

House Engrossed

~~real estate disclosures; water; solar~~
(now: seller disclosure; water; solar; batteries)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2590

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO REAL ESTATE DISCLOSURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of
7 such a parcel shall COMPLETE AND furnish a written affidavit of disclosure
8 to the buyer at least seven days before the transfer of the property and
9 the buyer shall acknowledge receipt of the affidavit.

10 B. The affidavit must be written in twelve-point type.

11 C. A release or waiver of a seller's liability arising out of any
12 omission or misrepresentation contained in an affidavit of disclosure is
13 not valid or binding on the buyer.

14 D. The buyer has the right to rescind the sales transaction for a
15 period of five days after the affidavit of disclosure is furnished to the
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at
18 the same time that the deed is recorded. The county recorder is not
19 required to verify the accuracy of any statement in the affidavit of
20 disclosure. A subsequently recorded affidavit supersedes any previous
21 affidavit.

22 F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING
23 DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section
24 11-480 and follow substantially the following form:

25 When recorded mail to:

26 _____
27 _____
28 _____
29 _____

30 Affidavit of Disclosure
31 Pursuant to A.R.S. § 33-422

32 I, _____ (seller(s))
33 being duly sworn, hereby make this affidavit of disclosure
34 relating to the real property situated in the unincorporated
35 area of:

36 _____, County, State of Arizona, located at:
37 _____

38 and legally described as:

39 (Legal description attached hereto as exhibit "A")
40 (property).

41 1. There is is not legal access to the property,
42 as defined in A.R.S. § 11-831 unknown

43 Explain: _____
44 _____
45 _____

- 1 2. There is is not physical access to the property.
2 unknown
3 Explain: _____
4 _____
5 _____
- 6 3. There is is not a statement from a licensed
7 surveyor or engineer available stating whether the property has
8 physical access that is traversable by a two-wheel drive
9 passenger motor vehicle.
- 10 4. The legal and physical access to the property is is not .
11 . . . the same.... unknown not applicable.
12 Explain: _____
13 _____
14 _____
15 *If access to the parcel is not traversable by emergency*
16 *vehicles, the county and emergency service providers may not*
17 *be held liable for any damages resulting from the inability to*
18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are publicly maintained privately
20 maintained not maintained not applicable. If
21 applicable, there is is not a recorded road
22 maintenance agreement.
23 *If the roads are not publicly maintained, it is the*
24 *responsibility of the property owner(s) to maintain the roads*
25 *and roads that are not improved to county standards and*
26 *accepted for maintenance are not the county's responsibility.*
- 27 6. A portion or all of the property is is not
28 located in a FEMA designated regulatory floodplain. If the
29 property is in a floodplain, it may be subject to floodplain
30 regulation.
- 31 7. The property is is not subject to fissures or
32 expansive soils. unknown
33 Explain: _____
34 _____
35 _____
- 36 8. The following services are currently provided to the property:
37 water sewer electric natural gas single
38 party telephone cable television services.
- 39 9. The property is is not served by a water
40 supply that requires the transportation of water to the
41 property. IF THE PROPERTY IS SERVED BY A WATER SUPPLY THAT
42 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY, THE
43 SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE
44 WATER HAULER OR WATER HAULING COMPANY THAT IS CURRENTLY
45 PROVIDING THE TRANSPORTATION SERVICES TO THE PROPERTY AND THE

1 NAME AND LOCATION OF THE WATER SUPPLY FROM WHICH THE WATER IS
2 CURRENTLY BEING TRANSPORTED.

3 WATER HAULER NAME: _____ PHONE: _____

4 WATER SUPPLY: _____ LOCATION: _____

5 10. The property is served by a private water company a
6 municipal water provider a private well a shared well
7 no well. If served by a shared well, the shared well
8 is is not a public water system, as defined by
9 the safe drinking water act (42 United States Code § 300f).

10 *Notice to buyer: If the property is served by a well, a*
11 *private water company or a municipal water provider the*
12 *Arizona department of water resources may not have made a*
13 *water supply determination. For more information about water*
14 *supply, contact the water provider.*

15 11. The property or the water used on the property is is not
16 the subject of a statement of claimant for the use of water in
17 a general adjudication of water rights. unknown.

18 *This is a lawsuit to determine the use of and relative*
19 *priority of water rights. A map of adjudicated areas is*
20 *available at the website of the department of water resources.*

21 12. The property does have does not have an on-site
22 wastewater treatment facility (i.e., standard septic or
23 alternative system to treat and dispose of wastewater).
24 unknown. If applicable: a) The property will will not
25 require installation of an on-site wastewater treatment
26 facility; b) The on-site wastewater treatment facility has
27 has not been inspected.

28 13. The property has been has not been subject to a
29 percolation test. unknown.

30 14. The property does have does not have one or more solar
31 energy devices that are leased owned.

32 *If the solar energy devices are leased, the seller shall*
33 *disclose the name and contact information of the leasing*
34 *company.*

35 *Leasing company name: _____ Phone: _____*

36 15. THE PROPERTY DOES HAVE DOES NOT HAVE ONE OR MORE
37 BATTERY ENERGY STORAGE DEVICES THAT ARE LEASED OWNED.

38 IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER
39 SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING
40 COMPANY.

41 LEASING COMPANY NAME: _____ PHONE: _____

42 ~~15.~~ 16. The property does does not meet the
43 minimum applicable county zoning requirements of the applicable
44 zoning designation.

1 ~~16.~~ 17. The sale of the property does does not . . . meet
2 the requirements of A.R.S. § 11-831 regarding land divisions.
3 If those requirements are not met, the property owner may not
4 be able to obtain a building permit. The seller or property
5 owner shall disclose each of the deficiencies to the buyer.

6 Explain: _____
7 _____
8 _____

9 ~~17.~~ 18. The property is is not located in the clear zone
10 of a military airport or ancillary military facility, as
11 defined in A.R.S. § 28-8461. (Maps are available at the state
12 real estate department's website.)

13 ~~18.~~ 19. The property is is not located in the high noise
14 or accident potential zone of a military airport or ancillary
15 military facility, as defined in A.R.S. § 28-8461. (Maps are
16 available at the state real estate department's website.)

17 ~~19.~~ 20. Notice: If the property is located within the territory in
18 the vicinity of a military airport or ancillary military
19 facility, the property is required to comply with sound
20 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps
21 are available at the state real estate department's website.)

22 ~~20.~~ 21. The property is is not located under military
23 restricted airspace. unknown. (Maps are available at the
24 state real estate department's website.)

25 ~~21.~~ 22. The property is is not located in a military
26 electronics range as defined in A.R.S. § 9-500.28 and § 11-818.
27 unknown. (Maps are available at the state real estate
28 department's website.)

29 ~~22.~~ 23. Use of the property is is not limited in any way
30 relating to an encumbrance of title due to a lis pendens, a
31 court order or a state real estate department order or a
32 pending legal action. If the use of the property is limited
33 due to an encumbrance of title, the seller or property owner
34 shall disclose the limitations to the buyer.

35 Explain: _____
36 _____
37 _____

38
39 This affidavit of disclosure supersedes any previously
40 recorded affidavit of disclosure.

41 I certify under penalty of perjury that the information
42 contained in this affidavit is true, complete and correct
43 according to my best belief and knowledge.

1 Dated this (date) day of (year) by:
 2 Seller's name (print): _____ Signature: _____
 3 Seller's name (print): _____ Signature: _____
 4 State of Arizona)
 5) ss.
 6 County of _____)
 7 Subscribed and sworn before me this (date) day
 8 of (year) , by
 9 _____.

10 _____
 11 _____ Notary public

12 My commission expires:
 13 (date)

14 Buyer(s) hereby acknowledges receipt of a copy of this
 15 affidavit of disclosure this (date) day
 16 of (year)

17 Buyer's name (print): _____ Signature: _____
 18 Buyer's name (print): _____ Signature: _____

19 G. For the purposes of this section, seller and subsequent seller
 20 do not include a trustee of a deed of trust who is selling property by a
 21 trustee's sale pursuant to chapter 6.1 of this title or any officer who is
 22 selling property by execution sale pursuant to title 12, chapter 9 and
 23 chapter 6 of this title. If the seller is a trustee of a subdivision
 24 trust as defined in section 6-801, the disclosure affidavit required by
 25 this section shall be provided by the beneficiary of the subdivision
 26 trust.