

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2616

(Reference to printed bill)

1 Page 9, lines 25 and 34, strike "six or more"

2 Page 10, after line 41, insert:

3 "Sec. 2. Section 32-2181, Arizona Revised Statutes, is amended to
4 read:

5 32-2181. Notice to commissioner of intention to subdivide
6 lands; unlawful acting in concert; exceptions; deed
7 restrictions; definition

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

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

20 2. The name and address of the subdivider.

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

22 4. A true statement of the condition of the title to the land,
23 including all encumbrances on the land, and a statement of the provisions
24 agreed to by the holder of any blanket encumbrance enabling a purchaser to

1 acquire title to a lot or parcel free of the lien of the blanket
2 encumbrance on completion of all payments and performance of all of the
3 terms and provisions required to be made or performed by the purchaser
4 under the real estate sales contract by which the purchaser has acquired
5 the lot or parcel. The subdivider shall file copies of documents
6 acceptable to the department containing these provisions with the
7 commissioner before the sale of any subdivision lot or parcel subject to a
8 blanket encumbrance.

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

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

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

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

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

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

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

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

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

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

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

17 16. A statement of the provisions for easements for permanent access
18 for irrigation water where applicable.

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

27 18. A true statement of the nature of any improvements to be
28 installed by the subdivider, the estimated schedule for completion and the
29 estimated costs related to the improvements that will be borne by
30 purchasers of lots in the subdivision.

31 19. A true statement of the availability of sewage disposal
32 facilities and other public utilities, including water, electricity, gas

1 and telephone facilities in the subdivision, the estimated schedule for
2 their installation, and the estimated costs related to the facilities and
3 utilities that will be borne by purchasers of lots in the subdivision.

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

9 21. If the subdivider is a subsidiary corporation, a true statement
10 identifying the parent corporation and any of the following in which the
11 parent or any of its subsidiaries is or has been involved within the past
12 five years:

13 (a) Any subdivision in this state.

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

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

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

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

24 (b) The subdivider.

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

26 23. A true statement as to whether all or any portion of the
27 subdivision is located in territory in the vicinity of a military airport
28 or ancillary military facility as defined in section 28-8461, in territory
29 in the vicinity of a public airport as defined in section 28-8486, on or
30 after July 1, 2001, in a high noise or accident potential zone as defined
31 in section 28-8461 or on or after July 1 of the year in which the
32 subdivision becomes located in a high noise or accident potential

1 zone. The statement required pursuant to this paragraph does not require
2 the amendment or refileing of any notice filed before July 1, 2001 or
3 before July 1 of the year in which the subdivision becomes located in a
4 high noise or accident potential zone.

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

8 (a) That the property is a conversion from multifamily rental to
9 condominiums.

10 (b) The date original construction was completed.

11 25. Other information and documents and certifications as the
12 commissioner may reasonably require provided that the subdivider shall not
13 be required to disclose any critical infrastructure information as defined
14 in section 41-1801 or any information contained in a report issued
15 pursuant to section 41-4273.

16 B. The commissioner, on application, may grant a subdivider of lots
17 or parcels within a subdivision for which a public report was previously
18 issued by the commissioner an exemption from all or part of the
19 notification requirements of subsection A of this section. The subdivider
20 shall file a statement with the commissioner indicating the change of
21 ownership in the lots or parcels together with any material changes
22 occurring subsequent to the original approval of the subdivision within
23 which the lots or parcels are located. The statement shall further refer
24 to the original approval by the commissioner.

25 C. If the subdivision is within an active management area, as
26 defined in section 45-402, the subdivider shall accompany the notice with
27 a certificate of assured water supply issued by the director of water
28 resources along with proof that all applicable fees have been paid
29 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
30 obtained a written commitment of water service for the subdivision from a
31 city, town or private water company designated as having an assured water
32 supply by the director of water resources pursuant to section 45-576 or is

1 exempt from the requirement pursuant to section 45-576. If the subdivider
2 has submitted a certificate of assured water supply to a city, town or
3 county prior to approval of the plat by the city, town or county and this
4 has been noted on the face of the plat, the submission constitutes
5 compliance with this subsection if the subdivider provides proof to the
6 commissioner that all applicable fees have been paid pursuant to sections
7 48-3772 and 48-3774.01.

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

21 E. A creation of ~~six or more~~ lots, parcels or fractional interests
22 in improved or unimproved land, lots or parcels of any size is subject to
23 this article except when:

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

28 2. The lots, parcels or fractional interests are the result of a
29 foreclosure sale, the exercise by a trustee under a deed of trust of a
30 power of sale or the grant of a deed in lieu of foreclosure. This
31 paragraph does not allow circumvention of the requirements of this
32 article.

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

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

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

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

17 7. A sale or lease of a lot, parcel or fractional interest occurs
18 ten or more years after the sale or lease of another lot, parcel or
19 fractional interest and the other lot, parcel or fractional interest is
20 not subject to this article and is treated as an independent parcel
21 unless, ~~upon~~ **ON** investigation by the commissioner, there is evidence of
22 intent to subdivide.

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

25 1. If the subdivision is located in a county that has adopted the
26 provision authorized by section 11-823, subsection A, or in a city or town
27 that has enacted an ordinance pursuant to section 9-463.01, subsection 0,
28 the subdivider shall accompany the notice with a report issued by the
29 director of water resources pursuant to section 45-108 stating that the
30 subdivision has an adequate water supply, unless one of the following
31 applies:

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

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

8 (c) The plat was approved pursuant to an exemption authorized by
9 section 9-463.01, subsection K, pursuant to an exemption authorized by
10 section 11-823, subsection B, paragraph 1, pursuant to an exemption
11 granted by the director of water resources under section 45-108.02 and the
12 exemption has not expired or pursuant to an exemption granted by the
13 director under section 45-108.03. If the plat was approved pursuant to an
14 authorized exemption, the state real estate commissioner shall require
15 that all promotional material and contracts for the sale of lots in the
16 subdivision adequately display the following:

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

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

27 (d) The subdivision received final plat approval from the city,
28 town or county before the requirement for an adequate water supply became
29 effective in the city, town or county, and there have been no material
30 changes to the plat since the final plat approval. If changes were made
31 to the plat after the final plat approval, the director of water resources
32 shall determine whether the changes are material pursuant to the rules

1 adopted by the director to implement section 45-108. If this subdivision
2 applies, the state real estate commissioner shall require that all
3 promotional materials and contracts for the sale of lots in the
4 subdivision adequately display the director of water resources' report or
5 the developer's brief summary of the report as approved by the
6 commissioner on the proposed water supply for the subdivision.

7 2. If the subdivision is not located in a county that has adopted
8 the provision authorized by section 11-823, subsection A or in a city or
9 town that has enacted an ordinance pursuant to section 9-463.01,
10 subsection 0, and if the director of water resources, pursuant to section
11 45-108, reports an inadequate on-site supply of water to meet the needs
12 projected by the developer or if no water is available, the state real
13 estate commissioner shall require that all promotional material and
14 contracts for the sale of lots in subdivisions approved by the
15 commissioner adequately display the director of water resources' report or
16 the developer's brief summary of the report as approved by the
17 commissioner on the proposed water supply for the subdivision.

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

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

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

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

8 J. Before offering subdivided lands for lease or sale, the
9 subdivider who makes any promises through any form of advertising media
10 that the subdivided lands will be exclusively a retirement community or
11 one that is limited to the residency of adults or senior citizens shall
12 include the promises in the deed restrictions affecting any interest in
13 real property 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
16 subdivision boundaries. The existence of foreign nations or tribal lands
17 shall also be disclosed if located within the one mile radius of the
18 subdivision boundaries."

19 Amend title to conform

STEPHANIE STAHL HAMILTON

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