

REFERENCE TITLE: state lands; appraisals; leases; rights-of-way

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1238**

Introduced by  
Senator Kerr

AN ACT

AMENDING SECTIONS 37-102, 37-132 AND 37-241, ARIZONA REVISED STATUTES;  
RELATING TO THE ADMINISTRATION OF STATE LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 37-102, Arizona Revised Statutes, is amended to  
3 read:

4 37-102. State land department; powers and duties

5 A. The state land department shall administer all laws relating to  
6 lands owned by, belonging to and under the control of ~~the~~ THIS state.

7 B. The department shall have charge and control of all lands owned  
8 by ~~the~~ THIS state, and timber, stone, gravel and other products of such  
9 lands, except lands under the specific use and control of state  
10 institutions and the products of such lands.

11 C. The department, in the name of ~~the~~ THIS state, may commence,  
12 prosecute and defend all actions and proceedings to protect the interest  
13 of ~~the~~ THIS state in lands within ~~the~~ THIS state or the proceeds ~~thereof~~  
14 OF LANDS WITHIN THIS STATE. Actions shall be commenced and prosecuted at  
15 the request of the department by the attorney general, a county attorney  
16 or a special counsel under the direction of the attorney general.

17 D. The department shall be the official representative of ~~the~~ THIS  
18 state in any communication between ~~the~~ THIS state and the United States  
19 government in all matters respecting state lands or any interest of ~~the~~  
20 THIS state in or to the public lands within ~~the~~ THIS state.

21 E. The summons in any action against ~~the~~ THIS state respecting any  
22 lands of ~~the~~ THIS state or the products of such lands and all notices  
23 concerning such lands or products shall be served on the commissioner.  
24 Summonses, warrants or legal notices served on behalf of the department  
25 may be served by the commissioner or the commissioner's deputy, or by the  
26 sheriff or a constable of any county of ~~the~~ THIS state.

27 F. The department shall maintain as a public record in each of ~~its~~  
28 THE DEPARTMENT'S offices a public docket and index of all matters before  
29 the department that may be subject to appeal to the board of appeals or to  
30 the courts and all sale, exchange and lease transactions subject to  
31 bidding by the public. The department shall list a matter on the public  
32 docket immediately after an application or other request for department  
33 action is received by the department. The department shall include in the  
34 public docket every formal action and decision affecting each matter in  
35 question. The department shall establish by rule a means by which any  
36 person may obtain a copy of the public docket at the current copying cost.

37 G. The department shall reappraise or update ~~its~~ THE DEPARTMENT'S  
38 original appraisal of property to be leased, exchanged or sold if the  
39 board of appeals' approval of the lease or sale occurred more than ~~one~~  
40 ~~hundred eighty~~ TWO HUNDRED FORTY days before the auction.

41 H. To the extent possible, the state land department shall:

42 1. Prepare maps of the ancillary military facilities described in  
43 section 28-8461, paragraph 7, subdivisions (b) and (c).

44 2. Make a map of the ancillary military facility described in  
45 section 28-8461, paragraph 7, subdivision (a) available to the public in

1 printed or electronic format and provide the map in printed or electronic  
2 format to the state real estate department.

3 3. On or before December 25, 2008 and on receipt of proper  
4 information from the military installation commander with responsibility  
5 for the military electronics range, prepare a map of the military  
6 electronics range as defined in section 9-500.28 and make that map  
7 available to the public in printed or electronic format and provide the  
8 map in printed or electronic format to the state real estate department.  
9 Within ninety days of receipt of notice of any change in the boundaries of  
10 the military electronics range from the military installation commander,  
11 the state land department shall revise its map and provide the map to the  
12 public and to the state real estate department.

13 I. The state land department shall provide each map and the legal  
14 description of the boundaries of each ancillary military facility  
15 described in section 28-8461, paragraph 7 in electronic format to the  
16 state real estate department. Each map prepared by the state land  
17 department pursuant to this section shall:

18 1. Describe the ancillary military facility, the territory in the  
19 vicinity of the ancillary military facility and the high noise and  
20 accident potential zone, accident potential zone one and accident  
21 potential zone two associated with the ancillary military facility.

22 2. Be submitted to the county in which the ancillary military  
23 facility is located.

24 3. Be made available to the public.

25 J. The state land department shall prepare a military training  
26 route map. The map shall contain military training route numbers in this  
27 state that are used by various United States armed forces. The map shall  
28 be dated.

29 K. When preparing the military training route map, the state land  
30 department shall use information contained in the most current department  
31 of defense publication that is entitled "area planning military training  
32 routes for North and South America".

33 L. The military training route map shall be made available to the  
34 public.

35 M. Within ninety days after the department is notified of a change  
36 of a military training route in this state, the department shall prepare a  
37 revised military training route map. The map shall be dated and contain a  
38 statement that the map supersedes all previously dated maps. The state  
39 land department shall send the revised map to the state real estate  
40 department electronically and shall also send an accompanying letter  
41 specifying the military training route changes. The state land department  
42 shall send the revised map and an accompanying letter specifying the  
43 military training route changes to the municipalities affected by the  
44 changes and to all counties.

1 N. The department shall submit the military training route map  
2 prepared pursuant to this section to the counties in either an electronic  
3 or a printed format. The format shall be determined by the receiving  
4 county.

5 O. The state land department shall provide the legal description of  
6 the boundaries of the military training routes as delineated in the  
7 military training route map to the state real estate department in  
8 electronic format.

9 P. The state land department shall prepare a military restricted  
10 airspace map. The map shall contain military restricted airspace in this  
11 state that is used by various United States armed forces. The map shall  
12 be dated.

13 Q. When preparing the military restricted airspace map, the state  
14 land department shall use information contained in the most current  
15 department of transportation publication that is entitled "aeronautical  
16 chart".

17 R. The military restricted airspace map shall be made available in  
18 printed or electronic format to the public at the state land department  
19 and at the state real estate department.

20 S. Within ninety days after the department is notified of a change  
21 of military restricted airspace in this state, the department shall  
22 prepare a revised military restricted airspace map. The map shall be  
23 dated and contain a statement that the map supersedes all previously dated  
24 maps. The state land department shall send the revised map to the state  
25 real estate department electronically and shall also send an accompanying  
26 letter specifying the military restricted airspace changes. The state  
27 land department shall send the revised map and an accompanying letter  
28 specifying the military restricted airspace changes to the municipalities  
29 affected by the changes and to all counties.

30 T. The department shall submit the military restricted airspace map  
31 prepared pursuant to this section to the counties in either an electronic  
32 or a printed format. The format shall be determined by the receiving  
33 county.

34 U. The state land department shall provide the legal description of  
35 the boundaries of the military restricted airspace as delineated in the  
36 military restricted airspace map to the state real estate department in  
37 electronic format.

38 V. The department may accept title to and manage real estate,  
39 property rights and related infrastructure acquired pursuant to section  
40 26-262, subsection K for preserving or enhancing military installations in  
41 this state.

42 Sec. 2. Section 37-132, Arizona Revised Statutes, is amended to  
43 read:

44 37-132. Powers and duties

45 A. The commissioner shall:

- 1           1. Exercise and perform all powers and duties vested in or imposed  
2 ~~upon~~ ON the department, and prescribe such rules as are necessary to  
3 discharge those duties.
- 4           2. Exercise the powers of surveyor-general except for the powers of  
5 the surveyor-general exercised by the treasurer as a member of the  
6 selection board pursuant to section 37-202.
- 7           3. Make long-range plans for the future use of state lands in  
8 cooperation with other state agencies, local planning authorities and  
9 political subdivisions.
- 10          4. Promote the infill and orderly development of state lands in  
11 areas beneficial to the trust and prevent urban sprawl or leapfrog  
12 development on state lands.
- 13          5. Classify and appraise all state lands, together with the  
14 improvements on state lands, for the purpose of sale, lease or grant of  
15 rights-of-way. The commissioner may impose such conditions and covenants  
16 and make such reservations in the sale of state lands as the commissioner  
17 deems to be in the best interest of the state trust. The provisions of  
18 this paragraph are subject to hearing procedures pursuant to title 41,  
19 chapter 6, article 10 and, except as provided in section 41-1092.08,  
20 subsection H, are subject to judicial review pursuant to title 12, chapter  
21 7, article 6.
- 22          6. Have authority to lease for grazing, agricultural, homesite or  
23 other purposes, except commercial, all land owned or held in trust by ~~the~~  
24 THIS state.
- 25          7. Have authority to lease for commercial purposes and sell all  
26 land owned or held in trust by ~~the~~ THIS state, but any such lease FOR A  
27 TERM LONGER THAN TEN YEARS for commercial purposes or any such sale shall  
28 first be approved by the board of appeals.
- 29          8. Except as otherwise provided, determine all disputes, grievances  
30 or other questions pertaining to the administration of state lands.
- 31          9. Appoint deputies and other assistants and employees necessary to  
32 perform the duties of the department and assign their duties subject to  
33 title 41, chapter 4, article 4 and require of them such surety bonds as  
34 the commissioner deems proper. The compensation of the deputy, assistants  
35 or employees shall be as determined pursuant to section 38-611.
- 36          10. Make a written report to the governor annually, not later than  
37 September 1, disclosing in detail the activities of the department for the  
38 preceding fiscal year, and publish it for distribution. The report shall  
39 include an evaluation of auctions of state land leases held during the  
40 preceding fiscal year considering the advantages and disadvantages to the  
41 state trust of the existence and exercise of preferred rights to lease  
42 reclassified state land.
- 43          11. Withdraw state land from surface or subsurface sales or lease  
44 applications if the commissioner deems it to be in the best interest of  
45 the trust. This closure of state lands to new applications for sale or

1 lease does not affect the rights that existing lessees have under law for  
2 renewal of their leases and reimbursement for improvements.

3 B. The commissioner may:

4 1. Take evidence relating to, and may require of the various county  
5 officers information on, any matter that the commissioner has the power to  
6 investigate or determine.

7 2. Under such rules as the commissioner adopts, use private real  
8 estate brokers to assist in any sale or long-term lease of state land and  
9 pay, from fees collected under section 37-107, subsection B, paragraph 1,  
10 a commission to a broker that is licensed pursuant to title 32, chapter 20  
11 and that provides the purchaser or lessee at auction. The purchaser or  
12 lessee at auction is not eligible to receive a commission pursuant to this  
13 subsection. A commission shall not be paid on a sale or a long-term lease  
14 if the purchaser or lessee is a political subdivision of this state.

15 3. Require a permittee, lessee or grantee to post a surety bond or  
16 any form of collateral deemed sufficient by the commissioner for  
17 performance or restoration purposes. The commissioner shall use the  
18 proceeds of a bond or collateral only for the purposes determined at the  
19 time the bond or collateral is posted. For agricultural lessees, the  
20 commissioner may require collateral as follows:

21 (a) As security for payment of the annual assessments levied by the  
22 irrigation district in which the state land is located if the lessee has a  
23 history of late payments or defaults. The amount of the collateral  
24 required ~~shall~~ MAY not exceed the annual assessment levied by the  
25 irrigation district.

26 (b) As security for payment of rent, if an extension of time for  
27 payment is requested or if the lessee has a history of late payments of  
28 rent. The collateral shall be submitted at the time any extension of time  
29 for payment is requested. The amount of the collateral required ~~shall~~ MAY  
30 not exceed the annual amount of rent for the land.

31 (c) A surety bond shall be required only if the commissioner  
32 determines that other forms of collateral are insufficient.

33 4. Withhold market and economic analyses, preliminary engineering,  
34 site and area studies and appraisals that are collected during the urban  
35 planning process from public viewing before they are submitted to local  
36 planning and zoning authorities.

37 5. Withhold from public inspection proprietary information received  
38 during lease negotiations. The proprietary information shall be released  
39 to public inspection unless the release may harm the competitive position  
40 of the applicant and the information could not have been obtained by other  
41 legitimate means.

42 6. Issue permits for short-term use of state land for specific  
43 purposes as prescribed by rule.

1           7. Contract with a third party to sell recreational permits. A  
2 third party under contract pursuant to this paragraph may assess a  
3 surcharge for its services as provided in the contract, in addition to the  
4 fees prescribed pursuant to section 37-107.

5           8. Close urban lands to specific uses as prescribed by rule if  
6 necessary for dust abatement, to reduce a risk from hazardous  
7 environmental conditions that pose a risk to human health or safety or for  
8 remediation purposes.

9           9. Notwithstanding subsection A, paragraph 4 of this section,  
10 authorize, in the best interest of the trust, the extension of public  
11 services and facilities either:

12           (a) That are necessary to implement plans of the local governing  
13 body, including plans adopted or amended pursuant to section 9-461.06 or  
14 11-805.

15           (b) Across state lands that are either:

16           (i) Classified as suitable for conservation pursuant to section  
17 37-312.

18           (ii) Sold or leased at auction for conservation purposes.

19           C. The commissioner or any deputy or employee of the department  
20 ~~shall~~ MAY not have, own or acquire, directly or indirectly, any state  
21 lands or the products on any state lands, any interest in or to such lands  
22 or products, or improvements on leased state lands, or be interested in  
23 any state irrigation project affecting state lands.

24           Sec. 3. Section 37-241, Arizona Revised Statutes, is amended to  
25 read:

26           37-241. Terms of sale of state land; payment; interest rate

27           A. The terms of sale of state land are as follows:

28           1. At least ten percent, but not more than twenty-five percent, of  
29 the appraised value, as stated in the auction notice, which shall be  
30 applied to THE principal AND ASSOCIATED RIGHTS-OF-WAY, together with the  
31 required fees prescribed pursuant to section 37-107, shall be paid by  
32 cashier's check or any other form of payment approved by the commissioner  
33 on announcement of the successful bidder.

34           2. If the amount bid for the land exceeds the appraised value,  
35 further payment shall be made within thirty days so that the total amount  
36 paid, including the amount paid on the date of sale, equals the percentage  
37 of the bid, as stated in the auction notice, which shall be allocated to  
38 THE principal AND ASSOCIATED RIGHTS-OF-WAY, together with the required  
39 fees prescribed under section 37-107.

40           B. On payment of the amounts provided in subsection A of this  
41 section, on compliance by the purchaser with the requirements of this  
42 article and on payment of the fees under section 37-107, a certificate of  
43 purchase shall issue as provided in section 37-244. On full payment for  
44 the entire tract of land sold within thirty days after the auction, the  
45 department shall issue a patent as provided in section 37-251.

1 C. If the purchaser fails to complete the payment of the percentage  
2 of the bid stated in the auction notice, together with the fees required  
3 pursuant to section 37-107, or to enter into a contract of sale within the  
4 time provided in the certificate of purchase offered by the department:

5 1. The purchaser forfeits all amounts paid, including:

6 (a) All payments made on the purchase price, which shall be deemed  
7 to be rental for the land.

8 (b) All amounts paid under section 37-107.

9 2. The commissioner may declare that the bid placed before the  
10 final bid accepted is the highest bid and that bidder has five business  
11 days after notification by the department to pay by cashier's check or any  
12 other form of payment approved by the commissioner all amounts due under  
13 this section and section 37-107.

14 D. The balance of the purchase price is payable as follows:

15 1. The commissioner shall establish before the notice of sale the  
16 length of the term over which the balance shall be paid and whether a  
17 variable or fixed interest rate is appropriate or whether the entire  
18 balance without interest is due and payable within thirty days after the  
19 auction. This determination shall be based on the nature of the land  
20 being sold and general market conditions in effect at the time.

21 2. After establishing the length of the term and whether a fixed or  
22 variable rate is appropriate, the commissioner shall notify the state  
23 treasurer to establish the interest rate after consideration of local  
24 prevailing prime interest rates and mortgage rates and the maximum amount  
25 of interest set by statute by this state, if any.

26 3. If a variable rate is established, the interest rate charged **TO**  
27 a purchaser may vary from year to year. The department shall annually  
28 notify each purchaser of the interest rate specified by the state  
29 treasurer to be paid by the purchaser for the following year and the total  
30 amount of interest payable the following year with the purchaser's annual  
31 payment.

32 E. The commissioner shall establish before the notice of sale the  
33 length of the term over which the balance shall be paid. The term shall  
34 not exceed twenty-five years.

35 F. The length of term and interest rate and whether the rate is  
36 variable or fixed shall be considered terms of the sale to be included in  
37 the notice required by section 37-237.

38 G. The purchaser may discharge the entire debt at any time and be  
39 entitled to a patent for the land if the purchaser pays the entire  
40 purchase price, together with the applicable fees, and demonstrates that  
41 all terms and conditions of the certificate of purchase have been  
42 satisfied.