

REFERENCE TITLE: **land divisions; disclosure affidavit; recording**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# **HB 2023**

Introduced by  
Representative Griffin

## **AN ACT**

**AMENDING SECTION 33-422, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 103, SECTION 1 AND CHAPTER 131, SECTION 1; REPEALING SECTION 33-422, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2023, CHAPTER 77, SECTION 3; RELATING TO PROPERTY.**

(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, as amended by  
3 Laws 2019, chapter 103, section 1 and chapter 131, section 1, is amended  
4 to read:

5 33-422. Land divisions; recording; disclosure affidavit

6 A. A seller of five or fewer parcels of land, other than subdivided  
7 land, in an unincorporated area of a county and any subsequent seller of  
8 ~~such a~~ ANY parcel THAT IS THE SUBJECT OF AN AFFIDAVIT RECORDED AS  
9 PRESCRIBED BY THIS SECTION shall COMPLETE AND furnish a written affidavit  
10 of disclosure to the buyer at least seven days before the transfer of the  
11 property and the buyer shall acknowledge receipt of the affidavit.

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

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

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

19 E. ~~The seller~~ AN ESCROW AGENT FOR THE TRANSACTION WHO IS LICENSED  
20 PURSUANT TO TITLE 6, CHAPTER 7 OR, IF NONE, THE SELLER shall record the  
21 executed affidavit of disclosure at the same time that the deed is  
22 recorded. The county recorder is not required to verify the accuracy of  
23 any statement in the affidavit of disclosure. A subsequently recorded  
24 affidavit supersedes any previous affidavit AND THE LICENSED ESCROW AGENT  
25 FOR ANY SUBSEQUENT SELLER OF A PARCEL THAT IS THE SUBJECT OF AN AFFIDAVIT  
26 RECORDED PURSUANT TO THIS SECTION OR, IF NONE, THE SUBSEQUENT SELLER SHALL  
27 RECORD THE SUBSEQUENTLY EXECUTED AFFIDAVIT PRESCRIBED BY THIS SECTION. A  
28 LICENSED ESCROW AGENT WHO RECORDS AN AFFIDAVIT PURSUANT TO THIS SUBSECTION  
29 IS NOT LIABLE FOR ANY INACCURATE INFORMATION IN THE AFFIDAVIT, INCLUDING  
30 ANY OMISSIONS OF MATERIAL FACTS.

31 F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING  
32 DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section  
33 11-480 and follow substantially the following form:

34 When recorded mail to:

35 \_\_\_\_\_  
36 \_\_\_\_\_  
37 \_\_\_\_\_  
38 \_\_\_\_\_

39 Affidavit of Disclosure  
40 Pursuant to A.R.S. § 33-422

41 I, \_\_\_\_\_ (seller(s))  
42 being duly sworn, hereby make this affidavit of disclosure  
43 relating to the real property situated in the unincorporated  
44 area of:

1 \_\_\_\_\_, County, State of Arizona, located at:

2 \_\_\_\_\_

3 and legally described as:

4 (Legal description attached hereto as exhibit "A")

5 (property).

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

8 Explain: \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 2. There  is  is not . . . . physical access to the property.  
12  unknown

13 Explain: \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 3. There  is  is not . . . . a statement from a licensed  
17 surveyor or engineer available stating whether the property has  
18 physical access that is traversable by a two-wheel drive  
19 passenger motor vehicle.

20 4. The legal and physical access to the property  is  is not  
21 . . . . the same....  unknown  not applicable.

22 Explain: \_\_\_\_\_

23 \_\_\_\_\_

24 \_\_\_\_\_

25 *If access to the parcel is not traversable by emergency*  
26 *vehicles, the county and emergency service providers may not*  
27 *be held liable for any damages resulting from the inability to*  
28 *traverse the access to provide needed services.*

29 5. The road(s) is/are  publicly maintained  privately  
30 maintained  not maintained  not applicable. If  
31 applicable, there  is  is not . . . . a recorded road  
32 maintenance agreement.

33 *If the roads are not publicly maintained, it is the*  
34 *responsibility of the property owner(s) to maintain the roads*  
35 *and roads that are not improved to county standards and*  
36 *accepted for maintenance are not the county's responsibility.*

37 6. A portion or all of the property  is  is not . . . .  
38 located in a FEMA designated regulatory floodplain. If the  
39 property is in a floodplain, it may be subject to floodplain  
40 regulation.

- 1 7. The property  is  is not subject to  fissures or  
2  expansive soils.  unknown  
3 Explain: \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_
- 6 8. The following services are currently provided to the property:  
7  water  sewer  electric  natural gas  single  
8 party telephone  cable television services.
- 9 9. The property  is  is not . . . . served by a water  
10 supply that requires the transportation of water to the  
11 property. IF THE PROPERTY IS SERVED BY A WATER SUPPLY THAT  
12 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY, THE  
13 SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE  
14 WATER HAULER OR WATER HAULING COMPANY THAT IS CURRENTLY  
15 PROVIDING THE TRANSPORTATION SERVICES TO THE PROPERTY AND THE  
16 NAME AND LOCATION OF THE WATER SUPPLY FROM WHICH THE WATER IS  
17 CURRENTLY BEING TRANSPORTED.  
18 WATER HAULER NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_  
19 WATER SUPPLY: \_\_\_\_\_ LOCATION: \_\_\_\_\_
- 20 10. The property is served by  a private water company  a  
21 municipal water provider  a private well  a shared well  
22  no well. If served by a shared well, the shared well  
23  is  is not . . . . a public water system, as defined by  
24 the safe drinking water act (42 United States Code § 300f).  
25 *Notice to buyer: If the property is served by a well, a*  
26 *private water company or a municipal water provider the*  
27 *Arizona department of water resources may not have made a*  
28 *water supply determination. For more information about water*  
29 *supply, contact the water provider.*
- 30 11. The property or the water used on the property  is  is not  
31 the subject of a statement of claimant for the use of water in  
32 a general adjudication of water rights.  unknown.  
33 *This is a lawsuit to determine the use of and relative*  
34 *priority of water rights. A map of adjudicated areas is*  
35 *available at the website of the department of water resources.*
- 36 12. The property  does have  does not have . . . . an on-site  
37 wastewater treatment facility (i.e., standard septic or  
38 alternative system to treat and dispose of wastewater).  
39  unknown. If applicable: a) The property  will  will not  
40 . . . . require installation of an on-site wastewater treatment  
41 facility; b) The on-site wastewater treatment facility  has  
42  has not been inspected.
- 43 13. The property  has been  has not been . . . . subject to a  
44 percolation test.  unknown.

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

3 ~~Notice to buyer: If the property contains solar energy~~  
4 ~~devices, it is the responsibility of the buyer to verify the~~  
5 ~~proper replacement and disposal method for the devices, as~~  
6 ~~applicable. If the solar energy devices are leased, the~~  
7 ~~seller or property owner shall disclose the name and contact~~  
8 ~~information of the leasing company.~~

9 Leasing company name: \_\_\_\_\_ Phone: \_\_\_\_\_

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

12 IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER  
13 SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING  
14 COMPANY.

15 LEASING COMPANY NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

16 ~~15.~~ 16. The property  does  does not . . . . meet the  
17 minimum applicable county zoning requirements of the applicable  
18 zoning designation.

19 ~~16.~~ 17. The sale of the property  does  does not . . . meet  
20 the requirements of A.R.S. § 11-831 AND § 32-2181 regarding  
21 land divisions. If those requirements are not met, the  
22 property owner may not be able to obtain a building permit. IT  
23 IS UNLAWFUL PURSUANT TO § 11-831, SUBSECTION F AND § 32-2181,  
24 SUBSECTION D FOR A PERSON OR GROUP OF PERSONS TO ATTEMPT TO  
25 AVOID THE SUBDIVISION LAWS OF THIS STATE BY ACTING IN CONCERT  
26 TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR  
27 PARCELS. THE COUNTY WHERE THE LAND DIVISION OCCURRED OR THE  
28 STATE REAL ESTATE DEPARTMENT MAY INVESTIGATE AND ENFORCE THE  
29 PROHIBITION AGAINST ACTING IN CONCERT TO UNLAWFULLY DIVIDE A  
30 PARCEL OF LAND INTO SIX OR MORE LOTS OR PARCELS. The seller or  
31 property owner shall disclose each of the deficiencies to the  
32 buyer.

33 Explain: \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_

36 ~~17.~~ 18. The property  is  is not located in the clear zone  
37 of a military airport or ancillary military facility, as  
38 defined in A.R.S. § 28-8461. (Maps are available at the state  
39 real estate department's website.)

40 ~~18.~~ 19. The property  is  is not located in the high noise  
41 or accident potential zone of a military airport or ancillary  
42 military facility, as defined in A.R.S. § 28-8461. (Maps are  
43 available at the state real estate department's website.)

1 ~~19.~~ 20. Notice: If the property is located within the territory in  
2 the vicinity of a military airport or ancillary military  
3 facility, the property is required to comply with sound  
4 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps  
5 are available at the state real estate department's website.)

6 ~~20.~~ 21. The property  is  is not located under military  
7 restricted airspace.  unknown. (Maps are available at the  
8 state real estate department's website.)

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

13 ~~22.~~ 23. Use of the property  is  is not limited in any way  
14 relating to an encumbrance of title due to a lis pendens, a  
15 court order or a state real estate department order or a  
16 pending legal action. If the use of the property is limited  
17 due to an encumbrance of title, the seller or property owner  
18 shall disclose the limitations to the buyer.

19 Explain: \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_

22 24. SELLER  IS A TRUSTEE IN A TRUSTEE'S SALE, A PERSON  
23 CONDUCTING AN EXECUTION SALE OR MORTGAGE FORECLOSURE OR A  
24 PERSONAL REPRESENTATIVE OF AN ESTATE AND INFORMATION IS UNKNOWN  
25 TO THAT SELLER.

26 *THE BUYER SHOULD INVESTIGATE THESE UNKNOWN ITEMS.*  
27 This affidavit of disclosure supersedes any previously  
28 recorded affidavit of disclosure.

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

32 Dated this \_\_\_\_ (date) day of \_\_\_\_ (year) by:  
33 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_  
34 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_  
35 State of Arizona )  
36 ) ss.  
37 County of \_\_\_\_\_)

38 Subscribed and sworn before me this \_\_\_\_ (date) day  
39 of \_\_\_\_ (year), by \_\_\_\_\_.

40 \_\_\_\_\_  
41 Notary public

42 My commission expires:  
43 \_\_\_\_\_  
(date)

1 Buyer(s) hereby acknowledges receipt of a copy of this  
 2 affidavit of disclosure this \_\_\_\_\_ (date) \_\_\_\_\_ day  
 3 of \_\_\_\_\_ (year) \_\_\_\_\_  
 4 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_  
 5 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_  
 6

7 G. IF THE SELLER IS A TRUSTEE OF A SUBDIVISION TRUST AS DEFINED IN  
 8 SECTION 6-801, THE BENEFICIARY OF THE SUBDIVISION TRUST SHALL PROVIDE THE  
 9 DISCLOSURE AFFIDAVIT REQUIRED BY THIS SECTION.

10 ~~G.~~ H. For the purposes of this section, seller and subsequent  
 11 seller do not include ANY OF THE FOLLOWING:

12 1. A trustee of a deed of trust who is selling property by a  
 13 trustee's sale pursuant to chapter 6.1 of this title. ~~or~~

14 2. Any officer who is selling property by execution sale pursuant  
 15 to title 12, chapter 9 and chapter 6 of this title. ~~If the seller is a~~  
 16 ~~trustee of a subdivision trust as defined in section 6-801, the disclosure~~  
 17 ~~affidavit required by this section shall be provided by the beneficiary of~~  
 18 ~~the subdivision trust.~~

19 3. A PERSONAL REPRESENTATIVE ACTING ON BEHALF OF AN ESTATE THAT IS  
 20 SELLING THE PROPERTY.

21 Sec. 2. Repeal

22 Section 33-422, Arizona Revised Statutes, as amended by Laws 2023,  
 23 chapter 77, section 3, is repealed.