

REFERENCE TITLE: water; adequacy program provisions

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

SB 1609

Introduced by
Senator Flake

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 TITLE 33, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-424; AMENDING SECTION 45-108, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-108.01; 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~~ ON the number of lots or parcels on the surface of the land to
32 defray 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~~ ON 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~~ ON 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 SUBSECTION K 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:

38 1. SHALL PROVIDE AN EXEMPTION FROM THE REQUIREMENT IN SUBSECTION J OF
39 THIS SECTION IF ALL OF THE FOLLOWING APPLY:

40 (a) THE SUBDIVIDER HAS MADE SUBSTANTIAL CAPITAL INVESTMENT TOWARD THE
41 CONSTRUCTION OF THE PROPOSED PROJECT BEFORE THE DATE THE MUNICIPALITY
42 RECEIVED THE NOTICE. FOR THE PURPOSES OF THIS SUBDIVISION, SUBSTANTIAL
43 CAPITAL INVESTMENT DOES NOT INCLUDE THE ORIGINAL COST OF ACQUIRING THE
44 PROPERTY.

1 (b) THE SUBDIVIDER HAS DEMONSTRATED TO THE LEGISLATIVE BODY THAT THE
2 SUBDIVIDER WAS NOT AWARE THAT THE MUNICIPALITY WOULD RECEIVE THE NOTICE AT
3 THE TIME THE INVESTMENT WAS MADE.

4 (c) THE PROPOSED PROJECT COMPLIED IN ALL OTHER RESPECTS WITH EXISTING
5 LAW AS OF THE DATE THE MUNICIPALITY RECEIVED THE NOTICE.

6 2. MAY PROVIDE AN EXEMPTION FROM THE REQUIREMENT IN SUBSECTION J OF
7 THIS SECTION FOR A SUBDIVISION THAT WILL BE SERVED BY A WATER SUPPLY PROJECT
8 TO WHICH BOTH OF THE FOLLOWING APPLY:

9 (a) THE WATER SUPPLY PROJECT WILL NOT BE CAPABLE OF SERVING THE
10 SUBDIVISION WITH SUFFICIENT WATER TO MEET ITS DEMANDS IN A TIMELY MANNER
11 BECAUSE OF ONE OF THE FOLLOWING:

12 (i) THE PHYSICAL WORKS FOR DELIVERING WATER TO THE SUBDIVISION ARE NOT
13 COMPLETE BUT ARE UNDER CONSTRUCTION AND WILL BE COMPLETED WITHIN TWENTY
14 YEARS.

15 (ii) THE WATER SUPPLY THAT WILL BE USED TO SERVE THE SUBDIVISION IS
16 NOT CURRENTLY LEGALLY AVAILABLE TO SERVE THE SUBDIVISION BUT WILL BE LEGALLY
17 AVAILABLE FOR THAT PURPOSE WITHIN TWENTY YEARS.

18 (b) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE
19 SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE CONSTRUCTION OF THE
20 PHYSICAL WORKS IS COMPLETED OR THE WATER SUPPLY IS LEGALLY AVAILABLE TO SERVE
21 THE SUBDIVISION, WHICHEVER APPLIES, AND THAT THE INTERIM WATER SUPPLY THAT
22 WILL SERVE THE SUBDIVISION MEETS ALL OF THE CRITERIA FOR AN ADEQUATE WATER
23 SUPPLY UNDER SECTION 45-108 EXCEPT THAT THE INTERIM WATER SUPPLY WILL NOT BE
24 AVAILABLE FOR THIRTY YEARS.

25 3. MAY PROVIDE AN EXEMPTION FROM THE REQUIREMENT IN SUBSECTION J OF
26 THIS SECTION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
27 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL
28 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE
29 FOLLOWING APPLY:

30 (a) THE LEGISLATIVE BODY DETERMINES THAT THERE IS NO FEASIBLE
31 ALTERNATIVE WATER SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF
32 WATER TO THE SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH
33 AND SAFETY OF THE RESIDENTS OF THE SUBDIVISION.

34 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE
35 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL WATER PROVIDER, THE
36 MUNICIPAL WATER PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR DIVERSION.

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

40 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY
41 ADDITIONAL CONDITIONS IMPOSED BY THE LEGISLATIVE BODY.

42 L. A MUNICIPALITY THAT ADOPTS AN EXEMPTION PURSUANT TO SUBSECTION K,
43 PARAGRAPH 2 OR 3 OF THIS SECTION SHALL GIVE WRITTEN NOTICE OF THE EXEMPTION,
44 INCLUDING A CERTIFIED COPY OF THE ORDINANCE CONTAINING THE EXEMPTION, TO THE
45 DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE

1 STATE REAL ESTATE COMMISSIONER. IF THE MUNICIPALITY LATER RESCINDS THE
2 EXEMPTION, THE MUNICIPALITY SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO
3 THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND
4 THE STATE REAL ESTATE COMMISSIONER.

5 M. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION
6 PLAT PURSUANT TO SUBSECTION J, PARAGRAPH 1 OR 2 OF THIS SECTION, THE
7 LEGISLATIVE BODY SHALL NOTE ON THE FACE OF THE PLAT THAT THE DIRECTOR OF
8 WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION HAS AN ADEQUATE WATER
9 SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT OF WATER SERVICE FOR
10 THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
11 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108.

12 N. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION
13 PLAT PURSUANT TO AN EXEMPTION AUTHORIZED BY SUBSECTION K, PARAGRAPH 1, 2 OR 3
14 OF THIS SECTION:

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

17 2. THE LEGISLATIVE BODY SHALL INCLUDE ON THE FACE OF THE PLAT A
18 STATEMENT THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER
19 SUPPLY FOR THE SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE
20 EXEMPTION UNDER WHICH THE PLAT WAS APPROVED, INCLUDING THE SPECIFIC
21 CONDITIONS OF THE EXEMPTION THAT WERE MET. IF THE LEGISLATIVE BODY
22 SUBSEQUENTLY FINDS THAT THE SUBDIVISION IS BEING SERVED BY A WATER PROVIDER
23 THAT HAS BEEN DESIGNATED BY THE DIRECTOR OF WATER RESOURCES AS HAVING AN
24 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE LEGISLATIVE BODY SHALL
25 RECORD IN THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

26 O. IF A MUNICIPALITY HAS NOT BEEN GIVEN WRITTEN NOTICE BY THE DIRECTOR
27 OF WATER RESOURCES PURSUANT TO SECTION 45-108, SUBSECTION H, THE LEGISLATIVE
28 BODY OF THE MUNICIPALITY, TO PROTECT THE PUBLIC HEALTH AND SAFETY, MAY
29 PROVIDE BY ORDINANCE THAT THE FINAL PLAT OF A SUBDIVISION LOCATED IN THE
30 MUNICIPALITY AND OUTSIDE OF AN ACTIVE MANAGEMENT AREA WILL NOT BE APPROVED BY
31 THE LEGISLATIVE BODY UNLESS THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
32 THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO
33 SECTION 45-108 OR THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
34 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
35 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
36 RESOURCES PURSUANT TO SECTION 45-108. THE ORDINANCE MAY PROVIDE FOR ONE OR
37 MORE OF THE EXEMPTIONS DESCRIBED IN SUBSECTION K OF THIS SECTION. BEFORE
38 HOLDING A PUBLIC HEARING TO CONSIDER WHETHER TO ENACT AN ORDINANCE PURSUANT
39 TO THIS SUBSECTION, A MUNICIPALITY SHALL PROVIDE WRITTEN NOTICE OF THE
40 HEARING TO THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE MUNICIPALITY
41 IS LOCATED. A MUNICIPALITY THAT ENACTS AN ORDINANCE PURSUANT TO THIS
42 SUBSECTION SHALL GIVE WRITTEN NOTICE OF THE ENACTMENT OF THE ORDINANCE,
43 INCLUDING A CERTIFIED COPY OF THE ORDINANCE, TO THE DIRECTOR OF WATER
44 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY, THE STATE REAL ESTATE

1 COMMISSIONER AND THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE CITY IS
2 LOCATED.

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

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

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

17 ~~S.~~ S. For any subdivision that consists of ten or fewer lots, tracts
18 or parcels, each of which is of a size as prescribed by the legislative body,
19 the legislative body of each municipality may waive the requirement to
20 prepare, submit and receive approval of a preliminary plat as a condition
21 precedent to submitting a final plat and may waive or reduce infrastructure
22 standards or requirements except for improved dust-controlled access and
23 minimum drainage improvements.

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

26 11-806.01. Subdivision regulation; platting regulations;
27 violation; classification; easement vesting

28 A. The county board of supervisors shall regulate the subdivision of
29 all lands within its corporate limits, except subdivisions ~~which~~ THAT are
30 regulated by municipalities.

31 B. No plat of a subdivision of land within the area of jurisdiction of
32 such county shall be accepted for recording or recorded until it has been
33 approved by the board. The approval of the board shall be endorsed in
34 writing on the plat and shall also include specific identification and
35 approval of the assurances, except those for hiking and equestrian trails
36 required by this section. If a county planning and zoning commission exists,
37 the plat may be referred to such commission for its consideration and the
38 board may receive the recommendation of the commission. If the subdivision
39 is comprised of subdivided land, ~~as defined in section 32-2101,~~ and is
40 within ~~a groundwater~~ AN active management area, ~~as defined in section~~
41 45-402, the plat shall not be approved unless it is accompanied by a
42 certificate of assured water supply issued by the director of water
43 resources, or unless the subdivider has obtained a written commitment of
44 water service for the subdivision from a city, town or private water company
45 designated as having an assured water supply by the director of water

1 resources pursuant to section 45-576 or is exempt from such requirement
2 pursuant to section 45-576. The board shall note on the face of the plat that
3 a certificate of assured water supply has been submitted with the plat or
4 that the subdivider has obtained a commitment of water service for the
5 proposed subdivision ~~for~~ FROM a city, town or private water company
6 designated as having an assured water supply, pursuant to section 45-576.

7 C. Any person causing a final plat to be recorded without first
8 submitting the plat and obtaining approval of the board is guilty of a class
9 2 misdemeanor. No county recorder shall accept for recording or record any
10 plat ~~which~~ THAT has not been approved as provided by this article.

11 D. The ground of refusal or approval of any plat submitted, including
12 citation of or reference to the rule or regulation violated by the plat,
13 shall be stated ~~upon~~ ON the record of the board.

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

34 F. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS
35 ADOPTED BY THE BOARD PURSUANT TO SUBSECTION E OF THIS SECTION IF APPROVED BY
36 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT THE BOARD SHALL
37 NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED LANDS AS
38 DEFINED IN SECTION 32-2101 LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT AREA AS
39 DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:

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

43 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
44 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS

1 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
2 TO SECTION 45-108.

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

5 1. THE BOARD SHALL PROVIDE AN EXEMPTION FROM THE PROVISION IF ALL OF
6 THE FOLLOWING APPLY:

7 (a) THE SUBDIVIDER HAS MADE SUBSTANTIAL CAPITAL INVESTMENT TOWARD THE
8 CONSTRUCTION OF THE PROPOSED PROJECT BEFORE THE DATE THE PROVISION WAS
9 ADOPTED BY THE BOARD. FOR THE PURPOSES OF THIS SUBDIVISION, SUBSTANTIAL
10 CAPITAL INVESTMENT DOES NOT INCLUDE THE ORIGINAL COST OF ACQUIRING THE
11 PROPERTY.

12 (b) THE SUBDIVIDER HAS DEMONSTRATED TO THE BOARD THAT THE SUBDIVIDER
13 WAS NOT AWARE OF THE PROPOSED ADEQUATE WATER SUPPLY REQUIREMENT AT THE TIME
14 THE INVESTMENT WAS MADE.

15 (c) THE PROPOSED PROJECT COMPLIED IN ALL OTHER RESPECTS WITH EXISTING
16 LAW AS OF THE DATE THE PROVISION WAS ADOPTED.

17 2. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
18 THE PROVISION FOR A SUBDIVISION THAT WILL BE SERVED BY A WATER SUPPLY PROJECT
19 TO WHICH BOTH OF THE FOLLOWING APPLY:

20 (a) THE WATER SUPPLY PROJECT WILL NOT BE CAPABLE OF SERVING THE
21 SUBDIVISION WITH SUFFICIENT WATER TO MEET ITS DEMANDS IN A TIMELY MANNER
22 BECAUSE OF ONE OF THE FOLLOWING:

23 (i) THE PHYSICAL WORKS FOR DELIVERING WATER TO THE SUBDIVISION ARE NOT
24 COMPLETE BUT ARE UNDER CONSTRUCTION AND WILL BE COMPLETED WITHIN TWENTY
25 YEARS.

26 (ii) THE WATER SUPPLY THAT WILL BE USED TO SERVE THE SUBDIVISION IS
27 NOT CURRENTLY LEGALLY AVAILABLE TO SERVE THE SUBDIVISION BUT WILL BE LEGALLY
28 AVAILABLE FOR THAT PURPOSE WITHIN TWENTY YEARS.

29 (b) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE
30 SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE CONSTRUCTION OF THE
31 PHYSICAL WORKS IS COMPLETED OR THE WATER SUPPLY IS LEGALLY AVAILABLE TO SERVE
32 THE SUBDIVISION, WHICHEVER APPLIES, AND THAT THE INTERIM WATER SUPPLY THAT
33 WILL SERVE THE SUBDIVISION MEETS ALL OF THE CRITERIA FOR AN ADEQUATE WATER
34 SUPPLY UNDER SECTION 45-108 EXCEPT THAT THE INTERIM WATER SUPPLY WILL NOT BE
35 AVAILABLE FOR THIRTY YEARS.

36 3. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
37 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
38 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL
39 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE
40 FOLLOWING APPLY:

41 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER
42 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE
43 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY
44 OF THE RESIDENTS OF THE SUBDIVISION.

1 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE
2 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL WATER PROVIDER, THE
3 MUNICIPAL WATER PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR DIVERSION.

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

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

9 4. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE
10 PROVISION, INCLUDING ANY EXEMPTION ADOPTED PURSUANT TO PARAGRAPH 2 OR 3 OF
11 THIS SUBSECTION, TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF
12 ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE
13 SHALL INCLUDE A CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS.

14 5. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER
15 THAT IS INCONSISTENT WITH SUBSECTION F OF THIS SECTION. IF THE BOARD AMENDS
16 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR
17 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL
18 ESTATE COMMISSIONER. THE BOARD MAY RESCIND ANY EXEMPTION ADOPTED PURSUANT TO
19 PARAGRAPH 2 OR 3 OF THIS SUBSECTION. IF THE BOARD RESCINDS AN EXEMPTION, IT
20 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER
21 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE
22 COMMISSIONER.

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

30 7. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION
31 AUTHORIZED BY PARAGRAPH 1, 2 OR 3 OF THIS SUBSECTION:

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

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

43 ~~F.~~ H. On recording of a plat, the fee of the streets, alleys,
44 avenues, highways, easements, parks and other parcels of ground reserved to
45 the use of the public vests in trust in the county for the uses and to the

1 extent depicted on the plat including, but not limited to, ingress and egress
2 easements depicted on such plat. On annexation by any city or town such fee
3 automatically vests in the city or town.

4 ~~G.~~ I. Boards of supervisors of counties shall prepare specifications
5 and make orders, inspections, examinations and certificates as may be
6 necessary to protect and complete the provisions and make them effective.
7 The regulations shall require the posting of performance bonds, assurances or
8 such other security as may be appropriate and necessary to assure the
9 installation of required street, sewer, electric and water utilities,
10 drainage, flood control and improvements meeting established minimum
11 standards of design and construction.

12 ~~H.~~ J. Before adoption of regulations by the board or any amendment as
13 provided in this article, a public hearing shall be held by the
14 commission. A copy of the regulations shall be certified by the commission
15 to the county board of supervisors, which shall hold a public hearing after
16 notice of the time and place has been given by one publication fifteen days
17 prior to the public hearing in a newspaper of general circulation in the
18 county.

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

29 ~~J.~~ L. For any subdivision that consists of lots, tracts or parcels,
30 each of which is of a size as prescribed by the board of supervisors, the
31 board may waive the requirement to prepare, submit and receive approval of a
32 preliminary plat as a condition precedent to submitting a final plat and may
33 waive or reduce infrastructure standards or requirements except for improved
34 dust-controlled access and minimum drainage improvements.

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

36 32-2181. Notice to commissioner of intention to subdivide
37 lands; unlawful acting in concert; exceptions; deed
38 restrictions; definition

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

42 1. The name and address of the owner. If the holder of any ownership
43 interest in the land is other than an individual, such as a corporation,
44 partnership or trust, a statement naming the type of legal entity and listing
45 the interest and the extent of any interest of each principal in the entity.

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

5 2. The name and address of the subdivider.

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

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

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

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

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

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

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

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

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

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

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

43 14. A true statement or reasonable estimate, if applicable, of the
44 amount of any indebtedness that has been or is proposed to be incurred by an
45 existing or proposed special district, entity, taxing area or assessment

1 district, within the boundaries of which the subdivision, or any part of the
2 subdivision, is located, and that is to pay for the construction or
3 installation of any improvement or to furnish community or recreational
4 facilities to the subdivision, and which amounts are to be obtained by ad
5 valorem tax or assessment, or by a special assessment or tax upon the
6 subdivision or any part of the subdivision.

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

10 16. A statement of the provisions for easements for permanent access
11 for irrigation water where applicable.

12 17. A true statement of assurances for the completion of off-site
13 improvements, such as roads, utilities, community or recreational facilities
14 and other improvements to be included in the offering or represented as being
15 in the offering, and approval of the offering by the political subdivision
16 with authority. This statement shall include a trust agreement or any other
17 evidence of assurances for delivery of the improvements and a statement of
18 the provisions, if any, for the continued maintenance of the improvements.

19 18. A true statement of the nature of any improvements to be installed
20 by the subdivider, the estimated schedule for completion and the estimated
21 costs related to the improvements that will be borne by purchasers of lots in
22 the subdivision.

23 19. A true statement of the availability of sewage disposal facilities
24 and other public utilities, including water, electricity, gas and telephone
25 facilities in the subdivision, the estimated schedule for their installation,
26 and the estimated costs related to the facilities and utilities that will be
27 borne by purchasers of lots in the subdivision.

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

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

37 (a) Any subdivision in this state.

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

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

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

- 4 (a) The holder of any ownership interest in the land.
- 5 (b) The subdivider.
- 6 (c) Any principal or officer in the holder or subdivider.

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

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

- 21 (a) That the property is a conversion from multifamily rental to
22 condominiums.
- 23 (b) The date original construction was completed.

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

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

35 C. If the subdivision is within ~~a groundwater~~ AN active management
36 area, as defined in section 45-402, the subdivider shall accompany the notice
37 with a certificate of assured water supply issued by the director of water
38 resources along with proof that all applicable fees have been paid pursuant
39 to sections 48-3772 and 48-3774.01, unless the subdivider has obtained a
40 written commitment of water service for the subdivision from a city, town or
41 private water company designated as having an assured water supply by the
42 director of water resources pursuant to section 45-576 or is exempt from the
43 requirement pursuant to section 45-576. If the subdivider has submitted a
44 certificate of assured water supply to a city, town or county prior to
45 approval of the plat by the city, town or county and this has been noted on

1 the face of the plat, the submission constitutes compliance with this
2 subsection if the subdivider provides proof to the commissioner that all
3 applicable fees have been paid pursuant to sections 48-3772 and 48-3774.01.

4 D. It is unlawful for a person or group of persons acting in concert
5 to attempt to avoid this article by acting in concert to divide a parcel of
6 land or sell subdivision lots by using a series of owners or conveyances or
7 by any other method that ultimately results in the division of the lands into
8 a subdivision or the sale of subdivided land. The plan or offering is
9 subject to this article. Unlawful acting in concert pursuant to this
10 subsection with respect to the sale or lease of subdivision lots requires
11 proof that the real estate licensee or other licensed professional knew or
12 with the exercise of reasonable diligence should have known that property
13 which the licensee listed or for which the licensee acted in any capacity as
14 agent was subdivided land subject to this article.

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

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

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

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

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

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

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

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

43 1. IF THE SUBDIVISION IS LOCATED IN A COUNTY THAT HAS ADOPTED THE
44 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN
45 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE

1 SUBDIVIDER SHALL ACCOMPANY THE NOTICE WITH A REPORT ISSUED BY THE DIRECTOR OF
2 WATER RESOURCES PURSUANT TO SECTION 45-108 STATING THAT THE SUBDIVISION HAS
3 AN ADEQUATE WATER SUPPLY, UNLESS ONE OF THE FOLLOWING APPLIES:

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

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

11 (c) THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
12 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR O,
13 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION
14 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, 2 OR 3. IF THE
15 PLAT WAS APPROVED PURSUANT TO AN AUTHORIZED EXEMPTION, THE STATE REAL ESTATE
16 COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIAL AND CONTRACTS FOR
17 THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE FOLLOWING:

18 (i) THE DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF
19 SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER.

20 (ii) A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE SUBDIVISION
21 WAS APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE EXEMPTION THAT WERE
22 MET. IF THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
23 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K,
24 PARAGRAPH 3 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN
25 EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 3, THE
26 DEED OR CONVEYANCE DOCUMENT SHALL CONTAIN THE DISCLOSURE REQUIRED BY SECTION
27 33-406.

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

39 G. The commissioner may require the subdivider to supplement the
40 notice of intention to subdivide lands and may require the filing of periodic
41 reports to update the information contained in the original notice of
42 intention to subdivide lands.

43 H. The commissioner may authorize the subdivider to file as the notice
44 of intention to subdivide lands, in lieu of some or all of the requirements
45 of subsection A of this section, a copy of the statement of record filed with

1 respect to the subdivision pursuant to the federal interstate land sales full
2 disclosure act if the statement complies with the requirements of the act and
3 the regulations pertinent to the act.

4 I. Neither a real estate sales contract, conveyance, lease, assignment
5 or other instrument to transfer any interest in subdivided land nor any
6 covenant or restriction affecting real property shall contain any provision
7 limiting the right of any party to appear or testify in support of or
8 opposition to zoning changes, building permits or any other official acts
9 affecting real property before a governmental body or official considering
10 zoning changes, building permits or any other official acts affecting real
11 property, whether the property is located within or outside of the boundaries
12 of the subdivision. All contractual provisions that conflict with this
13 subsection are declared to be contrary to public policy. Nothing contained
14 in this subsection shall prohibit private restrictions on the use of any real
15 property.

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

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

24 32-2181.02. Exempt sales and leases

25 A. The following are exempt under this article:

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

28 2. The sale or lease of lots or parcels of one hundred sixty acres or
29 more.

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

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

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

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

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

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

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

44 (e) All roads within the subdivision, all utilities to the lots or
45 parcels being offered for sale or lease and all other required improvements

1 within the subdivision, other than a residence to be built, are complete,
2 paid for and free of any blanket encumbrances.

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

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

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

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

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

19 (iii) Had a business or professional license, including a real estate
20 license, denied, suspended or revoked or voluntarily surrendered a business
21 or professional license during the course of an investigative or disciplinary
22 proceeding or other disciplinary action taken in this state or any other
23 state.

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

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

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

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

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

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

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

41 (iv) The most recent subdivision public report reference number on the
42 lots.

43 (v) The completion status of subdivision improvements.

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

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

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

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

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

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

11 (a) The subdivision is located within the United States and the sale
12 is exempt from ~~the provisions of~~ the interstate land sales full disclosure
13 act (P.L. 90-448; 82 Stat. 590; 15 United States Code sections 1701 through
14 1720).

15 (b) The subdivider is required by the state where the subdivision is
16 located to deliver a public report or equivalent disclosure document to
17 prospective purchasers and the subdivider delivers the report or equivalent
18 disclosure document.

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

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

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

25 (c) Electricity and telephone service are complete and available to
26 the improved lot.

27 (d) Water and sewage service is complete and available to the improved
28 lot.

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

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

38 (g) All subdivision common area improvements, including landscaping,
39 recreational facilities and other jointly used and maintained improvements,
40 are complete and maintained by a legally created and operational property
41 owners' association.

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

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

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

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

12 E. ~~Nothing in~~ This section shall NOT be construed to increase, to
13 decrease or to otherwise affect any rights or powers granted to political
14 subdivisions of this state with respect to their jurisdictions.

15 Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:

16 32-2183. Subdivision public reports; denial of issuance;
17 unlawful sales; voidable sale or lease; order
18 prohibiting sale or lease; investigations; hearings;
19 summary orders

20 A. Upon examination of a subdivision, the commissioner, unless there
21 are grounds for denial, shall issue to the subdivider a public report
22 authorizing the sale or lease in this state of the lots, parcels or
23 fractional interests within the subdivision. The report shall contain the
24 data obtained in accordance with section 32-2181 and any other information
25 which the commissioner determines is necessary to implement the purposes of
26 this article. If any of the lots, parcels or fractional interests within the
27 subdivision are located within territory in the vicinity of a military
28 airport or ancillary military facility as defined in section 28-8461, under a
29 military training route as delineated in the military training route map
30 prepared pursuant to section 37-102 or under restricted air space as
31 delineated in the restricted air space map prepared pursuant to section
32 37-102, the report shall include, in bold twelve point font block letters on
33 the first page of the report, the statements required pursuant to section
34 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the
35 department has been provided a map prepared pursuant to section 28-8484,
36 subsection B, ~~OR~~ section 37-102, the report shall include a copy of the map.
37 The military airport report requirements do not require the amendment or
38 reissuance of any public report issued on or before December 31, 2001 or on
39 or before December 31 of the year in which the lots, parcels or fractional
40 interests within a subdivision become territory in the vicinity of a military
41 airport or ancillary military facility. The military training route report
42 requirements do not require the amendment or reissuance of any public report
43 issued on or before December 31, 2004. The restricted air space report
44 requirements do not require the amendment or reissuance of any public report
45 issued on or before December 31, 2006. The commissioner shall require the

1 subdivider to reproduce the report, make the report available to each
2 prospective customer and furnish each buyer or lessee with a copy before the
3 buyer or lessee signs any offer to purchase or lease, taking a receipt
4 therefor.

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

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

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

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

19 4. The department shall determine within fifteen business days after
20 the receipt of the notification and public report whether the notification
21 and public report are administratively complete. The commissioner either may
22 issue a certification that the notification and public report are
23 administratively complete or may deny issuance of the certification if it
24 appears that the application or project is not in compliance with all legal
25 requirements, that the applicant has a background of violations of state or
26 federal law or that the applicant or project presents an unnecessary risk of
27 harm to the public.

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

31 6. Before or after the commissioner issues a certificate of
32 administrative completeness, the department may examine any public report,
33 subdivision or applicant that has applied for or received the certificate.
34 If the commissioner determines that the subdivider or subdivision is not in
35 compliance with any requirement of state law or that grounds exist under this
36 chapter to suspend, deny or revoke a public report, the commissioner may
37 commence an administrative action under section 32-2154 or 32-2157. If the
38 subdivider immediately corrects the deficiency and comes into full compliance
39 with state law, the commissioner shall vacate any action that the
40 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

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

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

- 1 1. Failure to comply with this article or the rules of the
2 commissioner pertaining to this article.
- 3 2. The sale or lease would constitute misrepresentation to or deceit
4 or fraud of the purchasers or lessees.
- 5 3. Inability to deliver title or other interest contracted for.
- 6 4. Inability to demonstrate that adequate financial or other
7 arrangements acceptable to the commissioner have been made for completion of
8 all streets, sewers, electric, gas and water utilities, drainage and flood
9 control facilities, community and recreational facilities and other
10 improvements included in the offering.
- 11 5. Failure to make a showing that the lots, parcels or fractional
12 interests can be used for the purpose for which they are offered.
- 13 6. The owner, agent, subdivider, officer, director or partner,
14 subdivider trust beneficiary holding ten per cent or more direct or indirect
15 beneficial interest or, if a corporation, any stockholder owning ten per cent
16 or more of the stock in the corporation has:
 - 17 (a) Been convicted of a felony or misdemeanor involving fraud or
18 dishonesty or involving conduct of any business or a transaction in real
19 estate, cemetery property, time-share intervals or membership camping
20 campgrounds or contracts.
 - 21 (b) Been permanently or temporarily enjoined by order, judgment or
22 decree from engaging in or continuing any conduct or practice in connection
23 with the sale or purchase of real estate or cemetery property, time-share
24 intervals, membership camping contracts or campgrounds, or securities or
25 involving consumer fraud or the racketeering laws of this state.
 - 26 (c) Had an administrative order entered against him by a real estate
27 regulatory agency or security regulatory agency.
 - 28 (d) Had an adverse decision or judgment entered against him involving
29 fraud or dishonesty or involving the conduct of any business or transaction
30 in real estate, cemetery property, time-share intervals or membership camping
31 campgrounds or contracts.
 - 32 (e) Disregarded or violated this chapter or the rules of the
33 commissioner pertaining to this chapter.
 - 34 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
35 applies.
- 36 7. Procurement or an attempt to procure a public report by fraud,
37 misrepresentation or deceit or by filing an application for a public report
38 that is materially false or misleading.
- 39 8. Failure of the declaration for a condominium created pursuant to
40 title 33, chapter 9, article 2 to comply with the requirements of section
41 33-1215 or failure of the plat for the condominium to comply with the
42 requirements of section 33-1219. The commissioner may require an applicant
43 for a public report to submit a notarized statement signed by the subdivider
44 or an engineer or attorney licensed to practice in this state certifying that
45 the condominium plat and declaration of condominium are in compliance with

1 the requirements of sections 33-1215 and 33-1219. If the notarized statement
2 is provided, the commissioner is entitled to rely on this statement.

3 9. Failure of any blanket encumbrance or valid supplementary agreement
4 executed by the holder of the blanket encumbrance to contain provisions that
5 enable the purchaser to acquire title to a lot or parcel free of the lien of
6 the blanket encumbrance, on completion of all payments and performance of all
7 of the terms and provisions required to be made or performed by the purchaser
8 under the real estate sales contract by which the purchaser has acquired the
9 lot or parcel. The subdivider shall file copies of documents acceptable to
10 the commissioner containing these provisions with the commissioner before the
11 sale of any subdivision lot or parcel subject to a blanket encumbrance.

12 10. Failure to demonstrate permanent access to the subdivision lots or
13 parcels.

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

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

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

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

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

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

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

42 F. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE SUBDIVISION IS
43 LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION
44 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE
45 PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE COMMISSIONER SHALL DENY

1 ISSUANCE OF A PUBLIC REPORT OR THE USE OF ANY EXEMPTION PURSUANT TO SECTION
2 32-2181.02, SUBSECTION B UNLESS ONE OF THE FOLLOWING APPLIES:

3 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
4 45-108 THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY.

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

9 3. THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
10 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR O,
11 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION
12 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, 2 OR 3.

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

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

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

44 ~~I.~~ J. On the commissioner's own motion, or when the commissioner has
45 received a complaint and has satisfactory evidence that any person has

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

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

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

35 ~~L~~ M. If the court appoints a receiver without notice, the court
 36 shall further direct that a copy of the order appointing a receiver be served
 37 on the person engaged in or engaging in a practice declared to be unlawful
 38 under this article by delivering the order to the last address of the person
 39 that is on file with the state real estate department. The order shall
 40 inform the person that the person has the right to request a hearing within
 41 ten days of the date of the order and, if requested, the hearing shall be
 42 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 BY THE LEGISLATIVE BODY OF A
34 CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01,
35 SUBSECTION K OR O, OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN
36 EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, 2 OR 3.

37 ~~D.~~ E. In addition to providing to each prospective customer a copy of
38 the public report as required in subsection A of this section, the developer
39 shall also provide to each customer before the close of any transaction
40 information and materials that identify any timeshare exchange companies
41 currently under contract and disclosure statements regarding the use of the
42 timeshare exchange companies, as well as any additional information the
43 commissioner deems appropriate.

44 ~~E.~~ F. The commissioner may authorize for use in this state by a
45 developer of a timeshare plan in which all accommodations are located outside

1 of this state a current public report that is issued by another jurisdiction
2 or an equivalent registration and disclosure document that is required before
3 offering a timeshare plan for sale, lease or use and that is issued by
4 another jurisdiction. This authorization does not constitute an exemption
5 from other applicable requirements of this article.

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

8 33-406. Disclosure of transportation of water to property by
9 motor vehicle or train; voidable transaction;
10 definition

11 A. NOTWITHSTANDING SECTION 33-411, SUBSECTION D, A SUBDIVIDER WHO
12 SELLS A LOT THAT WAS INCLUDED IN A PLAT APPROVED BY THE LEGISLATIVE BODY OF A
13 CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01,
14 SUBSECTION K, PARAGRAPH 3 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT
15 TO AN EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 3
16 SHALL INCLUDE IN THE DEED OR CONVEYANCE DOCUMENT THE FOLLOWING INFORMATION:

17 1. A STATEMENT THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
18 THAT THE WATER SUPPLY FOR THE SUBDIVISION IS INADEQUATE.

19 2. A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE PLAT WAS
20 APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE EXEMPTION THAT WERE MET.

21 B. ANY CONVEYANCE OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY
22 THAT IS SUBJECT TO SUBSECTION A OF THIS SECTION AND THAT DOES NOT INCLUDE THE
23 INFORMATION REQUIRED BY THAT SUBSECTION IS VOIDABLE BY THE OTHER PARTY TO THE
24 CONVEYANCE. ANY ACTION TO VOID THE CONVEYANCE SHALL BE COMMENCED WITHIN TWO
25 YEARS AFTER THE DATE OF RECORDATION OF THE DOCUMENT AFFECTING THE CONVEYANCE.

26 C. IF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY, OR ANY MORTGAGE,
27 DEED OF TRUST OR OTHER LIEN ON REAL PROPERTY, IS ACQUIRED FOR VALUE, THE
28 TITLE, INTEREST, MORTGAGE, DEED OF TRUST OR OTHER LIEN IS NOT IMPAIRED OR IN
29 ANY WAY ADVERSELY AFFECTED BY REASON OF THE FAILURE OF ANY PERSON TO COMPLY
30 WITH THIS SECTION.

31 D. FOR THE PURPOSES OF THIS SECTION, "SUBDIVIDER" AS THE SAME MEANING
32 AS PRESCRIBED IN SECTION 32-2101.

33 Sec. 8. Title 33, chapter 4, article 2, Arizona Revised Statutes, is
34 amended by adding section 33-424, to read:

35 33-424. Seller's disclosure; water transported to subdivision

36 A PERSON SELLING REAL PROPERTY THAT WAS INCLUDED IN A PLAT APPROVED BY
37 THE LEGISLATIVE BODY OF A CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY
38 SECTION 9-463.01, SUBSECTION K, PARAGRAPH 3 OR BY THE BOARD OF SUPERVISORS OF
39 A COUNTY PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION
40 G, PARAGRAPH 3 RELATING TO TRANSPORTING WATER TO THE PROPERTY, SHALL DISCLOSE
41 IN WRITING TO THE BUYER BEFORE EXECUTING THE SALES CONTRACT THE FACT THAT THE
42 PLAT WAS APPROVED PURSUANT TO THE EXEMPTION, INCLUDING A DESCRIPTION OF THE
43 EXEMPTION UNLESS THE PROPERTY IS NO LONGER SERVED BY A WATER SUPPLY THAT
44 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY BY MOTOR VEHICLE OR

1 TRAIN AND IS SERVED DIRECTLY FROM A WELL OR BY A CITY, TOWN OR PUBLIC SERVICE
2 CORPORATION.

3 Sec. 9. Section 45-108, Arizona Revised Statutes, is amended to read:

4 45-108. Evaluation of subdivision water supply; definition

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

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

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

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

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

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

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

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

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

1 APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF
2 GENERAL CIRCULATION IN THE GROUNDWATER BASIN IN WHICH THE APPLICANT PROPOSES
3 TO USE WATER. THE FIRST PUBLICATION SHALL OCCUR WITHIN FIFTEEN DAYS AFTER
4 THE APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE. IF
5 THE APPLICATION IS SUBSTANTIALLY MODIFIED AFTER NOTICE OF THE APPLICATION IS
6 GIVEN PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL GIVE NOTICE OF THE
7 APPLICATION AS MODIFIED IN THE MANNER PRESCRIBED BY THIS SUBSECTION. THE
8 FIRST PUBLICATION OF ANY SUBSEQUENT NOTICE SHALL OCCUR WITHIN FIFTEEN DAYS
9 AFTER THE MODIFIED APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY
10 COMPLETE.

11 B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT
12 WRITTEN OBJECTIONS TO THE APPLICATION MAY BE FILED WITH THE DIRECTOR BY
13 RESIDENTS OF THE GROUNDWATER BASIN WITHIN FIFTEEN DAYS AFTER THE LAST
14 PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS
15 OF THE OBJECTOR AND BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S AGENT OR THE
16 OBJECTOR'S ATTORNEY. THE GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE
17 APPLICATION MEETS THE CRITERIA FOR DETERMINING AN ADEQUATE WATER SUPPLY SET
18 FORTH IN SECTION 45-108, SUBSECTION I. THE OBJECTION SHALL CLEARLY SET FORTH
19 REASONS WHY THE APPLICATION DOES NOT MEET THE CRITERIA.

20 C. IN APPROPRIATE CASES, INCLUDING CASES IN WHICH A PROPER WRITTEN
21 OBJECTION TO THE APPLICATION HAS BEEN FILED, AN ADMINISTRATIVE HEARING MAY BE
22 HELD BEFORE THE DIRECTOR'S DECISION ON THE APPLICATION IF THE DIRECTOR DEEMS
23 A HEARING NECESSARY. THIRTY DAYS BEFORE THE DATE OF THE HEARING, THE
24 DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON
25 WHO FILED A PROPER WRITTEN OBJECTION TO THE APPLICATION. THE HEARING SHALL
26 BE SCHEDULED FOR AT LEAST SIXTY DAYS BUT NOT MORE THAN NINETY DAYS AFTER THE
27 EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

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

29 1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR
30 THE PROPOSED USE, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE
31 WATER SUPPLY FOR THE SUBDIVISION IS ADEQUATE.

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

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

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

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

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

44 G. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
45 PROCEEDINGS, REHEARINGS OR REVIEWS AND JUDICIAL REVIEWS OF FINAL DECISIONS OF

1 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD, IT
2 SHALL BE CONDUCTED IN THE GROUNDWATER BASIN IN WHICH THE USE IS LOCATED.

3 Sec. 11. Adequate water supply requirements; amendment of
4 assured water supply rules

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

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

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

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

26 1. Criteria for making determinations pursuant to section 9-463.01,
27 subsection K, paragraph 2, subdivision (b), Arizona Revised Statutes, as
28 amended by this act, and section 11-806.01, subsection G, paragraph 2,
29 subdivision (b), Arizona Revised Statutes, as amended by this act.

30 2. Criteria for demonstrating a physically available ~~one hundred year~~
31 THIRTY-YEAR supply of groundwater or stored water to be recovered outside the
32 area of impact, as defined in section 45-802.01, Arizona Revised Statutes, in
33 specific aquifer systems and groundwater basins and subbasins outside of
34 active management areas. The criteria may include depth-to-static water
35 level limits or limits based on other physical aquifer characteristics that
36 affect the physical availability of water for a proposed use and shall be
37 appropriate for the groundwater basin or subbasin.

38 C. In developing rule amendments pursuant to this section, the
39 director of water resources shall consult with cities and towns that have
40 enacted an ordinance authorized by section 9-463.01, subsection 0, Arizona
41 Revised Statutes, as amended by this act, and counties that have adopted the
42 provision authorized by section 11-806.01, subsection F, Arizona Revised
43 Statutes, as amended by this act, and the cities and towns located within
44 those counties.