

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2572
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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 prescribing:

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

12 2. Standards governing the design of subdivision plats.

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

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

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

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

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

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

9 5. Require payment of a proper and reasonable fee by the subdivider
10 based ~~upon~~ ON the number of lots or parcels on the surface of the land to
11 defray municipal costs of plat review and site inspection.

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

14 7. Require the preparation and submission of acceptable engineering
15 plans and specifications for the installation of required street, sewer,
16 electric and water utilities, drainage, flood control, adequacy of water
17 and improvements as a condition precedent to recordation of an approved
18 final plat.

19 8. Require the posting of performance bonds, assurances or such
20 other security as may be appropriate and necessary to assure the
21 installation of required street, sewer, electric and water utilities,
22 drainage, flood control and improvements meeting established minimum
23 standards of design and construction.

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

28 1. The requirement may only be made ~~upon~~ ON preliminary plats filed
29 at least thirty days after the adoption of a general or specific plan
30 affecting the land area to be reserved.

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

1 3. The land area reserved shall be of such a size and shape as to
2 ~~permit~~ ALLOW the remainder of the land area of the subdivision within which
3 the reservation is located to develop in an orderly and efficient manner.

4 4. The land area reserved shall be in such multiples of streets and
5 parcels as to ~~permit~~ ALLOW an efficient division of the reserved area in
6 the event that it is not acquired within the prescribed period.

7 E. The public agency for whose benefit an area has been reserved
8 shall have a period of one year after recording the final subdivision plat
9 to enter into an agreement to acquire such reserved land area. The
10 purchase price shall be the fair market value of the reserved land area at
11 the time of the filing of the preliminary subdivision plat plus the taxes
12 against such reserved area from the date of the reservation and any other
13 costs incurred by the subdivider in the maintenance of such reserved area,
14 including the interest cost incurred on any loan covering such reserved
15 area.

16 F. If the public agency for whose benefit an area has been reserved
17 does not exercise the reservation agreement set forth in subsection E of
18 this section within such ~~one-year~~ ONE-YEAR period or such extended period
19 as may be mutually agreed ~~upon~~ ON by such public agency and the subdivider,
20 the reservation of such area shall terminate.

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

24 1. Final subdivision plats.

25 2. Plats filed for the purpose of reverting to acreage of land
26 previously subdivided.

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

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

31 H. Approval of every preliminary and final plat by a legislative
32 body is conditioned ~~upon~~ ON compliance by the subdivider with:

1 1. Rules as may be established by the department of transportation
2 relating to provisions for the safety of entrance ~~upon~~ ON and departure
3 from abutting state primary highways.

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

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

10 I. If the subdivision is ~~comprised~~ COMPOSED of subdivided lands, as
11 defined in section 32-2101, and is within an active management area, as
12 defined in section 45-402, the final plat shall not be approved unless it
13 is accompanied by a certificate of assured water supply issued by the
14 director of water resources, or unless the subdivider has obtained a
15 written commitment of water service for the subdivision from a city, town
16 or private water company designated as having an assured water supply by
17 the director of water resources pursuant to section 45-576 or is exempt
18 from the requirement pursuant to section 45-576. The legislative body of
19 the municipality shall note on the face of the final plat that a
20 certificate of assured water supply has been submitted with the plat or
21 that the subdivider has obtained a written commitment of water service for
22 the proposed subdivision from a city, town or private water company
23 designated as having an assured water supply, pursuant to section 45-576,
24 or is exempt from the requirement pursuant to section 45-576.

25 J. Except as provided in subsections K and P of this section, if the
26 subdivision is composed of subdivided lands as defined in section 32-2101
27 outside of an INITIAL active management area and the director of water
28 resources has given written notice to the municipality pursuant to section
29 45-108, subsection H, the final plat shall not be approved unless one of
30 the following applies:

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

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

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

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

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

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

27 4. The transportation of water to the subdivision meets any
28 additional conditions imposed by the legislative body.

29 L. A municipality that adopts the exemption authorized by subsection
30 K of this section shall give written notice of the adoption of the
31 exemption, including a certified copy of the ordinance containing the
32 exemption, to the director of water resources, the director of

1 environmental quality and the state real estate commissioner. If the
2 municipality later rescinds the exemption, the municipality shall give
3 written notice of the rescission to the director of water resources, the
4 director of environmental quality and the state real estate
5 commissioner. A municipality that rescinds an exemption adopted pursuant
6 to subsection K of this section shall not readopt the exemption for at
7 least five years after the rescission becomes effective.

8 M. If the legislative body of a municipality approves a subdivision
9 plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this
10 section, the legislative body shall note on the face of the plat that the
11 director of water resources has reported that the subdivision has an
12 adequate water supply or that the subdivider has obtained a commitment of
13 water service for the proposed subdivision from a city, town or private
14 water company designated as having an adequate water supply pursuant to
15 section 45-108.

16 N. If the legislative body of a municipality approves a subdivision
17 plat pursuant to an exemption authorized by subsection K of this section or
18 granted by the director of water resources pursuant to section 45-108.02 or
19 45-108.03:

20 1. The legislative body shall give written notice of the approval to
21 the director of water resources and the director of environmental quality.

22 2. The legislative body shall include on the face of the plat a
23 statement that the director of water resources has determined that ~~the~~
24 ~~water supply for the subdivision is inadequate~~ SUFFICIENT GROUNDWATER,
25 SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY,
26 LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE
27 SUBDIVISION FOR ONE HUNDRED YEARS and a statement describing the exemption
28 under which the plat was approved, including a statement that the
29 legislative body or the director of water resources, whichever applies, has
30 determined that the specific conditions of the exemption were met. If the
31 director subsequently informs the legislative body that the subdivision is
32 being served by a water provider that has been designated by the director

1 as having an adequate water supply pursuant to section 45-108, the
2 legislative body shall record in the county recorder's office a statement
3 disclosing that fact.

4 O. If a municipality has not been given written notice by the
5 director of water resources pursuant to section 45-108, subsection H, the
6 legislative body of the municipality, to protect the public health and
7 safety, may provide by ordinance that, except as provided in subsections K
8 and P of this section, the final plat of a subdivision located in the
9 municipality and outside of an INITIAL active management area will not be
10 approved by the legislative body unless the director of water resources has
11 determined that there is an adequate water supply for the subdivision
12 pursuant to section 45-108 or the subdivider has obtained a written
13 commitment of water service for the subdivision from a city, town or
14 private water company designated as having an adequate water supply by the
15 director of water resources pursuant to section 45-108. Before holding a
16 public hearing to consider whether to enact an ordinance pursuant to this
17 subsection, a municipality shall provide written notice of the hearing to
18 the board of supervisors of the county in which the municipality is
19 located. A municipality that enacts an ordinance pursuant to this
20 subsection shall give written notice of the enactment of the ordinance,
21 including a certified copy of the ordinance, to the director of water
22 resources, the director of environmental quality, the state real estate
23 commissioner and the board of supervisors of the county in which the
24 municipality is located. If a municipality enacts an ordinance pursuant to
25 this subsection, water providers may be eligible to receive monies in a
26 water supply development fund, as otherwise provided by law.

27 P. Subsections J and O of this section do not apply to:

28 1. A proposed subdivision that the director of water resources has
29 determined will have an inadequate water supply pursuant to section 45-108
30 if the director grants an exemption for the subdivision pursuant to section
31 45-108.02 and the exemption has not expired or if the director grants an
32 exemption pursuant to section 45-108.03.

1 2. A proposed subdivision that received final plat approval from the
2 municipality before the requirement for an adequate water supply became
3 effective in the municipality if the plat has not been materially changed
4 since it received the final plat approval. If changes were made to the
5 plat after the plat received the final plat approval, the director of water
6 resources shall determine whether the changes are material pursuant to the
7 rules adopted by the director to implement section 45-108. If the
8 municipality approves a plat pursuant to this paragraph and the director of
9 water resources has determined that there is an inadequate water supply for
10 the subdivision pursuant to section 45-108, the municipality shall note
11 ~~this~~ on the face of the plat **THAT THE DIRECTOR OF WATER RESOURCES HAS**
12 **DETERMINED THAT SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF**
13 **ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY OR PHYSICALLY AVAILABLE**
14 **TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR ONE HUNDRED YEARS.**

15 Q. If the subdivision is composed of subdivided lands as defined in
16 section 32-2101 outside of an **INITIAL** active management area and the
17 municipality has not received written notice pursuant to section 45-108,
18 subsection H and has not adopted an ordinance pursuant to subsection O of
19 this section:

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

27 2. If the **PLAT IS APPROVED AND THE** director of water resources has
28 determined that there is an inadequate water supply for the subdivision
29 pursuant to section 45-108, the municipality shall note ~~this~~ **THAT THE**
30 **DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT SUFFICIENT GROUNDWATER,**
31 **SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY,**
32 **LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE**

1 **SUBDIVISION FOR ONE HUNDRED YEARS** on the face of the plat if the plat is
2 approved.

3 R. Every municipality is responsible for the recordation of all
4 final plats approved by the legislative body and shall receive from the
5 subdivider and transmit to the county recorder the recordation fee
6 established by the county recorder.

7 S. Pursuant to provisions of applicable state statutes, the
8 legislative body of any municipality may itself prepare or have prepared a
9 plat for the subdivision of land under municipal ownership.

10 T. The legislative bodies of cities and towns may regulate by
11 ordinance land splits within their corporate limits. Authority granted
12 under this section refers to the determination of division lines, area and
13 shape of the tracts or parcels and does not include authority to regulate
14 the terms or condition of the sale or lease nor does it include the
15 authority to regulate the sale or lease of tracts or parcels that are not
16 the result of land splits as defined in section 9-463.

17 U. For any subdivision that consists of ten or fewer lots, tracts or
18 parcels, each of which is of a size as prescribed by the legislative body,
19 the legislative body of each municipality may expedite the processing of or
20 waive the requirement to prepare, submit and receive approval of a
21 preliminary plat as a condition precedent to submitting a final plat and
22 may waive or reduce infrastructure standards or requirements proportional
23 to the impact of the subdivision. Requirements for dust-controlled access
24 and drainage improvements shall not be waived.

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

27 **11-823. Water supply; adequacy; exemptions**

28 A. To protect the public health and safety, the general regulations
29 adopted by the board pursuant to section 11-821, subsection B, if approved
30 by unanimous vote of the board of supervisors, may provide that, except as
31 provided in subsection C and subsection D, paragraph 1 of this section, the
32 board shall not approve a final plat for a subdivision composed of

1 subdivided lands, as defined in section 32-2101, located outside of an
2 INITIAL active management area, as defined in section 45-402, OR LOCATED
3 WITHIN A SUBSEQUENT ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402,
4 unless one of the following applies:

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

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

12 B. If the board unanimously adopts the provision authorized by
13 subsection A of this section:

14 1. The board may include in the general regulations an exemption
15 from the provision for a subdivision that the director of water resources
16 has determined will have an inadequate water supply because the water
17 supply will be transported to the subdivision by motor vehicle or train if
18 all of the following apply:

19 (a) The board determines that there is no feasible alternative water
20 supply for the subdivision and that the transportation of water to the
21 subdivision will not constitute a significant risk to the health and safety
22 of the residents of the subdivision.

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

27 (c) If the water to be transported is groundwater, the
28 transportation complies with the provisions governing the transportation of
29 groundwater in title 45, chapter 2, article 8.

30 (d) The transportation of water to the subdivision meets any
31 additional conditions imposed by the county.

1 2. The board shall promptly give written notice of the adoption of
2 the provision to the director of water resources, the director of
3 environmental quality and the state real estate commissioner. The notice
4 shall include a certified copy of the provision, ~~and~~ any exemptions adopted
5 pursuant to paragraph 1 of this subsection AND SPECIFY WHETHER THE
6 PROVISION AND EXCEPTIONS APPLY TO ALL AREAS OF THE COUNTY THAT ARE LOCATED
7 OUTSIDE OF AN INITIAL ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402,
8 OR TO ONLY AREAS OF THE COUNTY THAT ARE LOCATED WITHIN A SUBSEQUENT ACTIVE
9 MANAGEMENT AREA, AS DEFINED IN SECTION 45-402. Water providers may be
10 eligible to receive monies in a water supply development fund, as otherwise
11 provided by law.

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

22 4. If the board approves a subdivision plat pursuant to subsection
23 A, paragraph 1 or 2 of this section, the board shall note on the face of
24 the plat that the director of water resources has reported that the
25 subdivision has an adequate water supply or that the subdivider has
26 obtained a commitment of water service for the proposed subdivision from a
27 city, town or private water company designated as having an adequate water
28 supply pursuant to section 45-108.

29 5. If the board approves a subdivision plat pursuant to an exemption
30 authorized by paragraph 1 of this subsection or granted by the director of
31 water resources pursuant to section 45-108.02 or 45-108.03:

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

3 (b) The board shall include on the face of the plat a statement that
4 the director of water resources has determined that ~~the water supply for~~
5 ~~the subdivision is inadequate~~ SUFFICIENT GROUNDWATER, SURFACE WATER OR
6 EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY OR
7 PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR ONE
8 HUNDRED YEARS and a statement describing the exemption under which the plat
9 was approved, including a statement that the board or the director of water
10 resources, whichever applies, has determined that the specific conditions
11 of the exemption were met. If the director of water resources subsequently
12 informs the board that the subdivision is being served by a water provider
13 that has been designated by the director as having an adequate water supply
14 pursuant to section 45-108, the board shall record in the county recorder's
15 office a statement disclosing that fact.

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

17 1. A proposed subdivision that the director of water resources has
18 determined will have an inadequate water supply pursuant to section 45-108
19 if the director grants an exemption for the subdivision pursuant to section
20 45-108.02 and the exemption has not expired or the director grants an
21 exemption pursuant to section 45-108.03.

22 2. A proposed subdivision that received final plat approval from the
23 county before the requirement for an adequate water supply became effective
24 in the county if the plat has not been materially changed since it received
25 the final plat approval. If changes were made to the plat after the plat
26 received the final plat approval, the director of water resources shall
27 determine whether the changes are material pursuant to the rules adopted by
28 the director to implement section 45-108. If the county approves a plat
29 pursuant to this paragraph and the director of water resources has
30 determined that there is an inadequate water supply for the subdivision
31 pursuant to section 45-108, the county shall note ~~this~~
32 plat THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT SUFFICIENT

1 GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE
2 CONTINUOUSLY, LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF
3 THE SUBDIVISION FOR ONE HUNDRED YEARS.

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

7 1. If the director of water resources has determined that there is
8 an adequate water supply for the subdivision pursuant to section 45-108 or
9 if the subdivider has obtained a written commitment of water service for
10 the subdivision from a city, town or private water company designated as
11 having an adequate water supply by the director of water resources pursuant
12 to section 45-108, the board shall note this on the face of the plat if the
13 plat is approved.

14 2. If the PLAT IS APPROVED AND THE director of water resources has
15 determined that there is an inadequate water supply for the subdivision
16 pursuant to section 45-108, the board shall note ~~this~~ on the face of the
17 plat ~~if the plat is approved~~ THAT THE DIRECTOR OF WATER RESOURCES HAS
18 DETERMINED THAT SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF
19 ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY OR PHYSICALLY AVAILABLE
20 TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR ONE HUNDRED YEARS.

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

23 32-2181. Notice to commissioner of intention to subdivide
24 lands; unlawful acting in concert; exceptions; deed
25 restrictions; definition

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

29 1. The name and address of the owner. If the holder of any
30 ownership interest in the land is other than an individual, such as a
31 corporation, partnership or trust, THE NOTICE SHALL CONTAIN a statement
32 naming the type of legal entity and listing the interest and the extent of

1 any interest of each principal in the entity. For the purposes of this
2 section, "principal" means any person or entity having a ten ~~per cent~~
3 PERCENT or more financial interest or, if the legal entity is a trust,
4 each beneficiary of the trust holding a ten ~~per cent~~ PERCENT or more
5 beneficial interest.

6 2. The name and address of the subdivider.

7 3. The legal description and area of the land.

8 4. A true statement of the condition of the title to the land,
9 including all encumbrances on the land, and a statement of the provisions
10 agreed to by the holder of any blanket encumbrance enabling a purchaser to
11 acquire title to a lot or parcel free of the lien of the blanket
12 encumbrance on completion of all payments and performance of all of the
13 terms and provisions required to be made or performed by the purchaser
14 under the real estate sales contract by which the purchaser has acquired
15 the lot or parcel. The subdivider shall file copies of documents
16 acceptable to the department containing these provisions with the
17 commissioner before the sale of any subdivision lot or parcel subject to a
18 blanket encumbrance.

19 5. The terms and conditions on which it is intended to dispose of
20 the land, together with copies of any real estate sales contract,
21 conveyance, lease, assignment or other instrument intended to be used, and
22 any other information the owner or the owner's agent or subdivider desires
23 to present.

24 6. A map of the subdivision that has been filed in the office of
25 the county recorder in the county in which the subdivision is located.

26 7. A brief but comprehensive statement describing the land on and
27 the locality in which the subdivision is located.

28 8. A statement of the provisions that have been made for permanent
29 access and provisions, if any, for health department approved sewage and
30 solid waste collection and disposal and public utilities in the proposed
31 subdivision, including water, electricity, gas and telephone facilities.

1 9. A statement as to the location of the nearest public common and
2 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
3 residing on the subdivision property.

4 10. A statement of the use or uses for which the proposed
5 subdivision will be offered.

6 11. A statement of the provisions, if any, limiting the use or
7 occupancy of the parcels in the subdivision, together with copies of any
8 restrictive covenants affecting all or part of the subdivision.

9 12. The name and business address of the principal broker selling or
10 leasing, within this state, lots or parcels in the subdivision.

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

15 14. A true statement or reasonable estimate, if applicable, of the
16 amount of any indebtedness that has been or is proposed to be incurred by
17 an existing or proposed special district, entity, taxing area or
18 assessment district, within the boundaries of which the subdivision, or
19 any part of the subdivision, is located, and that is to pay for the
20 construction or installation of any improvement or to furnish community or
21 recreational facilities to the subdivision, and which amounts are to be
22 obtained by ad valorem tax or assessment, or by a special assessment or
23 tax ~~upon~~ ON the subdivision or any part of the subdivision.

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

27 16. A statement of the provisions for easements for permanent access
28 for irrigation water ~~where~~ IF applicable.

29 17. A true statement of assurances for the completion of off-site
30 improvements, such as roads, utilities, community or recreational
31 facilities and other improvements to be included in the offering or
32 represented as being in the offering, and approval of the offering by the

1 political subdivision with authority. This statement shall include a
2 trust agreement or any other evidence of assurances for delivery of the
3 improvements and a statement of the provisions, if any, for the continued
4 maintenance of the improvements.

5 18. A true statement of the nature of any improvements to be
6 installed by the subdivider, the estimated schedule for completion and the
7 estimated costs related to the improvements that will be borne by
8 purchasers of lots in the subdivision.

9 19. A true statement of the availability of sewage disposal
10 facilities and other public utilities, including water, electricity, gas
11 and telephone facilities in the subdivision, the estimated schedule for
12 their installation, and the estimated costs related to the facilities and
13 utilities that will be borne by purchasers of lots in the subdivision.

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

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

23 (a) Any subdivision in this state.

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

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

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

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

2 (b) The subdivider.

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

4 23. A true statement as to whether all or any portion of the
5 subdivision is located in territory in the vicinity of a military airport
6 or ancillary military facility as defined in section 28-8461, in territory
7 in the vicinity of a public airport as defined in section 28-8486, on or
8 after July 1, 2001, in a high noise or accident potential zone as defined
9 in section 28-8461 or on or after July 1 of the year in which the
10 subdivision becomes located in a high noise or accident potential
11 zone. The statement required pursuant to this paragraph does not require
12 the amendment or refileing of any notice filed before July 1, 2001 or
13 before July 1 of the year in which the subdivision becomes located in a
14 high noise or accident potential zone.

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

18 (a) That the property is a conversion from multifamily rental to
19 condominiums.

20 (b) The date original construction was completed.

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

26 B. The commissioner, on application, may grant a subdivider of lots
27 or parcels within a subdivision for which a public report was previously
28 issued by the commissioner an exemption from all or part of the
29 notification requirements of subsection A of this section. The subdivider
30 shall file a statement with the commissioner indicating the change of
31 ownership in the lots or parcels together with any material changes
32 occurring subsequent to the original approval of the subdivision within

1 which the lots or parcels are located. The statement shall further refer
2 to the original approval by the commissioner.

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

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

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

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

8 2. The lots, parcels or fractional interests are the result of a
9 foreclosure sale, the exercise by a trustee under a deed of trust of a
10 power of sale or the grant of a deed in lieu of foreclosure. This
11 paragraph does not allow circumvention of the requirements of this
12 article.

13 3. The lots, parcels or fractional interests are created by a valid
14 order or decree of a court pursuant to and through compliance with title
15 12, chapter 8, article 7 or by operation of law. This paragraph does not
16 allow circumvention of the requirements of this article.

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

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

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

29 7. A sale or lease of a lot, parcel or fractional interest occurs
30 ten or more years after the sale or lease of another lot, parcel or
31 fractional interest and the other lot, parcel or fractional interest is
32 not subject to this article and is treated as an independent parcel

1 unless, ~~upon~~ ON investigation by the commissioner, there is evidence of
2 intent to subdivide.

3 F. In areas outside of INITIAL active management areas established
4 pursuant to title 45, chapter 2, article 2:

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

12 (a) The subdivider submitted the report to a city, town or county
13 before approval of the plat by the city, town or county and this has been
14 noted on the face of the plat.

15 (b) The subdivider has obtained a written commitment of water
16 service for the subdivision from a city, town or private water company
17 designated as having an adequate water supply by the director of water
18 resources pursuant to section 45-108.

19 (c) The plat was approved pursuant to an exemption authorized by
20 section 9-463.01, subsection K, pursuant to an exemption authorized by
21 section 11-823, subsection B, paragraph 1, pursuant to an exemption
22 granted by the director of water resources under section 45-108.02 and the
23 exemption has not expired or pursuant to an exemption granted by the
24 director under section 45-108.03. If the plat was approved pursuant to an
25 authorized exemption, the state real estate commissioner shall require
26 that all promotional material and contracts for the sale of lots in the
27 subdivision adequately display the following:

28 (i) The director of water resources' report or the developer's
29 brief summary of the report as approved by the commissioner on the
30 proposed water supply for the subdivision.

31 (ii) A statement describing the exemption under which the
32 subdivision was approved, including the specific conditions of the

1 exemption that were met. If the plat was approved by the legislative body
2 of a city or town pursuant to an exemption authorized by section 9-463.01,
3 subsection K or by the board of supervisors of a county pursuant to an
4 exemption authorized by section 11-823, subsection B, paragraph 1, the
5 subdivider shall record the document required by section 33-406.

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

18 2. If the subdivision is not located in a county that has adopted
19 the provision authorized by section 11-823, subsection A or in a city or
20 town that has enacted an ordinance pursuant to section 9-463.01,
21 subsection 0, and if the director of water resources, pursuant to section
22 45-108, reports an inadequate on-site supply of water to meet the needs
23 projected by the developer or if no water is available, the state real
24 estate commissioner shall require that all promotional material and
25 contracts for the sale of lots in subdivisions approved by the
26 commissioner adequately display the director of water resources' report or
27 the developer's brief summary of the report as approved by the
28 commissioner on the proposed water supply for the subdivision.

29 G. The commissioner may require the subdivider to supplement the
30 notice of intention to subdivide lands and may require the filing of
31 periodic reports to update the information contained in the original
32 notice of intention to subdivide lands.

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

7 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
8 assignment or other instrument to transfer any interest in subdivided land
9 ~~nor~~ AND any covenant or restriction affecting real property shall NOT
10 contain any provision limiting the right of any party to appear or testify
11 in support of or opposition to zoning changes, building permits or any
12 other official acts affecting real property before a governmental body or
13 official considering zoning changes, building permits or any other
14 official acts affecting real property, whether the property is located
15 within or outside of the boundaries of the subdivision. All contractual
16 provisions that conflict with this subsection are declared to be contrary
17 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
18 prohibit private restrictions on the use of any real property.

19 J. Before offering subdivided lands for lease or sale, the
20 subdivider who makes any promises through any form of advertising media
21 that the subdivided lands will be exclusively a retirement community or
22 one that is limited to the residency of adults or senior citizens shall
23 include the promises in the deed restrictions affecting any interest in
24 real property within the subdivided lands.

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

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

3 32-2183. Subdivision public reports; denial of issuance;
4 unlawful sales; voidable sale or lease; order
5 prohibiting sale or lease; investigations;
6 hearings; summary orders

7 A. On examination of a subdivision, the commissioner, unless there
8 are grounds for denial, shall issue to the subdivider a public report
9 authorizing the sale or lease in this state of the lots, parcels or
10 fractional interests within the subdivision. The report shall contain the
11 data obtained in accordance with section 32-2181 and any other information
12 that the commissioner determines is necessary to implement the purposes of
13 this article. If any of the lots, parcels or fractional interests within
14 the subdivision are located within territory in the vicinity of a military
15 airport or ancillary military facility as defined in section 28-8461,
16 under a military training route as delineated in the military training
17 route map prepared pursuant to section 37-102, in a military installation
18 or range or Arizona national guard site influence area as delineated in
19 the maps prepared pursuant to section 37-102, subsection H, paragraph 4,
20 under restricted air space as delineated in the restricted air space map
21 prepared pursuant to section 37-102 or contained in the military
22 electronics range as delineated in the military electronics range map
23 prepared pursuant to section 37-102, the report shall include, in bold
24 twelve-point font block letters on the first page of the report, the
25 statements required pursuant to section 28-8484, subsection A, section
26 32-2183.05 or section 32-2183.06 and, if the department has been provided
27 a map prepared pursuant to section 28-8484, subsection B or section
28 37-102, the report shall include a copy of the map. The military airport
29 report requirements do not require the amendment or reissuance of any
30 public report issued on or before December 31, 2001 or on or before
31 December 31 of the year in which the lots, parcels or fractional interests
32 within a subdivision become territory in the vicinity of a military

1 airport or ancillary military facility. The military training route
2 report requirements do not require the amendment or reissuance of any
3 public report issued on or before December 31, 2004. The restricted air
4 space report requirements do not require the amendment or reissuance of
5 any public report issued on or before December 31, 2006. The military
6 electronics range report requirements do not require the amendment or
7 reissuance of any public report issued on or before December 31, 2008.
8 ~~A~~ Military installation or range or Arizona national guard site report
9 requirements do not require the amendment or reissuance of any public
10 report issued on or before December 31, 2024. The commissioner shall
11 require the subdivider to reproduce the report, make the report available
12 to each initial prospective customer and furnish each initial buyer or
13 lessee with a copy before the buyer or lessee signs any offer to purchase
14 or lease, taking a receipt therefor.

15 B. This section does not require a public report issued sixty or
16 fewer days before the filing of the military electronics range map or the
17 military installation or range or Arizona national guard site influence
18 area map prepared pursuant to section 37-102 to meet the military
19 electronics range or military installation or range or Arizona national
20 guard site notification requirements of this section.

21 C. A public report issued sixty-one or more days after the filing
22 of the military electronics range map or the military installation or
23 range or Arizona national guard site influence area map prepared pursuant
24 to section 37-102 shall meet all of the requirements of subsection A of
25 this section.

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

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

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

4 3. The department shall assign a registration number to each
5 notification and public report submitted pursuant to this subsection and
6 shall maintain a database of all of these submissions. The subdivider
7 shall place the number on each public report.

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

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

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

1 shall vacate any action that the commissioner may have commenced pursuant
2 to section 32-2154 or 32-2157.

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

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

7 1. Failure to comply with this article or the rules of the
8 commissioner pertaining to this article.

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

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

12 4. Inability to demonstrate that adequate financial or other
13 arrangements acceptable to the commissioner have been made for completion
14 of all streets, sewers, electric, gas and water utilities, drainage and
15 flood control facilities, community and recreational facilities and other
16 improvements included in the offering.

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

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

23 (a) Been convicted of a felony or misdemeanor involving fraud or
24 dishonesty or involving conduct of any business or a transaction in real
25 estate, cemetery property, timeshare intervals or membership camping
26 campgrounds or contracts.

27 (b) Been permanently or temporarily enjoined by order, judgment or
28 decree from engaging in or continuing any conduct or practice in
29 connection with the sale or purchase of real estate or cemetery property,
30 timeshare intervals, membership camping contracts or campgrounds, or
31 securities or involving consumer fraud or the racketeering laws of this
32 state.

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

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

7 (e) Disregarded or violated this chapter or the rules of the
8 commissioner pertaining to this chapter.

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

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

14 8. Failure of the declaration for a condominium created pursuant to
15 title 33, chapter 9, article 2 to comply with the requirements of section
16 33-1215 or failure of the plat for the condominium to comply with the
17 requirements of section 33-1219. The commissioner may require an
18 applicant for a public report to submit a notarized statement signed by
19 the subdivider or an engineer or attorney licensed to practice in this
20 state certifying that the condominium plat and declaration of condominium
21 are in compliance with the requirements of sections 33-1215 and
22 33-1219. If the notarized statement is provided, the commissioner is
23 entitled to rely on this statement.

24 9. Failure of any blanket encumbrance or valid supplementary
25 agreement executed by the holder of the blanket encumbrance to contain
26 provisions that enable the purchaser to acquire title to a lot or parcel
27 free of the lien of the blanket encumbrance, on completion of all payments
28 and performance of all of the terms and provisions required to be made or
29 performed by the purchaser under the real estate sales contract by which
30 the purchaser has acquired the lot or parcel. The subdivider shall file
31 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

1 to section 45-576 or is exempt from the requirement pursuant to section
2 45-576.

3 H. In areas outside of INITIAL active management areas, if the
4 subdivision is located in a county that has adopted the provision
5 authorized by section 11-823, subsection A or in a city or town that has
6 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
7 commissioner shall deny issuance of a public report or the use of any
8 exemption pursuant to section 32-2181.02, subsection B unless one of the
9 following applies:

10 1. The director of water resources has reported pursuant to section
11 45-108 that the subdivision has an adequate water supply.

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

16 3. The plat was approved pursuant to an exemption authorized by
17 section 9-463.01, subsection K, pursuant to an exemption authorized by
18 section 11-823, subsection B, paragraph 1, pursuant to an exemption
19 granted by the director of water resources under section 45-108.02 and the
20 exemption has not expired or pursuant to an exemption granted by the
21 director of water resources under section 45-108.03.

22 4. The subdivision received final plat approval from the city, town
23 or county before the requirement for an adequate water supply became
24 effective in the city, town or county, and there have been no material
25 changes to the plat since the final plat approval. If changes were made
26 to the plat after the final plat approval, the director of water resources
27 shall determine whether the changes are material pursuant to the rules
28 adopted by the director to implement section 45-108.

29 I. A subdivider shall not sell or lease or offer for sale or lease
30 in this state any lots, parcels or fractional interests in a subdivision
31 without first obtaining a public report from the commissioner except as
32 provided in section 32-2181.01 or 32-2181.02, and a certificate of

1 administrative completeness issued pursuant to this section. Unless
2 exempt, the sale or lease of subdivided lands before issuance of the
3 public report or failure to deliver the public report to the purchaser or
4 lessee shall render the sale or lease rescindable by the purchaser or
5 lessee. An action by the purchaser or lessee to rescind the transaction
6 shall be brought within three years after the date of execution of the
7 purchase or lease agreement by the purchaser or lessee. In any rescission
8 action, the prevailing party is entitled to reasonable attorney fees as
9 determined by the court.

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

14 K. Any applicant objecting to the denial of a public report, within
15 thirty days after receipt of the order of denial, may file a written
16 request for a hearing. The commissioner shall hold the hearing within
17 twenty days after receipt of the request for a hearing unless the party
18 requesting the hearing has requested a postponement. If the hearing is
19 not held within twenty days after a request for a hearing is received,
20 plus the period of any postponement, or if a proposed decision is not
21 rendered within forty-five days after submission, the order of denial
22 shall be rescinded and a public report issued.

23 L. On the commissioner's own motion, or when the commissioner has
24 received a complaint and has satisfactory evidence that the subdivider or
25 the subdivider's agent is violating this article or the rules of the
26 commissioner or has engaged in any unlawful practice as defined in section
27 44-1522 with respect to the sale of subdivided lands or deviated from the
28 provisions of the public report, the commissioner may investigate the
29 subdivision project and examine the books and records of the
30 subdivider. For the purpose of examination, the subdivider shall keep and
31 maintain records of all sales transactions and funds received by the

1 subdivider pursuant to the sales transactions and shall make them
2 accessible to the commissioner on reasonable notice and demand.

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

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

1 O. The court, on receipt of an application for the appointment of a
2 receiver or for a writ of ne exeat, or both, shall examine the verified
3 application of the commissioner and other evidence that the commissioner
4 may present the court. If satisfied that the interests of the public
5 require the appointment of a receiver or the issuance of a writ of ne exeat
6 without notice, the court shall issue an order appointing the receiver or
7 issue the writ, or both. If the court determines that the interests of the
8 public will not be harmed by the giving of notice, the court shall set a
9 time for a hearing and require notice be given as the court deems
10 satisfactory.

11 P. If the court appoints a receiver without notice, the court shall
12 further direct that a copy of the order appointing a receiver be served on
13 the person engaged in or engaging in a practice declared to be unlawful
14 under this article by delivering the order to the last address of the
15 person that is on file with the state real estate department. The order
16 shall inform the person that the person has the right to request a hearing
17 within ten days after the date of the order and, if requested, the hearing
18 shall be held within thirty days after the date of the order.

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

21 32-2197.08. Issuance of public report and amended public
22 report by commissioner on timeshare plan; denial
23 of issuance; additional information; use of
24 another state's public report

25 A. On examination of a timeshare plan, the commissioner, unless
26 there are grounds for denial, shall approve for use by the developer a
27 public report authorizing the sale or lease of the timeshare interests
28 within the timeshare plan. For all timeshare interests sold in this state,
29 the commissioner shall require the developer to reproduce the public report
30 and furnish each prospective customer with a copy, taking a receipt for
31 each copy. The public report shall be made available to each prospective

1 purchaser in written format either by electronic means or in hard copy.

2 The public report shall include the following:

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

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

5 3. A description of the existing and proposed accommodations and
6 amenities of the timeshare plan, including type and number, any use
7 restrictions and any required fees for use.

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

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

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

14 5. A brief description of the duration, phases and operation of the
15 timeshare plan.

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

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

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

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

24 7. A description of any liens, defects or encumbrances on or
25 affecting the title to the timeshare interests.

26 8. A statement that by midnight of the tenth calendar day after
27 execution of the purchase agreement a purchaser may cancel any purchase
28 agreement for a timeshare interest from a developer together with a
29 statement providing the name and street address where the purchaser should
30 mail any notice of cancellation. If, by agreement of the parties through
31 the purchase agreement, the purchase agreement allows for cancellation of
32 the purchase agreement for a period of time exceeding ten calendar days,

1 the public report shall include a statement that the cancellation of the
2 purchase agreement is allowed for that period of time exceeding ten
3 calendar days.

4 9. A description of any bankruptcies, pending suits, adjudications
5 or disciplinary actions material to the timeshare interests of which the
6 developer has knowledge.

7 10. Any restrictions on alienation of any number or portion of any
8 timeshare interests.

9 11. Any current or expected fees or charges to be paid by timeshare
10 purchasers for the use of any amenities related to the timeshare plan.

11 12. The extent to which financial arrangements have been provided
12 for completion of all promised improvements.

13 13. If the timeshare plan provides purchasers with the opportunity
14 to participate in any exchange programs, a description of the name and
15 address of the exchange companies and the method by which a purchaser
16 accesses the exchange programs.

17 14. Any other information that the developer, with the approval of
18 the commissioner, desires to include in the public report.

19 15. If the developer is offering a multisite timeshare plan, the
20 following information, which may be disclosed in a written, graphic or
21 tabular form:

22 (a) A description of each component site, including the name and
23 address of each component site.

24 (b) The number of accommodations and timeshare periods, expressed in
25 periods of use availability, committed to the multisite timeshare plan and
26 available for use by purchasers.

27 (c) Each type of accommodation in terms of the number of bedrooms,
28 bathrooms and sleeping capacity and a statement of whether or not the
29 accommodation contains a full kitchen. For the purposes of this
30 subdivision, "full kitchen" means a kitchen having a minimum of a
31 dishwasher, range, oven, sink and refrigerator.

1 (d) A description of amenities available for use by the purchaser at
2 each component site.

3 (e) A description of the reservation system, including the
4 following:

5 (i) The entity responsible for operating the reservation system.

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

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

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

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

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

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

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

29 16. If a developer offers a nonspecific timeshare interest in a
30 multisite timeshare plan, the information set forth in paragraphs 1 through
31 14 of this subsection as to each component site.

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

3 B. Except as otherwise provided in this subsection, the requirements
4 prescribed by subsection A of this section apply to a developer's
5 application for approval to use an amended public report for the sale of
6 timeshare interests in a timeshare plan, including an amended public report
7 to disclose and address a material change under section 32-2197.04. A
8 developer may elect to prepare an amended public report for use in the sale
9 of timeshare interests as follows:

10 1. The developer shall prepare the amended public report and provide
11 a copy of the report to the commissioner with the submission of the
12 application for an amended public report, including any notification
13 required by section 32-2197.04, and shall comply with all other
14 requirements of this article.

15 2. An amendment filing fee established pursuant to section
16 32-2197.07 shall accompany the application prescribed by paragraph 1 of
17 this subsection.

18 3. On receipt of the application and amended public report, the
19 department shall review and, within fifteen business days if the amendment
20 adds less than six new component sites to the timeshare plan or within
21 thirty calendar days if the amendment adds six or more new component sites
22 to the timeshare plan, issue either a certification that the application
23 and amended public report are administratively complete or a denial letter
24 if it appears that the application, amended public report or timeshare plan
25 is not in compliance with all legal requirements, that the applicant has a
26 background of violations of state or federal law or that the applicant or
27 timeshare plan presents an unnecessary risk of harm to the public. If the
28 commissioner has received the application and amended public report but has
29 not issued a certification or a denial letter within the required time
30 period, the application and amended public report are deemed
31 administratively complete.

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

7 5. Before or after the commissioner issues a certification of
8 administrative completeness or, if applicable, after the application and
9 amended public report are deemed to be administratively complete pursuant
10 to paragraph 3 of this subsection, the department may examine any public
11 report, timeshare plan or applicant that has applied for or received the
12 certification. If the commissioner determines that the public report,
13 timeshare plan or applicant is not in compliance with any requirement of
14 state law or that grounds exist under this chapter to suspend, deny or
15 revoke a public report, the commissioner may commence an administrative
16 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
17 immediately corrects the deficiency and fully complies with state law, the
18 commissioner shall promptly vacate any action that the commissioner may
19 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

20 6. The department shall provide forms and guidelines for the
21 submission of the application and amended public report pursuant to this
22 subsection.

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

27 1. Failure to comply with this article or the rules of the
28 commissioner pertaining to this article.

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

1 3. Inability to demonstrate that adequate financial or other
2 arrangements acceptable to the commissioner have been made for completion
3 of the timeshare property, installation of all streets, sewers, electric,
4 gas and water utilities, drainage, flood control and other similar
5 improvements included in the offering.

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

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

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

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

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

25 (e) Disregarded or violated this chapter or the rules of the
26 commissioner pertaining to this chapter.

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

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

1 D. If the timeshare property is within an active management area, as
2 defined in section 45-402, the commissioner shall deny issuance of a public
3 report unless the developer has been issued a certificate of assured water
4 supply by the director of water resources and has paid all applicable fees
5 pursuant to sections 48-3772 and 48-3774.01, or unless the developer has
6 obtained a written commitment of water service for the timeshare property
7 from a city, town or private water company designated as having an assured
8 water supply by the director of water resources pursuant to section 45-576.

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

15 1. The director of water resources has reported pursuant to section
16 45-108 that the timeshare property has an adequate water supply.

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

21 3. The timeshare property was approved pursuant to an exemption
22 authorized by section 9-463.01, subsection K, pursuant to an exemption
23 authorized by section 11-823, subsection B, paragraph 1, pursuant to an
24 exemption granted by the director of water resources under section
25 45-108.02 and the exemption has not expired or pursuant to an exemption
26 granted by the director of water resources under section 45-108.03.

27 4. The subdivision received final plat approval from the city, town
28 or county before the requirement for an adequate water supply became
29 effective in the city, town or county, and there have been no material
30 changes to the plat since the final plat approval. If changes were made to
31 the plat after the final plat approval, the director of water resources

1 shall determine whether the changes are material pursuant to the rules
2 adopted by the director to implement section 45-108.

3 F. In addition to providing to each prospective customer a copy of
4 the public report as required in subsection A of this section, the
5 developer shall also provide to each customer before the close of any
6 transaction information and materials that identify any timeshare exchange
7 companies currently under contract and disclosure statements regarding the
8 use of the timeshare exchange companies, as well as any additional
9 information the commissioner deems appropriate.

10 G. The commissioner may authorize for use in this state by a
11 developer of a timeshare plan in which all accommodations are located
12 outside of this state a current public report that is issued by another
13 jurisdiction or an equivalent registration and disclosure document that is
14 required before offering a timeshare plan for sale, lease or use and that
15 is issued by another jurisdiction. This authorization does not constitute
16 an exemption from other applicable requirements of this article.

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

19 45-108. Evaluation of subdivision water supply; definition

20 A. In areas outside of INITIAL active management areas established
21 pursuant to chapter 2, article 2 of this title, the developer of a proposed
22 subdivision including dry lot subdivisions, regardless of subdivided lot
23 size, ~~prior to recordation of~~ BEFORE RECORDING the plat, shall submit plans
24 for the water supply for the subdivision and demonstrate the adequacy of
25 the water supply to meet the needs projected by the developer to the
26 director. The director shall evaluate the plans and issue a report on the
27 plans.

28 B. The director shall evaluate the proposed source of water for the
29 subdivision to determine whether there is an adequate water supply for the
30 subdivision, and shall forward a copy of the director's report to the state
31 real estate commissioner and the city, town or county responsible for
32 platting the subdivision.

1 C. The director may designate cities, towns and private water
2 companies as having an adequate water supply by reporting that designation
3 to the water department of the city or town or private water company and
4 the state real estate commissioner.

5 D. As an alternative to designation under subsection C of this
6 section, the director may designate a city or town that has entered into a
7 contract with the United States secretary of the interior or a county water
8 authority established pursuant to chapter 13 of this title for permanent
9 supplies of Colorado river water for municipal and industrial use as having
10 an adequate water supply if all of the following apply:

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

14 2. The Colorado river water for which the city or town has
15 contracted is sufficient together with other water supplies available to
16 the city or town and the private water companies that serve water within
17 that city or town to provide an adequate supply of water for the city or
18 town.

19 3. The director finds that new subdivisions within the city or town
20 will be served primarily with Colorado river water by the city or town or
21 one of the private water companies that serve water within that city or
22 town.

23 E. The director shall not require a developer to submit plans for
24 the water supply pursuant to subsection A of this section if either:

25 1. Both of the following apply:

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

29 (b) That city, town or private water company has been designated as
30 having an adequate water supply pursuant to subsection C of this section.

31 2. All of the following apply:

1 (a) The city or town has been designated as having an adequate water
2 supply pursuant to subsection D of this section.

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

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

8 F. The director may revoke a designation made pursuant to this
9 section when the director finds that the water supply may become
10 inadequate.

11 G. ~~The~~ THIS state ~~of Arizona~~ and the director or department shall
12 not be liable for any report, designation or evaluation prepared in good
13 faith pursuant to this section.

14 H. If the director receives written notice from the board of
15 supervisors of a county that it has adopted the provision authorized by
16 section 11-823, subsection A, the director shall give written notice of the
17 provision to the mayors of all cities and towns in the county. A city or
18 town that receives the notice shall comply with section 9-463.01,
19 subsections J, K, L, M and N.

20 I. For the purposes of this section, "adequate water supply" means
21 both of the following:

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

25 2. The financial capability has been demonstrated to construct the
26 water facilities necessary to make the supply of water available for the
27 proposed use, including a delivery system and any storage facilities or
28 treatment works. The director may accept evidence of the construction
29 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
30 satisfy this requirement.

1 Sec. 7. Title 45, chapter 2, article 5, Arizona Revised Statutes, is
2 amended by adding sections 45-465.05, 45-465.06, 45-465.07 and 45-465.08,
3 to read:

4 45-465.05. Addition of acres; subsequent active management
5 areas; definition

6 A. A PERSON THAT OWNS ACRES OF LAND WITHIN A SUBSEQUENT ACTIVE
7 MANAGEMENT AREA DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
8 RIGHT THAT HAVE NOT BEEN RETIRED FROM IRRIGATION FOR A NON-IRRIGATION USE
9 PURSUANT TO SECTION 45-463 OR 45-469 MAY APPLY TO THE DIRECTOR TO ADD ACRES
10 OF LAND WITHIN THE SAME GROUNDWATER BASIN OR SUBBASIN TO THE PERSON'S
11 CERTIFICATE OF IRRIGATION GRANDFATHERED RIGHT. THE OWNER OR LESSEE OF THE
12 ADDITIONAL ACRES SHALL HAVE THE RIGHT TO USE GROUNDWATER TO IRRIGATE THE
13 ADDITIONAL ACRES.

14 B. IF A PERSON ADDS ACRES TO A CERTIFICATE OF IRRIGATION
15 GRANDFATHERED RIGHT PURSUANT TO THIS SECTION, THE IRRIGATION GRANDFATHERED
16 RIGHTS ARE APPURTENANT TO THE ORIGINAL CERTIFICATED ACRES AND THE
17 ADDITIONAL ACRES. THE MAXIMUM AMOUNT OF GROUNDWATER A PERSON MAY USE TO
18 IRRIGATE THE ORIGINAL CERTIFICATED ACRES AND THE ADDITIONAL ACRES MAY NOT
19 EXCEED THE MAXIMUM AMOUNT OF GROUNDWATER AS DETERMINED FOR THE ORIGINAL
20 CERTIFICATED ACRES PURSUANT TO SECTION 45-465.

21 C. FOR THE PURPOSES OF THIS SECTION, "ORIGINAL CERTIFICATED ACRES"
22 MEANS THE ACRES DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
23 RIGHT BEFORE THE ADDITION OF ACRES AS DETERMINED PURSUANT TO SECTION
24 45-465.

25 45-465.06. Substitution of acres; subsequent active management
26 areas

27 A. A PERSON THAT OWNS ACRES OF LAND WITHIN A SUBSEQUENT ACTIVE
28 MANAGEMENT AREA DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
29 RIGHT THAT HAVE NOT BEEN RETIRED FROM IRRIGATION FOR A NON-IRRIGATION USE
30 PURSUANT TO SECTION 45-463 OR 45-469 MAY APPLY TO THE DIRECTOR TO RETIRE
31 ALL OR A PORTION OF THE PERSON'S ACRES FROM IRRIGATION AND SUBSTITUTE THE

1 RETIRED ACRES FOR OTHER ACRES WITHIN THE SAME GROUNDWATER BASIN OR
2 SUBBASIN.

3 B. ANY PERSON THAT RETIRES ACRES FROM IRRIGATION PURSUANT TO THIS
4 SECTION SHALL RELINQUISH THE IRRIGATION GRANDFATHERED RIGHTS FOR THE
5 RETIRED ACRES. IRRIGATION GRANDFATHERED RIGHTS GAINED THROUGH SUBSTITUTION
6 AS PRESCRIBED BY THIS SECTION ARE APPURTENANT TO THE SUBSTITUTE ACRES. THE
7 OWNER OR LESSEE OF THE SUBSTITUTE ACRES SHALL HAVE THE RIGHT TO USE
8 GROUNDWATER TO IRRIGATE THE SUBSTITUTE ACRES BASED ON THE CALCULATION OF
9 THE IRRIGATION GRANDFATHERED RIGHTS FOR THE RETIRED ACRES AS DETERMINED
10 PURSUANT TO SECTION 45-465.

11 45-465.07. Conveyance of irrigation grandfathered rights:
12 subsequent active managements areas

13 A. THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT IN A SUBSEQUENT
14 ACTIVE MANAGEMENT AREA MAY RETIRE FROM IRRIGATION ALL OR A PORTION OF THE
15 ACRES THAT THE RIGHT IS APPURTENANT AND CONVEY THE RIGHT FOR IRRIGATION USE
16 ON OTHER LAND IN THE SAME GROUNDWATER BASIN OR SUBBASIN.

17 B. THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT THAT RETIRES ANY
18 ACRES FROM IRRIGATION PURSUANT TO THIS SECTION SHALL RELINQUISH THEIR
19 IRRIGATION GRANDFATHERED RIGHTS FOR THE RETIRED ACRES. ONCE A PERSON
20 RETIRES AND CONVEYS AN IRRIGATION GRANDFATHERED RIGHT AS PROVIDED IN THIS
21 SECTION, THE IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT TO THE LAND TO
22 WHERE THE RIGHT IS CONVEYED. THE AMOUNT OF AN IRRIGATION GRANDFATHERED
23 RIGHT THAT IS CONVEYED SHALL BE THE CURRENT MAXIMUM AMOUNT OF GROUNDWATER
24 THAT AN IRRIGATION GRANDFATHER MAY USE PURSUANT TO THE ACRES ATTACHED TO
25 THE RETIRED ACRES AS DETERMINED PURSUANT TO SECTION 45-465.

26 45-465.08. Combination of irrigation grandfathered rights:
27 subsequent active management areas

28 A. THE OWNER OF MORE THAN ONE IRRIGATION GRANDFATHERED RIGHT IN A
29 SUBSEQUENT ACTIVE MANAGEMENT AREA MAY APPLY TO THE DIRECTOR TO COMBINE
30 MULTIPLE IRRIGATION GRANDFATHERED RIGHTS IN THE SAME GROUNDWATER BASIN OR
31 SUBBASIN THAT ARE FARMED BY THE SAME OWNER OR BY ANY PERSON ENTITLED TO USE
32 GROUNDWATER PURSUANT TO THE PERSON'S IRRIGATION GRANDFATHERED RIGHTS.

1 B. THE IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT TO THE
2 CERTIFICATED ACRES DESCRIBED IN THE PERSON'S IRRIGATION GRANDFATHERED
3 RIGHTS THAT ARE COMBINED. THE MAXIMUM AMOUNT OF GROUNDWATER THAT A PERSON
4 MAY USE TO IRRIGATE THE COMBINED CERTIFICATED ACRES IS THE SUM OF THE
5 MAXIMUM AMOUNT OF GROUNDWATER THAT A PERSON MAY USE TO IRRIGATE THE
6 CERTIFICATED ACRES FOR EACH INDIVIDUAL IRRIGATION GRANDFATHERED RIGHT THAT
7 IS COMBINED AS DETERMINED PURSUANT TO SECTION 45-465.

8 Sec. 8. Section 45-576, Arizona Revised Statutes, is amended to
9 read:

10 45-576. Certificate of assured water supply; designated
11 cities, towns and private water companies;
12 exemptions; definition

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

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

1 from a city, town or private water company designated as having an assured
2 water supply pursuant to this section.

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

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

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

17 D. The director shall designate private water companies in INITIAL
18 active management areas that have an assured water supply. If a city or
19 town acquires a private water company that has contracted for central
20 Arizona project water, the city or town shall assume the private water
21 company's contract for central Arizona project water.

22 E. The director shall designate cities and towns in INITIAL active
23 management areas where an assured water supply exists. If a city or town
24 has entered into a contract for central Arizona project water, the city or
25 town is deemed to continue to have an assured water supply until December
26 31, 1997. Commencing on January 1, 1998, the determination that the city
27 or town has an assured water supply is subject to review by the director
28 and the director may determine that a city or town does not have an assured
29 water supply.

1 F. The director shall notify the mayors of all cities and towns in
2 active management areas and the chairmen of the boards of supervisors of
3 counties in which active management areas are located of the cities, towns
4 and private water companies designated as having an assured water supply
5 and any modification of that designation within thirty days ~~of~~ AFTER the
6 designation or modification. If the service area of the city, town or
7 private water company has qualified as a member service area pursuant to
8 title 48, chapter 22, article 4, the director shall also notify the
9 conservation district of the designation or modification and shall report
10 the projected average annual replenishment obligation for the member
11 service area based on the projected and committed average annual demand for
12 water within the service area during the effective term of the designation
13 or modification subject to any limitation in an agreement between the
14 conservation district and the city, town or private water company. For
15 each city, town or private water company that qualified as a member service
16 area under title 48, chapter 22 and THAT was designated as having an
17 assured water supply before January 1, 2004, the director shall report to
18 the conservation district on or before January 1, 2005 the projected
19 average annual replenishment obligation based on the projected and
20 committed average annual demand for water within the service area during
21 the effective term of the designation subject to any limitation in an
22 agreement between the conservation district and the city, town or private
23 water company. Persons proposing to offer subdivided lands served by those
24 designated cities, towns and private water companies for sale or lease are
25 exempt from applying for and obtaining a certificate of assured water
26 supply.

27 G. This section does not apply in the case of the sale of lands for
28 developments that are subject to a mineral extraction and METALLURGICAL
29 processing permit or an industrial use permit pursuant to sections 45-514
30 and 45-515.

1 H. The director shall adopt rules to carry out the purposes of this
2 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
3 reduction in water demand for an application for a designation of assured
4 water supply or a certificate of assured water supply if a gray water reuse
5 system will be installed that meets the requirements of the rules adopted
6 by the department of environmental quality for gray water systems and if
7 the application is for a certificate of assured water supply, the land for
8 which the certificate is sought must qualify as a member land in a
9 conservation district pursuant to title 48, chapter 22, article 4. For the
10 purposes of this subsection, "gray water" has the same meaning prescribed
11 in section 49-201.

12 I. If the director designates a municipal provider as having an
13 assured water supply under this section and the designation lapses or
14 otherwise terminates while the municipal provider's service area is a
15 member service area of a conservation district, the municipal provider or
16 its successor shall continue to comply with the consistency with management
17 goal requirements in the rules adopted by the director under subsection H
18 of this section as if the designation was still in effect with respect to
19 the municipal provider's designation uses. When determining compliance by
20 the municipal provider or its successor with the consistency with
21 management goal requirements in the rules, the director shall consider only
22 water delivered by the municipal provider or its successor to the municipal
23 provider's designation uses. A person is the successor of a municipal
24 provider if the person commences water service to uses that were previously
25 designation uses of the municipal provider. Any groundwater delivered by
26 the municipal provider or its successor to the municipal provider's
27 designation uses in excess of the amount allowed under the consistency with
28 management goal requirements in the rules shall be considered excess
29 groundwater for purposes of title 48, chapter 22. For the purposes of this
30 subsection, "designation uses" means all water uses served by a municipal
31 provider on the date the municipal provider's designation of assured water
32 supply lapses or otherwise terminates and all recorded lots within the

1 municipal provider's service area that were not being served by the
2 municipal provider on that date but that received final plat approval from
3 a city, town or county on or before that date. Designation uses do not
4 include industrial uses served by an irrigation district under section
5 45-497.

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

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

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

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

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

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

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

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

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

11 M. For the purposes of this section, "assured water supply" means
12 all of the following:

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

27 (a) The existing rate of decline.

28 (b) The proposed withdrawals.

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

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

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~~ 11-822 or 32-2181 to
8 satisfy this requirement."

9 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN

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