

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# SENATE BILL 1268

AN ACT

AMENDING SECTIONS 9-463.01, 32-2181, 32-2183, 32-2197.08, 45-108, 45-108.01, 45-108.02, 45-108.03 AND 48-6414; RELATING TO WATER SUPPLY.

(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 this article, the legislative body of every  
6 municipality shall regulate the subdivision of all lands within its corporate  
7 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 not be subdivided, by  
23 reason of adverse topography, periodic inundation, adverse soils, subsidence  
24 of the earth's surface, high water table, lack of water or other natural or  
25 man-made hazard to life or property, or control the lot size, establish  
26 special grading and drainage requirements and impose other regulations deemed  
27 reasonable and necessary for the public health, safety or general welfare on  
28 any lands to be subdivided affected by such characteristics.

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

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

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

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

44 D. The legislative body of any municipality may require by ordinance  
45 that land areas within a subdivision be reserved for parks, recreational

1 facilities, school sites and fire stations subject to the following  
2 conditions:

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

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

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

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

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

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

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

30 1. Final subdivision plats.

31 2. Plats filed for the purpose of reverting to acreage of land  
32 previously subdivided.

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

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

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

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

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

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

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

19           J. Except as provided in subsections K and P of this section, if the  
20 subdivision is composed of subdivided lands as defined in section 32-2101  
21 outside of an active management area and ~~IF the director of water resources~~  
22 ~~has given written notice to the municipality pursuant to section 45-108,~~  
23 ~~subsection H~~ MUNICIPALITY IS REQUIRED BY SUBSECTION Q OF THIS SECTION TO  
24 COMPLY WITH THIS SUBSECTION OR IF THE LEGISLATIVE BODY OF THE MUNICIPALITY  
25 HAS ADOPTED AN ADEQUATE WATER SUPPLY ORDINANCE PURSUANT TO SUBSECTION O OF  
26 THIS SECTION, 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~~ IS REQUIRED BY SUBSECTION Q OF THIS SECTION TO COMPLY WITH  
38 SUBSECTION J OF THIS SECTION or that has adopted an ADEQUATE WATER SUPPLY  
39 ordinance pursuant to subsection O of this section may provide by ordinance  
40 an exemption from the requirement in subsection J ~~or O~~ of this section for a  
41 subdivision that the director of water resources has determined will have an  
42 inadequate water supply because the water supply will be transported to the  
43 subdivision by motor vehicle or train if all of the following apply:

44           1. The legislative body determines that there is no feasible  
45 alternative water supply for the subdivision and that the transportation of

1 water to the subdivision will not constitute a significant risk to the health  
2 and safety of the residents of the subdivision.

3 2. If the water to be transported to the subdivision will be withdrawn  
4 or diverted in the service area of a municipal provider as defined in section  
5 45-561, the municipal provider has consented to the withdrawal or diversion.

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

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

11 L. A municipality that adopts the exemption authorized by subsection K  
12 of this section shall give written notice of the adoption of the exemption,  
13 including a certified copy of the ordinance containing the exemption, to the  
14 director of water resources, the director of environmental quality and the  
15 state real estate commissioner. If the municipality later rescinds the  
16 exemption, the municipality shall give written notice of the rescission to  
17 the director of water resources, the director of environmental quality and  
18 the state real estate commissioner. A municipality that rescinds an  
19 exemption adopted pursuant to subsection K of this section shall not readopt  
20 the exemption for at least five years after the rescission becomes effective.

21 M. If the legislative body of a municipality approves a subdivision  
22 plat pursuant to subsection J, paragraph 1 or 2 ~~or subsection 0~~ of this  
23 section, the legislative body shall note on the face of the plat that the  
24 director of water resources has reported that the subdivision has an adequate  
25 water supply or that the subdivider has obtained a commitment of water  
26 service for the proposed subdivision from a city, town or private water  
27 company designated as having an adequate water supply pursuant to section  
28 45-108.

29 N. If the legislative body of a municipality approves a subdivision  
30 plat pursuant to an exemption authorized by subsection K of this section or  
31 granted by the director of water resources pursuant to section 45-108.02 or  
32 45-108.03:

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

35 2. The legislative body shall include on the face of the plat a  
36 statement that the director of water resources has determined that the water  
37 supply for the subdivision is inadequate and a statement describing the  
38 exemption under which the plat was approved, including a statement that the  
39 legislative body or the director of water resources, whichever applies, has  
40 determined that the specific conditions of the exemption were met. If the  
41 director subsequently informs the legislative body that the subdivision is  
42 being served by a water provider that has been designated by the director as  
43 having an adequate water supply pursuant to section 45-108, the legislative  
44 body shall record in the county recorder's office a statement disclosing that  
45 fact.

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

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

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

31           2. A proposed subdivision that received final plat approval from the  
32 municipality before the requirement for an adequate water supply became  
33 effective in the municipality if the plat has not been materially changed  
34 since it received the final plat approval. If changes were made to the plat  
35 after the plat received the final plat approval, the director of water  
36 resources shall determine whether the changes are material pursuant to the  
37 rules adopted by the director to implement section 45-108. If the  
38 municipality approves a plat pursuant to this paragraph and the director of  
39 water resources has determined that there is an inadequate water supply for  
40 the subdivision pursuant to section 45-108, the municipality shall note this  
41 on the face of the plat.

42           Q. A MUNICIPALITY THAT WAS NOTIFIED BY THE DIRECTOR OF WATER RESOURCES  
43 BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION THAT THE COUNTY  
44 IN WHICH THE MUNICIPALITY IS LOCATED ADOPTED AN ADEQUATE WATER SUPPLY  
45 PROVISION AUTHORIZED BY SECTION 11-823, SUBSECTION A SHALL COMPLY WITH

1 SUBSECTION J OF THIS SECTION UNLESS THE LEGISLATIVE BODY OF THE MUNICIPALITY  
2 ADOPTS AN ORDINANCE AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
3 SECTION THAT PROVIDES THAT THE MUNICIPALITY SHALL NOT BE SUBJECT TO  
4 SUBSECTION J OF THIS SECTION. A MUNICIPALITY THAT ADOPTS AN ORDINANCE  
5 PURSUANT TO THIS SUBSECTION MAY AT ANY TIME THEREAFTER ADOPT AN ADEQUATE  
6 WATER SUPPLY ORDINANCE PURSUANT TO SUBSECTION O OF THIS SECTION.

7 ~~Q.~~ R. If the subdivision is composed of subdivided lands as defined  
8 in section 32-2101 outside of an active management area and the municipality  
9 ~~has not received written notice pursuant to section 45-108, subsection H IS~~  
10 NOT REQUIRED BY SUBSECTION Q OF THIS SECTION TO COMPLY WITH SUBSECTION J OF  
11 THIS SECTION and has not adopted an ADEQUATE WATER SUPPLY ordinance pursuant  
12 to subsection O of this section:

13 1. If the director of water resources has determined that there is an  
14 adequate water supply for the subdivision pursuant to section 45-108 or if  
15 the subdivider has obtained a written commitment of water service for the  
16 subdivision from a city, town or private water company designated as having  
17 an adequate water supply by the director of water resources pursuant to  
18 section 45-108, the municipality shall note this on the face of the plat if  
19 the plat is approved.

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

23 ~~R.~~ S. Every municipality is responsible for the recordation of all  
24 final plats approved by the legislative body and shall receive from the  
25 subdivider and transmit to the county recorder the recordation fee  
26 established by the county recorder.

27 ~~S.~~ T. Pursuant to provisions of applicable state statutes, the  
28 legislative body of any municipality may itself prepare or have prepared a  
29 plat for the subdivision of land under municipal ownership.

30 ~~T.~~ U. The legislative bodies of cities and towns may regulate by  
31 ordinance land splits within their corporate limits. Authority granted under  
32 this section refers to the determination of division lines, area and shape of  
33 the tracts or parcels and does not include authority to regulate the terms or  
34 condition of the sale or lease nor does it include the authority to regulate  
35 the sale or lease of tracts or parcels that are not the result of land splits  
36 as defined in section 9-463.

37 ~~U.~~ V. For any subdivision that consists of ten or fewer lots, tracts  
38 or parcels, each of which is of a size as prescribed by the legislative body,  
39 the legislative body of each municipality may expedite the processing of or  
40 waive the requirement to prepare, submit and receive approval of a  
41 preliminary plat as a condition precedent to submitting a final plat and may  
42 waive or reduce infrastructure standards or requirements proportional to the  
43 impact of the subdivision. Requirements for dust-controlled access and  
44 drainage improvements shall not be waived.

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

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

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

16           2. The name and address of the subdivider.

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

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

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

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

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

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

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

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



- 1           11. A statement of the provisions, if any, limiting the use or  
2 occupancy of the parcels in the subdivision, together with copies of any  
3 restrictive covenants affecting all or part of the subdivision.
- 4           12. The name and business address of the principal broker selling or  
5 leasing, within this state, lots or parcels in the subdivision.
- 6           13. A true statement of the approximate amount of indebtedness that is  
7 a lien on the subdivision or any part of the subdivision and that was  
8 incurred to pay for the construction of any on-site or off-site improvement,  
9 or any community or recreational facility.
- 10          14. A true statement or reasonable estimate, if applicable, of the  
11 amount of any indebtedness that has been or is proposed to be incurred by an  
12 existing or proposed special district, entity, taxing area or assessment  
13 district, within the boundaries of which the subdivision, or any part of the  
14 subdivision, is located, and that is to pay for the construction or  
15 installation of any improvement or to furnish community or recreational  
16 facilities to the subdivision, and which amounts are to be obtained by ad  
17 valorem tax or assessment, or by a special assessment or tax ~~upon~~ ON the  
18 subdivision or any part of the subdivision.
- 19          15. A true statement as to the approximate amount of annual taxes,  
20 special assessments or fees to be paid by the buyer for the proposed annual  
21 maintenance of common facilities in the subdivision.
- 22          16. A statement of the provisions for easements for permanent access  
23 for irrigation water where applicable.
- 24          17. A true statement of assurances for the completion of off-site  
25 improvements, such as roads, utilities, community or recreational facilities  
26 and other improvements to be included in the offering or represented as being  
27 in the offering, and approval of the offering by the political subdivision  
28 with authority. This statement shall include a trust agreement or any other  
29 evidence of assurances for delivery of the improvements and a statement of  
30 the provisions, if any, for the continued maintenance of the improvements.
- 31          18. A true statement of the nature of any improvements to be installed  
32 by the subdivider, the estimated schedule for completion and the estimated  
33 costs related to the improvements that will be borne by purchasers of lots in  
34 the subdivision.
- 35          19. A true statement of the availability of sewage disposal facilities  
36 and other public utilities, including water, electricity, gas and telephone  
37 facilities in the subdivision, the estimated schedule for their installation,  
38 and the estimated costs related to the facilities and utilities that will be  
39 borne by purchasers of lots in the subdivision.
- 40          20. A true statement as to whether all or any portion of the  
41 subdivision is located in an open range or area in which livestock may roam  
42 at large under the laws of this state and what provisions, if any, have been  
43 made for the fencing of the subdivision to preclude livestock from roaming  
44 within the subdivided lands.

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

5           (a) Any subdivision in this state.

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

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

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

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

16           (b) The subdivider.

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

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

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

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

34           (b) The date original construction was completed.

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

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

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

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

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

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

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

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

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

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

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

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

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

17           F. In areas outside of active management areas established pursuant to  
18 title 45, chapter 2, article 2:

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

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

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

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

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

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

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

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

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

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

41 I. Neither a real estate sales contract, conveyance, lease, assignment  
42 or other instrument to transfer any interest in subdivided land nor any  
43 covenant or restriction affecting real property shall contain any provision  
44 limiting the right of any party to appear or testify in support of or  
45 opposition to zoning changes, building permits or any other official acts

1 affecting real property before a governmental body or official considering  
2 zoning changes, building permits or any other official acts affecting real  
3 property, whether the property is located within or outside of the boundaries  
4 of the subdivision. All contractual provisions that conflict with this  
5 subsection are declared to be contrary to public policy. Nothing contained  
6 in this subsection shall prohibit private restrictions on the use of any real  
7 property.

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

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

19 Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to read:

20 32-2183. Subdivision public reports; denial of issuance;  
21 unlawful sales; voidable sale or lease; order  
22 prohibiting sale or lease; investigations; hearings;  
23 summary orders

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

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

13 B. This section ~~shall~~ DOES not ~~be construed to~~ require a public report  
14 issued sixty or fewer days ~~prior to~~ BEFORE the filing of the military  
15 electronics range map prepared pursuant to section 37-102 to meet the  
16 military electronics range notification requirements of this section.

17 C. A public report issued sixty-one or more days after the filing of  
18 the military electronics range map prepared pursuant to section 37-102 shall  
19 meet all of the requirements of subsection A of this section.

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

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

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

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

34 4. On receipt of the notification and public report, the department  
35 shall review and issue within ten business days either a certification that  
36 the notification and public report are administratively complete or a denial  
37 letter if it appears that the application or project is not in compliance  
38 with all legal requirements, that the applicant has a background of  
39 violations of state or federal law or that the applicant or project presents  
40 an unnecessary risk of harm to the public. If the commissioner has received  
41 the notification and public report but has not issued a certification or a  
42 denial letter within ten business days pursuant to this paragraph, the  
43 notification and public report are administratively complete.

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

4           6. Before or after the commissioner issues a certificate of  
5 administrative completeness or, if applicable, after the notification and  
6 public report are deemed to be administratively complete pursuant to  
7 paragraph 4 of this subsection, the department may examine any public report,  
8 subdivision or applicant that has applied for or received the certificate.  
9 If the commissioner determines that the subdivider or subdivision is not in  
10 compliance with any requirement of state law or that grounds exist under this  
11 chapter to suspend, deny or revoke a public report, the commissioner may  
12 commence an administrative action under section 32-2154 or 32-2157. If the  
13 subdivider immediately corrects the deficiency and comes into full compliance  
14 with state law, the commissioner shall vacate any action that the  
15 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

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

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

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

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

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

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

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

32           6. The owner, agent, subdivider, officer, director or partner,  
33 subdivider trust beneficiary holding ten ~~per cent~~ PERCENT or more direct or  
34 indirect beneficial interest or, if a corporation, any stockholder owning ten  
35 ~~per cent~~ PERCENT or more of the stock in the corporation has:

36           (a) Been convicted of a felony or misdemeanor involving fraud or  
37 dishonesty or involving conduct of any business or a transaction in real  
38 estate, cemetery property, time-share intervals or membership camping  
39 campgrounds or contracts.

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



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

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

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

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

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

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

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

32 10. Failure to demonstrate permanent access to the subdivision lots or  
33 parcels.

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

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

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

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

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

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

7           G. If the subdivision is within an active management area, as defined  
8 in section 45-402, the commissioner shall deny issuance of a public report or  
9 the use of any exemption pursuant to section 32-2181.02, subsection B unless  
10 the subdivider has been issued a certificate of assured water supply by the  
11 director of water resources and has paid all applicable fees pursuant to  
12 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a  
13 written commitment of water service for the subdivision from a city, town or  
14 private water company designated as having an assured water supply by the  
15 director of water resources pursuant to section 45-576 or is exempt from the  
16 requirement pursuant to section 45-576.

17           H. In areas outside of active management areas, if the ~~subdivision is~~  
18 ~~located in a county that has adopted the provision authorized by~~ FINAL PLAT  
19 APPROVAL FOR A SUBDIVISION IS SUBJECT TO section 11-823, subsection A or ~~in a~~  
20 ~~city or town that has enacted an ordinance pursuant to~~ section 9-463.01,  
21 subsection ~~0- J~~, the commissioner shall deny issuance of a public report or  
22 the use of any exemption pursuant to section 32-2181.02, subsection B unless  
23 one of the following applies:

24           1. The director of water resources has reported pursuant to section  
25 45-108 that the subdivision has an adequate water supply.

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

30           3. The plat was approved pursuant to an exemption authorized by  
31 section 9-463.01, subsection K, pursuant to an exemption authorized by  
32 section 11-823, subsection B, paragraph 1, pursuant to an exemption granted  
33 by the director of water resources under section 45-108.02 and the exemption  
34 has not expired or pursuant to an exemption granted by the director of water  
35 resources under section 45-108.03.

36           4. The subdivision received final plat approval from the city, town or  
37 county before the requirement for an adequate water supply became effective  
38 in the city, town or county, and there have been no material changes to the  
39 plat since the final plat approval. If changes were made to the plat after  
40 the final plat approval, the director of water resources shall determine  
41 whether the changes are material pursuant to the rules adopted by the  
42 director to implement section 45-108.

43           I. A subdivider shall not sell or lease or offer for sale or lease in  
44 this state any lots, parcels or fractional interests in a subdivision without  
45 first obtaining a public report from the commissioner except as provided in

1 section 32-2181.01 or 32-2181.02, and a certificate of administrative  
2 completeness issued pursuant to this section. Unless exempt, the sale or  
3 lease of subdivided lands ~~prior to~~ BEFORE issuance of the public report or  
4 failure to deliver the public report to the purchaser or lessee shall render  
5 the sale or lease rescindable by the purchaser or lessee. An action by the  
6 purchaser or lessee to rescind the transaction shall be brought within three  
7 years of the date of execution of the purchase or lease agreement by the  
8 purchaser or lessee. In any rescission action, the prevailing party is  
9 entitled to reasonable attorney fees as determined by the court.

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

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

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

34 M. On the commissioner's own motion, or when the commissioner has  
35 received a complaint and has satisfactory evidence that any person has  
36 violated this article or the rules of the commissioner or has engaged in any  
37 unlawful practice as defined in section 44-1522 with respect to the sale of  
38 subdivided lands or deviated from the provisions of the public report or  
39 special order of exemption, or has been indicted for fraud or against whom an  
40 information for fraud has been filed or has been convicted of a felony,  
41 before or after the commissioner issues the public report as provided in  
42 subsection A of this section, the commissioner may conduct an investigation  
43 of the matter, issue a summary order as provided in section 32-2157, or  
44 provide notice and hold a public hearing and, after the hearing, may issue  
45 the order or orders the commissioner deems necessary to protect the public

1 interest and ensure compliance with the law, rules or public report or the  
2 commissioner may bring action in any court of competent jurisdiction against  
3 the person to enjoin the person from continuing the violation or engaging in  
4 or doing any act or acts in furtherance of the violation. The court may make  
5 orders or judgments, including the appointment of a receiver, necessary to  
6 prevent the use or employment by a person of any unlawful practices, or which  
7 may be necessary to restore to any person in interest any monies or property,  
8 real or personal, that may have been acquired by means of any practice in  
9 this article declared to be unlawful.

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

16 O. The court, on receipt of an application for the appointment of a  
17 receiver or for a writ of ne exeat, or both, shall examine the verified  
18 application of the commissioner and other evidence that the commissioner may  
19 present the court. If satisfied that the interests of the public require the  
20 appointment of a receiver or the issuance of a writ of ne exeat without  
21 notice, the court shall issue an order appointing the receiver or issue the  
22 writ, or both. If the court determines that the interests of the public will  
23 not be harmed by the giving of notice, the court shall set a time for a  
24 hearing and require notice be given as the court deems satisfactory.

25 P. If the court appoints a receiver without notice, the court shall  
26 further direct that a copy of the order appointing a receiver be served on  
27 the person engaged in or engaging in a practice declared to be unlawful under  
28 this article by delivering the order to the last address of the person that  
29 is on file with the state real estate department. The order shall inform the  
30 person that the person has the right to request a hearing within ten days of  
31 the date of the order and, if requested, the hearing shall be held within  
32 thirty days from the date of the order.

33 Sec. 4. Section 32-2197.08, Arizona Revised Statutes, is amended to  
34 read:

35 32-2197.08. Issuance of public report and amended public report  
36 by commissioner on timeshare plan; denial of  
37 issuance; additional information; use of another  
38 state's public report

39 A. On examination of a timeshare plan, the commissioner, unless there  
40 are grounds for denial, shall approve for use by the developer a public  
41 report authorizing the sale or lease of the timeshare interests within the  
42 timeshare plan. For all timeshare interests sold in this state, the  
43 commissioner shall require the developer to reproduce the public report and  
44 furnish each prospective customer with a copy, taking a receipt for each  
45 copy. The public report shall be made available to each prospective

1 purchaser in written format and may also be made available in CD-ROM or other  
2 electronic format as approved by the commissioner. The public report shall  
3 include the following:

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

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

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

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

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

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

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

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

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

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

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

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

27 8. A statement that by midnight of the seventh calendar day after  
28 execution of the purchase agreement a purchaser may cancel any purchase  
29 agreement for a timeshare interest from a developer together with a statement  
30 providing the name and street address where the purchaser should mail any  
31 notice of cancellation. However, if, by agreement of the parties through the  
32 purchase agreement, the purchase agreement allows for cancellation of the  
33 purchase agreement for a period of time exceeding seven calendar days, the  
34 public report shall include a statement that the cancellation of the purchase  
35 agreement is allowed for that period of time exceeding seven calendar days.

36 9. A description of any bankruptcies, pending suits, adjudications or  
37 disciplinary actions material to the timeshare interests of which the  
38 developer has knowledge.

39 10. Any restrictions on alienation of any number or portion of any  
40 timeshare interests.

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

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

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

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

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

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

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

15           (c) Each type of accommodation in terms of the number of bedrooms,  
16 bathrooms and sleeping capacity and a statement of whether or not the  
17 accommodation contains a full kitchen. For the purposes of this subdivision,  
18 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,  
19 sink and refrigerator.

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

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

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

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

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

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

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

35           (h) The location and the anticipated relative use demand of each  
36 component site in a multisite timeshare plan as well as any periodic  
37 adjustment or amendment to the reservation system that may be needed in order  
38 to respond to actual purchaser use patterns and changes in purchaser use  
39 demand for the accommodations existing at the time within the multisite  
40 timeshare plan.

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

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

1           16. If a developer offers a nonspecific timeshare interest in a  
2 multisite timeshare plan, the information set forth in paragraphs 1 through  
3 14 of this subsection as to each component site.

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

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

13           1. The developer shall prepare the amended public report and provide a  
14 copy of the report to the commissioner with the submission of the application  
15 for an amended public report, including any notification required by section  
16 32-2197.04, and shall comply with all other requirements of this article.

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

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

32           4. The developer may commence sales or leasing activities as permitted  
33 under this article using an amended public report when the commissioner  
34 issues a certification of administrative completeness or as of the date the  
35 application and amended public report are deemed administratively complete  
36 pursuant to paragraph 3 of this subsection. The certification may be issued  
37 on paper or electronically.

38           5. Before or after the commissioner issues a certification of  
39 administrative completeness or, if applicable, after the application and  
40 amended public report are deemed to be administratively complete pursuant to  
41 paragraph 3 of this subsection, the department may examine any public report,  
42 timeshare plan or applicant that has applied for or received the  
43 certification. If the commissioner determines that the public report,  
44 timeshare plan or applicant is not in compliance with any requirement of  
45 state law or that grounds exist under this chapter to suspend, deny or revoke

1 a public report, the commissioner may commence an administrative action under  
2 section 32-2154, 32-2157 or 32-2197.14. If the developer immediately  
3 corrects the deficiency and fully complies with state law, the commissioner  
4 shall promptly vacate any action that the commissioner may have commenced  
5 pursuant to section 32-2154, 32-2157 or 32-2197.14.

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

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

13 1. Failure to comply with this article or the rules of the  
14 commissioner pertaining to this article.

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

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

22 4. The developer, including if an entity, an officer, director,  
23 member, manager, partner, owner, trust beneficiary holding ten ~~per-cent~~  
24 PERCENT or more beneficial interest, stockholder owning ten ~~per-cent~~ PERCENT  
25 or more of the stock or other person exercising control of the entity, has:

26 (a) Been convicted of a felony or misdemeanor involving theft, fraud  
27 or dishonesty or involving the conduct of any business or a transaction in  
28 real estate, cemetery property, timeshare interests or membership camping  
29 campgrounds or contracts.

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

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

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

41 (e) Disregarded or violated this chapter or the rules of the  
42 commissioner pertaining to this chapter.

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



1           5. If within this state, the timeshare property is incompatible with  
2 the existing neighborhood and would introduce into a neighborhood a character  
3 of property or use that would clearly be detrimental to property values in  
4 that neighborhood.

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

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

18           1. The director of water resources has reported pursuant to section  
19 45-108 that the timeshare property has an adequate water supply.

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

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

30           4. The subdivision received final plat approval from the city, town or  
31 county before the requirement for an adequate water supply became effective  
32 in the city, town or county, and there have been no material changes to the  
33 plat since the final plat approval. If changes were made to the plat after  
34 the final plat approval, the director of water resources shall determine  
35 whether the changes are material pursuant to the rules adopted by the  
36 director to implement section 45-108.

37           F. In addition to providing to each prospective customer a copy of the  
38 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           G. The commissioner may authorize for use in this state by a developer  
45 of a timeshare plan in which all accommodations are located outside of this

1 state a current public report that is issued by another jurisdiction or an  
2 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. 5. Section 45-108, Arizona Revised Statutes, is amended to read:  
7 45-108. Evaluation of subdivision water supply: definition

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

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

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

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

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

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

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

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

42 1. Both of the following apply:

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

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

3 2. All of the following apply:

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

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

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

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

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

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

22 ~~I.~~ H. For the purposes of this section, "adequate water supply" means  
23 both of the following:

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

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

33 Sec. 6. Section 45-108.01, Arizona Revised Statutes, is amended to  
34 read:

35 45-108.01. Application for water report or designation of  
36 adequate water supply; notice; objections;  
37 hearing; appeals

38 A. On receipt of an application for a water report or an application  
39 by a city, town or private water company to be designated as having an  
40 adequate water supply under section 45-108, if the ~~proposed use is in a~~  
41 ~~county that has adopted the provision authorized by~~ FINAL PLAT APPROVAL FOR A  
42 SUBDIVISION IS SUBJECT TO section 11-823, subsection A or ~~in a city or town~~  
43 ~~that has enacted an ordinance pursuant to~~ section 9-463.01, subsection ~~Q~~ J,  
44 the director shall publish notice of the application once each week for two  
45 consecutive weeks in a newspaper of general circulation in the groundwater

1 basin in which the applicant proposes to use water. The first publication  
2 shall occur within fifteen days after the application is determined or deemed  
3 to be administratively complete. If the application is substantially  
4 modified after notice of the application is given pursuant to this  
5 subsection, the director shall give notice of the application as modified in  
6 the manner prescribed by this subsection. The first publication of any  
7 subsequent notice shall occur within fifteen days after the modified  
8 application is determined or deemed to be administratively complete.

9 B. Notice pursuant to subsection A of this section shall state that  
10 written objections to the application may be filed with the director by  
11 residents and landowners within the groundwater basin within fifteen days  
12 after the last publication of notice. An objection shall state the name and  
13 mailing address of the objector and be signed by the objector, the objector's  
14 agent or the objector's attorney. The grounds for objection are limited to  
15 whether the application meets the criteria for determining an adequate water  
16 supply ~~set forth~~ AS DEFINED in section 45-108, ~~subsection I~~. The objection  
17 shall clearly set forth reasons why the application does not meet the  
18 criteria.

19 C. In appropriate cases, including cases in which a proper written  
20 objection to the application has been filed, an administrative hearing may be  
21 held before the director's decision on the application if the director deems  
22 a hearing necessary. Thirty days before the date of the hearing, the  
23 director shall give notice of the hearing to the applicant and to any person  
24 who filed a proper written objection to the application. The hearing shall  
25 be scheduled for at least sixty days but not more than ninety days after the  
26 expiration of the time in which to file objections.

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

28 1. If the director determines that an adequate water supply exists for  
29 the proposed use, the director shall issue a water report stating that the  
30 water supply for the subdivision is adequate.

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

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

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

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

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

43 G. Section 45-114, subsections A and B govern administrative  
44 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. 7. Section 45-108.02, Arizona Revised Statutes, is amended to  
4 read:

5 45-108.02. Exemption from adequate water supply requirements  
6 for city, town or county based on substantial  
7 capital investment; application; criteria;  
8 expiration

9 A. If the director determines pursuant to section 45-108 that an  
10 adequate water supply does not exist for a proposed subdivision and the  
11 proposed subdivision is located in a city, town or county that requires a  
12 determination of adequate water supply by the director as a condition of  
13 approval of the plat pursuant to section 9-463.01, subsection J ~~or~~ or  
14 section 11-823, subsection A, the subdivider may apply to the director for an  
15 exemption from the water adequacy requirement pursuant to this section on a  
16 form prescribed by the director within one year after the requirement first  
17 becomes effective. The director shall grant the exemption if the subdivider  
18 demonstrates to the satisfaction of the director that all of the following  
19 apply:

20 1. The subdivider has made substantial capital investment toward the  
21 construction of the proposed subdivision before the date the water adequacy  
22 requirement first became effective. For the purposes of this paragraph,  
23 substantial capital investment may include construction costs, site  
24 preparation costs, construction of off-site improvements and conversion or  
25 remodeling costs for existing structures, as well as planning and design  
26 costs associated with those items, but does not include the original cost of  
27 acquiring the property.

28 2. The subdivider was not aware of the proposed water adequacy  
29 requirement at the time the investment was made.

30 3. The proposed subdivision complied in all other respects with  
31 existing state laws as of the date the water adequacy requirement became  
32 effective.

33 B. If the director grants an exemption pursuant to subsection A of  
34 this section:

35 1. The exemption expires five years after the date the exemption is  
36 granted, unless before that date at least one parcel in the subdivision is  
37 sold to a bona fide purchaser or the director extends the exemption pursuant  
38 to paragraph 2 of this subsection.

39 2. The director may extend the period of the exemption for no more  
40 than two successive five-year periods if the subdivider applies for an  
41 extension before the exemption expires and demonstrates to the satisfaction  
42 of the director that the subdivider has made material progress in developing  
43 the subdivision, but that sales of parcels in the subdivision have been  
44 delayed for reasons outside the control of the subdivider.

1 C. If an exemption granted under this section expires, any public  
2 report issued for the subdivision by the state real estate commissioner  
3 pursuant to section 32-2183 expires and the subdivider shall not sell any  
4 lots in the subdivision unless both of the following apply:

5 1. The subdivider files with the state real estate commissioner a new  
6 notice of intention to subdivide lands pursuant to section 32-2181 and  
7 complies with section 32-2181, subsection F.

8 2. The state real estate commissioner issues a new public report for  
9 the subdivision pursuant to section 32-2183.

10 D. Section 45-114, subsections A and B govern administrative  
11 proceedings, rehearing or review and judicial review of final decisions of  
12 the director under this section.

13 Sec. 8. Section 45-108.03, Arizona Revised Statutes, is amended to  
14 read:

15 45-108.03. Exemption from adequate water supply requirements  
16 for city, town or county based on an adequate  
17 water supply within twenty years; criteria;  
18 application

19 A. If a proposed subdivision is located in a city, town or county that  
20 requires an adequate water supply determination by the director as a  
21 condition of approval of the plat pursuant to section 9-463.01, subsection J  
22 ~~or~~ or section 11-823, subsection A, the subdivider may apply to the  
23 director for an exemption from the requirement pursuant to this section on a  
24 form prescribed by the director. The director shall grant the exemption if  
25 the subdivider demonstrates to the satisfaction of the director that the  
26 subdivision will be served by a water supply project to which both of the  
27 following apply:

28 1. The subdivider has demonstrated financial capability pursuant to  
29 section 45-108, subsection ~~I~~ H, but the water supply project will not be  
30 capable of serving the subdivision with sufficient water to meet its demands  
31 in a timely manner because of one of the following:

32 (a) The physical works for delivering water to the subdivision are not  
33 complete but are under construction and will be completed within twenty  
34 years.

35 (b) The subdivision will be served Colorado river water by a water  
36 provider that does not currently have the legal right to serve the water to  
37 the subdivision, but the water provider has an existing permanent contract  
38 for the Colorado river water and will have the legal right to serve the water  
39 to the subdivision within twenty years.

40 2. The subdivision will have an adequate water supply when the  
41 construction of the physical works is completed or the water supply is  
42 legally available to serve the subdivision, whichever applies, and the  
43 interim water supply that will serve the subdivision meets all of the  
44 criteria for an adequate water supply under section 45-108 except that the  
45 interim water supply will not be available for one hundred years.

