

House Engrossed

land division; applicant submissions; review

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

HOUSE BILL 2101

AN ACT

AMENDING SECTIONS 11-321, 11-831 AND 32-2181, ARIZONA REVISED STATUTES;
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 LAND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-321, Arizona Revised Statutes, is amended to
3 read:

4 11-321. Building permits; issuance; state preemption;
5 utilities; distribution of copies; subsequent
6 owner; limitation; definition

7 A. Except in those cities and towns that have an ordinance relating
8 to the issuance of building permits, the board of supervisors shall
9 require a building permit for any construction of a building or an
10 addition to a building exceeding a cost of \$1,000 within its
11 jurisdiction. The building permit shall be filed with the board of
12 supervisors or its designated agent.

13 B. The regulation of a utility provider's authority to operate and
14 serve customers is a matter of statewide concern. The regulation of
15 building permits as it relates to a building permit applicant's ability to
16 use a utility provider that is capable and authorized to provide utility
17 service is allowed solely in accordance with subsections C and D of this
18 section. A building permit applicant's ability to use a utility provider
19 that is capable and authorized to provide utility service is not subject
20 to further regulation by a county.

21 C. A county may not deny a permit application based on the utility
22 provider proposed to provide utility service to the project.

23 D. A county issuing a building permit shall ensure that all
24 applicable permits and associated fees assessed on a building permit
25 applicant contain requirements and amounts that do not exceed the
26 requirements and amounts for use of other utility providers and do not
27 have the effect of restricting ~~a~~ THE permit applicant's ability to use
28 the services of a utility provider that is capable and authorized to
29 provide utility service.

30 E. The board of supervisors may not require an applicant for a
31 building permit to hold a transaction privilege tax license or business
32 license as a condition for issuing the building permit.

33 F. Where deemed of public convenience, the board of supervisors
34 shall allow the application for and the issuance of building permits by
35 mail.

36 G. One copy of the building permit required by the terms of
37 subsection A of this section shall be transmitted to the county assessor
38 and one copy shall be transmitted to the director of the department of
39 revenue. The permit copy provided to the assessor and the department of
40 revenue shall have the permit number, the issue date and the parcel number
41 for which the permit is issued. On the issuance of the certificate of
42 occupancy or the certificate of completion or on the expiration or
43 cancellation of the permit, the assessor and the department of revenue
44 shall be notified in writing or in electronic format of the permit number,
45 parcel number, issue date and completion date.

1 H. AT THE TIME OF APPLYING FOR A BUILDING PERMIT FOR NEW
2 CONSTRUCTION OF A RESIDENTIAL SINGLE-FAMILY HOME, AN APPLICANT MUST
3 IDENTIFY ANY OWNERSHIP INTERESTS IN THE PROPERTY THAT IS THE SUBJECT OF
4 THE PERMIT.

5 ~~H.~~ I. If a person has constructed a building or an addition to a
6 building without obtaining a building permit, a county shall not require a
7 subsequent owner to obtain a permit for the construction or addition done
8 by the prior owner before issuing a permit for a building addition except
9 that this section does not prohibit A COUNTY FROM enforcing an applicable
10 ordinance or code provision that affects the public health or safety.

11 ~~I.~~ J. This section does not prohibit a county from recovering
12 reasonable costs associated with reviewing and issuing a building permit.

13 ~~J.~~ K. This section does not affect any authority of a county to
14 manage or operate a county-owned utility.

15 ~~K.~~ L. For the purposes of this section, "utility service" means
16 water, wastewater, natural gas, including propane gas, or electric service
17 provided to an end user.

18 Sec. 2. Section 11-831, Arizona Revised Statutes, is amended to
19 read:

20 11-831. Review of land divisions; definitions

21 A. The board of supervisors of each county may adopt ordinances and
22 regulations pursuant to this section for staff review and approval of land
23 divisions of five or fewer lots, parcels or fractional interests, any of
24 which is ten acres or smaller in size. The county may not deny approval
25 of any land division that meets the requirements of this section. If a
26 review of the request is not completed within thirty days after receiving
27 the request, the land division is considered to be approved. At its
28 option, the board of supervisors may submit a ballot question to the
29 voters of the county to allow the voters to determine the application of
30 subsections B and C of this section to qualifying land divisions in that
31 county.

32 B. An application to split a parcel of land shall be approved if:

33 1. The lots, parcels or fractional interests each meet the minimum
34 applicable county zoning requirements of the applicable zoning
35 designation.

36 2. The applicant provides a standard preliminary title report or
37 other acceptable document that demonstrates legal access to the lots,
38 parcels or fractional interests.

39 3. The applicant provides a statement from a licensed surveyor or
40 engineer, or other evidence acceptable to the county, stating whether each
41 lot, parcel or fractional interest has physical access that is traversable
42 by a two-wheel drive passenger motor vehicle.

43 4. The applicant reserves the necessary and appropriate utility
44 easements to serve each lot, parcel or fractional interest created by the
45 land division.

1 5. THE APPLICANT PROVIDES AN ANSWER ON THE APPLICATION TO THE
2 FOLLOWING QUESTIONS:

3 (a) "DO YOU OR ANY CORPORATION OR LIMITED LIABILITY CORPORATION
4 THAT YOU ARE A MEMBER, MANAGER OR OWNER OF OR AN INDEPENDENT CONTRACTOR
5 FOR OWN OR REPRESENT ANY PROPERTY THAT IS IN THE SAME TAX PARCEL MAP OR
6 SUBDIVISION AS THE LOTS, PARCELS OR FRACTIONAL INTERESTS THAT ARE THE
7 SUBJECT OF THIS APPLICATION?"

8 (b) "HAVE YOU OR ANY CORPORATION OR LIMITED LIABILITY CORPORATION
9 THAT YOU ARE A MEMBER, MANAGER OR OWNER OF OR AN INDEPENDENT CONTRACTOR
10 FOR DIVIDED, SOLD OR LEASED ANY PROPERTY WITHIN THE LAST TEN YEARS THAT IS
11 IN THE SAME TAX PARCEL MAP OR SUBDIVISION AS THE LOTS, PARCELS OR
12 FRACTIONAL INTERESTS THAT ARE THE SUBJECT OF THIS APPLICATION?"

13 ~~5.~~ 6. The applicant signs an affidavit or similar document under
14 oath acknowledging the following:

15 (a) The applicant is aware that it is unlawful pursuant to
16 subsection ~~F~~ H of this section and section 32-2181, subsection D for a
17 person or group of persons to attempt to avoid these sections or the
18 subdivision laws of this state by acting in concert to divide a parcel of
19 land into six or more lots or parcels.

20 (b) The applicant is aware that the county where the land division
21 occurred or the state real estate department may investigate and enforce
22 the prohibition against acting in concert to unlawfully divide a parcel of
23 land into six or more lots or parcels.

24 C. An application to split a parcel of land that does not comply
25 with one or more of the items listed in subsection B of this section shall
26 still be approved if the applicant provides an acknowledgment that is
27 signed by the applicant and that confirms that a building or use permit
28 will not be issued by the county until the lot, parcel or fractional
29 interest has met the requirements of subsection B of this section. The
30 county may grant a variance from one or more of the items listed in
31 subsection B of this section.

32 D. Any approval of a land division under this section may:

33 1. Include the minimum statutory requirements for legal and
34 physical on-site access that must be met as a condition to issuing a
35 building or use permit for the lots, parcels or fractional interests.

36 2. Identify topographic, hydrologic or other site constraints,
37 requirements or limitations that must be addressed as conditions to the
38 eventual issuance of a building or use permit. These constraints,
39 requirements or limitations may be as noted by the applicant or through
40 county staff review, but there shall be no requirement for independent
41 studies.

42 E. If the requirements of subsections A through D of this section
43 do not apply, a county may adopt ordinances and regulations pursuant to
44 this chapter for staff review of land divisions of five or fewer lots,
45 parcels or fractional interests but only to determine compliance with

1 minimum applicable county zoning requirements and legal access and may
2 grant waivers from the county zoning and legal access requirements. The
3 county may not deny approval of any land division that meets the
4 requirements of this section or if the deficiencies are noticed in the
5 deed. A county may not require a public hearing on a request to divide
6 five or fewer lots, parcels or fractional interests. If a review of the
7 request is not completed within thirty days after receipt of the request,
8 the land division shall be deemed approved. If legal access is not
9 available, the legal access does not allow access by emergency vehicles or
10 the county zoning requirements are not met, the access or zoning
11 deficiencies shall be noticed in the deed. If a county by ordinance
12 requires a legal access of more than twenty-four feet roadway width, the
13 county is responsible for the improvement and maintenance of the
14 improvement. If the legal access does not allow access to the lots,
15 parcels or fractional interests by emergency vehicles, neither the county
16 nor its agents or employees are liable for damages resulting from the
17 failure of emergency vehicles to reach the lot, parcel or fractional
18 interest.

19 F. WHEN APPLYING FOR A LAND DIVISION, AN APPLICANT SHALL DISCLOSE
20 ANY OWNERSHIP INTEREST IN THE PROPERTIES THAT ARE THE SUBJECT OF THE LAND
21 DIVISION APPLICATION.

22 G. AN APPLICATION FOR A LAND DIVISION SHALL INCLUDE THE FOLLOWING
23 ATTESTATION LANGUAGE:

24 STATE LAW REQUIRES A SUBDIVIDER AS DEFINED IN SECTION
25 32-2101, ARIZONA REVISED STATUTES, TO OBTAIN A PUBLIC REPORT
26 PURSUANT TO SECTION 32-2183, ARIZONA REVISED STATUTES, BEFORE
27 THE SALE OR LEASE OF SIX OR MORE CONTIGUOUS PARCELS, LOTS OR
28 FRACTIONAL INTERESTS WITHIN THE TEN-YEAR PERIOD FOLLOWING THE
29 LAND DIVISION. BY SUBMITTING AN APPLICATION TO DIVIDE LAND,
30 THE APPLICANT AND ANY OWNERSHIP INTERESTS IN THE SUBJECT OF
31 THE LAND DIVISION ATTEST TO THEIR UNDERSTANDING OF THE PUBLIC
32 REPORT REQUIREMENTS IF INTENDING TO SELL OR LEASE SIX OR MORE
33 CONTIGUOUS PARCELS, LOTS OR FRACTIONAL INTERESTS WITHIN A
34 TEN-YEAR PERIOD FOLLOWING THE LAND DIVISION AND FURTHER ATTEST
35 TO THEIR INTENT TO COMPLY WITH THE SUBDIVISION LAW OF THIS
36 STATE, AS APPLICABLE.

37 IF A PUBLIC REPORT IS REQUIRED PURSUANT TO SECTION
38 32-2183, ARIZONA REVISED STATUTES, AND A PUBLIC REPORT IS NOT
39 OBTAINED, THE COUNTY WHERE THE PROPERTIES ARE LOCATED OR THE
40 STATE REAL ESTATE DEPARTMENT MAY ENFORCE THE PUBLIC REPORT
41 REQUIREMENT AND ISSUE A CIVIL PENALTY PURSUANT TO SECTION
42 32-2185.09, ARIZONA REVISED STATUTES.

1 ~~F.~~ H. It is unlawful for a person or group of persons acting in
2 concert to attempt to avoid this section or the subdivision laws of this
3 state by acting in concert to divide a parcel of land into six or more
4 lots or sell or lease six or more lots by using a series of owners or
5 conveyances. Either the county where the division occurred or the state
6 real estate department pursuant to title 32, chapter 20, but not both, may
7 enforce this prohibition. A familial relationship alone is not sufficient
8 to constitute unlawful acting in concert.

9 ~~G.~~ I. For any subdivision that consists of ten or fewer lots,
10 tracts or parcels, each of which is of a size as prescribed by the board
11 of supervisors, the board of supervisors of each county may waive the
12 requirement to prepare, submit and receive approval of a preliminary plat
13 as a condition precedent to submitting a final plat and may waive or
14 reduce infrastructure standards or requirements except for improved
15 dust-controlled access and minimum drainage improvements.

16 ~~H.~~ J. For the purposes of this section:

17 1. "Legal access" means a public right of vehicular ingress and
18 egress between the lots, parcels or fractional interests being created.

19 2. "Minimum applicable county zoning requirements" means the
20 minimum acreage and dimensions of the resulting lot, parcel or fractional
21 interest as required by the county's zoning ordinance.

22 3. "Utility easement" means an easement of eight feet in width
23 dedicated to the general public to install, maintain and access sewer,
24 electric, gas and water utilities.

25 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to
26 read:

27 32-2181. Notice to commissioner of intention to subdivide
28 lands; unlawful acting in concert; exceptions; deed
29 restrictions; definition

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

33 1. The name and address of the owner. If the holder of any
34 ownership interest in the land is other than an individual, such as a
35 corporation, partnership or trust, ~~THE NOTICE SHALL CONTAIN~~ a statement
36 naming the type of legal entity and listing the interest and the extent of
37 any interest of each principal in the entity. For the purposes of this
38 section, "principal" means any person or entity having a ten ~~per cent~~
39 PERCENT or more financial interest or, if the legal entity is a trust,
40 each beneficiary of the trust holding a ten ~~per cent~~ PERCENT or more
41 beneficial interest.

42 2. The name and address of the subdivider.

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

44 4. A true statement of the condition of the title to the land,
45 including all encumbrances on the land, and a statement of the provisions

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

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

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

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

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

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

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

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

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

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

37 14. A true statement or reasonable estimate, if applicable, of the
38 amount of any indebtedness that has been or is proposed to be incurred by
39 an existing or proposed special district, entity, taxing area or
40 assessment district, within the boundaries of which the subdivision, or
41 any part of the subdivision, is located, and that is to pay for the
42 construction or installation of any improvement or to furnish community or
43 recreational facilities to the subdivision, and which amounts are to be
44 obtained by ad valorem tax or assessment, or by a special assessment or
45 tax ~~upon~~ ON the subdivision or any part of the subdivision.

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

4 16. A statement of the provisions for easements for permanent
5 access for irrigation water, ~~where~~ IF applicable.

6 17. A true statement of assurances for the completion of off-site
7 improvements, such as roads, utilities, community or recreational
8 facilities and other improvements to be included in the offering or
9 represented as being in the offering, and approval of the offering by the
10 political subdivision with authority. This statement shall include a
11 trust agreement or any other evidence of assurances for delivery of the
12 improvements and a statement of the provisions, if any, for the continued
13 maintenance of the improvements.

14 18. A true statement of the nature of any improvements to be
15 installed by the subdivider, the estimated schedule for completion and the
16 estimated costs related to the improvements that will be borne by
17 purchasers of lots in the subdivision.

18 19. A true statement of the availability of sewage disposal
19 facilities and other public utilities, including water, electricity, gas
20 and telephone facilities in the subdivision, the estimated schedule for
21 their installation, and the estimated costs related to the facilities and
22 utilities that will be borne by purchasers of lots in the subdivision.

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

28 21. If the subdivider is a subsidiary corporation, a true statement
29 identifying the parent corporation and any of the following in which the
30 parent or any of its subsidiaries is or has been involved within the past
31 five years:

32 (a) Any subdivision in this state.

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

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

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

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

44 (b) The subdivider.

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

1 23. A true statement as to whether all or any portion of the
2 subdivision is located in territory in the vicinity of a military airport
3 or ancillary military facility as defined in section 28-8461, in territory
4 in the vicinity of a public airport as defined in section 28-8486, on or
5 after July 1, 2001, in a high noise or accident potential zone as defined
6 in section 28-8461 or on or after July 1 of the year in which the
7 subdivision becomes located in a high noise or accident potential
8 zone. The statement required pursuant to this paragraph does not require
9 the amendment or refiling of any notice filed before July 1, 2001 or
10 before July 1 of the year in which the subdivision becomes located in a
11 high noise or accident potential zone.

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

15 (a) That the property is a conversion from multifamily rental to
16 condominiums.

17 (b) The date original construction was completed.

18 25. Other information and documents and certifications as the
19 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
20 shall not be required to disclose any critical infrastructure information
21 as defined in section 41-1801 or any information contained in a report
22 issued pursuant to section 41-4273.

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

32 C. If the subdivision is within an active management area, as
33 defined in section 45-402, the subdivider shall accompany the notice with
34 a certificate of assured water supply issued by the director of water
35 resources along with proof that all applicable fees have been paid
36 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
37 obtained a written commitment of water service for the subdivision from a
38 city, town or private water company designated as having an assured water
39 supply by the director of water resources pursuant to section 45-576 or is
40 exempt from the requirement pursuant to section 45-576. If the subdivider
41 has submitted a certificate of assured water supply to a city, town or
42 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
43 and this has been noted on the face of the plat, the submission
44 constitutes compliance with this subsection if the subdivider provides

1 proof to the commissioner that all applicable fees have been paid pursuant
2 to sections 48-3772 and 48-3774.01.

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

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

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

23 2. The lots, parcels or fractional interests are the result of a
24 foreclosure sale, the exercise by a trustee under a deed of trust of a
25 power of sale or the grant of a deed in lieu of foreclosure. This
26 paragraph does not allow circumvention of the requirements of this
27 article.

28 3. The lots, parcels or fractional interests are created by a valid
29 order or decree of a court pursuant to and through compliance with title
30 12, chapter 8, article 7 or by operation of law. This paragraph does not
31 allow circumvention of the requirements of this article.

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

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

39 6. The commissioner by special order exempts offerings or
40 dispositions of any lots, parcels or fractional interests from compliance
41 with this article on written petition and on a showing satisfactory to the
42 commissioner that compliance is not essential to the public interest or
43 for the protection of buyers. LOTS, PARCELS OR FRACTIONAL INTERESTS WHERE
44 COMPLIANCE IS NOT ESSENTIAL TO THE PUBLIC INTEREST OR FOR THE PROTECTION
45 OF BUYERS INCLUDE BUT ARE NOT LIMITED TO THOSE THAT HAVE BEEN INCLUDED

1 WITH A PREVIOUS PUBLIC REPORT APPROVED WITHIN THE LAST TEN YEARS WHERE THE
2 APPLICANT FOR AN EXEMPTION ATTESTS THERE ARE NO MATERIAL CHANGES ALTERING
3 THE FACTS OF THE PUBLIC REPORT.

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

10 8. LOTS, PARCELS OR FRACTIONAL INTERESTS OWNED BY A LICENSED
11 FINANCIAL INSTITUTION IN THIS STATE AS A RESULT OF FORECLOSURE AND ARE
12 BEING SOLD BY THE FINANCIAL INSTITUTION OR ON BEHALF OF THE FINANCIAL
13 INSTITUTION BY AN ARIZONA REAL ESTATE LICENSEE IF LIMITED TO THOSE THAT
14 HAVE BEEN INCLUDED WITH A PREVIOUS PUBLIC REPORT WHEN THE PUBLIC REPORT
15 WAS APPROVED WITHIN THE LAST TEN YEARS AND NO MATERIAL CHANGES HAVE
16 OCCURRED WITHIN THE PUBLIC REPORT.

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

19 1. If the subdivision is located in a county that has adopted the
20 provision authorized by section 11-823, subsection A, or in a city or town
21 that has enacted an ordinance pursuant to section 9-463.01, subsection 0,
22 the subdivider shall accompany the notice with a report issued by the
23 director of water resources pursuant to section 45-108 stating that the
24 subdivision has an adequate water supply, unless one of the following
25 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
30 service for the subdivision from a city, town or private water company
31 designated as having an adequate water supply by the director of water
32 resources pursuant 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
36 granted by the director of water resources under section 45-108.02 and the
37 exemption has not expired or pursuant to an exemption granted by the
38 director under section 45-108.03. If the plat was approved pursuant to an
39 authorized exemption, the state real estate commissioner shall require
40 that all promotional material and contracts for the sale of lots in the
41 subdivision adequately display the following:

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

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

8 (d) The subdivision received final plat approval from the city,
9 town 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
12 to the plat after the final plat approval, the director of water resources
13 shall determine whether the changes are material pursuant to the rules
14 adopted by the director to implement section 45-108. If this subdivision
15 applies, the state real estate commissioner shall require that all
16 promotional materials and contracts for the sale of lots in the
17 subdivision adequately display the director of water resources' report or
18 the developer's brief summary of the report as approved by the
19 commissioner on the proposed water supply for the subdivision.

20 2. If the subdivision is not located in a county that has adopted
21 the provision authorized by section 11-823, subsection A or in a city or
22 town that has enacted an ordinance pursuant to section 9-463.01,
23 subsection O, and if the director of water resources, pursuant to section
24 45-108, reports an inadequate on-site supply of water to meet the needs
25 projected by the developer or if no water is available, the state real
26 estate commissioner shall require that all promotional material and
27 contracts for the sale of lots in subdivisions approved by the
28 commissioner adequately display the director of water resources' report or
29 the developer's brief summary of the report as approved by the
30 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
33 periodic reports to update the information contained in the original
34 notice of intention to subdivide lands.

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

41 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
42 assignment or other instrument to transfer any interest in subdivided land
43 ~~nor~~ AND any covenant or restriction affecting real property shall NOT
44 contain any provision limiting the right of any party to appear or testify
45 in support of or opposition to zoning changes, building permits or any

1 other official acts affecting real property before a governmental body or
2 official considering zoning changes, building permits or any other
3 official acts affecting real property, whether the property is located
4 within or outside of the boundaries of the subdivision. All contractual
5 provisions that conflict with this subsection are declared to be contrary
6 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
7 prohibit private 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 IS 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~~ ONE-MILE radius of
18 the subdivision boundaries.

19 Sec. 4. Section 33-422, Arizona Revised Statutes, as amended by
20 Laws 2019, chapter 103, section 1 and chapter 131, section 1, is amended
21 to read:

22 33-422. Land divisions; recording; disclosure affidavit

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

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

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

32 D. The buyer has the right to rescind the sales transaction for a
33 period of five days after the affidavit of disclosure is furnished to the
34 buyer.

35 E. The seller shall record the executed affidavit of disclosure at
36 the same time that the deed is recorded. The county recorder is not
37 required to verify the accuracy of any statement in the affidavit of
38 disclosure. A subsequently recorded affidavit supersedes any previous
39 affidavit.

40 F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING
41 DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section
42 11-480 and follow substantially the following form:

When recorded mail to:

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

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

_____, County, State of Arizona, located at:

and legally described as:

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

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

Explain: _____

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

Explain: _____

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

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

Explain: _____

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

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

1 If the roads are not publicly maintained, it is the
2 responsibility of the property owner(s) to maintain the roads
3 and roads that are not improved to county standards and
4 accepted for maintenance are not the county's responsibility.

5 6. A portion or all of the property is is not
6 located in a FEMA designated regulatory floodplain. If the
7 property is in a floodplain, it may be subject to floodplain
8 regulation.

9 7. The property is is not subject to fissures or
10 expansive soils. unknown
11 Explain: _____
12 _____
13 _____

14 8. The following services are currently provided to the property:
15 water sewer electric natural gas single
16 party telephone cable television services.

17 9. The property is is not served by a water
18 supply that requires the transportation of water to the
19 property. IF THE PROPERTY IS SERVED BY A WATER SUPPLY THAT
20 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY, THE
21 SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE
22 WATER HAULER OR WATER HAULING COMPANY THAT IS CURRENTLY
23 PROVIDING THE TRANSPORTATION SERVICES TO THE PROPERTY AND THE
24 NAME AND LOCATION OF THE WATER SUPPLY FROM WHICH THE WATER IS
25 CURRENTLY BEING TRANSPORTED.

26 WATER HAULER NAME: _____ PHONE: _____
27 WATER SUPPLY: _____ LOCATION: _____

28 10. The property is served by a private water company a
29 municipal water provider a private well a shared well
30 no well. If served by a shared well, the shared well
31 is is not a public water system, as defined by
32 the safe drinking water act (42 United States Code § 300f).

33 *Notice to buyer: If the property is served by a well, a*
34 *private water company or a municipal water provider the*
35 *Arizona department of water resources may not have made a*
36 *water supply determination. For more information about water*
37 *supply, contact the water provider.*

38 11. The property or the water used on the property is is not
39 the subject of a statement of claimant for the use of water in
40 a general adjudication of water rights. unknown.

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

1 12. The property does have does not have an on-site
2 wastewater treatment facility (i.e., standard septic or
3 alternative system to treat and dispose of wastewater).
4 unknown. If applicable: a) The property will will not
5 require installation of an on-site wastewater treatment
6 facility; b) The on-site wastewater treatment facility has
7 has not been inspected.

8 13. The property has been has not been subject to a
9 percolation test. unknown.

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

12 ~~Notice to buyer: If the property contains solar energy~~
13 ~~devices, it is the responsibility of the buyer to verify the~~
14 ~~proper replacement and disposal method for the devices, as~~
15 ~~applicable. If the solar energy devices are leased, the seller~~
16 ~~or property owner shall disclose the name and contact~~
17 ~~information of the leasing company.~~

18 Leasing company name: _____ Phone: _____

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

21 IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER
22 SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING
23 COMPANY.

24 LEASING COMPANY NAME: _____ PHONE: _____

25 ~~15.~~ 16. The property does does not meet the
26 minimum applicable county zoning requirements of the applicable
27 zoning designation.

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

42 Explain: _____
43 _____
44 _____

1 ~~17.~~ 18. The property is is not located in the clear zone
2 of a military airport or ancillary military facility, as
3 defined in A.R.S. § 28-8461. (Maps are available at the state
4 real estate department's website.)

5 ~~18.~~ 19. The property is is not located in the high noise
6 or accident potential zone of a military airport or ancillary
7 military facility, as defined in A.R.S. § 28-8461. (Maps are
8 available at the state real estate department's website.)

9 ~~19.~~ 20. Notice: If the property is located within the territory in
10 the vicinity of a military airport or ancillary military
11 facility, the property is required to comply with sound
12 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps
13 are available at the state real estate department's website.)

14 ~~20.~~ 21. The property is is not located under military
15 restricted airspace. unknown. (Maps are available at the
16 state real estate department's website.)

17 ~~21.~~ 22. The property is is not located in a military
18 electronics range as defined in A.R.S. § 9-500.28 and § 11-818.
19 unknown. (Maps are available at the state real estate
20 department's website.)

21 ~~22.~~ 23. Use of the property is is not limited in any way
22 relating to an encumbrance of title due to a lis pendens, a
23 court order or a state real estate department order or a
24 pending legal action. If the use of the property is limited
25 due to an encumbrance of title, the seller or property owner
26 shall disclose the limitations to the buyer.

27 Explain: _____
28 _____
29 _____

30 This affidavit of disclosure supersedes any previously
31 recorded affidavit of disclosure.

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

35 Dated this ____ (date) day of ____ (year) by:

36 Seller's name (print): _____ Signature: _____

37 Seller's name (print): _____ Signature: _____

38 State of Arizona)

39) ss.

40 County of _____)

