

REFERENCE TITLE: reviser's technical corrections; 2024

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1049

Introduced by
Senator Shope

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; AMENDING SECTION 42-11132, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 208, SECTION 3; REPEALING SECTION 42-11132, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2023, CHAPTER 14, SECTION 7; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Purpose

3 1. Section 33-422, Arizona Revised Statutes, was amended by Laws
4 2023, chapter 77, section 3. However, this version did not reflect the
5 previous valid version of the section. In order to comply with article
6 IV, part 2, section 14, Constitution of Arizona, this act amends section
7 33-422, Arizona Revised Statutes, as amended by Laws 2019, chapter 103,
8 section 1 and chapter 131, section 1, to incorporate the amendments made
9 by Laws 2023, chapter 77 and repeals the chapter 77 version.

10 2. Section 42-11132, Arizona Revised Statutes, was amended by Laws
11 2023, chapter 14, section 7. However, this version did not reflect the
12 previous valid version of the section. In order to comply with article
13 IV, part 2, section 14, Constitution of Arizona, this act amends section
14 42-11132, Arizona Revised Statutes, as amended by Laws 2019, chapter 208,
15 section 3, to incorporate the amendments made by Laws 2023, chapter 14 and
16 repeals the chapter 14 version.

17 Sec. 2. Section 33-422, Arizona Revised Statutes, as amended by
18 Laws 2019, chapter 103, section 1 and chapter 131, section 1, is amended
19 to read:

20 33-422. Land divisions; recording; disclosure affidavit

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

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

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

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

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

38 F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING
39 DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section
40 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.

*If the roads are not publicly maintained, it is the
responsibility of the property owner(s) to maintain the roads*

1 and roads that are not improved to county standards and
2 accepted for maintenance are not the county's responsibility.

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

7 7. The property is is not subject to fissures or
8 expansive soils. unknown

9 Explain: _____
10 _____
11 _____

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

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

24 WATER HAULER NAME: _____ PHONE: _____
25 WATER SUPPLY: _____ LOCATION: _____

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

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

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

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

42 12. The property does have does not have an on-site
43 wastewater treatment facility (i.e., standard septic or
44 alternative system to treat and dispose of wastewater).
45 unknown. If applicable: a) The property will will not

1 require installation of an on-site wastewater treatment
2 facility; b) The on-site wastewater treatment facility has
3 has not been inspected.

4 13. The property has been has not been subject to a
5 percolation test. unknown.

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

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

14 Leasing company name: _____ Phone: _____

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

17 IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER
18 SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING
19 COMPANY.

20 LEASING COMPANY NAME: _____ PHONE: _____

21 ~~15.~~ 16. The property does does not meet the
22 minimum applicable county zoning requirements of the applicable
23 zoning designation.

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

38 Explain: _____
39 _____
40 _____

41 ~~17.~~ 18. The property is is not located in the clear zone
42 of a military airport or ancillary military facility, as
43 defined in A.R.S. § 28-8461. (Maps are available at the state
44 real estate department's website.)

1 ~~18.~~ 19. The property is is not located in the high noise
2 or accident potential zone of a military airport or ancillary
3 military facility, as defined in A.R.S. § 28-8461. (Maps are
4 available at the state real estate department's website.)

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

10 ~~20.~~ 21. The property is is not located under military
11 restricted airspace. unknown. (Maps are available at the
12 state real estate department's website.)

13 ~~21.~~ 22. The property is is not located in a military
14 electronics range as defined in A.R.S. § 9-500.28 and § 11-818.
15 unknown. (Maps are available at the state real estate
16 department's website.)

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

23 Explain: _____
24 _____
25 _____
26 _____

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 _____

42 Notary public

43 My commission expires:

44 _____(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 G. For the purposes of this section, seller and subsequent seller
7 do not include a trustee of a deed of trust who is selling property by a
8 trustee's sale pursuant to chapter 6.1 of this title or any officer who is
9 selling property by execution sale pursuant to title 12, chapter 9 and
10 chapter 6 of this title. If the seller is a trustee of a subdivision
11 trust as defined in section 6-801, the disclosure affidavit required by
12 this section shall be provided by the beneficiary of the subdivision
13 trust.

14 Sec. 3. Repeal
15 Section 33-422, Arizona Revised Statutes, as amended by Laws 2023,
16 chapter 77, section 3, is repealed.

17 Sec. 4. Section 42-11132, Arizona Revised Statutes, as amended by
18 Laws 2019, chapter 208, section 3, is amended to read:

19 42-11132. Property leased to educational institutions

20 A. Property, buildings and fixtures that are leased to a nonprofit
21 charter school or a residential treatment and education facility and that
22 are used for educational instruction in any grade or program through grade
23 twelve shall be classified as class nine property pursuant to section
24 42-12009. If only part of a parcel of real property or improvements to
25 real property is leased for operation of a charter school or a residential
26 treatment and education facility, only the portion so leased qualifies as
27 class nine property.

28 B. Property, buildings and fixtures that are owned by an
29 educational, a religious or a charitable organization, institution or
30 association and leased to a nonprofit educational organization,
31 institution or association are exempt from taxation if the property is
32 used for educational instruction in any grade or program through grade
33 twelve.

34 C. If the educational, religious or charitable organization,
35 institution or association that owns the property files with the assessor
36 THE AFFIDAVIT REQUIRED BY SECTION 42-11152, evidence of the
37 organization's, institution's or association's tax exempt status under
38 section 501(c)(3) of the internal revenue code and an affidavit by the
39 educational organization, institution or association that it uses the
40 property for educational instruction as described in subsection B of this
41 section, the property qualifies for the tax exemption under this section.
42 ~~and is exempt from the requirement of filing subsequent affidavits under~~
43 THE EDUCATIONAL, RELIGIOUS OR CHARITABLE ORGANIZATION, INSTITUTION OR
44 ASSOCIATION SHALL NOTIFY THE COUNTY ASSESSOR IN WRITING PURSUANT TO
45 section 42-11152 ~~until~~ IF all or part of the property is conveyed to a new

1 owner or is no longer used for educational purposes. ~~At that time the~~
2 ~~educational, religious or charitable organization, institution or~~
3 ~~association must notify the assessor of the change in writing.~~

4 Sec. 5. Repeal

5 Section 42-11132, Arizona Revised Statutes, as amended by Laws 2023,
6 chapter 14, section 7, is repealed.

7 Sec. 6. Retroactivity

8 Sections 2, 3, 4 and 5 of this act apply retroactively to from and
9 after October 29, 2023.