

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SENATE BILL 1575

AN ACT

AMENDING SECTIONS 9-463.01, 11-806.01, 32-2181, 32-2181.02, 32-2183 AND 32-2197.08, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-406; AMENDING SECTION 45-108, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-108.01, 45-108.02 AND 45-108.03; RELATING TO WATER SUPPLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-463.01. Authority

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

8 B. The legislative body of a municipality shall exercise the authority  
9 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 plats.

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

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

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

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

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

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

5 1. The requirement may only be made upon preliminary plats filed at  
6 least thirty days after the adoption of a general or specific plan affecting  
7 the land area to be reserved.

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

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

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

16 E. The public agency for whose benefit an area has been reserved shall  
17 have a period of one year after recording the final subdivision plat to enter  
18 into an agreement to acquire such reserved land area. The purchase price  
19 shall be the fair market value of the reserved land area at the time of the  
20 filing of the preliminary subdivision plat plus the taxes against such  
21 reserved area from the date of the reservation and any other costs incurred  
22 by the subdivider in the maintenance of such reserved area, including the  
23 interest cost incurred on any loan covering such reserved area.

24 F. If the public agency for whose benefit an area has been reserved  
25 does not exercise the reservation agreement set forth in subsection E of this  
26 section within such one year period or such extended period as may be  
27 mutually agreed upon by such public agency and the subdivider, the  
28 reservation of such area shall terminate.

29 G. The legislative body of every municipality shall comply with ~~all~~  
30 ~~provisions of~~ this article and applicable state statutes pertaining to the  
31 hearing, approval or rejection, and recordation of:

32 1. Final subdivision plats.

33 2. Plats filed for the purpose of reverting to acreage of land  
34 previously subdivided.

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

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

39 H. Approval of every preliminary and final plat by a legislative body  
40 is conditioned upon compliance by the subdivider with:

41 1. Rules as may be established by the department of transportation  
42 relating to provisions for the safety of entrance upon and departure from  
43 abutting state primary highways.

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

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

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

22           J. EXCEPT AS PROVIDED IN SUBSECTIONS K AND P OF THIS SECTION, IF THE  
23 SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101  
24 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE DIRECTOR OF WATER RESOURCES HAS  
25 GIVEN WRITTEN NOTICE TO THE MUNICIPALITY PURSUANT TO SECTION 45-108,  
26 SUBSECTION H, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS ONE OF THE  
27 FOLLOWING APPLIES:

28           1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
29 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE  
30 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

31           2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
32 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS  
33 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
34 TO SECTION 45-108.

35           K. THE LEGISLATIVE BODY OF A MUNICIPALITY THAT HAS RECEIVED WRITTEN  
36 NOTICE FROM THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108,  
37 SUBSECTION H OR THAT HAS ADOPTED AN ORDINANCE PURSUANT TO SUBSECTION O OF  
38 THIS SECTION MAY PROVIDE BY ORDINANCE AN EXEMPTION FROM THE REQUIREMENT IN  
39 SUBSECTION J OR O OF THIS SECTION FOR A SUBDIVISION THAT THE DIRECTOR OF  
40 WATER RESOURCES HAS DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE  
41 THE WATER SUPPLY WILL BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR  
42 TRAIN IF ALL OF THE FOLLOWING APPLY:

43           1. THE LEGISLATIVE BODY DETERMINES THAT THERE IS NO FEASIBLE  
44 ALTERNATIVE WATER SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF

1 WATER TO THE SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH  
2 AND SAFETY OF THE RESIDENTS OF THE SUBDIVISION.

3 2. IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE WITHDRAWN  
4 OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED IN SECTION  
5 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR DIVERSION.

6 3. IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION  
7 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN  
8 TITLE 45, CHAPTER 2, ARTICLE 8.

9 4. THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY ADDITIONAL  
10 CONDITIONS IMPOSED BY THE LEGISLATIVE BODY.

11 L. A MUNICIPALITY THAT ADOPTS THE EXEMPTION AUTHORIZED BY SUBSECTION K  
12 OF THIS SECTION SHALL GIVE WRITTEN NOTICE OF THE ADOPTION OF THE EXEMPTION,  
13 INCLUDING A CERTIFIED COPY OF THE ORDINANCE CONTAINING THE EXEMPTION, TO THE  
14 DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE  
15 STATE REAL ESTATE COMMISSIONER. IF THE MUNICIPALITY LATER RESCINDS THE  
16 EXEMPTION, THE MUNICIPALITY SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO  
17 THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND  
18 THE STATE REAL ESTATE COMMISSIONER. A MUNICIPALITY THAT RESCINDS AN  
19 EXEMPTION ADOPTED PURSUANT TO SUBSECTION K OF THIS SECTION SHALL NOT READOPT  
20 THE EXEMPTION FOR AT LEAST FIVE YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

21 M. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION  
22 PLAT PURSUANT TO SUBSECTION J, PARAGRAPH 1 OR 2 OR SUBSECTION O OF THIS  
23 SECTION, THE LEGISLATIVE BODY SHALL NOTE ON THE FACE OF THE PLAT THAT THE  
24 DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION HAS AN ADEQUATE  
25 WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT OF WATER  
26 SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER  
27 COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION  
28 45-108.

29 N. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION  
30 PLAT PURSUANT TO AN EXEMPTION AUTHORIZED BY SUBSECTION K OF THIS SECTION OR  
31 GRANTED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR  
32 45-108.03:

33 1. THE LEGISLATIVE BODY SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO  
34 THE DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

35 2. THE LEGISLATIVE BODY SHALL INCLUDE ON THE FACE OF THE PLAT A  
36 STATEMENT THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER  
37 SUPPLY FOR THE SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE  
38 EXEMPTION UNDER WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE  
39 LEGISLATIVE BODY OR THE DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS  
40 DETERMINED THAT THE SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE  
41 LEGISLATIVE BODY SUBSEQUENTLY INFORMS THE LEGISLATIVE BODY THAT THE  
42 SUBDIVISION IS BEING SERVED BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY  
43 THE DIRECTOR AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108,  
44 THE LEGISLATIVE BODY SHALL RECORD IN THE COUNTY RECORDER'S OFFICE A STATEMENT  
45 DISCLOSING THAT FACT.

1           O. IF A MUNICIPALITY HAS NOT BEEN GIVEN WRITTEN NOTICE BY THE DIRECTOR  
2 OF WATER RESOURCES PURSUANT TO SECTION 45-108, SUBSECTION H, THE LEGISLATIVE  
3 BODY OF THE MUNICIPALITY, TO PROTECT THE PUBLIC HEALTH AND SAFETY, MAY  
4 PROVIDE BY ORDINANCE THAT, EXCEPT AS PROVIDED IN SUBSECTIONS K AND P OF THIS  
5 SECTION, THE FINAL PLAT OF A SUBDIVISION LOCATED IN THE MUNICIPALITY AND  
6 OUTSIDE OF AN ACTIVE MANAGEMENT AREA WILL NOT BE APPROVED BY THE LEGISLATIVE  
7 BODY UNLESS THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
8 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR THE  
9 SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE  
10 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING  
11 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO  
12 SECTION 45-108. BEFORE HOLDING A PUBLIC HEARING TO CONSIDER WHETHER TO ENACT  
13 AN ORDINANCE PURSUANT TO THIS SUBSECTION, A MUNICIPALITY SHALL PROVIDE  
14 WRITTEN NOTICE OF THE HEARING TO THE BOARD OF SUPERVISORS OF THE COUNTY IN  
15 WHICH THE MUNICIPALITY IS LOCATED. A MUNICIPALITY THAT ENACTS AN ORDINANCE  
16 PURSUANT TO THIS SUBSECTION SHALL GIVE WRITTEN NOTICE OF THE ENACTMENT OF THE  
17 ORDINANCE, INCLUDING A CERTIFIED COPY OF THE ORDINANCE, TO THE DIRECTOR OF  
18 WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY, THE STATE REAL ESTATE  
19 COMMISSIONER AND THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE CITY IS  
20 LOCATED. IF A MUNICIPALITY ENACTS AN ORDINANCE PURSUANT TO THIS SUBSECTION,  
21 WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE MONIES IN A WATER SUPPLY  
22 DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

23           P. SUBSECTIONS J AND O OF THIS SECTION DO NOT APPLY TO:

24           1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS  
25 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF  
26 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION  
27 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR IF THE DIRECTOR GRANTS AN  
28 EXEMPTION PURSUANT TO SECTION 45-108.03.

29           2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE  
30 MUNICIPALITY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME  
31 EFFECTIVE IN THE MUNICIPALITY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED  
32 SINCE IT RECEIVED THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT  
33 AFTER THE PLAT RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER  
34 RESOURCES SHALL DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE  
35 RULES ADOPTED BY THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE  
36 MUNICIPALITY APPROVES A PLAT PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF  
37 WATER RESOURCES HAS DETERMINED THAT THERE IS AN INADEQUATE WATER SUPPLY FOR  
38 THE SUBDIVISION PURSUANT TO SECTION 45-108, THE MUNICIPALITY SHALL NOTE THIS  
39 ON THE FACE OF THE PLAT.

40           Q. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN  
41 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE MUNICIPALITY HAS  
42 NOT RECEIVED WRITTEN NOTICE PURSUANT TO SECTION 45-108, SUBSECTION H AND HAS  
43 NOT ADOPTED AN ORDINANCE PURSUANT TO SUBSECTION O OF THIS SECTION:

44           1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
45 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF

1 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE  
2 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING  
3 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO  
4 SECTION 45-108, THE MUNICIPALITY SHALL NOTE THIS ON THE FACE OF THE PLAT IF  
5 THE PLAT IS APPROVED.

6 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
7 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE  
8 MUNICIPALITY SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

9 ~~J.~~ R. Every municipality is responsible for the recordation of all  
10 final plats approved by the legislative body and shall receive from the  
11 subdivider and transmit to the county recorder the recordation fee  
12 established by the county recorder.

13 ~~K.~~ S. Pursuant to provisions of applicable state statutes, the  
14 legislative body of any municipality may itself prepare or have prepared a  
15 plat for the subdivision of land under municipal ownership.

16 ~~L.~~ T. The legislative bodies of cities and towns may REGULATE by  
17 ordinance regulate land splits within their corporate limits. Authority  
18 granted under this section refers to the determination of division lines,  
19 area and shape of the tracts or parcels and does not include authority to  
20 regulate the terms or condition of the sale or lease nor does it include the  
21 authority to regulate the sale or lease of tracts or parcels that are not the  
22 result of land splits as defined in section 9-463.

23 ~~M.~~ U. For any subdivision that consists of ten or fewer lots, tracts  
24 or parcels, each of which is of a size as prescribed by the legislative body,  
25 the legislative body of each municipality may waive the requirement to  
26 prepare, submit and receive approval of a preliminary plat as a condition  
27 precedent to submitting a final plat and may waive or reduce infrastructure  
28 standards or requirements except for improved dust-controlled access and  
29 minimum drainage improvements.

30 Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to  
31 read:

32 11-806.01. Subdivision regulation; platting regulations;  
33 violation; classification; easement vesting

34 A. The county board of supervisors shall regulate the subdivision of  
35 all lands within its corporate limits, except subdivisions which are  
36 regulated by municipalities.

37 B. No plat of a subdivision of land within the area of jurisdiction of  
38 such county shall be accepted for recording or recorded until it has been  
39 approved by the board. The approval of the board shall be endorsed in  
40 writing on the plat and shall also include specific identification and  
41 approval of the assurances except those for hiking and equestrian trails  
42 required by this section. If a county planning and zoning commission exists,  
43 the plat may be referred to such commission for its consideration and the  
44 board may receive the recommendation of the commission. If the subdivision  
45 is comprised of subdivided land, as defined in section 32-2101, and is within

1 ~~a groundwater~~ AN active management area, as defined in section 45-402, the  
2 plat shall not be approved unless it is accompanied by a certificate of  
3 assured water supply issued by the director of water resources, or unless the  
4 subdivider has obtained a written commitment of water service for the  
5 subdivision from a city, town or private water company designated as having  
6 an assured water supply by the director of water resources pursuant to  
7 section 45-576 or is exempt from such requirement pursuant to section 45-576.  
8 The board shall note on the face of the plat that a certificate of assured  
9 water supply has been submitted with the plat or that the subdivider has  
10 obtained a commitment of water service for the proposed subdivision ~~for~~ FROM  
11 a city, town or private water company designated as having an assured water  
12 supply, pursuant to section 45-576.

13 C. Any person causing a final plat to be recorded without first  
14 submitting the plat and obtaining approval of the board is guilty of a class  
15 2 misdemeanor. No county recorder shall accept for recording or record any  
16 plat which has not been approved as provided by this article.

17 D. The ground of refusal or approval of any plat submitted, including  
18 citation of or reference to the rule or regulation violated by the plat,  
19 shall be stated upon the record of the board.

20 E. The commission shall recommend to the board and the board shall  
21 adopt general regulations of uniform application governing plats and  
22 subdivisions of land within its area of jurisdiction. The regulations  
23 adopted shall secure and provide for the proper arrangement of streets or  
24 other highways in relation to existing or planned streets, highways or  
25 bicycle facilities or to the official map for adequate and convenient open  
26 spaces for traffic, utilities, drainage, access of fire fighting apparatus,  
27 recreation, light and air. The board may adopt general regulations to  
28 provide for the proper arrangement of hiking and equestrian trails in  
29 relation to existing or planned streets or highways, and if adopted, such  
30 hiking and equestrian trails shall conform to the official map for adequate  
31 and convenient open spaces for traffic, utilities, drainage, access of fire  
32 fighting apparatus, recreation, light and air. The general regulations may  
33 provide for modification by the commission in planned area development or  
34 specific cases where unusual topographical or other exceptional conditions  
35 may require such action. The regulations shall include provisions as to the  
36 extent to which streets and other highways shall be graded and improved and  
37 to which water, sewer or other utility mains, piping or other facilities  
38 shall be installed or provided for on the plat as a condition precedent to  
39 the approval of the final plat.

40 F. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS  
41 ADOPTED BY THE BOARD PURSUANT TO SUBSECTION E OF THIS SECTION, IF APPROVED BY  
42 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT, EXCEPT AS  
43 PROVIDED IN SUBSECTION G, PARAGRAPH 1 AND SUBSECTION H OF THIS SECTION, THE  
44 BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED



1 LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT  
2 AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:

3 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
4 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE  
5 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

6 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
7 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS  
8 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
9 TO SECTION 45-108.

10 G. IF THE BOARD UNANIMOUSLY ADOPTS THE PROVISION AUTHORIZED BY  
11 SUBSECTION F OF THIS SECTION:

12 1. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM  
13 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS  
14 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL  
15 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE  
16 FOLLOWING APPLY:

17 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER  
18 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE  
19 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY  
20 OF THE RESIDENTS OF THE SUBDIVISION.

21 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE  
22 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED  
23 IN SECTION 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR  
24 DIVERSION.

25 (c) IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION  
26 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN  
27 TITLE 45, CHAPTER 2, ARTICLE 8.

28 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY  
29 ADDITIONAL CONDITIONS IMPOSED BY THE COUNTY.

30 2. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE  
31 PROVISION TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL  
32 QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE SHALL INCLUDE A  
33 CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS ADOPTED PURSUANT TO  
34 PARAGRAPH 1 OF THIS SUBSECTION. WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE  
35 MONIES IN A WATER SUPPLY DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

36 3. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER  
37 THAT IS INCONSISTENT WITH SUBSECTION F OF THIS SECTION. IF THE BOARD AMENDS  
38 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR  
39 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL  
40 ESTATE COMMISSIONER. THE BOARD MAY RESCIND AN EXEMPTION ADOPTED PURSUANT TO  
41 PARAGRAPH 1 OF THIS SUBSECTION. IF THE BOARD RESCINDS THE EXEMPTION, IT  
42 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER  
43 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE  
44 COMMISSIONER, AND THE BOARD SHALL NOT READOPT THE EXEMPTION FOR AT LEAST FIVE  
45 YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

1           4. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION F,  
2 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE  
3 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION  
4 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT  
5 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE  
6 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO  
7 SECTION 45-108.

8           5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION  
9 AUTHORIZED BY PARAGRAPH 1 OF THIS SUBSECTION OR GRANTED BY THE DIRECTOR OF  
10 WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR 45-108.03:

11           (a) THE BOARD SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE  
12 DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

13           (b) THE BOARD SHALL INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT  
14 THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE  
15 SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER  
16 WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE BOARD OR THE  
17 DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS DETERMINED THAT THE  
18 SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR OF WATER  
19 RESOURCES SUBSEQUENTLY INFORMS THE BOARD THAT THE SUBDIVISION IS BEING SERVED  
20 BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN  
21 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE BOARD SHALL RECORD IN  
22 THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

23           H. SUBSECTION F OF THIS SECTION DOES NOT APPLY TO:

24           1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS  
25 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF  
26 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION  
27 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN  
28 EXEMPTION PURSUANT TO SECTION 45-108.03.

29           2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE  
30 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE  
31 IN THE COUNTY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED  
32 THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT  
33 RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL  
34 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY  
35 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE COUNTY APPROVES A PLAT  
36 PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED  
37 THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO  
38 SECTION 45-108, THE COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

39           I. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN  
40 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE BOARD AND HAS  
41 NOT ADOPTED A PROVISION PURSUANT TO SUBSECTION F OF THIS SECTION:

42           1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
43 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF  
44 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE  
45 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING

1 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO  
2 SECTION 45-108, THE BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT  
3 IS APPROVED.

4 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
5 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE  
6 BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

7 ~~F.~~ J. On recording of a plat, the fee of the streets, alleys,  
8 avenues, highways, easements, parks and other parcels of ground reserved to  
9 the use of the public vests in trust in the county for the uses and to the  
10 extent depicted on the plat including, but not limited to, ingress and egress  
11 easements depicted on such plat. On annexation by any city or town such fee  
12 automatically vests in the city or town.

13 ~~G.~~ K. Boards of supervisors of counties shall prepare specifications  
14 and make orders, inspections, examinations and certificates as may be  
15 necessary to protect and complete the provisions and make them effective.  
16 The regulations shall require the posting of performance bonds, assurances or  
17 such other security as may be appropriate and necessary to assure the  
18 installation of required street, sewer, electric and water utilities,  
19 drainage, flood control and improvements meeting established minimum  
20 standards of design and construction.

21 ~~H.~~ L. Before adoption of regulations by the board or any amendment as  
22 provided in this article, a public hearing shall be held by the commission.  
23 A copy of the regulations shall be certified by the commission to the county  
24 board of supervisors, which shall hold a public hearing after notice of the  
25 time and place has been given by one publication fifteen days prior to the  
26 public hearing in a newspaper of general circulation in the county.

27 ~~I.~~ M. Approval of a plat shall not be deemed to constitute or effect  
28 an acceptance by the county for designation of any street, highway, bicycle  
29 facility or other way or open space shown upon the plat into the county  
30 maintenance system except for hiking and equestrian trails which shall be  
31 constructed and maintained by the county. However, at such time as the  
32 streets, highways, bicycle facilities or other ways are fully completed in  
33 accordance with the approved plat and written specifications made by the  
34 county board, the county shall accept such streets, highways, bicycle  
35 facilities and other ways into the county maintenance system within one year  
36 of completion.

37 ~~J.~~ N. For any subdivision that consists of lots, tracts or parcels,  
38 each of which is of a size as prescribed by the board of supervisors, the  
39 board may waive the requirement to prepare, submit and receive approval of a  
40 preliminary plat as a condition precedent to submitting a final plat and may  
41 waive or reduce infrastructure standards or requirements except for improved  
42 dust-controlled access and minimum drainage improvements.

1           Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to read:  
2           32-2181. Notice to commissioner of intention to subdivide  
3                   lands; unlawful acting in concert; exceptions; deed  
4                   restrictions; definition

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

8           1. The name and address of the owner. If the holder of any ownership  
9 interest in the land is other than an individual, such as a corporation,  
10 partnership or trust, a statement naming the type of legal entity and listing  
11 the interest and the extent of any interest of each principal in the entity.  
12 For the purposes of this section, "principal" means any person or entity  
13 having a ten per cent or more financial interest or, if the legal entity is a  
14 trust, each beneficiary of the trust holding a ten per cent or more  
15 beneficial interest.

16           2. The name and address of the subdivider.

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

18           4. A true statement of the condition of the title to the land,  
19 including all encumbrances on the land, and a statement of the provisions  
20 agreed to by the holder of any blanket encumbrance enabling a purchaser to  
21 acquire title to a lot or parcel free of the lien of the blanket encumbrance  
22 on completion of all payments and performance of all of the terms and  
23 provisions required to be made or performed by the purchaser under the real  
24 estate sales contract by which the purchaser has acquired the lot or  
25 parcel. The subdivider shall file copies of documents acceptable to the  
26 department containing these provisions with the commissioner before the sale  
27 of any subdivision lot or parcel subject to a blanket encumbrance.

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

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

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

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

40           9. A statement as to the location of the nearest public common and  
41 high schools available for the attendance of school age pupils residing on  
42 the subdivision property.

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

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

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

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

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

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

22           16. A statement of the provisions for easements for permanent access  
23 for irrigation water where applicable.

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

31           18. A true statement of the nature of any improvements to be installed  
32 by the subdivider, the estimated schedule for completion and the estimated  
33 costs related to the improvements that will be borne by purchasers of lots in  
34 the subdivision.

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

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

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

5           (a) Any subdivision in this state.

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

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

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

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

16           (b) The subdivider.

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

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

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

32           (a) That the property is a conversion from multifamily rental to  
33 condominiums.

34           (b) The date original construction was completed.

35           25. Other information and documents and certifications as the  
36 commissioner may reasonably require.

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

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

15 D. It is unlawful for a person or group of persons acting in concert  
16 to attempt to avoid this article by acting in concert to divide a parcel of  
17 land or sell subdivision lots by using a series of owners or conveyances or  
18 by any other method that ultimately results in the division of the lands into  
19 a subdivision or the sale of subdivided land. The plan or offering is  
20 subject to this article. Unlawful acting in concert pursuant to this  
21 subsection with respect to the sale or lease of subdivision lots requires  
22 proof that the real estate licensee or other licensed professional knew or  
23 with the exercise of reasonable diligence should have known that property  
24 which the licensee listed or for which the licensee acted in any capacity as  
25 agent was subdivided land subject to this article.

26 E. A creation of six or more lots, parcels or fractional interests in  
27 improved or unimproved land, lots or parcels of any size is subject to ~~the~~  
28 ~~provisions of~~ this article except when:

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

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

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

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

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

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

9           F. In areas outside of ~~groundwater~~ active management areas established  
10 pursuant to title 45, chapter 2, article 2, ~~—~~:

11           1. IF THE SUBDIVISION IS LOCATED IN A COUNTY THAT HAS ADOPTED THE  
12 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN  
13 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE  
14 SUBDIVIDER SHALL ACCOMPANY THE NOTICE WITH A REPORT ISSUED BY THE DIRECTOR OF  
15 WATER RESOURCES PURSUANT TO SECTION 45-108 STATING THAT THE SUBDIVISION HAS  
16 AN ADEQUATE WATER SUPPLY, UNLESS ONE OF THE FOLLOWING APPLIES:

17           (a) THE SUBDIVIDER SUBMITTED THE REPORT TO A CITY, TOWN OR COUNTY  
18 BEFORE APPROVAL OF THE PLAT BY THE CITY, TOWN OR COUNTY AND THIS HAS BEEN  
19 NOTED ON THE FACE OF THE PLAT.

20           (b) THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
21 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS  
22 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
23 TO SECTION 45-108.

24           (c) THE PLAT WAS APPROVED PURSUANT TO AN EXEMPTION AUTHORIZED BY  
25 SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION AUTHORIZED BY  
26 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN EXEMPTION  
27 GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02 AND THE  
28 EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR  
29 UNDER SECTION 45-108.03. IF THE PLAT WAS APPROVED PURSUANT TO AN AUTHORIZED  
30 EXEMPTION, THE STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL  
31 PROMOTIONAL MATERIAL AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION  
32 ADEQUATELY DISPLAY THE FOLLOWING:

33           (i) THE DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF  
34 SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER  
35 SUPPLY FOR THE SUBDIVISION.

36           (ii) A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE SUBDIVISION  
37 WAS APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE EXEMPTION THAT WERE  
38 MET. IF THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN  
39 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR BY  
40 THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION AUTHORIZED BY  
41 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, THE SUBDIVIDER SHALL RECORD THE  
42 DOCUMENT REQUIRED BY SECTION 33-406.

43           (d) THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN  
44 OR COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME  
45 EFFECTIVE IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL



1 CHANGES TO THE PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO  
2 THE PLAT AFTER THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL  
3 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY  
4 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THIS SUBDIVISION APPLIES, THE  
5 STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIALS  
6 AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE  
7 DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF SUMMARY OF THE  
8 REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER SUPPLY FOR THE  
9 SUBDIVISION.

10 2. IF THE SUBDIVISION IS NOT LOCATED IN A COUNTY THAT HAS ADOPTED THE  
11 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN  
12 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, AND  
13 if the director of water resources, pursuant to section 45-108, reports an  
14 inadequate on-site supply of water to meet the needs projected by the  
15 developer or if no water is available, the state real estate commissioner  
16 shall require that all promotional material and contracts for the sale of  
17 lots in subdivisions approved by the commissioner adequately display the  
18 director of water resources' report or the developer's brief summary of the  
19 report as approved by the commissioner on the proposed water supply for the  
20 subdivision.

21 G. The commissioner may require the subdivider to supplement the  
22 notice of intention to subdivide lands and may require the filing of periodic  
23 reports to update the information contained in the original notice of  
24 intention to subdivide lands.

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

31 I. Neither a real estate sales contract, conveyance, lease, assignment  
32 or other instrument to transfer any interest in subdivided land nor any  
33 covenant or restriction affecting real property shall contain any provision  
34 limiting the right of any party to appear or testify in support of or  
35 opposition to zoning changes, building permits or any other official acts  
36 affecting real property before a governmental body or official considering  
37 zoning changes, building permits or any other official acts affecting real  
38 property, whether the property is located within or outside of the boundaries  
39 of the subdivision. All contractual provisions that conflict with this  
40 subsection are declared to be contrary to public policy. Nothing contained  
41 in this subsection shall prohibit private restrictions on the use of any real  
42 property.

1 J. Before offering subdivided lands for lease or sale, the subdivider  
2 who makes any promises through any form of advertising media that the  
3 subdivided lands will be exclusively a retirement community or one that is  
4 limited to the residency of adults or senior citizens shall include the  
5 promises in the deed restrictions affecting any interest in real property  
6 within the subdivided lands.

7 Sec. 4. Section 32-2181.02, Arizona Revised Statutes, is amended to  
8 read:

9 32-2181.02. Exempt sales and leases

10 A. The following are exempt under this article:

11 1. The sale or lease in bulk of six or more lots, parcels or  
12 fractional interests to one buyer in one transaction.

13 2. The sale or lease of lots or parcels of one hundred sixty acres or  
14 more.

15 B. The following are exempt from section 32-2181, subsection A and  
16 section 32-2183, subsection A:

17 1. The sale or lease of parcels, lots, units or spaces that are zoned  
18 and restricted to commercial or industrial uses.

19 2. The sale or lease of lots or parcels located in a single platted  
20 subdivision by a subdivider if:

21 (a) A public report has been issued within the past two years pursuant  
22 to this article on the subdivision lots or parcels.

23 (b) The subdivision meets all current requirements otherwise required  
24 of a subdivision under this article.

25 (c) The method of sale or lease of lots or parcels meets all current  
26 requirements under this article.

27 (d) The lots or parcels are included on a recorded subdivision plat  
28 that is approved by a municipal or county government.

29 (e) All roads within the subdivision, all utilities to the lots or  
30 parcels being offered for sale or lease and all other required improvements  
31 within the subdivision, other than a residence to be built, are complete,  
32 paid for and free of any blanket encumbrances.

33 (f) The roads, utilities or other improvements are not complete, but  
34 the completion of all improvements is assured pursuant to section 32-2183,  
35 subsection D.

36 (g) Except for matters relating to ownership, there have been no  
37 material changes to the information set forth in the most recent public  
38 report issued for the subdivision lots that would require an amendment to the  
39 public report.

40 (h) No owner of a ten per cent or greater interest, subdivider,  
41 director, partner, agent, officer or developer of the subdivision has:

42 (i) Been convicted of a felony or any crime involving theft,  
43 dishonesty, violence against another person, fraud or real estate, regardless  
44 of whether the convictions were subsequently expunged.

1 (ii) Had a civil judgment entered against the person in a case  
2 involving allegations of misrepresentation, fraud, breach of fiduciary duty,  
3 misappropriation, dishonesty or, if the subject matter involved real  
4 property, securities or investments.

5 (iii) Had a business or professional license, including a real estate  
6 license, denied, suspended or revoked or voluntarily surrendered a business  
7 or professional license during the course of an investigative or disciplinary  
8 proceeding or other disciplinary action taken in this state or any other  
9 state.

10 (i) The sale of the subdivided lands violates no laws or ordinances of  
11 any governmental authority.

12 (j) Before the buyer's or lessee's execution of a purchase contract or  
13 lease, the subdivider has provided the buyer or lessee with a copy of the  
14 most recent public report on the lot and has taken a receipt from the buyer  
15 for the copy.

16 (k) The subdivider has provided to the buyer or lessee, along with the  
17 public report, a signed statement that the subdivider has reviewed and is in  
18 compliance with the terms of the exemption provided in this paragraph.

19 (l) Before sale or lease, the subdivider has notified the  
20 commissioner, on a form provided by the department, of the subdivider's  
21 intent to sell or lease lots or parcels pursuant to this paragraph. The  
22 notice shall include:

23 (i) The name, address and telephone number of the subdivider.

24 (ii) The name, address and telephone number of any real estate broker  
25 retained by the subdivider to make sales or leases of the lots.

26 (iii) The name and location of the subdivision.

27 (iv) The most recent subdivision public report reference number on the  
28 lots.

29 (v) The completion status of subdivision improvements.

30 3. The conveyance to a person who previously conveyed the lot to a  
31 home builder for the purpose of constructing a dwelling for the person.

32 4. The sale or lease by a person of individual lots or parcels that  
33 were separately acquired by the person from different persons and that were  
34 not acquired for the purpose of development if:

35 (a) The lots or parcels are not located in a platted subdivision.

36 (b) Each lot or parcel bears the same legal description that it bore  
37 when the lot or parcel was acquired by the person.

38 (c) The seller or lessor is in compliance with all other applicable  
39 state and local government requirements.

40 5. The sale of an improved lot in a subdivision that is located  
41 outside of this state if:

42 (a) The subdivision is located within the United States and the sale  
43 is exempt from ~~the provisions of~~ the interstate land sales full disclosure  
44 act (P.L. 90-448; 82 Stat. 590; 15 United States Code sections 1701 through  
45 1720).

1 (b) The subdivider is required by the state where the subdivision is  
2 located to deliver a public report or equivalent disclosure document to  
3 prospective purchasers and the subdivider delivers the report or equivalent  
4 disclosure document.

5 6. The sale of an improved lot in a subdivision located in this state  
6 where five or more sales were previously made by the seller if:

7 (a) The sale is the seller's first or second sale in the subdivision  
8 within the previous twelve month period.

9 (b) The subdivision is located within the corporate limits of a town  
10 or city.

11 (c) Electricity and telephone service are complete and available to  
12 the improved lot.

13 (d) Water and sewage service is complete and available to the improved  
14 lot.

15 (e) Streets and roads located outside of the subdivision provide  
16 permanent access to the subdivision and are complete and maintained by the  
17 county, town or city, or by a legally created and operational property  
18 owners' association.

19 (f) Streets within the subdivision are dedicated, provide permanent  
20 access to the lot, are complete to town or city standards and are maintained  
21 by the town or city or, in the case of private streets, a legally created and  
22 operational property owners' association accepts the responsibility of  
23 perpetual maintenance.

24 (g) All subdivision common area improvements, including landscaping,  
25 recreational facilities and other jointly used and maintained improvements,  
26 are complete and maintained by a legally created and operational property  
27 owners' association.

28 (h) The purchaser's down payment, earnest money, deposit or other  
29 advanced money is placed and held in a neutral escrow depository in this  
30 state until escrow closes and the deed is delivered to the purchaser.

31 (i) Within the previous twelve months the seller has not had an  
32 ownership interest in more than two lots in the subdivision, including an  
33 interest by option, an agreement for sale, a beneficial interest under a  
34 trust or a purchase contract.

35 C. Nothing in this section shall be construed to increase, decrease or  
36 otherwise affect any rights or powers granted the commissioner under this  
37 chapter.

38 D. ~~The provisions of~~ This section ~~do~~ DOES not apply to lands on which  
39 the commissioner has issued orders pursuant to sections 32-2154 and 32-2157  
40 and section 32-2183, subsection ~~I~~ J unless the commissioner has issued a  
41 public report on those lands subsequent to the date of the orders.

42 E. Nothing in this section shall be construed to increase, to decrease  
43 or to otherwise affect any rights or powers granted to political subdivisions  
44 of this state with respect to their jurisdictions.

1           Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:  
2           32-2183. Subdivision public reports: denial of issuance;  
3                           unlawful sales; voidable sale or lease; order  
4                           prohibiting sale or lease; investigations; hearings;  
5                           summary orders

6           A. Upon examination of a subdivision, the commissioner, unless there  
7 are grounds for denial, shall issue to the subdivider a public report  
8 authorizing the sale or lease in this state of the lots, parcels or  
9 fractional interests within the subdivision. The report shall contain the  
10 data obtained in accordance with section 32-2181 and any other information  
11 which the commissioner determines is necessary to implement the purposes of  
12 this article. If any of the lots, parcels or fractional interests within the  
13 subdivision are located within territory in the vicinity of a military  
14 airport or ancillary military facility as defined in section 28-8461, under a  
15 military training route as delineated in the military training route map  
16 prepared pursuant to section 37-102 or under restricted air space as  
17 delineated in the restricted air space map prepared pursuant to section  
18 37-102, the report shall include, in bold twelve point font block letters on  
19 the first page of the report, the statements required pursuant to section  
20 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the  
21 department has been provided a map prepared pursuant to section 28-8484,  
22 subsection B, ~~OR~~ section 37-102, the report shall include a copy of the map.  
23 The military airport report requirements do not require the amendment or  
24 reissuance of any public report issued on or before December 31, 2001 or on  
25 or before December 31 of the year in which the lots, parcels or fractional  
26 interests within a subdivision become territory in the vicinity of a military  
27 airport or ancillary military facility. The military training route report  
28 requirements do not require the amendment or reissuance of any public report  
29 issued on or before December 31, 2004. The restricted air space report  
30 requirements do not require the amendment or reissuance of any public report  
31 issued on or before December 31, 2006. The commissioner shall require the  
32 subdivider to reproduce the report, make the report available to each  
33 prospective customer and furnish each buyer or lessee with a copy before the  
34 buyer or lessee signs any offer to purchase or lease, taking a receipt  
35 therefor.

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

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

43           2. An initial filing fee of five hundred dollars or an amended filing  
44 fee of two hundred fifty dollars shall accompany the notification required by  
45 paragraph 1 of this subsection.

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

5           4. The department shall determine within fifteen business days after  
6 the receipt of the notification and public report whether the notification  
7 and public report are administratively complete. The commissioner either may  
8 issue a certification that the notification and public report are  
9 administratively complete or may deny issuance of the certification if it  
10 appears that the application or project is not in compliance with all legal  
11 requirements, that the applicant has a background of violations of state or  
12 federal law or that the applicant or project presents an unnecessary risk of  
13 harm to the public.

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

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

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

29           C. The commissioner may suspend, revoke or deny issuance of a public  
30 report on any of the following grounds:

31           1. Failure to comply with this article or the rules of the  
32 commissioner pertaining to this article.

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

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

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

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

43           6. The owner, agent, subdivider, officer, director or partner,  
44 subdivider trust beneficiary holding ten per cent or more direct or indirect

1 beneficial interest or, if a corporation, any stockholder owning ten per cent  
2 or more of the stock in the corporation has:

3 (a) Been convicted of a felony or misdemeanor involving fraud or  
4 dishonesty or involving conduct of any business or a transaction in real  
5 estate, cemetery property, time-share intervals or membership camping  
6 campgrounds or contracts.

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

12 (c) Had an administrative order entered against him by a real estate  
13 regulatory agency or security regulatory agency.

14 (d) Had an adverse decision or judgment entered against him involving  
15 fraud or dishonesty or involving the conduct of any business or transaction  
16 in real estate, cemetery property, time-share intervals or membership camping  
17 campgrounds or contracts.

18 (e) Disregarded or violated this chapter or the rules of the  
19 commissioner pertaining to this chapter.

20 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)  
21 applies.

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

25 8. Failure of the declaration for a condominium created pursuant to  
26 title 33, chapter 9, article 2 to comply with the requirements of section  
27 33-1215 or failure of the plat for the condominium to comply with the  
28 requirements of section 33-1219. The commissioner may require an applicant  
29 for a public report to submit a notarized statement signed by the subdivider  
30 or an engineer or attorney licensed to practice in this state certifying that  
31 the condominium plat and declaration of condominium are in compliance with  
32 the requirements of sections 33-1215 and 33-1219. If the notarized statement  
33 is provided, the commissioner is entitled to rely on this statement.

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

1           10. Failure to demonstrate permanent access to the subdivision lots or  
2 parcels.

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

4           D. It is unlawful for a subdivider to sell any lot in a subdivision  
5 unless one of the following occurs:

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

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

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

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

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

31          F. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE SUBDIVISION IS  
32 LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION  
33 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE  
34 PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE COMMISSIONER SHALL DENY  
35 ISSUANCE OF A PUBLIC REPORT OR THE USE OF ANY EXEMPTION PURSUANT TO SECTION  
36 32-2181.02, SUBSECTION B UNLESS ONE OF THE FOLLOWING APPLIES:

37          1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION  
38 45-108 THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY.

39          2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
40 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS  
41 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
42 TO SECTION 45-108.

43          3. THE PLAT WAS APPROVED PURSUANT TO AN EXEMPTION AUTHORIZED BY  
44 SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION AUTHORIZED BY  
45 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN EXEMPTION



1 GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02 AND THE  
2 EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR  
3 OF WATER RESOURCES UNDER SECTION 45-108.03.

4 4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR  
5 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE  
6 IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE  
7 PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER  
8 THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE  
9 WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE  
10 DIRECTOR TO IMPLEMENT SECTION 45-108.

11 ~~F.~~ G. A subdivider shall not sell or lease or offer for sale or lease  
12 in this state any lots, parcels or fractional interests in a subdivision  
13 without first obtaining a public report from the commissioner except as  
14 provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or  
15 lease of subdivided lands prior to issuance of the public report or failure  
16 to deliver the public report to the purchaser or lessee shall render the sale  
17 or lease rescindable by the purchaser or lessee. An action by the purchaser  
18 or lessee to rescind the transaction shall be brought within three years of  
19 the date of execution of the purchase or lease agreement by the purchaser or  
20 lessee. In any rescission action, the prevailing party is entitled to  
21 reasonable attorney fees as determined by the court.

22 ~~G.~~ H. Any applicant objecting to the denial of a public report,  
23 within thirty days after receipt of the order of denial, may file a written  
24 request for a hearing. The commissioner shall hold the hearing within twenty  
25 days after receipt of the request for a hearing unless the party requesting  
26 the hearing has requested a postponement. If the hearing is not held within  
27 twenty days after a request for a hearing is received, plus the period of any  
28 postponement, or if a proposed decision is not rendered within forty-five  
29 days after submission, the order of denial shall be rescinded and a public  
30 report issued.

31 ~~H.~~ I. On the commissioner's own motion, or when the commissioner has  
32 received a complaint and has satisfactory evidence that the subdivider or the  
33 subdivider's agent is violating this article or the rules of the commissioner  
34 or has engaged in any unlawful practice as defined in section 44-1522 with  
35 respect to the sale of subdivided lands or deviated from the provisions of  
36 the public report, the commissioner may investigate the subdivision project  
37 and examine the books and records of the subdivider. For the purpose of  
38 examination, the subdivider shall keep and maintain records of all sales  
39 transactions and funds received by the subdivider pursuant to the sales  
40 transactions and shall make them accessible to the commissioner upon  
41 reasonable notice and demand.

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

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

28           ~~K~~ L. The court, on receipt of an application for the appointment of  
29 a receiver or for a writ of ne exeat, or both, shall examine the verified  
30 application of the commissioner and other evidence that the commissioner may  
31 present the court. If satisfied that the interests of the public require the  
32 appointment of a receiver or the issuance of a writ of ne exeat without  
33 notice, the court shall issue an order appointing the receiver or issue the  
34 writ, or both. If the court determines that the interests of the public will  
35 not be harmed by the giving of notice, the court shall set a time for a  
36 hearing and require notice be given as the court deems satisfactory.

37           ~~L~~ M. If the court appoints a receiver without notice, the court  
38 shall further direct that a copy of the order appointing a receiver be served  
39 on the person engaged in or engaging in a practice declared to be unlawful  
40 under this article by delivering the order to the last address of the person  
41 that is on file with the state real estate department. The order shall  
42 inform the person that the person has the right to request a hearing within  
43 ten days of the date of the order and, if requested, the hearing shall be  
44 held within thirty days from the date of the order.

1           Sec. 6. Section 32-2197.08, Arizona Revised Statutes, is amended to  
2 read:

3           32-2197.08. Issuance of public report by commissioner on  
4           timeshare plan; denial of issuance; additional  
5           information; use of another state's public report

6           A. On examination of a timeshare plan, the commissioner, unless there  
7 are grounds for denial, shall approve for use by the developer a public  
8 report authorizing the sale or lease of the timeshare interests within the  
9 timeshare plan. For all timeshare interests sold in this state, the  
10 commissioner shall require the developer to reproduce the public report and  
11 furnish each prospective customer with a copy, taking a receipt for each  
12 copy. The public report shall be made available to each prospective  
13 purchaser in written format and may also be made available in CD-ROM or other  
14 electronic format as approved by the commissioner. The public report shall  
15 include the following:

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

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

18           3. A description of the existing and proposed accommodations and  
19 amenities of the timeshare plan, including type and number, any use  
20 restrictions and any required fees for use.

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

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

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

27           5. A brief description of the duration, phases and operation of the  
28 timeshare plan.

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

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

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

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

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

39           8. A statement that by midnight of the seventh calendar day after  
40 execution of the purchase agreement a purchaser may cancel any purchase  
41 agreement for a timeshare interest from a developer together with a statement  
42 providing the name and street address where the purchaser should mail any  
43 notice of cancellation. However, if, by agreement of the parties through the  
44 purchase agreement, the purchase agreement allows for cancellation of the  
45 purchase agreement for a period of time exceeding seven calendar days, the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (h) The location and the anticipated relative use demand of each  
2 component site in a multisite timeshare plan as well as any periodic  
3 adjustment or amendment to the reservation system that may be needed in order  
4 to respond to actual purchaser use patterns and changes in purchaser use  
5 demand for the accommodations existing at the time within the multisite  
6 timeshare plan.

7 (i) Any other information reasonably required by the commissioner or  
8 established by rule necessary for the protection of purchasers of timeshare  
9 interests in timeshare plans.

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

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

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

17 B. In the event of denial, suspension or revocation, grounds shall be  
18 set forth in writing at the time of denial, suspension or revocation. The  
19 commissioner may deny, suspend or revoke the public report on any of the  
20 following grounds:

21 1. Failure to comply with this article or the rules of the  
22 commissioner pertaining to this article.

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

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

30 4. The developer, including if an entity, an officer, director,  
31 member, manager, partner, owner, trust beneficiary holding ten per cent or  
32 more beneficial interest, stockholder owning ten per cent or more of the  
33 stock or other person exercising control of the entity, has:

34 (a) Been convicted of a felony or misdemeanor involving theft, fraud  
35 or dishonesty or involving the conduct of any business or a transaction in  
36 real estate, cemetery property, timeshare interests or membership camping  
37 campgrounds or contracts.

38 (b) Been permanently or temporarily enjoined by order, judgment or  
39 decree from engaging in or continuing any conduct or practice in connection  
40 with the sale or purchase of real estate, cemetery property, timeshare  
41 interests, membership camping campgrounds or contracts, or securities or  
42 involving consumer fraud or the Arizona racketeering laws.

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

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

5 (e) Disregarded or violated this chapter or the rules of the  
6 commissioner pertaining to this chapter.

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

9 5. If within this state, the timeshare property is incompatible with  
10 the existing neighborhood and would introduce into a neighborhood a character  
11 of property or use that would clearly be detrimental to property values in  
12 that neighborhood.

13 C. If the timeshare property is within ~~a groundwater~~ AN active  
14 management area, as defined in section 45-402, the commissioner shall deny  
15 issuance of a public report unless the developer has been issued a  
16 certificate of assured water supply by the director of water resources and  
17 has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or  
18 unless the developer has obtained a written commitment of water service for  
19 the timeshare property from a city, town or private water company designated  
20 as having an assured water supply by the director of water resources pursuant  
21 to section 45-576.

22 D. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE TIMESHARE  
23 PROPERTY IS LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY  
24 SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN  
25 ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE COMMISSIONER SHALL  
26 DENY ISSUANCE OF A PUBLIC REPORT UNLESS ONE OF THE FOLLOWING APPLIES:

27 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION  
28 45-108 THAT THE TIMESHARE PROPERTY HAS AN ADEQUATE WATER SUPPLY.

29 2. THE DEVELOPER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
30 FOR THE TIMESHARE PROPERTY FROM A CITY, TOWN OR PRIVATE WATER COMPANY  
31 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER  
32 RESOURCES PURSUANT TO SECTION 45-108.

33 3. THE TIMESHARE PROPERTY WAS APPROVED PURSUANT TO AN EXEMPTION  
34 AUTHORIZED BY SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION  
35 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN  
36 EXEMPTION GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02  
37 AND THE EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE  
38 DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.03.

39 4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR  
40 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE  
41 IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE  
42 PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER  
43 THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE  
44 WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE  
45 DIRECTOR TO IMPLEMENT SECTION 45-108.

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

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

15           Sec. 7. Title 33, chapter 4, article 1, Arizona Revised Statutes, is  
16 amended by adding section 33-406, to read:

17           33-406. Disclosure of transportation of water to property by  
18   motor vehicle or train; definition

19           A. NOTWITHSTANDING SECTION 33-411, SUBSECTION D, A SUBDIVIDER WHO  
20 SELLS A LOT THAT WAS INCLUDED IN A PLAT APPROVED BY THE LEGISLATIVE BODY OF A  
21 CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01,  
22 SUBSECTION K OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN  
23 EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1 SHALL  
24 RECORD WITH THE PLAT A DOCUMENT THAT CONTAINS A LEGAL DESCRIPTION OF THE LAND  
25 THAT IS SUBJECT TO THE SUBDIVISION PLAT AND THAT CONTAINS A STATEMENT THAT  
26 THE LOTS ARE SERVED BY A WATER SUPPLY THAT HAS BEEN DETERMINED AS INADEQUATE  
27 AND THAT THE WATER MUST BE HAULED TO THE LOT.

28           B. FOR THE PURPOSES OF THIS SECTION, "SUBDIVIDER" HAS THE SAME MEANING  
29 AS PRESCRIBED IN SECTION 32-2101.

30           Sec. 8. Section 45-108, Arizona Revised Statutes, is amended to read:

31           45-108. Evaluation of subdivision water supply; definition

32           A. In areas outside of active management areas established pursuant to  
33 chapter 2, article 2 of this title, the developer of a proposed subdivision  
34 including dry lot subdivisions, regardless of subdivided lot size, prior to  
35 recordation of the plat, shall submit plans for the water supply for the  
36 subdivision and demonstrate the adequacy of the water supply to meet the  
37 needs projected by the developer to the director. The director shall  
38 evaluate the plans and issue a report on the plans.

39           B. The director shall evaluate the proposed source of water for the  
40 subdivision to determine ~~its ability to meet proposed uses for a period of~~  
41 ~~years commensurate with normal practices in other areas of the state~~ WHETHER  
42 THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION, and shall forward a  
43 copy of ~~such evaluation~~ THE DIRECTOR'S REPORT to the state real estate  
44 commissioner AND THE CITY, TOWN OR COUNTY RESPONSIBLE FOR PLATTING THE  
45 SUBDIVISION.

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

5 D. The director may designate a city or town that does not directly  
6 supply water to customers as having an adequate water supply by reporting  
7 that designation to the city or town and the state real estate commissioner  
8 if all of the following apply:

9 1. The city or town has entered into a contract with the United States  
10 secretary of the interior or a county water authority established pursuant to  
11 chapter 13 of this title for permanent supplies of Colorado river water for  
12 municipal and industrial use.

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

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

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

23 E. The director shall not require a developer to submit plans for the  
24 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:

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

34 (b) The developer has obtained a written commitment of water service  
35 from a private water company that serves water within that city or town.

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

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

40 G. The state of Arizona and the director or department shall not be  
41 liable for any report, designation or evaluation prepared in good faith  
42 pursuant to this section.

43 H. IF THE DIRECTOR RECEIVES WRITTEN NOTICE FROM THE BOARD OF  
44 SUPERVISORS OF A COUNTY THAT IT HAS ADOPTED THE PROVISION AUTHORIZED BY  
45 SECTION 11-806.01, SUBSECTION F, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF



1 THE PROVISION TO THE MAYORS OF ALL CITIES AND TOWNS IN THE COUNTY. A CITY OR  
2 TOWN THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 9-463.01, SUBSECTIONS  
3 J, K, L, M AND N.

4 I. FOR THE PURPOSES OF THIS SECTION, "ADEQUATE WATER SUPPLY" MEANS  
5 BOTH OF THE FOLLOWING:

6 1. SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE  
7 QUALITY WILL BE CONTINUOUSLY, LEGALLY AND PHYSICALLY AVAILABLE TO SATISFY THE  
8 WATER NEEDS OF THE PROPOSED USE FOR AT LEAST ONE HUNDRED YEARS.

9 2. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE  
10 WATER FACILITIES NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE  
11 PROPOSED USE, INCLUDING A DELIVERY SYSTEM AND ANY STORAGE FACILITIES OR  
12 TREATMENT WORKS. THE DIRECTOR MAY ACCEPT EVIDENCE OF THE CONSTRUCTION  
13 ASSURANCES REQUIRED BY SECTION 9-463.01, 11-806.01 OR 32-2181 TO SATISFY THIS  
14 REQUIREMENT.

15 Sec. 9. Title 45, chapter 1, article 1, Arizona Revised Statutes, is  
16 amended by adding sections 45-108.01, 45-108.02 and 45-108.03, to read:

17 45-108.01. Adequate water supply; notice; objections; hearing;  
18 appeals

19 A. ON RECEIPT OF AN APPLICATION FOR A WATER REPORT OR AN APPLICATION  
20 BY A CITY, TOWN OR PRIVATE WATER COMPANY TO BE DESIGNATED AS HAVING AN  
21 ADEQUATE WATER SUPPLY UNDER SECTION 45-108, IF THE PROPOSED USE IS IN A  
22 COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01,  
23 SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE PURSUANT TO  
24 SECTION 9-463.01, SUBSECTION O, THE DIRECTOR SHALL PUBLISH NOTICE OF THE  
25 APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF  
26 GENERAL CIRCULATION IN THE GROUNDWATER BASIN IN WHICH THE APPLICANT PROPOSES  
27 TO USE WATER. THE FIRST PUBLICATION SHALL OCCUR WITHIN FIFTEEN DAYS AFTER  
28 THE APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE. IF  
29 THE APPLICATION IS SUBSTANTIALLY MODIFIED AFTER NOTICE OF THE APPLICATION IS  
30 GIVEN PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL GIVE NOTICE OF THE  
31 APPLICATION AS MODIFIED IN THE MANNER PRESCRIBED BY THIS SUBSECTION. THE  
32 FIRST PUBLICATION OF ANY SUBSEQUENT NOTICE SHALL OCCUR WITHIN FIFTEEN DAYS  
33 AFTER THE MODIFIED APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY  
34 COMPLETE.

35 B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT  
36 WRITTEN OBJECTIONS TO THE APPLICATION MAY BE FILED WITH THE DIRECTOR BY  
37 RESIDENTS AND LANDOWNERS WITHIN THE GROUNDWATER BASIN WITHIN FIFTEEN DAYS  
38 AFTER THE LAST PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME AND  
39 MAILING ADDRESS OF THE OBJECTOR AND BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S  
40 AGENT OR THE OBJECTOR'S ATTORNEY. THE GROUNDS FOR OBJECTION ARE LIMITED TO  
41 WHETHER THE APPLICATION MEETS THE CRITERIA FOR DETERMINING AN ADEQUATE WATER  
42 SUPPLY SET FORTH IN SECTION 45-108, SUBSECTION I. THE OBJECTION SHALL  
43 CLEARLY SET FORTH REASONS WHY THE APPLICATION DOES NOT MEET THE CRITERIA.

1 C. IN APPROPRIATE CASES, INCLUDING CASES IN WHICH A PROPER WRITTEN  
2 OBJECTION TO THE APPLICATION HAS BEEN FILED, AN ADMINISTRATIVE HEARING MAY BE  
3 HELD BEFORE THE DIRECTOR'S DECISION ON THE APPLICATION IF THE DIRECTOR DEEMS  
4 A HEARING NECESSARY. THIRTY DAYS BEFORE THE DATE OF THE HEARING, THE  
5 DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON  
6 WHO FILED A PROPER WRITTEN OBJECTION TO THE APPLICATION. THE HEARING SHALL  
7 BE SCHEDULED FOR AT LEAST SIXTY DAYS BUT NOT MORE THAN NINETY DAYS AFTER THE  
8 EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

9 D. IF THE APPLICATION IS FOR A WATER REPORT:

10 1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR  
11 THE PROPOSED USE, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE  
12 WATER SUPPLY FOR THE SUBDIVISION IS ADEQUATE.

13 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT  
14 EXIST, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY  
15 FOR THE SUBDIVISION IS INADEQUATE.

16 E. IF THE APPLICATION IS FOR A DESIGNATION OF ADEQUATE WATER SUPPLY:

17 1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR  
18 THE PROPOSED USE, THE DIRECTOR SHALL APPROVE THE APPLICATION.

19 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT  
20 EXIST, THE DIRECTOR SHALL DENY THE APPLICATION.

21 F. THE APPLICANT OR A PERSON WHO CONTESTED THE APPLICATION BY FILING A  
22 PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS SECTION MAY SEEK JUDICIAL  
23 REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS PROVIDED IN SECTION 45-114,  
24 SUBSECTION B IN THE SUPERIOR COURT.

25 G. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE  
26 PROCEEDINGS, REHEARINGS OR REVIEWS AND JUDICIAL REVIEWS OF FINAL DECISIONS OF  
27 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD, IT  
28 SHALL BE CONDUCTED IN THE GROUNDWATER BASIN IN WHICH THE USE IS LOCATED.

29 45-108.02. Exemption from adequate water supply requirements of  
30 city, town or county based on substantial capital  
31 investment; application; criteria; expiration

32 A. IF THE DIRECTOR DETERMINES PURSUANT TO SECTION 45-108 THAT AN  
33 ADEQUATE WATER SUPPLY DOES NOT EXIST FOR A PROPOSED SUBDIVISION AND THE  
34 PROPOSED SUBDIVISION IS LOCATED IN A CITY, TOWN OR COUNTY THAT REQUIRES A  
35 DETERMINATION OF ADEQUATE WATER SUPPLY BY THE DIRECTOR AS A CONDITION OF  
36 APPROVAL OF THE PLAT PURSUANT TO SECTION 9-463.01, SUBSECTION J OR O OR  
37 SECTION 11-806.01, SUBSECTION F, THE SUBDIVIDER MAY APPLY TO THE DIRECTOR FOR  
38 AN EXEMPTION FROM THE WATER ADEQUACY REQUIREMENT PURSUANT TO THIS SECTION ON  
39 A FORM PRESCRIBED BY THE DIRECTOR WITHIN ONE YEAR AFTER THE REQUIREMENT FIRST  
40 BECOMES EFFECTIVE. THE DIRECTOR SHALL GRANT THE EXEMPTION IF THE SUBDIVIDER  
41 DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT ALL OF THE FOLLOWING  
42 APPLY:

43 1. THE SUBDIVIDER HAS MADE SUBSTANTIAL CAPITAL INVESTMENT TOWARD THE  
44 CONSTRUCTION OF THE PROPOSED SUBDIVISION BEFORE THE DATE THE WATER ADEQUACY  
45 REQUIREMENT FIRST BECAME EFFECTIVE. FOR THE PURPOSES OF THIS PARAGRAPH,

1 SUBSTANTIAL CAPITAL INVESTMENT MAY INCLUDE CONSTRUCTION COSTS, SITE  
2 PREPARATION COSTS, CONSTRUCTION OF OFF-SITE IMPROVEMENTS AND CONVERSION OR  
3 REMODELING COSTS FOR EXISTING STRUCTURES, AS WELL AS PLANNING AND DESIGN  
4 COSTS ASSOCIATED WITH THOSE ITEMS, BUT DOES NOT INCLUDE THE ORIGINAL COST OF  
5 ACQUIRING THE PROPERTY.

6 2. THE SUBDIVIDER WAS NOT AWARE OF THE PROPOSED WATER ADEQUACY  
7 REQUIREMENT AT THE TIME THE INVESTMENT WAS MADE.

8 3. THE PROPOSED SUBDIVISION COMPLIED IN ALL OTHER RESPECTS WITH  
9 EXISTING STATE LAWS AS OF THE DATE THE WATER ADEQUACY REQUIREMENT BECAME  
10 EFFECTIVE.

11 B. IF THE DIRECTOR GRANTS AN EXEMPTION PURSUANT TO SUBSECTION A OF  
12 THIS SECTION:

13 1. THE EXEMPTION EXPIRES FIVE YEARS AFTER THE DATE THE EXEMPTION IS  
14 GRANTED UNLESS BEFORE THAT DATE, AT LEAST ONE PARCEL IN THE SUBDIVISION IS  
15 SOLD TO A BONA FIDE PURCHASER OR THE DIRECTOR EXTENDS THE EXEMPTION PURSUANT  
16 TO PARAGRAPH 2 OF THIS SUBSECTION.

17 2. THE DIRECTOR MAY EXTEND THE PERIOD OF THE EXEMPTION FOR NO MORE  
18 THAN TWO SUCCESSIVE FIVE-YEAR PERIODS IF THE SUBDIVIDER APPLIES FOR AN  
19 EXTENSION BEFORE THE EXEMPTION EXPIRES AND DEMONSTRATES TO THE SATISFACTION  
20 OF THE DIRECTOR THAT THE SUBDIVIDER HAS MADE MATERIAL PROGRESS IN DEVELOPING  
21 THE SUBDIVISION, BUT THAT SALES OF PARCELS IN THE SUBDIVISION HAVE BEEN  
22 DELAYED FOR REASONS OUTSIDE THE CONTROL OF THE SUBDIVIDER.

23 C. IF AN EXEMPTION GRANTED UNDER THIS SECTION EXPIRES, ANY PUBLIC  
24 REPORT ISSUED FOR THE SUBDIVISION BY THE STATE REAL ESTATE COMMISSIONER  
25 PURSUANT TO SECTION 32-2183 EXPIRES AND THE SUBDIVIDER SHALL NOT SELL ANY  
26 LOTS IN THE SUBDIVISION UNLESS BOTH OF THE FOLLOWING APPLY:

27 1. THE SUBDIVIDER FILES WITH THE STATE REAL ESTATE COMMISSIONER A NEW  
28 NOTICE OF INTENTION TO SUBDIVIDE LANDS PURSUANT TO SECTION 32-2181 AND  
29 COMPLIES WITH SECTION 32-2181, SUBSECTION F.

30 2. THE STATE REAL ESTATE COMMISSIONER ISSUES A NEW PUBLIC REPORT FOR  
31 THE SUBDIVISION PURSUANT TO SECTION 32-2183.

32 D. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE  
33 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF  
34 THE DIRECTOR UNDER THIS SECTION.

35 45-108.03. Exemption from adequate water supply requirements of  
36 city, town or county based on an adequate water  
37 supply within twenty years; criteria; application

38 A. IF A PROPOSED SUBDIVISION IS LOCATED IN A CITY, TOWN OR COUNTY THAT  
39 REQUIRES AN ADEQUATE WATER SUPPLY DETERMINATION BY THE DIRECTOR AS A  
40 CONDITION OF APPROVAL OF THE PLAT PURSUANT TO SECTION 9-463.01, SUBSECTION J  
41 OR O OR SECTION 11-806.01, SUBSECTION F, THE SUBDIVIDER MAY APPLY TO THE  
42 DIRECTOR FOR AN EXEMPTION FROM THE REQUIREMENT PURSUANT TO THIS SECTION ON A  
43 FORM PRESCRIBED BY THE DIRECTOR. THE DIRECTOR SHALL GRANT THE EXEMPTION IF  
44 THE SUBDIVIDER DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT THE

1 SUBDIVISION WILL BE SERVED BY A WATER SUPPLY PROJECT TO WHICH BOTH OF THE  
2 FOLLOWING APPLY:

3 1. THE SUBDIVIDER HAS DEMONSTRATED FINANCIAL CAPABILITY PURSUANT TO  
4 SECTION 45-108, SUBSECTION I, BUT THE WATER SUPPLY PROJECT WILL NOT BE  
5 CAPABLE OF SERVING THE SUBDIVISION WITH SUFFICIENT WATER TO MEET ITS DEMANDS  
6 IN A TIMELY MANNER BECAUSE OF ONE OF THE FOLLOWING:

7 (a) THE PHYSICAL WORKS FOR DELIVERING WATER TO THE SUBDIVISION ARE NOT  
8 COMPLETE BUT ARE UNDER CONSTRUCTION AND WILL BE COMPLETED WITHIN TWENTY  
9 YEARS.

10 (b) THE SUBDIVISION WILL BE SERVED COLORADO RIVER WATER BY A WATER  
11 PROVIDER THAT DOES NOT CURRENTLY HAVE THE LEGAL RIGHT TO SERVE THE WATER TO  
12 THE SUBDIVISION, BUT THE WATER PROVIDER HAS AN EXISTING PERMANENT CONTRACT  
13 FOR THE COLORADO RIVER WATER AND WILL HAVE THE LEGAL RIGHT TO SERVE THE WATER  
14 TO THE SUBDIVISION WITHIN TWENTY YEARS.

15 2. THE SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE  
16 CONSTRUCTION OF THE PHYSICAL WORKS IS COMPLETED OR THE WATER SUPPLY IS  
17 LEGALLY AVAILABLE TO SERVE THE SUBDIVISION, WHICHEVER APPLIES, AND THE  
18 INTERIM WATER SUPPLY THAT WILL SERVE THE SUBDIVISION MEETS ALL OF THE  
19 CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER SECTION 45-108 EXCEPT THAT THE  
20 INTERIM WATER SUPPLY WILL NOT BE AVAILABLE FOR ONE HUNDRED YEARS.

21 B. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE  
22 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF  
23 THE DIRECTOR UNDER THIS SECTION.

24 Sec. 10. Adequate water supply requirements; amendment of  
25 assured water supply rules

26 A. In determining whether an adequate water supply exists under  
27 section 45-108, Arizona Revised Statutes, as amended by this act, if the  
28 proposed use is located in a city or town that has enacted an ordinance  
29 authorized by section 9-463.01, subsection 0, Arizona Revised Statutes, as  
30 amended by this act, or in a county that has adopted the provision authorized  
31 by section 11-806.01, subsection F, Arizona Revised Statutes, as amended by  
32 this act, the director of water resources shall include in the calculation of  
33 the projected one hundred-year depth-to-static water level under  
34 R12-15-716(B)(3), Arizona Administrative Code, the estimated water demand of  
35 any projected use in the same groundwater basin to which both of the  
36 following apply:

37 1. The use will not be located in a county that has adopted the  
38 provision authorized by section 11-806.01, subsection F, Arizona Revised  
39 Statutes, as amended by this act, or in a city or town that has enacted an  
40 ordinance authorized by section 9-463.01, subsection 0, Arizona Revised  
41 Statutes, as amended by this act.

42 2. The use is not included in a submitted application for a water  
43 report or a designation of adequate water supply.

1           B. The director of water resources shall amend the rules adopted to  
2 implement section 45-108, Arizona Revised Statutes, as amended by this act,  
3 to include the following:

4           1. Criteria for making determinations pursuant to section 45-108.03,  
5 Arizona Revised Statutes, as added by this act.

6           2. Criteria for demonstrating a physically available one hundred-year  
7 supply of groundwater or stored water to be recovered outside the area of  
8 impact, as defined in section 45-802.01, Arizona Revised Statutes, in  
9 specific aquifer systems and groundwater basins and subbasins outside of  
10 active management areas. The criteria may include depth-to-static water  
11 level limits or limits based on other physical aquifer characteristics that  
12 affect the physical availability of water for a proposed use and shall be  
13 appropriate for the groundwater basin or subbasin.

14           C. In developing rule amendments pursuant to this section, the  
15 director of water resources shall consult with cities and towns that have  
16 enacted an ordinance authorized by section 9-463.01, subsection 0, Arizona  
17 Revised Statutes, as amended by this act, and counties that have adopted the  
18 provision authorized by section 11-806.01, subsection F, Arizona Revised  
19 Statutes, as amended by this act, and the cities and towns located within  
20 those counties.