph
31 meets all requirements for inclusion as an assured water supply as
32 prescribed in title 45, chapter 2.

33 (c) The municipality does not require an applicant for final plat
34 approval to procure or provide monies to procure water that is required to
35 be pledged by a municipality pursuant to this paragraph.

36 E. The public agency for whose benefit an area has been reserved
37 shall have a period of one year after recording the final subdivision plat
38 to enter into an agreement to acquire such reserved land area. The
39 purchase price shall be the fair market value of the reserved land area at
40 the time of the filing of the preliminary subdivision plat plus the taxes
41 against such reserved area from the date of the reservation and any other
42 costs incurred by the subdivider in the maintenance of such reserved area,
43 including the interest cost incurred on any loan covering such reserved
44 area.

1 F. If the public agency for whose benefit an area has been reserved
2 does not exercise the reservation agreement set forth in subsection E of
3 this section within such one-year period or such extended period as may be
4 mutually agreed on by such public agency and the subdivider, the
5 reservation of such area shall terminate.

6 G. The legislative body of every municipality shall comply with
7 this article and applicable state statutes pertaining to the hearing,
8 approval or rejection, and recordation of:

9 1. Final subdivision plats.

10 2. Plats filed for the purpose of reverting to acreage of land
11 previously subdivided.

12 3. Plats filed for the purpose of vacating streets or easements
13 previously dedicated to the public.

14 4. Plats filed for the purpose of vacating or redescribing lot or
15 parcel boundaries previously recorded.

16 H. Approval of every preliminary and final plat by a legislative
17 body is conditioned on compliance by the subdivider with:

18 1. Rules as may be established by the department of transportation
19 relating to provisions for the safety of entrance on and departure from
20 abutting state primary highways.

21 2. Rules as may be established by a county flood control district
22 relating to the construction or prevention of construction of streets in
23 land established as being subject to periodic inundation.

24 3. Rules as may be established by the department of health services
25 or a county health department relating to the provision of domestic water
26 supply and sanitary sewage disposal.

27 I. If the subdivision is composed of subdivided lands, as defined
28 in section 32-2101, and is within an active management area, as defined in
29 section 45-402, the final plat shall not be approved unless it is
30 accompanied by a certificate of assured water supply issued by the
31 director of water resources, or unless the subdivider has obtained a
32 written commitment of water service for the subdivision from a city, town
33 or private water company designated as having an assured water supply by
34 the director of water resources pursuant to section 45-576 or is exempt
35 from the requirement pursuant to section 45-576. The legislative body of
36 the municipality shall note on the face of the final plat that a
37 certificate of assured water supply has been submitted with the plat or
38 that the subdivider has obtained a written commitment of water service for
39 the proposed subdivision from a city, town or private water company
40 designated as having an assured water supply, pursuant to section 45-576,
41 or is exempt from the requirement pursuant to section 45-576.

42 J. Except as provided in ~~subsections K and P~~ SUBSECTION L of this
43 section, if the subdivision is composed of subdivided lands as defined in
44 section 32-2101 outside of an active management area ~~and the director of~~
45 ~~water resources has given written notice to the municipality pursuant to~~

1 ~~section 45-108, subsection H~~, the final plat shall not be approved unless
2 one of the following applies:

3 1. The director of water resources has determined that there is an
4 adequate water supply for the subdivision pursuant to section 45-108 and
5 the subdivider has included the report with the plat.

6 2. The subdivider has obtained a written commitment of water
7 service for the subdivision from a city, town or private water company
8 designated as having an adequate water supply by the director of water
9 resources pursuant to section 45-108.

10 ~~K. The legislative body of a municipality that has received written
11 notice from the director of water resources pursuant to section 45-108,
12 subsection H or that has adopted an ordinance pursuant to subsection O of
13 this section may provide by ordinance an exemption from the requirement in
14 subsection J or O of this section for a subdivision that the director of
15 water resources has determined will have an inadequate water supply
16 because the water supply will be transported to the subdivision by motor
17 vehicle or train if all of the following apply:~~

18 ~~1. The legislative body determines that there is no feasible
19 alternative water supply for the subdivision and that the transportation
20 of water to the subdivision will not constitute a significant risk to the
21 health and safety of the residents of the subdivision.~~

22 ~~2. If the water to be transported to the subdivision will be
23 withdrawn or diverted in the service area of a municipal provider as
24 defined in section 45-561, the municipal provider has consented to the
25 withdrawal or diversion.~~

26 ~~3. If the water to be transported is groundwater, the
27 transportation complies with the provisions governing the transportation
28 of groundwater in title 45, chapter 2, article 8.~~

29 ~~4. The transportation of water to the subdivision meets any
30 additional conditions imposed by the legislative body.~~

31 ~~L. A municipality that adopts the exemption authorized by
32 subsection K of this section shall give written notice of the adoption of
33 the exemption, including a certified copy of the ordinance containing the
34 exemption, to the director of water resources, the director of
35 environmental quality and the state real estate commissioner. If the
36 municipality later rescinds the exemption, the municipality shall give
37 written notice of the rescission to the director of water resources, the
38 director of environmental quality and the state real estate commissioner.
39 A municipality that rescinds an exemption adopted pursuant to subsection K
40 of this section shall not readopt the exemption for at least five years
41 after the rescission becomes effective.~~

42 ~~M. K.~~ If the legislative body of a municipality approves a
43 subdivision plat pursuant to subsection J, paragraph 1 or 2 ~~or~~
44 ~~subsection O~~ of this section, the legislative body shall:

1 1. Note on the face of the plat that the director of water
2 resources has reported that the subdivision has an adequate water supply
3 or that the subdivider has obtained a commitment of water service for the
4 proposed subdivision from a city, town or private water company designated
5 as having an adequate water supply pursuant to section 45-108.

6 ~~N. If the legislative body of a municipality approves a subdivision~~
7 ~~plat pursuant to an exemption authorized by subsection K of this section~~
8 ~~or granted by the director of water resources pursuant to section~~
9 ~~45-108.02 or 45-108.03.~~

10 ~~1. 2. The legislative body shall~~ Give written notice of the
11 approval to the director of water resources and the director of
12 environmental quality.

13 ~~2. The legislative body shall include on the face of the plat a~~
14 ~~statement that the director of water resources has determined that the~~
15 ~~water supply for the subdivision is inadequate and a statement describing~~
16 ~~the exemption under which the plat was approved, including a statement~~
17 ~~that the legislative body or the director of water resources, whichever~~
18 ~~applies, has determined that the specific conditions of the exemption were~~
19 ~~met. If the director subsequently informs the legislative body that the~~
20 ~~subdivision is being served by a water provider that has been designated~~
21 ~~by the director as having an adequate water supply pursuant to section~~
22 ~~45-108, the legislative body shall record in the county recorder's office~~
23 ~~a statement disclosing that fact.~~

24 ~~0. If a municipality has not been given written notice by the~~
25 ~~director of water resources pursuant to section 45-108, subsection H, the~~
26 ~~legislative body of the municipality, to protect the public health and~~
27 ~~safety, may provide by ordinance that, except as provided in subsections K~~
28 ~~and P of this section, the final plat of a subdivision located in the~~
29 ~~municipality and outside of an active management area will not be approved~~
30 ~~by the legislative body unless the director of water resources has~~
31 ~~determined that there is an adequate water supply for the subdivision~~
32 ~~pursuant to section 45-108 or the subdivider has obtained a written~~
33 ~~commitment of water service for the subdivision from a city, town or~~
34 ~~private water company designated as having an adequate water supply by the~~
35 ~~director of water resources pursuant to section 45-108. Before holding a~~
36 ~~public hearing to consider whether to enact an ordinance pursuant to this~~
37 ~~subsection, a municipality shall provide written notice of the hearing to~~
38 ~~the board of supervisors of the county in which the municipality is~~
39 ~~located. A municipality that enacts an ordinance pursuant to this~~
40 ~~subsection shall give written notice of the enactment of the ordinance,~~
41 ~~including a certified copy of the ordinance, to the director of water~~
42 ~~resources, the director of environmental quality, the state real estate~~
43 ~~commissioner and the board of supervisors of the county in which the~~
44 ~~municipality is located. If a municipality enacts an ordinance pursuant to~~

1 ~~this subsection, water providers may be eligible to receive monies in a~~
2 ~~water supply development fund, as otherwise provided by law.~~

3 ~~P.~~ L. Subsections **SUBSECTION J** and ~~0~~ of this section ~~do~~ **DOES** not
4 apply to:

5 ~~1. A proposed subdivision that the director of water resources has~~
6 ~~determined will have an inadequate water supply pursuant to section 45-108~~
7 ~~if the director grants an exemption for the subdivision pursuant to~~
8 ~~section 45-108.02 and the exemption has not expired or if the director~~
9 ~~grants an exemption pursuant to section 45-108.03.~~

10 ~~2.~~ a proposed subdivision that received final plat approval from
11 the municipality before the requirement for an adequate water supply
12 became effective in the municipality if the plat has not been materially
13 changed since it received the final plat approval. If changes were made
14 to the plat after the plat received the final plat approval, the director
15 of water resources shall determine whether the changes are material
16 pursuant to the rules adopted by the director to implement section 45-108.
17 If the municipality approves a plat pursuant to this ~~paragraph~~ **SUBSECTION**
18 and the director of water resources has determined that there is an
19 inadequate water supply for the subdivision pursuant to section 45-108,
20 the municipality shall note this on the face of the plat.

21 ~~Q. If the subdivision is composed of subdivided lands as defined in~~
22 ~~section 32-2101 outside of an active management area and the municipality~~
23 ~~has not received written notice pursuant to section 45-108, subsection H~~
24 ~~and has not adopted an ordinance pursuant to subsection 0 of this section:~~

25 ~~1. If the director of water resources has determined that there is~~
26 ~~an adequate water supply for the subdivision pursuant to section 45-108 or~~
27 ~~if the subdivider has obtained a written commitment of water service for~~
28 ~~the subdivision from a city, town or private water company designated as~~
29 ~~having an adequate water supply by the director of water resources~~
30 ~~pursuant to section 45-108, the municipality shall note this on the face~~
31 ~~of the plat if the plat is approved.~~

32 ~~2. If the director of water resources has determined that there is~~
33 ~~an inadequate water supply for the subdivision pursuant to section 45-108,~~
34 ~~the municipality shall note this on the face of the plat if the plat is~~
35 ~~approved.~~

36 ~~R.~~ M. Every municipality is responsible for the recordation of all
37 final plats approved by the legislative body and shall receive from the
38 subdivider and transmit to the county recorder the recordation fee
39 established by the county recorder.

40 ~~S.~~ N. Pursuant to provisions of applicable state statutes, the
41 legislative body of any municipality may itself prepare or have prepared a
42 plat for the subdivision of land under municipal ownership.

43 ~~T.~~ O. The legislative bodies of cities and towns may regulate by
44 ordinance land splits within their corporate limits. Authority granted
45 under this section refers to the determination of division lines, area and

1 shape of the tracts or parcels and does not include authority to regulate
2 the terms or condition of the sale or lease nor does it include the
3 authority to regulate the sale or lease of tracts or parcels that are not
4 the result of land splits as defined in section 9-463.

5 ~~†~~ P. For any subdivision that consists of ten or fewer lots,
6 tracts or parcels, each of which is of a size as prescribed by the
7 legislative body, the legislative body of each municipality may expedite
8 the processing of or waive the requirement to prepare, submit and receive
9 approval of a preliminary plat as a condition precedent to submitting a
10 final plat and may waive or reduce infrastructure standards or
11 requirements proportional to the impact of the subdivision. Requirements
12 for dust-controlled access and drainage improvements shall not be waived.

13 Sec. 2. Section 11-823, Arizona Revised Statutes, is amended to
14 read:

15 11-823. Water supply; adequacy; exemption

16 A. To protect the public health and safety, ~~the general regulations~~
17 ~~adopted by the board pursuant to section 11-821, subsection B, if approved~~
18 ~~by unanimous vote of the board of supervisors, may provide that, except as~~
19 ~~provided in subsection C and subsection D, paragraph 1 of this section,~~
20 the board or a county employee who is authorized by the adopted county
21 ordinance shall not approve a final plat for a subdivision composed of
22 subdivided lands, as defined in section 32-2101, located outside of an
23 active management area, as defined in section 45-402, unless one of the
24 following applies:

25 1. The director of water resources has determined that there is an
26 adequate water supply for the subdivision pursuant to section 45-108 and
27 the subdivider has included the report with the plat.

28 2. The subdivider has obtained a written commitment of water
29 service for the subdivision from a city, town or private water company
30 designated as having an adequate water supply by the director of water
31 resources pursuant to section 45-108.

32 ~~B. If the board unanimously adopts the provision authorized by~~
33 ~~subsection A of this section:~~

34 ~~1. The board may include in the general regulations an exemption~~
35 ~~from the provision for a subdivision that the director of water resources~~
36 ~~has determined will have an inadequate water supply because the water~~
37 ~~supply will be transported to the subdivision by motor vehicle or train if~~
38 ~~all of the following apply:~~

39 ~~(a) The board determines that there is no feasible alternative~~
40 ~~water supply for the subdivision and that the transportation of water to~~
41 ~~the subdivision will not constitute a significant risk to the health and~~
42 ~~safety of the residents of the subdivision.~~

43 ~~(b) If the water to be transported to the subdivision will be~~
44 ~~withdrawn or diverted in the service area of a municipal provider as~~

1 ~~defined in section 45-561, the municipal provider has consented to the~~
2 ~~withdrawal or diversion.~~

3 ~~(c) If the water to be transported is groundwater, the~~
4 ~~transportation complies with the provisions governing the transportation~~
5 ~~of groundwater in title 45, chapter 2, article 8.~~

6 ~~(d) The transportation of water to the subdivision meets any~~
7 ~~additional conditions imposed by the county.~~

8 ~~2. The board shall promptly give written notice of the adoption of~~
9 ~~the provision to the director of water resources, the director of~~
10 ~~environmental quality and the state real estate commissioner. The notice~~
11 ~~shall include a certified copy of the provision and any exemptions adopted~~
12 ~~pursuant to paragraph 1 of this subsection. Water providers may be~~
13 ~~eligible to receive monies in a water supply development fund, as~~
14 ~~otherwise provided by law.~~

15 ~~3. The board shall not rescind the provision or amend it in a~~
16 ~~manner that is inconsistent with subsection A of this section. If the~~
17 ~~board amends the provision, it shall give written notice of the amendment~~
18 ~~to the director of water resources, the director of environmental quality~~
19 ~~and the state real estate commissioner. The board may rescind an~~
20 ~~exemption adopted pursuant to paragraph 1 of this subsection. If the~~
21 ~~board rescinds the exemption, it shall give written notice of the~~
22 ~~rescission to the director of water resources, the director of~~
23 ~~environmental quality and the state real estate commissioner, and the~~
24 ~~board shall not readopt the exemption for at least five years after the~~
25 ~~rescission becomes effective.~~

26 ~~4. B.~~ If the board or a county employee who is authorized by the
27 adopted county ordinance approves a subdivision plat pursuant to
28 subsection A, paragraph 1 or 2 of this section, the board shall note on
29 the face of the plat that the director of water resources has reported
30 that the subdivision has an adequate water supply or that the subdivider
31 has obtained a commitment of water service for the proposed subdivision
32 from a city, town or private water company designated as having an
33 adequate water supply pursuant to section 45-108.

34 ~~5. If the board or a county employee who is authorized by the~~
35 ~~adopted county ordinance approves a subdivision plat pursuant to an~~
36 ~~exemption authorized by paragraph 1 of this subsection or granted by the~~
37 ~~director of water resources pursuant to section 45-108.02 or 45-108.03:~~

38 ~~(a) The board shall give written notice of the approval to the~~
39 ~~director of water resources and the director of environmental quality.~~

40 ~~(b) The board shall include on the face of the plat a statement~~
41 ~~that the director of water resources has determined that the water supply~~
42 ~~for the subdivision is inadequate and a statement describing the exemption~~
43 ~~under which the plat was approved, including a statement that the board or~~
44 ~~the director of water resources, whichever applies, has determined that~~
45 ~~the specific conditions of the exemption were met. If the director of~~

1 ~~water resources subsequently informs the board that the subdivision is~~
2 ~~being served by a water provider that has been designated by the director~~
3 ~~as having an adequate water supply pursuant to section 45-108, the board~~
4 ~~shall record in the county recorder's office a statement disclosing that~~
5 ~~fact.~~

6 C. Subsection A of this section does not apply to:

7 ~~1. A proposed subdivision that the director of water resources has~~
8 ~~determined will have an inadequate water supply pursuant to section 45-108~~
9 ~~if the director grants an exemption for the subdivision pursuant to~~
10 ~~section 45-108.02 and the exemption has not expired or the director grants~~
11 ~~an exemption pursuant to section 45-108.03.~~

12 ~~2.~~ a proposed subdivision that received final plat approval from
13 the county before the requirement for an adequate water supply became
14 effective in the county if the plat has not been materially changed since
15 it received the final plat approval. If changes were made to the plat
16 after the plat received the final plat approval, the director of water
17 resources shall determine whether the changes are material pursuant to the
18 rules adopted by the director to implement section 45-108. If the county
19 approves a plat pursuant to this ~~paragraph~~ SUBSECTION and the director of
20 water resources has determined that there is an inadequate water supply
21 for the subdivision pursuant to section 45-108, the county shall note this
22 on the face of the plat.

23 ~~D. If the subdivision is composed of subdivided lands as defined in~~
24 ~~section 32-2101 outside of an active management area and the board has not~~
25 ~~adopted a provision pursuant to subsection A of this section:~~

26 ~~1. If the director of water resources has determined that there is~~
27 ~~an adequate water supply for the subdivision pursuant to section 45-108 or~~
28 ~~if the subdivider has obtained a written commitment of water service for~~
29 ~~the subdivision from a city, town or private water company designated as~~
30 ~~having an adequate water supply by the director of water resources~~
31 ~~pursuant to section 45-108, the board or a county employee who is~~
32 ~~authorized by the adopted county ordinance shall note this on the face of~~
33 ~~the plat if the plat is approved.~~

34 ~~2. If the director of water resources has determined that there is~~
35 ~~an inadequate water supply for the subdivision pursuant to section 45-108,~~
36 ~~the board or a county employee who is authorized by the adopted county~~
37 ~~ordinance shall note this on the face of the plat if the plat is approved.~~

38 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to
39 read:

40 32-2181. Notice to commissioner of intention to subdivide
41 lands; unlawful acting in concert; exceptions; deed
42 restrictions; definition

43 A. Before offering subdivided lands for sale or lease, the
44 subdivider shall notify the commissioner in writing of the subdivider's
45 intention. The notice shall contain:

- 1 1. The name and address of the owner. If the holder of any
2 ownership interest in the land is other than an individual, such as a
3 corporation, partnership or trust, **THE NOTICE SHALL CONTAIN** a statement
4 naming the type of legal entity and listing the interest and the extent of
5 any interest of each principal in the entity. For the purposes of this
6 section, "principal" means any person or entity having a ten ~~per cent~~
7 **PERCENT** or more financial interest or, if the legal entity is a trust, **THE**
8 **NAME AND ADDRESS OF** each beneficiary of the trust holding a ten ~~per cent~~
9 **PERCENT** or more beneficial interest.
- 10 2. The name and address of the subdivider.
- 11 3. The legal description and area of the land.
- 12 4. A true statement of the condition of the title to the land,
13 including all encumbrances on the land, and a statement of the provisions
14 agreed to by the holder of any blanket encumbrance enabling a purchaser to
15 acquire title to a lot or parcel free of the lien of the blanket
16 encumbrance on completion of all payments and performance of all of the
17 terms and provisions required to be made or performed by the purchaser
18 under the real estate sales contract by which the purchaser has acquired
19 the lot or parcel. The subdivider shall file copies of documents
20 acceptable to the department containing these provisions with the
21 commissioner before the sale of any subdivision lot or parcel subject to a
22 blanket encumbrance.
- 23 5. The terms and conditions on which it is intended to dispose of
24 the land, together with copies of any real estate sales contract,
25 conveyance, lease, assignment or other instrument intended to be used, and
26 any other information the owner or the owner's agent or subdivider desires
27 to present.
- 28 6. A map of the subdivision that has been filed in the office of
29 the county recorder in the county in which the subdivision is located.
- 30 7. A brief but comprehensive statement describing the land on and
31 the locality in which the subdivision is located.
- 32 8. A statement of the provisions that have been made for permanent
33 access and provisions, if any, for health department approved sewage and
34 solid waste collection and disposal and public utilities in the proposed
35 subdivision, including water, electricity, gas and telephone facilities.
- 36 9. A statement as to the location of the nearest public common and
37 high schools available for the attendance of ~~school-age~~ **SCHOOL-AGE** pupils
38 residing on the subdivision property.
- 39 10. A statement of the use or uses for which the proposed
40 subdivision will be offered.
- 41 11. A statement of the provisions, if any, limiting the use or
42 occupancy of the parcels in the subdivision, together with copies of any
43 restrictive covenants affecting all or part of the subdivision.
- 44 12. The name and business address of the principal broker selling
45 or leasing, within this state, lots or parcels in the subdivision.

1 13. A true statement of the approximate amount of indebtedness that
2 is a lien on the subdivision or any part of the subdivision and that was
3 incurred to pay for the construction of any on-site or off-site
4 improvement, or any community or recreational facility.

5 14. A true statement or reasonable estimate, if applicable, of the
6 amount of any indebtedness that has been or is proposed to be incurred by
7 an existing or proposed special district, entity, taxing area or
8 assessment district, within the boundaries of which the subdivision, or
9 any part of the subdivision, is located, and that is to pay for the
10 construction or installation of any improvement or to furnish community or
11 recreational facilities to the subdivision, and which amounts are to be
12 obtained by ad valorem tax or assessment, or by a special assessment or
13 tax ~~upon~~ ON the subdivision or any part of the subdivision.

14 15. A true statement as to the approximate amount of annual taxes,
15 special assessments or fees to be paid by the buyer for the proposed
16 annual maintenance of common facilities in the subdivision.

17 16. A statement of the provisions for easements for permanent
18 access for irrigation water, ~~where~~ IF applicable.

19 17. A true statement of assurances for the completion of off-site
20 improvements, such as roads, utilities, community or recreational
21 facilities and other improvements to be included in the offering or
22 represented as being in the offering, and approval of the offering by the
23 political subdivision with authority. This statement shall include a
24 trust agreement or any other evidence of assurances for delivery of the
25 improvements and a statement of the provisions, if any, for the continued
26 maintenance of the improvements.

27 18. A true statement of the nature of any improvements to be
28 installed by the subdivider, the estimated schedule for completion and the
29 estimated costs related to the improvements that will be borne by
30 purchasers of lots in the subdivision.

31 19. A true statement of the availability of sewage disposal
32 facilities and other public utilities, including water, electricity, gas
33 and telephone facilities in the subdivision, the estimated schedule for
34 their installation, and the estimated costs related to the facilities and
35 utilities that will be borne by purchasers of lots in the subdivision.

36 20. A true statement as to whether all or any portion of the
37 subdivision is located in an open range or area in which livestock may
38 roam at large under the laws of this state and what provisions, if any,
39 have been made for ~~the~~ fencing ~~of~~ the subdivision to preclude livestock
40 from roaming within the subdivided lands.

41 21. If the subdivider is a subsidiary corporation, a true statement
42 identifying the parent corporation and any of the following in which the
43 parent or any of its subsidiaries is or has been involved within the past
44 five years:

1 (a) Any subdivision in this state.

2 (b) Any subdivision, wherever located, for which registration is
3 required pursuant to the federal interstate land sales full disclosure
4 act.

5 (c) Any subdivision, wherever located, for which registration would
6 have been required pursuant to the federal interstate land sales full
7 disclosure act but for the exemption for subdivisions whose lots are all
8 twenty acres or more in size.

9 22. A true statement identifying all other subdivisions, designated
10 in paragraph 21 of this subsection, in which any of the following is or,
11 within the last five years, has been directly or indirectly involved:

12 (a) The holder of any ownership interest in the land.

13 (b) The subdivider.

14 (c) Any principal or officer in the holder or subdivider.

15 23. A true statement as to whether all or any portion of the
16 subdivision is located in territory in the vicinity of a military airport
17 or ancillary military facility as defined in section 28-8461, in territory
18 in the vicinity of a public airport as defined in section 28-8486, on or
19 after July 1, 2001, in a high noise or accident potential zone as defined
20 in section 28-8461 or on or after July 1 of the year in which the
21 subdivision becomes located in a high noise or accident potential zone.
22 The statement required pursuant to this paragraph does not require the
23 amendment or refileing of any notice filed before July 1, 2001 or before
24 July 1 of the year in which the subdivision becomes located in a high
25 noise or accident potential zone.

26 24. If the subdivision is a conversion from multifamily rental to
27 condominiums as defined in section 33-1202, a true statement as to the
28 following:

29 (a) That the property is a conversion from multifamily rental to
30 condominiums.

31 (b) The date original construction was completed.

32 25. Other information and documents and certifications as the
33 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
34 shall not be required to disclose any critical infrastructure information
35 as defined in section 41-1801 or any information contained in a report
36 issued pursuant to section 41-4273.

37 B. The commissioner, on application, may grant a subdivider of lots
38 or parcels within a subdivision for which a public report was previously
39 issued by the commissioner an exemption from all or part of the
40 notification requirements of subsection A of this section. The subdivider
41 shall file a statement with the commissioner indicating the change of
42 ownership in the lots or parcels together with any material changes
43 occurring subsequent to the original approval of the subdivision within
44 which the lots or parcels are located. The statement shall further refer
45 to the original approval by the commissioner.

1 C. If the subdivision is within an active management area, as
2 defined in section 45-402, the subdivider shall accompany the notice with
3 a certificate of assured water supply issued by the director of water
4 resources along with proof that all applicable fees have been paid
5 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
6 obtained a written commitment of water service for the subdivision from a
7 city, town or private water company designated as having an assured water
8 supply by the director of water resources pursuant to section 45-576 or is
9 exempt from the requirement pursuant to section 45-576. If the subdivider
10 has submitted a certificate of assured water supply to a city, town or
11 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
12 and this has been noted on the face of the plat, the submission
13 constitutes compliance with this subsection if the subdivider provides
14 proof to the commissioner that all applicable fees have been paid pursuant
15 to sections 48-3772 and 48-3774.01.

16 D. It is unlawful for a person or group of persons acting in
17 concert to attempt to avoid this article by acting in concert to divide a
18 parcel of land or sell subdivision lots by using a series of owners or
19 conveyances or by any other method that ultimately results in the division
20 of the lands into a subdivision or the sale of subdivided land. The plan
21 or offering is subject to this article. Unlawful acting in concert
22 pursuant to this subsection with respect to the sale or lease of
23 subdivision lots requires proof that the real estate licensee or other
24 licensed professional knew or with the exercise of reasonable diligence
25 should have known that property which the licensee listed or for which the
26 licensee acted in any capacity as agent was subdivided land subject to
27 this article. A familial relationship alone is not sufficient to
28 constitute unlawful acting in concert.

29 E. A creation of six or more lots, parcels or fractional interests
30 in improved or unimproved land, lots or parcels of any size is subject to
31 this article except when:

32 1. Each of the lots, parcels or fractional interests represents, on
33 a partition basis, thirty-six acres or more in area of land located in
34 this state, including to the centerline of dedicated roads or easements,
35 if any, contiguous to the land in which the interests are held.

36 2. The lots, parcels or fractional interests are the result of a
37 foreclosure sale, the exercise by a trustee under a deed of trust of a
38 power of sale or the grant of a deed in lieu of foreclosure. This
39 paragraph does not allow circumvention of the requirements of this
40 article.

41 3. The lots, parcels or fractional interests are created by a valid
42 order or decree of a court pursuant to and through compliance with title
43 12, chapter 8, article 7 or by operation of law. This paragraph does not
44 allow circumvention of the requirements of this article.

1 4. The lots, parcels or fractional interests consist of interests
2 in any oil, gas or mineral lease, permit, claim or right therein and such
3 interests are regulated as securities by the United States or by this
4 state.

5 5. The lots, parcels or fractional interests are registered as
6 securities under the laws of the United States or the laws of this state
7 or are exempt transactions under section 44-1844, 44-1845 or 44-1846.

8 6. The commissioner by special order exempts offerings or
9 dispositions of any lots, parcels or fractional interests from compliance
10 with this article on written petition and on a showing satisfactory to the
11 commissioner that compliance is not essential to the public interest or
12 for the protection of buyers.

13 7. A sale or lease of a lot, parcel or fractional interest occurs
14 ten or more years after the sale or lease of another lot, parcel or
15 fractional interest and the other lot, parcel or fractional interest is
16 not subject to this article and is treated as an independent parcel
17 unless, upon ON investigation by the commissioner, there is evidence of
18 intent to subdivide.

19 F. In areas outside of active management areas established pursuant
20 to title 45, chapter 2, article 2:-

21 ~~1. If the subdivision is located in a county that has adopted the~~
22 ~~provision authorized by section 11-823, subsection A, or in a city or town~~
23 ~~that has enacted an ordinance pursuant to section 9-463.01, subsection 0,~~
24 the subdivider shall accompany the notice with a report issued by the
25 director of water resources pursuant to section 45-108 stating that the
26 subdivision has an adequate water supply, unless one of the following
27 applies:

28 ~~(a)~~ 1. The subdivider submitted the report to a city, town or
29 county before approval of the plat by the city, town or county and this
30 has been noted on the face of the plat.

31 ~~(b)~~ 2. The subdivider has obtained a written commitment of water
32 service for the subdivision from a city, town or private water company
33 designated as having an adequate water supply by the director of water
34 resources pursuant to section 45-108.

35 ~~(c) The plat was approved pursuant to an exemption authorized by~~
36 ~~section 9-463.01, subsection K, pursuant to an exemption authorized by~~
37 ~~section 11-823, subsection B, paragraph 1, pursuant to an exemption~~
38 ~~granted by the director of water resources under section 45-108.02 and the~~
39 ~~exemption has not expired or pursuant to an exemption granted by the~~
40 ~~director under section 45-108.03. If the plat was approved pursuant to an~~
41 ~~authorized exemption, the state real estate commissioner shall require~~
42 ~~that all promotional material and contracts for the sale of lots in the~~
43 ~~subdivision adequately display the following:~~

1 ~~(i) The director of water resources' report or the developer's~~
2 ~~brief summary of the report as approved by the commissioner on the~~
3 ~~proposed water supply for the subdivision.~~

4 ~~(ii) A statement describing the exemption under which the~~
5 ~~subdivision was approved, including the specific conditions of the~~
6 ~~exemption that were met. If the plat was approved by the legislative body~~
7 ~~of a city or town pursuant to an exemption authorized by section 9-463.01,~~
8 ~~subsection K or by the board of supervisors of a county pursuant to an~~
9 ~~exemption authorized by section 11-823, subsection B, paragraph 1, the~~
10 ~~subdivider shall record the document required by section 33-406.~~

11 ~~(d)~~ 3. The subdivision received final plat approval from the city,
12 town or county before the requirement for an adequate water supply became
13 effective in the city, town or county, and there have been no material
14 changes to the plat since the final plat approval. If changes were made
15 to the plat after the final plat approval, the director of water resources
16 shall determine whether the changes are material pursuant to the rules
17 adopted by the director to implement section 45-108. If this ~~subdivision~~
18 ~~PARAGRAPH~~ applies, the state real estate commissioner shall require that
19 all promotional materials and contracts for the sale of lots in the
20 subdivision adequately display the director of water resources' report or
21 the developer's brief summary of the report as approved by the
22 commissioner on the proposed water supply for the subdivision.

23 ~~2. If the subdivision is not located in a county that has adopted~~
24 ~~the provision authorized by section 11-823, subsection A or in a city or~~
25 ~~town that has enacted an ordinance pursuant to section 9-463.01,~~
26 ~~subsection 0, and if the director of water resources, pursuant to section~~
27 ~~45-108, reports an inadequate on-site supply of water to meet the needs~~
28 ~~projected by the developer or if no water is available, the state real~~
29 ~~estate commissioner shall require that all promotional material and~~
30 ~~contracts for the sale of lots in subdivisions approved by the~~
31 ~~commissioner adequately display the director of water resources' report or~~
32 ~~the developer's brief summary of the report as approved by the~~
33 ~~commissioner on the proposed water supply for the subdivision.~~

34 G. The commissioner may require the subdivider to supplement the
35 notice of intention to subdivide lands and may require the filing of
36 periodic reports to update the information contained in the original
37 notice of intention to subdivide lands.

38 H. The commissioner may authorize the subdivider to file as the
39 notice of intention to subdivide lands, in lieu of some or all of the
40 requirements of subsection A of this section, a copy of the statement of
41 record filed with respect to the subdivision pursuant to the federal
42 interstate land sales full disclosure act if the statement complies with
43 the requirements of the act and the regulations pertinent to the act.

44 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
45 assignment or other instrument to transfer any interest in subdivided land

1 ~~not~~ AND any covenant or restriction affecting real property shall NOT
2 contain any provision limiting the right of any party to appear or testify
3 in support of or opposition to zoning changes, building permits or any
4 other official acts affecting real property before a governmental body or
5 official considering zoning changes, building permits or any other
6 official acts affecting real property, whether the property is located
7 within or outside of the boundaries of the subdivision. All contractual
8 provisions that conflict with this subsection are declared to be contrary
9 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ MAY NOT
10 prohibit private restrictions on the use of any real property.

11 J. Before offering subdivided lands for lease or sale, the
12 subdivider who makes any promises through any form of advertising media
13 that the subdivided lands will be exclusively a retirement community or
14 one that is limited to the residency of adults or senior citizens shall
15 include the promises in the deed restrictions affecting any interest in
16 real property within the subdivided lands.

17 K. Except as otherwise provided in this section, a subdivider ~~shall~~
18 IS not ~~be~~ required to disclose items that are over one mile from the
19 subdivision boundaries. The existence of foreign nations or tribal lands
20 shall also be disclosed if located within the ~~one-mile~~ ONE-MILE radius of
21 the subdivision boundaries.

22 Sec. 4. Section 32-2183, Arizona Revised Statutes, is amended to
23 read:

24 32-2183. Subdivision public reports; denial of issuance;
25 unlawful sales; voidable sale or lease; order
26 prohibiting sale or lease; investigations;
27 hearings; summary orders

28 A. On examination of a subdivision, the commissioner, unless there
29 are grounds for denial, shall issue to the subdivider a public report
30 authorizing the sale or lease in this state of the lots, parcels or
31 fractional interests within the subdivision. The report shall contain the
32 data obtained in accordance with section 32-2181 and any other information
33 that the commissioner determines is necessary to implement the purposes of
34 this article. If any of the lots, parcels or fractional interests within
35 the subdivision are located within territory in the vicinity of a military
36 airport or ancillary military facility as defined in section 28-8461,
37 under a military training route as delineated in the military training
38 route map prepared pursuant to section 37-102, in a military installation
39 or range or Arizona national guard site influence area as delineated in
40 the maps prepared pursuant to section 37-102, subsection H, paragraph 4,
41 under restricted air space as delineated in the restricted air space map
42 prepared pursuant to section 37-102 or contained in the military
43 electronics range as delineated in the military electronics range map
44 prepared pursuant to section 37-102, the report shall include, in bold
45 twelve-point font block letters on the first page of the report, the

1 statements required pursuant to section 28-8484, subsection A, section
2 32-2183.05 or section 32-2183.06 and, if the department has been provided
3 a map prepared pursuant to section 28-8484, subsection B or section
4 37-102, the report shall include a copy of the map. The military airport
5 report requirements do not require the amendment or reissuance of any
6 public report issued on or before December 31, 2001 or on or before
7 December 31 of the year in which the lots, parcels or fractional interests
8 within a subdivision become territory in the vicinity of a military
9 airport or ancillary military facility. The military training route
10 report requirements do not require the amendment or reissuance of any
11 public report issued on or before December 31, 2004. The restricted air
12 space report requirements do not require the amendment or reissuance of
13 any public report issued on or before December 31, 2006. The military
14 electronics range report requirements do not require the amendment or
15 reissuance of any public report issued on or before December 31, 2008.
16 ~~A~~ Military installation or range or Arizona national guard site report
17 requirements do not require the amendment or reissuance of any public
18 report issued on or before December 31, 2024. The commissioner shall
19 require the subdivider to reproduce the report, make the report available
20 to each initial prospective customer and furnish each initial buyer or
21 lessee with a copy before the buyer or lessee signs any offer to purchase
22 or lease, taking a receipt therefor.

23 B. This section does not require a public report issued sixty or
24 fewer days before the filing of the military electronics range map or the
25 military installation or range or Arizona national guard site influence
26 area map prepared pursuant to section 37-102 to meet the military
27 electronics range or military installation or range or Arizona national
28 guard site notification requirements of this section.

29 C. A public report issued sixty-one or more days after the filing
30 of the military electronics range map or the military installation or
31 range or Arizona national guard site influence area map prepared pursuant
32 to section 37-102 shall meet all of the requirements of subsection A of
33 this section.

34 D. Notwithstanding subsection A of this section, a subdivider may
35 elect to prepare a final public report for use in the sale of improved
36 lots as defined in section 32-2101, as follows:

37 1. The subdivider shall prepare the public report and provide a
38 copy of the report to the commissioner with the submission of the
39 notification required by sections 32-2181 and 32-2184 and shall comply
40 with all other requirements of this article.

41 2. An initial filing fee of \$500 or an amended filing fee of \$250
42 shall accompany the notification required by paragraph 1 of this
43 subsection.

44 3. The department shall assign a registration number to each
45 notification and public report submitted pursuant to this subsection and

1 shall maintain a database of all of these submissions. The subdivider
2 shall place the number on each public report.

3 4. On receipt of the notification and public report, the department
4 shall review and issue within ten business days either a certification
5 that the notification and public report are administratively complete or a
6 denial letter if it appears that the application or project is not in
7 compliance with all legal requirements, that the applicant has a
8 background of violations of state or federal law or that the applicant or
9 project presents an unnecessary risk of harm to the public. If the
10 commissioner has received the notification and public report but has not
11 issued a certification or a denial letter within ten business days
12 pursuant to this paragraph, the notification and public report are
13 administratively complete.

14 5. A subdivider may commence sales or leasing activities as
15 ~~permitted~~ ALLOWED under this article after obtaining a certificate of
16 administrative completeness from the commissioner.

17 6. Before or after the commissioner issues a certificate of
18 administrative completeness or, if applicable, after the notification and
19 public report are deemed to be administratively complete pursuant to
20 paragraph 4 of this subsection, the department may examine any public
21 report, subdivision or applicant that has applied for or received the
22 certificate. If the commissioner determines that the subdivider or
23 subdivision is not in compliance with any requirement of state law or that
24 grounds exist under this chapter to suspend, deny or revoke a public
25 report, the commissioner may commence an administrative action under
26 section 32-2154 or 32-2157. If the subdivider immediately corrects the
27 deficiency and comes into full compliance with state law, the commissioner
28 shall vacate any action that the commissioner may have commenced pursuant
29 to section 32-2154 or 32-2157.

30 7. The department shall provide forms and guidelines for the
31 submission of the notification and public report pursuant to this section.

32 E. The commissioner may suspend, revoke or deny issuance of a
33 public report on any of the following grounds:

34 1. Failure to comply with this article or the rules of the
35 commissioner pertaining to this article.

36 2. The sale or lease would constitute misrepresentation to or
37 deceit or fraud of the purchasers or lessees.

38 3. Inability to deliver title or other interest contracted for.

39 4. Inability to demonstrate that adequate financial or other
40 arrangements acceptable to the commissioner have been made for completion
41 of all streets, sewers, electric, gas and water utilities, drainage and
42 flood control facilities, community and recreational facilities and other
43 improvements included in the offering.

44 5. Failure to make a showing that the lots, parcels or fractional
45 interests can be used for the purpose for which they are offered.

1 6. The owner, agent, subdivider, officer, director or partner,
2 subdivider trust beneficiary holding ten percent or more direct or
3 indirect beneficial interest or, if a corporation, any stockholder owning
4 ten percent or more of the stock in the corporation has:

5 (a) Been convicted of a felony or misdemeanor involving fraud or
6 dishonesty or involving conduct of any business or a transaction in real
7 estate, cemetery property, timeshare intervals or membership camping
8 campgrounds or contracts.

9 (b) Been permanently or temporarily enjoined by order, judgment or
10 decree from engaging in or continuing any conduct or practice in
11 connection with the sale or purchase of real estate or cemetery property,
12 timeshare intervals, membership camping contracts or campgrounds, or
13 securities or involving consumer fraud or the racketeering laws of this
14 state.

15 (c) Had an administrative order entered against the person by a
16 real estate regulatory agency or security regulatory agency.

17 (d) Had an adverse decision or judgment entered against the person
18 involving fraud or dishonesty or involving the conduct of any business or
19 transaction in real estate, cemetery property, timeshare intervals or
20 membership camping campgrounds or contracts.

21 (e) Disregarded or violated this chapter or the rules of the
22 commissioner pertaining to this chapter.

23 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
24 **OF THIS PARAGRAPH** applies.

25 7. Procurement or an attempt to procure a public report by fraud,
26 misrepresentation or deceit or by filing an application for a public
27 report that is materially false or misleading.

28 8. Failure of the declaration for a condominium created pursuant to
29 title 33, chapter 9, article 2 to comply with the requirements of section
30 33-1215 or failure of the plat for the condominium to comply with the
31 requirements of section 33-1219. The commissioner may require an
32 applicant for a public report to submit a notarized statement signed by
33 the subdivider or an engineer or attorney licensed to practice in this
34 state certifying that the condominium plat and declaration of condominium
35 are in compliance with the requirements of sections 33-1215 and
36 33-1219. If the notarized statement is provided, the commissioner is
37 entitled to rely on this statement.

38 9. Failure of any blanket encumbrance or valid supplementary
39 agreement executed by the holder of the blanket encumbrance to contain
40 provisions that enable the purchaser to acquire title to a lot or parcel
41 free of the lien of the blanket encumbrance, on completion of all payments
42 and performance of all of the terms and provisions required to be made or
43 performed by the purchaser under the real estate sales contract by which
44 the purchaser has acquired the lot or parcel. The subdivider shall file
45 copies of documents acceptable to the commissioner containing these

1 provisions with the commissioner before the sale of any subdivision lot or
2 parcel subject to a blanket encumbrance.

3 10. Failure to demonstrate permanent access to the subdivision lots
4 or parcels.

5 11. The use of the lots presents an unreasonable health risk.

6 F. It is unlawful for a subdivider to sell any lot in a subdivision
7 unless one of the following occurs:

8 1. All proposed or promised subdivision improvements are completed.

9 2. The completion of all proposed or promised subdivision
10 improvements is assured by financial arrangements acceptable to the
11 commissioner. The financial arrangements may be made in phases for common
12 community and recreation facilities required by a municipality or county
13 as a stipulation for approval of a plan for a master planned community.

14 3. The municipal or county government agrees to prohibit occupancy
15 and the subdivider agrees not to close escrow for lots in the subdivision
16 until all proposed or promised subdivision improvements are completed.

17 4. The municipal or county government enters into an assurance
18 agreement with any trustee not to convey lots until improvements are
19 completed within the portion of the subdivision containing these lots, if
20 the improvements can be used and maintained separately from the
21 improvements required for the entire subdivision plat. The agreement
22 shall be recorded in the county in which the subdivision is located.

23 G. If the subdivision is within an active management area, as
24 defined in section 45-402, the commissioner shall deny issuance of a
25 public report or the use of any exemption pursuant to section 32-2181.02,
26 subsection B unless the subdivider has been issued a certificate of
27 assured water supply by the director of water resources and has paid all
28 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
29 subdivider has obtained a written commitment of water service for the
30 subdivision from a city, town or private water company designated as
31 having an assured water supply by the director of water resources pursuant
32 to section 45-576 or is exempt from the requirement pursuant to section
33 45-576.

34 H. In areas outside of active management areas, ~~if the subdivision~~
35 ~~is located in a county that has adopted the provision authorized by~~
36 ~~section 11-823, subsection A or in a city or town that has enacted an~~
37 ~~ordinance pursuant to section 9-463.01, subsection 0,~~ the commissioner
38 shall deny issuance of a public report or the use of any exemption
39 pursuant to section 32-2181.02, subsection B unless one of the following
40 applies:

41 1. The director of water resources has reported pursuant to section
42 45-108 that the subdivision has an adequate water supply.

43 2. The subdivider has obtained a written commitment of water
44 service for the subdivision from a city, town or private water company

1 designated as having an adequate water supply by the director of water
2 resources pursuant to section 45-108.

3 ~~3. The plat was approved pursuant to an exemption authorized by~~
4 ~~section 9-463.01, subsection K, pursuant to an exemption authorized by~~
5 ~~section 11-823, subsection B, paragraph 1, pursuant to an exemption~~
6 ~~granted by the director of water resources under section 45-108.02 and the~~
7 ~~exemption has not expired or pursuant to an exemption granted by the~~
8 ~~director of water resources under section 45-108.03.~~

9 ~~4.~~ 3. The subdivision received final plat approval from the city,
10 town or county before the requirement for an adequate water supply became
11 effective in the city, town or county, and there have been no material
12 changes to the plat since the final plat approval. If changes were made
13 to the plat after the final plat approval, the director of water resources
14 shall determine whether the changes are material pursuant to the rules
15 adopted by the director to implement section 45-108.

16 I. A subdivider shall not sell or lease or offer for sale or lease
17 in this state any lots, parcels or fractional interests in a subdivision
18 without first obtaining a public report from the commissioner except as
19 provided in section 32-2181.01 or 32-2181.02, and a certificate of
20 administrative completeness issued pursuant to this section. Unless
21 exempt, the sale or lease of subdivided lands before issuance of the
22 public report or failure to deliver the public report to the purchaser or
23 lessee shall render the sale or lease rescindable by the purchaser or
24 lessee. An action by the purchaser or lessee to rescind the transaction
25 shall be brought within three years after the date of execution of the
26 purchase or lease agreement by the purchaser or lessee. In any rescission
27 action, the prevailing party is entitled to reasonable attorney fees as
28 determined by the court.

29 J. On a print advertisement in a magazine or newspaper or on an
30 internet advertisement that advertises a specific lot or parcel of a
31 subdivider, the subdivider shall include a disclosure stating that "a
32 public report is available on the state real estate department's website".

33 K. Any applicant objecting to the denial of a public report, within
34 thirty days after receipt of the order of denial, may file a written
35 request for a hearing. The commissioner shall hold the hearing within
36 twenty days after receipt of the request for a hearing unless the party
37 requesting the hearing has requested a postponement. If the hearing is
38 not held within twenty days after a request for a hearing is received,
39 plus the period of any postponement, or if a proposed decision is not
40 rendered within forty-five days after submission, the order of denial
41 shall be rescinded and a public report issued.

42 L. On the commissioner's own motion, or when the commissioner has
43 received a complaint and has satisfactory evidence that the subdivider or
44 the subdivider's agent is violating this article or the rules of the
45 commissioner or has engaged in any unlawful practice as defined in section

1 44-1522 with respect to the sale of subdivided lands or deviated from the
 2 provisions of the public report, the commissioner may investigate the
 3 subdivision project and examine the books and records of the subdivider.
 4 For the purpose of examination, the subdivider shall keep and maintain
 5 records of all sales transactions and funds received by the subdivider
 6 pursuant to the sales transactions and shall make them accessible to the
 7 commissioner on reasonable notice and demand.

8 M. On the commissioner's own motion, or when the commissioner has
 9 received a complaint and has satisfactory evidence that any person has
 10 violated this article or the rules of the commissioner or has engaged in
 11 any unlawful practice as defined in section 44-1522 with respect to the
 12 sale of subdivided lands or deviated from the provisions of the public
 13 report or special order of exemption, or has been indicted for fraud or
 14 against whom an information for fraud has been filed or has been convicted
 15 of a felony, before or after the commissioner issues the public report as
 16 provided in subsection A of this section, the commissioner may conduct an
 17 investigation of the matter, issue a summary order as provided in section
 18 32-2157, or provide notice and hold a public hearing and, after the
 19 hearing, may issue the order or orders the commissioner deems necessary to
 20 protect the public interest and ensure compliance with the law, rules or
 21 public report or the commissioner may bring action in any court of
 22 competent jurisdiction against the person to enjoin the person from
 23 continuing the violation or engaging in or doing any act or acts in
 24 furtherance of the violation. The court may make orders or judgments,
 25 including the appointment of a receiver, ~~THAT ARE~~ necessary to prevent the
 26 use or employment by a person of any unlawful practices, ~~or~~ ~~which~~ ~~THAT~~
 27 may be necessary to restore to any person in interest any monies or
 28 property, real or personal, that may have been acquired by means of any
 29 practice in this article declared to be unlawful.

30 N. When it appears to the commissioner that a person has engaged in
 31 or is engaging in a practice declared to be unlawful by this article and
 32 that the person is concealing assets or self or has made arrangements to
 33 conceal assets or is about to leave the state, the commissioner may apply
 34 to the superior court, ex parte, for an order appointing a receiver of the
 35 assets of the person or for a writ of ne exeat, or both.

36 O. The court, on receipt of an application for the appointment of a
 37 receiver or for a writ of ne exeat, or both, shall examine the verified
 38 application of the commissioner and other evidence that the commissioner
 39 may present the court. If satisfied that the interests of the public
 40 require the appointment of a receiver or the issuance of a writ of ne
 41 exeat without notice, the court shall issue an order appointing the
 42 receiver or issue the writ, or both. If the court determines that the
 43 interests of the public will not be harmed by the giving of notice, the
 44 court shall set a time for a hearing and require notice be given as the
 45 court deems satisfactory.

1 P. If the court appoints a receiver without notice, the court shall
2 further direct that a copy of the order appointing a receiver be served on
3 the person engaged in or engaging in a practice declared to be unlawful
4 under this article by delivering the order to the last address of the
5 person that is on file with the state real estate department. The order
6 shall inform the person that the person has the right to request a hearing
7 within ten days after the date of the order and, if requested, the hearing
8 shall be held within thirty days after the date of the order.

9 Sec. 5. Section 32-2197.08, Arizona Revised Statutes, is amended to
10 read:

11 32-2197.08. Issuance of public report and amended public
12 report by commissioner on timeshare plan;
13 denial of issuance; additional information; use
14 of another state's public report

15 A. On examination of a timeshare plan, the commissioner, unless
16 there are grounds for denial, shall approve for use by the developer a
17 public report authorizing the sale or lease of the timeshare interests
18 within the timeshare plan. For all timeshare interests sold in this
19 state, the commissioner shall require the developer to reproduce the
20 public report and furnish each prospective customer with a copy, taking a
21 receipt for each copy. The public report shall be made available to each
22 prospective purchaser in written format either by electronic means or in
23 hard copy. The public report shall include the following:

24 1. The name and principal address of the owner and developer.

25 2. A description of the type of timeshare interests being offered.

26 3. A description of the existing and proposed accommodations and
27 amenities of the timeshare plan, including type and number, any use
28 restrictions and any required fees for use.

29 4. A description of any accommodations and amenities that are
30 committed to be built, including:

31 (a) The developer's schedule of commencement and completion of all
32 accommodations and amenities.

33 (b) The estimated number of accommodations per site that may become
34 subject to the timeshare plan.

35 5. A brief description of the duration, phases and operation of the
36 timeshare plan.

37 6. The current annual budget if available or the projected annual
38 budget for the timeshare plan. The budget shall include:

39 (a) A statement of the amount or a statement that there is no
40 amount included in the budget as a reserve for repairs and replacement.

41 (b) The projected common expense liability, if any, by category of
42 expenditures for the timeshare plan.

43 (c) A statement of any services or expenses that are not reflected
44 in the budget and that the developer provides or pays.

- 1 7. A description of any liens, defects or encumbrances on or
2 affecting the title to the timeshare interests.
- 3 8. A statement that by midnight of the tenth calendar day after
4 execution of the purchase agreement a purchaser may cancel any purchase
5 agreement for a timeshare interest from a developer together with a
6 statement providing the name and street address where the purchaser should
7 mail any notice of cancellation. If, by agreement of the parties through
8 the purchase agreement, the purchase agreement allows for cancellation of
9 the purchase agreement for a period of time exceeding ten calendar days,
10 the public report shall include a statement that the cancellation of the
11 purchase agreement is allowed for that period of time exceeding ten
12 calendar days.
- 13 9. A description of any bankruptcies, pending suits, adjudications
14 or disciplinary actions material to the timeshare interests of which the
15 developer has knowledge.
- 16 10. Any restrictions on alienation of any number or portion of any
17 timeshare interests.
- 18 11. Any current or expected fees or charges to be paid by timeshare
19 purchasers for the use of any amenities related to the timeshare plan.
- 20 12. The extent to which financial arrangements have been provided
21 for completion of all promised improvements.
- 22 13. If the timeshare plan provides purchasers with the opportunity
23 to participate in any exchange programs, a description of the name and
24 address of the exchange companies and the method by which a purchaser
25 accesses the exchange programs.
- 26 14. Any other information that the developer, with the approval of
27 the commissioner, desires to include in the public report.
- 28 15. If the developer is offering a multisite timeshare plan, the
29 following information, which may be disclosed in a written, graphic or
30 tabular form:
- 31 (a) A description of each component site, including the name and
32 address of each component site.
- 33 (b) The number of accommodations and timeshare periods, expressed
34 in periods of use availability, committed to the multisite timeshare plan
35 and available for use by purchasers.
- 36 (c) Each type of accommodation in terms of the number of bedrooms,
37 bathrooms and sleeping capacity and a statement of whether or not the
38 accommodation contains a full kitchen. For the purposes of this
39 subdivision, "full kitchen" means a kitchen having a minimum of a
40 dishwasher, range, oven, sink and refrigerator.
- 41 (d) A description of amenities available for use by the purchaser
42 at each component site.
- 43 (e) A description of the reservation system, including the
44 following:
- 45 (i) The entity responsible for operating the reservation system.

1 (ii) A summary of the rules governing access to and use of the
2 reservation system.

3 (iii) The existence of and an explanation regarding any priority
4 reservation features that affect a purchaser's ability to make
5 reservations for the use of a given accommodation on a first-reserved,
6 first-served basis.

7 (f) A description of any right to make any additions, substitutions
8 or deletions of accommodations or amenities and a description of the basis
9 on which accommodations and amenities may be added to, substituted in or
10 deleted from the multisite timeshare plan.

11 (g) A description of the purchaser's liability for any fees
12 associated with the multisite timeshare plan.

13 (h) The location and the anticipated relative use demand of each
14 component site in a multisite timeshare plan as well as any periodic
15 adjustment or amendment to the reservation system that may be needed in
16 order to respond to actual purchaser use patterns and changes in purchaser
17 use demand for the accommodations existing at the time within the
18 multisite timeshare plan.

19 (i) Any other information reasonably required by the commissioner
20 or established by rule that is necessary for the protection of purchasers
21 of timeshare interests in timeshare plans.

22 (j) Any other information that the developer, with the approval of
23 the commissioner, desires to include in the public report.

24 16. If a developer offers a nonspecific timeshare interest in a
25 multisite timeshare plan, the information set forth in paragraphs 1
26 through 14 of this subsection as to each component site.

27 17. Any other information that the commissioner determines or
28 establishes by rule is necessary to implement the purpose of this article.

29 B. Except as otherwise provided in this subsection, the
30 requirements prescribed by subsection A of this section apply to a
31 developer's application for approval to use an amended public report for
32 the sale of timeshare interests in a timeshare plan, including an amended
33 public report to disclose and address a material change under section
34 32-2197.04. A developer may elect to prepare an amended public report for
35 use in the sale of timeshare interests as follows:

36 1. The developer shall prepare the amended public report and
37 provide a copy of the report to the commissioner with the submission of
38 the application for an amended public report, including any notification
39 required by section 32-2197.04, and shall comply with all other
40 requirements of this article.

41 2. An amendment filing fee established pursuant to section
42 32-2197.07 shall accompany the application prescribed by paragraph 1 of
43 this subsection.

44 3. On receipt of the application and amended public report, the
45 department shall review and, within fifteen business days if the amendment

1 adds less than six new component sites to the timeshare plan or within
2 thirty calendar days if the amendment adds six or more new component sites
3 to the timeshare plan, issue either a certification that the application
4 and amended public report are administratively complete or a denial letter
5 if it appears that the application, amended public report or timeshare
6 plan is not in compliance with all legal requirements, that the applicant
7 has a background of violations of state or federal law or that the
8 applicant or timeshare plan presents an unnecessary risk of harm to the
9 public. If the commissioner has received the application and amended
10 public report but has not issued a certification or a denial letter within
11 the required time period, the application and amended public report are
12 deemed administratively complete.

13 4. The developer may commence sales or leasing activities as
14 allowed under this article using an amended public report when the
15 commissioner issues a certification of administrative completeness or as
16 of the date the application and amended public report are deemed
17 administratively complete pursuant to paragraph 3 of this subsection. The
18 certification may be issued on paper or electronically.

19 5. Before or after the commissioner issues a certification of
20 administrative completeness or, if applicable, after the application and
21 amended public report are deemed to be administratively complete pursuant
22 to paragraph 3 of this subsection, the department may examine any public
23 report, timeshare plan or applicant that has applied for or received the
24 certification. If the commissioner determines that the public report,
25 timeshare plan or applicant is not in compliance with any requirement of
26 state law or that grounds exist under this chapter to suspend, deny or
27 revoke a public report, the commissioner may commence an administrative
28 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
29 immediately corrects the deficiency and fully complies with state law, the
30 commissioner shall promptly vacate any action that the commissioner may
31 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

32 6. The department shall provide forms and guidelines for the
33 submission of the application and amended public report pursuant to this
34 subsection.

35 C. In the event of denial, suspension or revocation, grounds shall
36 be set forth in writing at the time of denial, suspension or
37 revocation. The commissioner may deny, suspend or revoke the public
38 report on any of the following grounds:

39 1. Failure to comply with this article or the rules of the
40 commissioner pertaining to this article.

41 2. The sale or lease would constitute misrepresentation to or
42 deceit or fraud of the purchasers or lessees.

43 3. Inability to demonstrate that adequate financial or other
44 arrangements acceptable to the commissioner have been made for completion
45 of the timeshare property, installation of all streets, sewers, electric,

1 gas and water utilities, drainage, flood control and other similar
2 improvements included in the offering.

3 4. The developer, including if an entity, an officer, director,
4 member, manager, partner, owner, trust beneficiary holding ten percent or
5 more beneficial interest, stockholder owning ten percent or more of the
6 stock or other person exercising control of the entity, has:

7 (a) Been convicted of a felony or misdemeanor involving theft,
8 fraud or dishonesty or involving the conduct of any business or a
9 transaction in real estate, cemetery property, timeshare interests or
10 membership camping campgrounds or contracts.

11 (b) Been permanently or temporarily enjoined by order, judgment or
12 decree from engaging in or continuing any conduct or practice in
13 connection with the sale or purchase of real estate, cemetery property,
14 timeshare interests, membership camping campgrounds or contracts, or
15 securities or involving consumer fraud or the ~~Arizona~~ racketeering laws ~~OF~~
16 ~~THIS STATE~~.

17 (c) Had an administrative order entered against him by a real
18 estate regulatory agency or securities regulatory agency.

19 (d) Had an adverse decision or judgment entered against him
20 involving fraud or dishonesty or involving the conduct of any business in
21 or a transaction in real estate, cemetery property, timeshare interests or
22 membership camping campgrounds or contracts.

23 (e) Disregarded or violated this chapter or the rules of the
24 commissioner pertaining to this chapter.

25 (f) Participated in, operated or held an interest in any entity to
26 which subdivision (b), (c), (d), or (e) of this paragraph applies.

27 5. If within this state, the timeshare property is incompatible
28 with the existing neighborhood and would introduce into a neighborhood a
29 character of property or use that would clearly be detrimental to property
30 values in that neighborhood.

31 D. If the timeshare property is within an active management area,
32 as defined in section 45-402, the commissioner shall deny issuance of a
33 public report unless the developer has been issued a certificate of
34 assured water supply by the director of water resources and has paid all
35 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
36 developer has obtained a written commitment of water service for the
37 timeshare property from a city, town or private water company designated
38 as having an assured water supply by the director of water resources
39 pursuant to section 45-576.

40 E. In areas outside of active management areas, ~~if the timeshare~~
41 ~~property is located in a county that has adopted the provision authorized~~
42 ~~by section 11-823, subsection A or in a city or town that has enacted an~~
43 ~~ordinance pursuant to section 9-463.01, subsection 0,~~ the commissioner
44 shall deny issuance of a public report unless one of the following
45 applies:

1 1. The director of water resources has reported pursuant to section
2 45-108 that the timeshare property has an adequate water supply.

3 2. The developer has obtained a written commitment of water service
4 for the timeshare property from a city, town or private water company
5 designated as having an adequate water supply by the director of water
6 resources pursuant to section 45-108.

7 ~~3. The timeshare property was approved pursuant to an exemption
8 authorized by section 9-463.01, subsection K, pursuant to an exemption
9 authorized by section 11-823, subsection B, paragraph 1, pursuant to an
10 exemption granted by the director of water resources under section
11 45-108.02 and the exemption has not expired or pursuant to an exemption
12 granted by the director of water resources under section 45-108.03.~~

13 ~~4.~~ 3. The subdivision received final plat approval from the city,
14 town or county before the requirement for an adequate water supply became
15 effective in the city, town or county, and there have been no material
16 changes to the plat since the final plat approval. If changes were made
17 to the plat after the final plat approval, the director of water resources
18 shall determine whether the changes are material pursuant to the rules
19 adopted by the director to implement section 45-108.

20 F. In addition to providing to each prospective customer a copy of
21 the public report as required in subsection A of this section, the
22 developer shall also provide to each customer before the close of any
23 transaction information and materials that identify any timeshare exchange
24 companies currently under contract and disclosure statements regarding the
25 use of the timeshare exchange companies, as well as any additional
26 information the commissioner deems appropriate.

27 G. The commissioner may authorize for use in this state by a
28 developer of a timeshare plan in which all accommodations are located
29 outside of this state a current public report that is issued by another
30 jurisdiction or an equivalent registration and disclosure document that is
31 required before offering a timeshare plan for sale, lease or use and that
32 is issued by another jurisdiction. This authorization does not constitute
33 an exemption from other applicable requirements of this article.

34 Sec. 6. Section 33-406, Arizona Revised Statutes, is amended to
35 read:

36 33-406. Disclosure of transportation of water to property:
37 definition

38 A. Notwithstanding section 33-411, subsection D, a subdivider who
39 sells a lot that was included in a plat approved by the legislative body
40 of a city, ~~or town pursuant to an exemption authorized by section~~
41 ~~9-463.01, subsection K or by the board of supervisors of a county pursuant~~
42 ~~to an exemption authorized by section 11-823, subsection B, paragraph 1~~
43 **WITH A DETERMINATION BY THE DIRECTOR OF WATER RESOURCES THAT THERE IS AN**
44 **INADEQUATE WATER SUPPLY FOR THE SUBDIVISION** shall record with the plat a
45 document that contains a legal description of the land that is subject to

1 the subdivision plat and that contains a statement that the lots are
2 served by a water supply that has been determined as inadequate and that
3 the water must be hauled to the lot.

4 B. For the purposes of this section, "subdivider" has the same
5 meaning ~~as~~ prescribed in section 32-2101.

6 Sec. 7. Section 45-108, Arizona Revised Statutes, is amended to
7 read:

8 45-108. Evaluation of subdivision water supply; definition

9 A. In areas outside of active management areas established pursuant
10 to chapter 2, article 2 of this title, the developer of a proposed
11 subdivision, including dry lot subdivisions, regardless of subdivided lot
12 size, ~~prior to recordation of~~ BEFORE RECORDING the plat, shall submit
13 plans for the water supply for the subdivision and demonstrate the
14 adequacy of the water supply to meet the needs projected by the developer
15 to the director. The director shall evaluate the plans and issue a report
16 on the plans.

17 B. The director shall evaluate the proposed source of water for the
18 subdivision to determine whether there is an adequate water supply for the
19 subdivision, and shall forward a copy of the director's WATER report to
20 the state real estate commissioner and the city, town or county
21 responsible for platting the subdivision.

22 C. A CITY, TOWN OR COUNTY MAY APPROVE A SUBDIVISION PLAT ONLY IF
23 THE SUBDIVIDER HAS OBTAINED A WATER REPORT FROM THE DIRECTOR THAT THERE IS
24 AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION OR THE SUBDIVIDER HAS
25 OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A
26 CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER
27 SUPPLY PURSUANT TO THIS SECTION.

28 D. THE STATE REAL ESTATE COMMISSIONER MAY ISSUE A PUBLIC REPORT
29 AUTHORIZING THE SALE OR LEASE OF SUBDIVIDED LANDS ONLY IF THE DIRECTOR HAS
30 ISSUED A WATER REPORT THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE
31 SUBDIVISION OR THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
32 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
33 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO THIS SECTION.

34 ~~E.~~ E. The director may designate cities, towns and private water
35 companies as having an adequate water supply by reporting that designation
36 to the water department of the city or town or private water company and
37 the state real estate commissioner.

38 ~~F.~~ F. As an alternative to designation under subsection ~~E~~ E of
39 this section, the director may designate a city or town that has entered
40 into a contract with the United States secretary of the interior or a
41 county water authority established pursuant to chapter 13 of this title
42 for permanent supplies of Colorado river water for municipal and
43 industrial use as having an adequate water supply if all of the following
44 apply:

1 1. The city or town has entered into a contract with each private
2 water company that serves water within the city or town to provide
3 Colorado river water to those private water companies.

4 2. The Colorado river water for which the city or town has
5 contracted is sufficient together with other water supplies available to
6 the city or town and the private water companies that serve water within
7 that city or town to provide an adequate supply of water for the city or
8 town.

9 3. The director finds that new subdivisions within the city or town
10 will be served primarily with Colorado river water by the city or town or
11 one of the private water companies that serve water within that city or
12 town.

13 ~~F.~~ G. The director shall not require a developer to submit plans
14 for the water supply pursuant to subsection A of this section if either:

15 1. Both of the following apply:

16 (a) The developer has obtained a written commitment of water
17 service from cities, towns or private water companies that have been
18 designated as having an adequate water supply.

19 (b) That city, town or private water company has been designated as
20 having an adequate water supply pursuant to subsection ~~E~~ E of this
21 section.

22 2. All of the following apply:

23 (a) The city or town has been designated as having an adequate
24 water supply pursuant to subsection ~~F~~ F of this section.

25 (b) The developer has obtained a written commitment of water
26 service from the city or town or a private water company that serves water
27 within that city or town.

28 (c) The developer has obtained the written concurrence of the city
29 or town that has been designated.

30 ~~F.~~ H. The director may revoke a designation made pursuant to this
31 section when the director finds that the water supply may become
32 inadequate.

33 ~~G.~~ I. ~~The~~ THIS state ~~of Arizona~~ and the director or department
34 ~~shall~~ ARE not ~~be~~ liable for any report, designation or evaluation prepared
35 in good faith pursuant to this section.

36 ~~H. If the director receives written notice from the board of~~
37 ~~supervisors of a county that it has adopted the provision authorized by~~
38 ~~section 11-823, subsection A, the director shall give written notice of~~
39 ~~the provision to the mayors of all cities and towns in the county. A city~~
40 ~~or town that receives the notice shall comply with section 9-463.01,~~
41 ~~subsections J, K, L, M and N.~~

42 ~~I.~~ J. For the purposes of this section, "adequate water supply"
43 means both of the following:

1 1. Sufficient groundwater, surface water or effluent of adequate
2 quality will be continuously, legally and physically available to satisfy
3 the water needs of the proposed use for at least one hundred years.

4 2. The financial capability has been demonstrated to construct the
5 water facilities necessary to make the supply of water available for the
6 proposed use, including a delivery system and any storage facilities or
7 treatment works. ~~The director may accept evidence of the construction~~
8 ~~assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this~~
9 ~~requirement.~~

10 Sec. 8. Section 45-108.01, Arizona Revised Statutes, is amended to
11 read:

12 45-108.01. Application for water report or designation of
13 adequate water supply; notice; objections;
14 hearing; appeals

15 A. On receipt of an application for a water report or an
16 application by a city, town or private water company to be designated as
17 having an adequate water supply under section 45-108, ~~if the proposed use~~
18 ~~is in a county that has adopted the provision authorized by section~~
19 ~~11-823, subsection A or in a city or town that has enacted an ordinance~~
20 ~~pursuant to section 9-463.01, subsection 0,~~ the director shall publish
21 notice of the application once each week for two consecutive weeks in a
22 newspaper of general circulation in the groundwater basin in which the
23 applicant proposes to use water. The first publication shall occur within
24 fifteen days after the application is determined or deemed to be
25 administratively complete. If the application is substantially modified
26 after notice of the application is given pursuant to this subsection, the
27 director shall give notice of the application as modified in the manner
28 prescribed by this subsection. The first publication of any subsequent
29 notice shall occur within fifteen days after the modified application is
30 determined or deemed to be administratively complete.

31 B. Notice pursuant to subsection A of this section shall state that
32 written objections to the application may be filed with the director by
33 residents and landowners within the groundwater basin within fifteen days
34 after the last publication of notice. An objection shall state the name
35 and mailing address of the objector and be signed by the objector, the
36 objector's agent or the objector's attorney. The grounds for objection
37 are limited to whether the application meets the criteria for determining
38 an adequate water supply set forth in section 45-108, subsection ~~I~~ J.
39 The objection shall clearly set forth reasons why the application does not
40 meet the criteria.

41 C. In appropriate cases, including cases in which a proper written
42 objection to the application has been filed, an administrative hearing may
43 be held before the director's decision on the application if the director
44 deems a hearing necessary. Thirty days before the date of the hearing,
45 the director shall give notice of the hearing to the applicant and to any

1 person who filed a proper written objection to the application. The
2 hearing shall be scheduled for at least sixty days but not more than
3 ninety days after the expiration of the time in which to file objections.

4 D. If the application is for a water report:

5 1. If the director determines that an adequate water supply exists
6 for the proposed use, the director shall issue a water report stating that
7 the water supply for the subdivision is adequate.

8 2. If the director determines that an adequate water supply does
9 not exist, the director shall issue a water report stating that the water
10 supply for the subdivision is inadequate.

11 E. If the application is for a designation of adequate water
12 supply:

13 1. If the director determines that an adequate water supply exists
14 for the proposed use, the director shall approve the application.

15 2. If the director determines that an adequate water supply does
16 not exist, the director shall deny the application.

17 F. The applicant or a person who contested the application by
18 filing a proper objection pursuant to subsection B of this section may
19 seek judicial review of the final decision of the director as provided in
20 section 45-114, subsection B in the superior court.

21 G. Section 45-114, subsections A and B govern administrative
22 proceedings, rehearings or reviews and judicial reviews of final decisions
23 of the director under this section. If an administrative hearing is held,
24 it shall be conducted in the groundwater basin in which the use is
25 located.

26 Sec. 9. Repeal

27 Sections 45-108.02 and 45-108.03, Arizona Revised Statutes, are
28 repealed.

29 Sec. 10. Section 45-108.04, Arizona Revised Statutes, is amended to
30 read:

31 45-108.04. Definition of adequate water supply; upper San
32 Pedro water district

33 For the purposes of section 45-108, if the upper San Pedro water
34 district is established under title 48, chapter 37 for proposed uses in
35 the district, "adequate water supply" means a water supply that complies
36 with all of the following:

37 1. Sufficient groundwater, surface water or effluent of adequate
38 quality will be continuously, legally and physically available to satisfy
39 the water needs of the proposed use for at least one hundred years.

40 2. The projected water use is consistent with the goal of the
41 district as set forth in section 48-6403, subsection B and the district's
42 ability to meet the measurable objectives for achieving the goal as
43 included in the district's most recent comprehensive plan, as determined
44 by the director. If the district is established, the director shall adopt

1 rules containing criteria for making determinations under this paragraph
2 and shall consult with the district board in developing the rules.

3 3. The financial capability has been demonstrated to construct the
4 water facilities necessary to make the supply of water available for the
5 proposed use, including a delivery system and any storage facilities or
6 treatment works. ~~The director may accept evidence of the construction~~
7 ~~assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this~~
8 ~~requirement.~~

9 Sec. 11. Section 45-576, Arizona Revised Statutes, is amended to
10 read:

11 45-576. Certificates of assured water supply; designated
12 cities, towns and private water companies;
13 exemptions; rules; definition

14 A. Except as provided in subsections G and J of this section, a
15 person who proposes to offer subdivided lands, as defined in section
16 32-2101, for sale or lease in an active management area shall apply for
17 and obtain a certificate of assured water supply from the director before
18 presenting the plat for approval to the city, town or county in which the
19 land is located, where such is required, and before filing with the state
20 real estate commissioner a notice of intention to offer such lands for
21 sale or lease, pursuant to section 32-2181, unless the subdivider has
22 obtained a written commitment of water service for the subdivision from a
23 city, town or private water company designated as having an assured water
24 supply pursuant to this section.

25 B. Except as provided in subsections G and J of this section, a
26 city, town or county may approve a subdivision plat only if the subdivider
27 has obtained a certificate of assured water supply from the director or
28 the subdivider has obtained a written commitment of water service for the
29 subdivision from a city, town or private water company designated as
30 having an assured water supply pursuant to this section. The city, town
31 or county shall note on the face of the approved plat that a certificate
32 of assured water supply has been submitted with the plat or that the
33 subdivider has obtained a written commitment of water service for the
34 proposed subdivision from a city, town or private water company designated
35 as having an assured water supply pursuant to this section.

36 C. Except as provided in subsections G and J of this section, the
37 state real estate commissioner may issue a public report authorizing the
38 sale or lease of subdivided lands only on compliance with either of the
39 following:

40 1. The subdivider, owner or agent has paid any activation fee
41 required under section 48-3772, subsection A, paragraph 7 and any
42 replenishment reserve fee required under section 48-3774.01, subsection A,
43 paragraph 2 and has obtained a certificate of assured water supply from
44 the director.

1 2. The subdivider has obtained a written commitment of water
2 service for the lands from a city, town or private water company
3 designated as having an assured water supply pursuant to this section and
4 the subdivider, owner or agent has paid any activation fee required under
5 section 48-3772, subsection A, paragraph 7.

6 D. The director shall designate private water companies in active
7 management areas that have an assured water supply. If a city or town
8 acquires a private water company that has contracted for central Arizona
9 project water, the city or town shall assume the private water company's
10 contract for central Arizona project water.

11 E. The director shall designate cities and towns in active
12 management areas where an assured water supply exists. If a city or town
13 has entered into a contract for central Arizona project water, the city or
14 town is deemed to continue to have an assured water supply until December
15 31, 1997. Commencing on January 1, 1998, the determination that the city
16 or town has an assured water supply is subject to review by the director
17 and the director may determine that a city or town does not have an
18 assured water supply.

19 F. The director shall notify the mayors of all cities and towns in
20 active management areas and the chairmen of the boards of supervisors of
21 counties in which active management areas are located of the cities, towns
22 and private water companies designated as having an assured water supply
23 and any modification of that designation within thirty days after the
24 designation or modification. If the service area of the city, town or
25 private water company has qualified as a member service area pursuant to
26 title 48, chapter 22, article 4, the director shall also notify the
27 conservation district of the designation or modification and shall report
28 the projected average annual replenishment obligation for the member
29 service area based on the projected and committed average annual demand
30 for water within the service area during the effective term of the
31 designation or modification subject to any limitation in an agreement
32 between the conservation district and the city, town or private water
33 company. For each city, town or private water company that qualified as a
34 member service area under title 48, chapter 22 and that was designated as
35 having an assured water supply before January 1, 2004, the director shall
36 report to the conservation district on or before January 1, 2005 the
37 projected average annual replenishment obligation based on the projected
38 and committed average annual demand for water within the service area
39 during the effective term of the designation subject to any limitation in
40 an agreement between the conservation district and the city, town or
41 private water company. Persons proposing to offer subdivided lands served
42 by those designated cities, towns and private water companies for sale or
43 lease are exempt from applying for and obtaining a certificate of assured
44 water supply.

1 G. This section does not apply in the case of the sale of lands for
2 developments that are subject to a mineral extraction and metallurgical
3 processing permit or an industrial use permit pursuant to sections 45-514
4 and 45-515.

5 H. The director shall adopt rules to carry out the purposes of this
6 section. The rules shall provide for a reduction in water demand for an
7 application for a designation of assured water supply or a certificate of
8 assured water supply if a gray water reuse system will be installed that
9 meets the requirements of the rules adopted by the department of
10 environmental quality for gray water systems and if the application is for
11 a certificate of assured water supply, the land for which the certificate
12 is sought must qualify as a member land in a conservation district
13 pursuant to title 48, chapter 22, article 4. For the purposes of this
14 subsection, "gray water" has the same meaning prescribed in section
15 49-201.

16 I. If the director designates a municipal provider as having an
17 assured water supply under this section and the designation lapses or
18 otherwise terminates while the municipal provider's service area is a
19 member service area of a conservation district, the municipal provider or
20 its successor shall continue to comply with the consistency with
21 management goal requirements in the rules adopted by the director under
22 subsection H of this section as if the designation was still in effect
23 with respect to the municipal provider's designation uses. When
24 determining compliance by the municipal provider or its successor with the
25 consistency with management goal requirements in the rules, the director
26 shall consider only water delivered by the municipal provider or its
27 successor to the municipal provider's designation uses. A person is the
28 successor of a municipal provider if the person commences water service to
29 uses that were previously designation uses of the municipal provider. Any
30 groundwater delivered by the municipal provider or its successor to the
31 municipal provider's designation uses in excess of the amount allowed
32 under the consistency with management goal requirements in the rules shall
33 be considered excess groundwater for purposes of title 48, chapter 22.
34 For the purposes of this subsection, "designation uses" means all water
35 uses served by a municipal provider on the date the municipal provider's
36 designation of assured water supply lapses or otherwise terminates and all
37 recorded lots within the municipal provider's service area that were not
38 being served by the municipal provider on that date but that received
39 final plat approval from a city, town or county on or before that date.
40 Designation uses do not include industrial uses served by an irrigation
41 district under section 45-497.

1 J. Subsections A, B and C of this section do not apply to a person
2 who proposes to offer subdivided land for sale or lease in an active
3 management area if all the following apply:

4 1. The director issued a certificate of assured water supply for
5 the land to a previous owner of the land and the certificate was
6 classified as a type A certificate under rules adopted by the director
7 pursuant to subsection H of this section.

8 2. The director has not revoked the certificate of assured water
9 supply described in paragraph 1 of this subsection, and proceedings to
10 revoke the certificate are not pending before the department or a court.
11 The department shall post on its website a list of all certificates of
12 assured water supply that have been revoked or for which proceedings are
13 pending before the department or a court.

14 3. The plat submitted to the department in the application for the
15 certificate of assured water supply described in paragraph 1 of this
16 subsection has not changed.

17 4. Water service is currently available to each lot within the
18 subdivided land and the water provider listed on the certificate of
19 assured water supply described in paragraph 1 of this subsection has not
20 changed.

21 5. The subdivided land qualifies as a member land under title 48,
22 chapter 22 and the subdivider has paid any activation fee required under
23 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
24 fee required under section 48-3774.01, subsection A, paragraph 2.

25 6. The plat is submitted for approval to a city, town or county
26 that is listed on the department's website as a qualified platting
27 authority.

28 K. Subsection J of this section does not affect the assignment of a
29 certificate of assured water supply as prescribed by section 45-579.

30 L. On or before December 31, 2023, the director shall study and
31 submit to the governor, president of the senate and speaker of the house
32 of representatives a report on whether and how a person that seeks a
33 building permit for six or more residences within an active management
34 area, without regard to any proposed lease term for those residences,
35 should apply for and obtain a certificate of assured water supply from the
36 director before presenting the permit application for approval to the
37 county in which the land is located, unless the applicant has obtained a
38 written commitment of water service for the residences from a city, town
39 or private water company designated as having an assured water supply
40 pursuant to this section.

1 M. For the purposes of this section, the director shall find that
2 any volume of groundwater or stored water recovered outside the area of
3 impact of storage that is subject to groundwater savings credits issued
4 pursuant to section 45-465.05 or rules adopted by the director pursuant to
5 section 45-465.05, subsection L and pledged to an application for a
6 certificate or designation of assured water supply is exempt from the
7 physical availability requirement for an assured water supply. This
8 subsection does not exempt:

9 1. Any volume of groundwater or stored water recovered outside the
10 area of impact of storage that is subject to groundwater savings credits
11 from any requirement for an assured water supply other than the physical
12 availability requirement.

13 2. A water supply to be stored underground from the requirement to
14 demonstrate that the supply will be physically available for storage.

15 N. For the purposes of this section, "assured water supply" means
16 all of the following:

17 1. Sufficient groundwater, surface water or effluent of adequate
18 quality will be continuously available to satisfy the water needs of the
19 proposed use for at least one hundred years. Beginning January 1 of the
20 calendar year following the year in which a groundwater replenishment
21 district is required to submit its preliminary plan pursuant to section
22 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
23 a member of the district, "sufficient groundwater" for the purposes of
24 this paragraph means that the proposed groundwater withdrawals that the
25 applicant will cause over a period of one hundred years will be of
26 adequate quality and will not exceed, in combination with other
27 withdrawals from land in the replenishment district, a depth to water of
28 one thousand feet or the depth of the bottom of the aquifer, whichever is
29 less. In determining depth to water for the purposes of this paragraph,
30 the director shall consider the combination of:

31 (a) The existing rate of decline.

32 (b) The proposed withdrawals.

33 (c) The expected water requirements of all recorded lots that are
34 not yet served water and that are located in the service area of a
35 municipal provider.

36 2. The projected groundwater use is consistent with the management
37 plan and achievement of the management goal for the active management
38 area.

39 3. The financial capability has been demonstrated to construct the
40 water facilities necessary to make the supply of water available for the
41 proposed use, including a delivery system and any storage facilities or
42 treatment works. ~~The director may accept evidence of the construction~~
43 ~~assurances required by section 9-463.01, 11-822 or 32-2181 to satisfy this~~
44 ~~requirement.~~

