SENATE BILL 1268

AN ACT

AMENDING SECTIONS 9-463.01, 32-2181, 32-2183, 32-2197.08, 45-108, 45-108.01, 45-108.02, 45-108.03 and 48-6414; RELATING TO WATER SUPPLY.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-463.01, Arizona Revised Statutes, is amended to read:

9-463.01. Authority
A. Pursuant to this article, the legislative body of every municipality shall regulate the subdivision of all lands within its corporate limits.
B. The legislative body of a municipality shall exercise the authority granted in subsection A of this section by ordinance prescribing:
   1. Procedures to be followed in the preparation, submission, review and approval or rejection of all final plats.
   2. Standards governing the design of subdivision plats.
   3. Minimum requirements and standards for the installation of subdivision streets, sewer and water utilities and improvements as a condition of final plat approval.
C. By ordinance, the legislative body of any municipality shall:
   1. Require the preparation, submission and approval of a preliminary plat as a condition precedent to submission of a final plat.
   2. Establish the procedures to be followed in the preparation, submission, review and approval of preliminary plats.
   3. Make requirements as to the form and content of preliminary plats.
   4. Either determine that certain lands may not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or man-made hazard to life or property, or control the lot size, establish special grading and drainage requirements and impose other regulations deemed reasonable and necessary for the public health, safety or general welfare on any lands to be subdivided affected by such characteristics.
   5. Require payment of a proper and reasonable fee by the subdivider based upon the number of lots or parcels on the surface of the land to defray municipal costs of plat review and site inspection.
   6. Require the dedication of public streets, sewer and water utility easements or rights-of-way, within the proposed subdivision.
   7. Require the preparation and submission of acceptable engineering plans and specifications for the installation of required street, sewer, electric and water utilities, drainage, flood control, adequacy of water and improvements as a condition precedent to recordation of an approved final plat.
   8. Require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.
D. The legislative body of any municipality may require by ordinance that land areas within a subdivision be reserved for parks, recreational
facilities, school sites and fire stations subject to the following conditions:

1. The requirement may only be made upon preliminary plats filed at least thirty days after the adoption of a general or specific plan affecting the land area to be reserved.

2. The required reservations are in accordance with definite principles and standards adopted by the legislative body.

3. The land area reserved shall be of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.

4. The land area reserved shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.

E. The public agency for whose benefit an area has been reserved shall have a period of one year after recording the final subdivision plat to enter into an agreement to acquire such reserved land area. The purchase price shall be the fair market value of the reserved land area at the time of the filing of the preliminary subdivision plat plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including the interest cost incurred on any loan covering such reserved area.

F. If the public agency for whose benefit an area has been reserved does not exercise the reservation agreement set forth in subsection E of this section within such one year period or such extended period as may be mutually agreed upon by such public agency and the subdivider, the reservation of such area shall terminate.

G. The legislative body of every municipality shall comply with this article and applicable state statutes pertaining to the hearing, approval or rejection, and recordation of:

1. Final subdivision plats.

2. Plats filed for the purpose of reverting to acreage of land previously subdivided.

3. Plats filed for the purpose of vacating streets or easements previously dedicated to the public.

4. Plats filed for the purpose of vacating or redescribing lot or parcel boundaries previously recorded.

H. Approval of every preliminary and final plat by a legislative body is conditioned upon compliance by the subdivider with:

1. Rules as may be established by the department of transportation relating to provisions for the safety of entrance and departure from abutting state primary highways.

2. Rules as may be established by a county flood control district relating to the construction or prevention of construction of streets in land established as being subject to periodic inundation.
3. Rules as may be established by the department of health services or a county health department relating to the provision of domestic water supply and sanitary sewage disposal.

I. If the subdivision is composed of subdivided lands, as defined in section 32-2101, and is within an active management area, as defined in section 45-402, the final plat shall not be approved unless it is accompanied by a certificate of assured water supply issued by the director of water resources, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576. The legislative body of the municipality shall note on the face of the final plat that a certificate of assured water supply has been submitted with the plat or that the subdivider has obtained a written commitment of water service for the proposed subdivision from a city, town or private water company designated as having an assured water supply, pursuant to section 45-576, or is exempt from the requirement pursuant to section 45-576.

J. Except as provided in subsections K and P of this section, if the subdivision is composed of subdivided lands as defined in section 32-2101 outside of an active management area and if the director of water resources has given written notice to the municipality pursuant to section 45-108, subsection H of this section is required by subsection Q of this section to comply with this subsection or if the legislative body of the municipality has adopted an adequate water supply ordinance pursuant to subsection O of this section, the final plat shall not be approved unless one of the following applies:

1. The director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 and the subdivider has included the report with the plat.

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

K. The legislative body of a municipality that has received written notice from the director of water resources pursuant to section 45-108, subsection H of this section is required by subsection Q of this section to comply with subsection J of this section or that has adopted an adequate water supply ordinance pursuant to subsection O of this section may provide by ordinance an exemption from the requirement in subsection J of this section for a subdivision that the director of water resources has determined will have an inadequate water supply because the water supply will be transported to the subdivision by motor vehicle or train if all of the following apply:

1. The legislative body determines that there is no feasible alternative water supply for the subdivision and that the transportation of
water to the subdivision will not constitute a significant risk to the health and safety of the residents of the subdivision.

2. If the water to be transported to the subdivision will be withdrawn or diverted in the service area of a municipal provider as defined in section 45-561, the municipal provider has consented to the withdrawal or diversion.

3. If the water to be transported is groundwater, the transportation complies with the provisions governing the transportation of groundwater in title 45, chapter 2, article 8.

4. The transportation of water to the subdivision meets any additional conditions imposed by the legislative body.

L. A municipality that adopts the exemption authorized by subsection K of this section shall give written notice of the adoption of the exemption, including a certified copy of the ordinance containing the exemption, to the director of water resources, the director of environmental quality and the state real estate commissioner. If the municipality later rescinds the exemption, the municipality shall give written notice of the rescission to the director of water resources, the director of environmental quality and the state real estate commissioner. A municipality that rescinds an exemption adopted pursuant to subsection K of this section shall not readopt the exemption for at least five years after the rescission becomes effective.

M. If the legislative body of a municipality approves a subdivision plat pursuant to subsection J, paragraph 1 or 2 of subsection O of this section, the legislative body shall note on the face of the plat that the director of water resources has reported that the subdivision has an adequate water supply or that the subdivider has obtained a commitment of water service for the proposed subdivision from a city, town or private water company designated as having an adequate water supply pursuant to section 45-108.

N. If the legislative body of a municipality approves a subdivision plat pursuant to an exemption authorized by subsection K of this section or granted by the director of water resources pursuant to section 45-108.02 or 45-108.03:

1. The legislative body shall give written notice of the approval to the director of water resources and the director of environmental quality.

2. The legislative body shall include on the face of the plat a statement that the director of water resources has determined that the water supply for the subdivision is inadequate and a statement describing the exemption under which the plat was approved, including a statement that the legislative body or the director of water resources, whichever applies, has determined that the specific conditions of the exemption were met. If the director subsequently informs the legislative body that the subdivision is being served by a water provider that has been designated by the director as having an adequate water supply pursuant to section 45-108, the legislative body shall record in the county recorder's office a statement disclosing that fact.
0. If a municipality has not been given written notice by the director of water resources pursuant to section 45-108, subsection H, the legislative body of the municipality THAT IS NOT REQUIRED BY SUBSECTION Q OF THIS SECTION TO COMPLY WITH SUBSECTION J OF THIS SECTION, to protect the public health and safety, may provide by ordinance that, except as provided in subsections K and P of this section, the final plat of a subdivision located in the municipality and outside of an active management area will not be approved by the legislative body unless the director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108. Before holding a public hearing to consider whether to enact an ordinance pursuant to this subsection, a municipality shall provide written notice of the hearing to the board of supervisors of the county in which the municipality is located. A municipality that enacts an ordinance pursuant to this subsection shall give written notice of the enactment of the ordinance, including a certified copy of the ordinance, to the director of water resources, the director of environmental quality, the state real estate commissioner and the board of supervisors of the county in which the municipality is located. If a municipality enacts an ordinance pursuant to this subsection, water providers may be eligible to receive monies in a water supply development fund, as otherwise provided by law.

P. Subsections J and O of this section do not apply to:

1. A proposed subdivision that the director of water resources has determined will have an inadequate water supply pursuant to section 45-108 if the director grants an exemption for the subdivision pursuant to section 45-108.02 and the exemption has not expired or if the director grants an exemption pursuant to section 45-108.03.

2. A proposed subdivision that received final plat approval from the municipality before the requirement for an adequate water supply became effective in the municipality if the plat has not been materially changed since it received the final plat approval. If changes were made to the plat after the plat received the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108. If the municipality approves a plat pursuant to this paragraph and the director of water resources has determined that there is an inadequate water supply for the subdivision pursuant to section 45-108, the municipality shall note this on the face of the plat.

Q. A MUNICIPALITY THAT WAS NOTIFIED BY THE DIRECTOR OF WATER RESOURCES BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION THAT THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED ADOPTED AN ADEQUATE WATER SUPPLY PROVISION AUTHORIZED BY SECTION 11-823, SUBSECTION A SHALL COMPLY WITH
SUBSECTION J OF THIS SECTION UNLESS THE LEGISLATIVE BODY OF THE MUNICIPALITY ADOPTS AN ORDINANCE AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION THAT PROVIDES THAT THE MUNICIPALITY SHALL NOT BE SUBJECT TO SUBSECTION J OF THIS SECTION. A MUNICIPALITY THAT ADOPTS AN ORDINANCE PURSUANT TO THIS SUBSECTION MAY AT ANY TIME THEREAFTER ADOPT AN ADEQUATE WATER SUPPLY ORDINANCE PURSUANT TO SUBSECTION O OF THIS SECTION. THE LEGISLATIVE BODY OF A MUNICIPALITY WITH A POPULATION OF MORE THAN TWENTY-FIVE THOUSAND PERSONS MAY ADOPT AN ORDINANCE PURSUANT TO THIS SUBSECTION ONLY IF ALL OF THE FOLLOWING APPLY AT THE TIME THE ORDINANCE IS ADOPTED, AS APPLICABLE:

1. THE MUNICIPALITY IS PARTICIPATING IN A PROGRAM TO AUGMENT THE AQUIFER UNDERLYING THE MUNICIPALITY.
2. THE MUNICIPALITY HAS ADOPTED A PLAN FOR THE REUSE OF RECLAIMED WATER. FOR THE PURPOSES OF THIS PARAGRAPH, "RECLAIMED WATER" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-201.
3. THE MUNICIPALITY HAS ADOPTED A RESIDENTIAL AND NONRESIDENTIAL WATER CONSERVATION PROGRAM FOR INTERIOR AND EXTERIOR WATER USE.
4. IF THE MUNICIPALITY IS A COMMUNITY WATER SYSTEM AS DEFINED IN SECTION 45-341, THE MUNICIPALITY IS IN COMPLIANCE WITH ALL APPLICABLE PLANNING AND REPORTING REQUIREMENTS UNDER TITLE 45, CHAPTER 1, ARTICLE 14.
5. THE MUNICIPALITY HAS ADOPTED AN ORDINANCE ALLOWING ONLY THE USE OF XERISCAPE OR OTHER DROUGHT TOLERANT OR LOW WATER USE VEGETATION FOR LANDSCAPING WITHIN ANY PUBLICLY OWNED RIGHT-OF-WAY OF A HIGHWAY, STREET, ROAD, SIDEWALK, CURB OR SHOULDER OR ANY MEDIAN OF A HIGHWAY, STREET OR ROAD WITHIN THE MUNICIPALITY AFTER THE EFFECTIVE DATE OF THAT LANDSCAPE ORDINANCE.
6. THE MUNICIPALITY IS FUNDING A PROGRAM TO PROVIDE REBATES FOR ONE OR BOTH OF THE FOLLOWING:
   (a) REPLACING LOW EFFICIENCY PLUMBING FIXTURES IN RESIDENTIAL AND NONRESIDENTIAL STRUCTURES WITHIN THE MUNICIPALITY WITH HIGH EFFICIENCY PLUMBING FIXTURES.
   (b) REMOVING HIGH WATER USE LANDSCAPING FROM THE EXTERIOR OF RESIDENTIAL AND NONRESIDENTIAL STRUCTURES WITHIN THE MUNICIPALITY.
7. IF THE MUNICIPALITY IS A WATER PROVIDER, THE MUNICIPALITY IS LIMITING THE AMOUNT OF LOST AND UNACCOUNTED FOR WATER IN ITS WATER DISTRIBUTION SYSTEM TO NOT MORE THAN TEN PERCENT OF THE TOTAL QUANTITY OF WATER THAT ENTERS THE DISTRIBUTION SYSTEM.
8. THE MUNICIPALITY IS FUNDING A PUBLIC EDUCATION PROGRAM RELATED TO WATER CONSERVATION AND HAS IDENTIFIED AND IMPLEMENTED OTHER PROGRAMS TO REDUCE WATER USE WITHIN THE MUNICIPALITY.

Q. R. If the subdivision is composed of subdivided lands as defined in section 32-2101 outside of an active management area and the municipality has not received written notice pursuant to section 45-108, subsection H IS NOT REQUIRED BY SUBSECTION Q OF THIS SECTION TO COMPLY WITH SUBSECTION J OF THIS SECTION and has not adopted an ADEQUATE WATER SUPPLY ordinance pursuant to subsection 0 of this section:

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1. If the director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 or if the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108, the municipality shall note this on the face of the plat if the plat is approved.

2. If the director of water resources has determined that there is an inadequate water supply for the subdivision pursuant to section 45-108, the municipality shall note this on the face of the plat if the plat is approved.

R. S. Every municipality is responsible for the recordation of all final plats approved by the legislative body and shall receive from the subdivider and transmit to the county recorder the recordation fee established by the county recorder.

S. T. Pursuant to provisions of applicable state statutes, the legislative body of any municipality may itself prepare or have prepared a plat for the subdivision of land under municipal ownership.

T. U. The legislative bodies of cities and towns may regulate by ordinance land splits within their corporate limits. Authority granted under this section refers to the determination of division lines, area and shape of the tracts or parcels and does not include authority to regulate the terms or condition of the sale or lease nor does it include the authority to regulate the sale or lease of tracts or parcels that are not the result of land splits as defined in section 9-463.

U. V. For any subdivision that consists of ten or fewer lots, tracts or parcels, each of which is of a size as prescribed by the legislative body, the legislative body of each municipality may expedite the processing of or waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements proportional to the impact of the subdivision. Requirements for dust-controlled access and drainage improvements shall not be waived.

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

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

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

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

2. The name and address of the subdivider.

3. The legal description and area of the land.

4. A true statement of the condition of the title to the land, including all encumbrances on the land, and a statement of the provisions agreed to by the holder of any blanket encumbrance enabling a purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the department containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any subdivision in this state.

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

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

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

(a) The holder of any ownership interest in the land.
(b) The subdivider.
(c) Any principal or officer in the holder or subdivider.

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

24. If the subdivision is a conversion from multifamily rental to condominiums as defined in section 33-1202, a true statement as to the following:
(a) That the property is a conversion from multifamily rental to condominiums.
(b) The date original construction was completed.

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

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

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

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

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

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

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

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

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

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

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

7. A sale or lease of a lot, parcel or fractional interest occurs ten
or more years after the sale or lease of another lot, parcel or fractional
interest and the other lot, parcel or fractional interest is not subject to
this article and is treated as an independent parcel unless, upon
investigation by the commissioner, there is evidence of intent to subdivide.
F. In areas outside of active management areas established pursuant to title 45, chapter 2, article 2:

1. If the subdivision is located in a county that has adopted the provision authorized by FINAL PLAT APPROVAL FOR A SUBDIVISION IS SUBJECT TO section 11-823, subsection A, or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O-J, the subdivider shall accompany the notice with a report issued by the director of water resources pursuant to section 45-108 stating that the subdivision has an adequate water supply, unless one of the following applies:

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

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

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

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

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

   (d) The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108. If this subdivision applies, the state real estate commissioner shall require that all promotional materials and contracts for the sale of lots in the subdivision adequately display the director of water resources' report or the developer's brief summary of the
report as approved by the commissioner on the proposed water supply for the subdivision.

2. If the subdivision is not located in a county that has adopted the provision authorized by FINAL PLAT APPROVAL FOR A SUBDIVISION IS NOT SUBJECT TO section 11-823, subsection A or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O–J, and if the director of water resources, pursuant to section 45-108, reports an inadequate on-site supply of water to meet the needs projected by the developer or if no water is available, the state real estate commissioner shall require that all promotional material and contracts for the sale of lots in subdivisions approved by the commissioner adequately display the director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.

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

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

I. Neither a real estate sales contract, conveyance, lease, assignment or other instrument to transfer any interest in subdivided land nor any covenant or restriction affecting real property shall contain any provision limiting the right of any party to appear or testify in support of or opposition to zoning changes, building permits or any other official acts affecting real property before a governmental body or official considering zoning changes, building permits or any other official acts affecting real property, whether the property is located within or outside of the boundaries of the subdivision. All contractual provisions that conflict with this subsection are declared to be contrary to public policy. Nothing contained in this subsection shall prohibit private restrictions on the use of any real property.

J. Before offering subdivided lands for lease or sale, the subdivider who makes any promises through any form of advertising media that the subdivided lands will be exclusively a retirement community or one that is limited to the residency of adults or senior citizens shall include the promises in the deed restrictions affecting any interest in real property within the subdivided lands.

K. Except as otherwise provided in this section, a subdivider shall not be required to disclose items that are over one mile from the subdivision boundaries. The existence of foreign nations or tribal lands shall also be
disclosed if located within the one mile radius of the subdivision boundaries.

Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to read:

32-2183. Subdivision public reports; denial of issuance; unlawful sales; voidable sale or lease; order prohibiting sale or lease; investigations; hearings; summary orders

A. Upon examination of a subdivision, the commissioner, unless there are grounds for denial, shall issue to the subdivider a public report authorizing the sale or lease in this state of the lots, parcels or fractional interests within the subdivision. The report shall contain the data obtained in accordance with section 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. If any of the lots, parcels or fractional interests within the subdivision are located within territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, under a military training route as delineated in the military training route map prepared pursuant to section 37-102, under restricted air space as delineated in the restricted air space map prepared pursuant to section 37-102 or contained in the military electronics range as delineated in the military electronics range map prepared pursuant to section 37-102, the report shall include, in bold twelve point font block letters on the first page of the report, the statements required pursuant to section 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the department has been provided a map prepared pursuant to section 28-8484, subsection B or section 37-102, the report shall include a copy of the map. The military airport report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001 or on or before December 31 of the year in which the lots, parcels or fractional interests within a subdivision become territory in the vicinity of a military airport or ancillary military facility. The military training route report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2004. The restricted air space report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2006. The military electronics range report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2008. The commissioner shall require the subdivider to reproduce the report, make the report available to each initial prospective customer and furnish each initial buyer or lessee with a copy before the buyer or lessee signs any offer to purchase or lease, taking a receipt therefor.

B. This section shall not be construed to require a public report issued sixty or fewer days prior to the filing of the military electronics range map prepared pursuant to section 37-102 to meet the military electronics range notification requirements of this section.
C. A public report issued sixty-one or more days after the filing of the military electronics range map prepared pursuant to section 37-102 shall meet all of the requirements of subsection A of this section.

D. Notwithstanding subsection A of this section, a subdivider may elect to prepare a final public report for use in the sale of improved lots as defined in section 32-2101, as follows:

1. The subdivider shall prepare the public report and provide a copy of the report to the commissioner with the submission of the notification required by sections 32-2181 and 32-2184 and shall comply with all other requirements of this article.

2. An initial filing fee of five hundred dollars or an amended filing fee of two hundred fifty dollars shall accompany the notification required by paragraph 1 of this subsection.

3. The department shall assign a registration number to each notification and public report submitted pursuant to this subsection and shall maintain a database of all of these submissions. The subdivider shall place the number on each public report.

4. On receipt of the notification and public report, the department shall review and issue within ten business days either a certification that the notification and public report are administratively complete or a denial letter if it appears that the application or project is not in compliance with all legal requirements, that the applicant has a background of violations of state or federal law or that the applicant or project presents an unnecessary risk of harm to the public. If the commissioner has received the notification and public report but has not issued a certification or a denial letter within ten business days pursuant to this paragraph, the notification and public report are administratively complete.

5. A subdivider may commence sales or leasing activities as permitted under this article after obtaining a certificate of administrative completeness from the commissioner.

6. Before or after the commissioner issues a certificate of administrative completeness or, if applicable, after the notification and public report are deemed to be administratively complete pursuant to paragraph 4 of this subsection, the department may examine any public report, subdivision or applicant that has applied for or received the certificate. If the commissioner determines that the subdivider or subdivision is not in compliance with any requirement of state law or that grounds exist under this chapter to suspend, deny or revoke a public report, the commissioner may commence an administrative action under section 32-2154 or 32-2157. If the subdivider immediately corrects the deficiency and comes into full compliance with state law, the commissioner shall vacate any action that the commissioner may have commenced pursuant to section 32-2154 or 32-2157.

7. The department shall provide forms and guidelines for the submission of the notification and public report pursuant to this section.
E. The commissioner may suspend, revoke or deny issuance of a public report on any of the following grounds:

1. Failure to comply with this article or the rules of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to deliver title or other interest contracted for.

4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for completion of all streets, sewers, electric, gas and water utilities, drainage and flood control facilities, community and recreational facilities and other improvements included in the offering.

5. Failure to make a showing that the lots, parcels or fractional interests can be used for the purpose for which they are offered.

6. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary holding ten percent or more direct or indirect beneficial interest or, if a corporation, any stockholder owning ten percent or more of the stock in the corporation has:

   (a) Been convicted of a felony or misdemeanor involving fraud or dishonesty or involving conduct of any business or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

   (b) Been permanently or temporarily enjoined by order, judgment or decree from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate or cemetery property, time-share intervals, membership camping contracts or campgrounds, or securities or involving consumer fraud or the racketeering laws of this state.

   (c) Had an administrative order entered against him by a real estate regulatory agency or security regulatory agency.

   (d) Had an adverse decision or judgment entered against him involving fraud or dishonesty or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

   (e) Disregarded or violated this chapter or the rules of the commissioner pertaining to this chapter.

   (f) Controlled an entity to which subdivision (b), (c), (d) or (e) applies.

7. Procurement or an attempt to procure a public report by fraud, misrepresentation or deceit or by filing an application for a public report that is materially false or misleading.

8. Failure of the declaration for a condominium created pursuant to title 33, chapter 9, article 2 to comply with the requirements of section 33-1215 or failure of the plat for the condominium to comply with the requirements of section 33-1219. The commissioner may require an applicant for a public report to submit a notarized statement signed by the subdivider...
or an engineer or attorney licensed to practice in this state certifying that the condominium plat and declaration of condominium are in compliance with the requirements of sections 33-1215 and 33-1219. If the notarized statement is provided, the commissioner is entitled to rely on this statement.

9. Failure of any blanket encumbrance or valid supplementary agreement executed by the holder of the blanket encumbrance to contain provisions that enable the purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance, on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the commissioner containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

10. Failure to demonstrate permanent access to the subdivision lots or parcels.

11. The use of the lots presents an unreasonable health risk.

F. It is unlawful for a subdivider to sell any lot in a subdivision unless one of the following occurs:

1. All proposed or promised subdivision improvements are completed.
2. The completion of all proposed or promised subdivision improvements is assured by financial arrangements acceptable to the commissioner. The financial arrangements may be made in phases for common community and recreation facilities required by a municipality or county as a stipulation for approval of a plan for a master planned community.
3. The municipal or county government agrees to prohibit occupancy and the subdivider agrees not to close escrow for lots in the subdivision until all proposed or promised subdivision improvements are completed.
4. The municipal or county government enters into an assurance agreement with any trustee not to convey lots until improvements are completed within the portion of the subdivision containing these lots, if the improvements can be used and maintained separately from the improvements required for the entire subdivision plat. The agreement shall be recorded in the county in which the subdivision is located.

G. If the subdivision is within an active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless the subdivider has been issued a certificate of assured water supply by the director of water resources and has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576.

H. In areas outside of active management areas, if the subdivision is located in a county that has adopted the provision authorized by FINAL PLAT
APPROVAL FOR A SUBDIVISION IS SUBJECT TO section 11-823, subsection A or in a
city or town that has enacted an ordinance pursuant to section 9-463.01,
subsection O- J, the commissioner shall deny issuance of a public report or
the use of any exemption pursuant to section 32-2181.02, subsection B unless
one of the following applies:

1. The director of water resources has reported pursuant to section
45-108 that the subdivision has an adequate water supply.

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

3. The plat was approved pursuant to an exemption authorized by
section 9-463.01, subsection K, pursuant to an exemption authorized by
section 11-823, subsection B, paragraph 1, pursuant to an exemption granted
by the director of water resources under section 45-108.02 and the exemption
has not expired or pursuant to an exemption granted by the director of water
resources under section 45-108.03.

4. The subdivision received final plat approval from the city, town or
county before the requirement for an adequate water supply became effective
in the city, town or county, and there have been no material changes to the
plat since the final plat approval. If changes were made to the plat after
the final plat approval, the director of water resources shall determine
whether the changes are material pursuant to the rules adopted by the
director to implement section 45-108.

I. A subdivider shall not sell or lease or offer for sale or lease in
this state any lots, parcels or fractional interests in a subdivision without
first obtaining a public report from the commissioner except as provided in
section 32-2181.01 or 32-2181.02, and a certificate of administrative
completeness issued pursuant to this section. Unless exempt, the sale or
lease of subdivided lands prior to BEFORE issuance of the public report or
failure to deliver the public report to the purchaser or lessee shall render
the sale or lease rescindable by the purchaser or lessee. An action by the
purchaser or lessee to rescind the transaction shall be brought within three
years of the date of execution of the purchase or lease agreement by the
purchaser or lessee. In any rescission action, the prevailing party is
entitled to reasonable attorney fees as determined by the court.

J. On a print advertisement in a magazine or newspaper or on an
internet advertisement that advertises a specific lot or parcel of a
subdivider, the subdivider shall include a disclosure stating that "a public
report is available on the state real estate department's website".

K. Any applicant objecting to the denial of a public report, within
thirty days after receipt of the order of denial, may file a written request
for a hearing. The commissioner shall hold the hearing within twenty days
after receipt of the request for a hearing unless the party requesting the
hearing has requested a postponement. If the hearing is not held within
twenty days after a request for a hearing is received, plus the period of any postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

L. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that the subdivider or the subdivider's agent is violating this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, the commissioner may investigate the subdivision project and examine the books and records of the subdivider. For the purpose of examination, the subdivider shall keep and maintain records of all sales transactions and funds received by the subdivider pursuant to the sales transactions and shall make them accessible to the commissioner upon reasonable notice and demand.

M. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that any person has violated this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report or special order of exemption, or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the public report as provided in subsection A of this section, the commissioner may conduct an investigation of the matter, issue a summary order as provided in section 32-2157, or provide notice and hold a public hearing and, after the hearing, may issue the order or orders the commissioner deems necessary to protect the public interest and ensure compliance with the law, rules or public report or the commissioner may bring action in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging in or doing any act or acts in furtherance of the violation. The court may make orders or judgments, including the appointment of a receiver, necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, that may have been acquired by means of any practice in this article declared to be unlawful.

N. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that the person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of the person or for a writ of ne exeat, or both.

O. The court, on receipt of an application for the appointment of a receiver or for a writ of ne exeat, or both, shall examine the verified application of the commissioner and other evidence that the commissioner may
present the court. If satisfied that the interests of the public require the
appointment of a receiver or the issuance of a writ of ne exeat without
notice, the court shall issue an order appointing the receiver or issue the
writ, or both. If the court determines that the interests of the public will
not be harmed by the giving of notice, the court shall set a time for a
hearing and require notice be given as the court deems satisfactory.

P. If the court appoints a receiver without notice, the court shall
further direct that a copy of the order appointing a receiver be served on
the person engaged in or engaging in a practice declared to be unlawful under
this article by delivering the order to the last address of the person that
is on file with the state real estate department. The order shall inform the
person that the person has the right to request a hearing within ten days of
the date of the order and, if requested, the hearing shall be held within
thirty days from the date of the order.

Sec. 4. Section 32-2197.08, Arizona Revised Statutes, is amended to
read:

32-2197.08. Issuance of public report and amended public report
by commissioner on timeshare plan; denial of
issuance; additional information; use of another
state's public report

A. On examination of a timeshare plan, the commissioner, unless there
are grounds for denial, shall approve for use by the developer a public
report authorizing the sale or lease of the timeshare interests within the
timeshare plan. For all timeshare interests sold in this state, the
commissioner shall require the developer to reproduce the public report and
furnish each prospective customer with a copy, taking a receipt for each
copy. The public report shall be made available to each prospective
purchaser in written format and may also be made available in CD-ROM or other
electronic format as approved by the commissioner. The public report shall
include the following:

1. The name and principal address of the owner and developer.
2. A description of the type of timeshare interests being offered.
3. A description of the existing and proposed accommodations and
amenities of the timeshare plan, including type and number, any use
restrictions and any required fees for use.
4. A description of any accommodations and amenities that are
committed to be built, including:
   (a) The developer's schedule of commencement and completion of all
   accommodations and amenities.
   (b) The estimated number of accommodations per site that may become
   subject to the timeshare plan.
5. A brief description of the duration, phases and operation of the
timeshare plan.
6. The current annual budget if available or the projected annual
budget for the timeshare plan. The budget shall include:
(a) A statement of the amount or a statement that there is no amount
included in the budget as a reserve for repairs and replacement.
(b) The projected common expense liability, if any, by category of
expenditures for the timeshare plan.
(c) A statement of any services or expenses that are not reflected in
the budget and that the developer provides or pays.
7. A description of any liens, defects or encumbrances on or affecting
the title to the timeshare interests.
8. A statement that by midnight of the seventh calendar day after
execution of the purchase agreement a purchaser may cancel any purchase
agreement for a timeshare interest from a developer together with a statement
providing the name and street address where the purchaser should mail any
notice of cancellation. However, if, by agreement of the parties through the
purchase agreement, the purchase agreement allows for cancellation of the
purchase agreement for a period of time exceeding seven calendar days, the
public report shall include a statement that the cancellation of the purchase
agreement is allowed for that period of time exceeding seven calendar days.
9. A description of any bankruptcies, pending suits, adjudications or
disciplinary actions material to the timeshare interests of which the
developer has knowledge.
10. Any restrictions on alienation of any number or portion of any
timeshare interests.
11. Any current or expected fees or charges to be paid by timeshare
purchasers for the use of any amenities related to the timeshare plan.
12. The extent to which financial arrangements have been provided for
completion of all promised improvements.
13. If the timeshare plan provides purchasers with the opportunity to
participate in any exchange programs, a description of the name and address
of the exchange companies and the method by which a purchaser accesses the
exchange programs.
14. Any other information that the developer, with the approval of the
commissioner, desires to include in the public report.
15. If the developer is offering a multisite timeshare plan, the
following information, which may be disclosed in a written, graphic or
tabular form:
   (a) A description of each component site, including the name and
       address of each component site.
   (b) The number of accommodations and timeshare periods, expressed in
       periods of use availability, committed to the multisite timeshare plan and
       available for use by purchasers.
   (c) Each type of accommodation in terms of the number of bedrooms,
bathrooms and sleeping capacity and a statement of whether or not the
accommodation contains a full kitchen. For the purposes of this subdivision,
"full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
sink and refrigerator.
(d) A description of amenities available for use by the purchaser at each component site.

(e) A description of the reservation system, including the following:

(i) The entity responsible for operating the reservation system.

(ii) A summary of the rules governing access to and use of the reservation system.

(iii) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first reserved, first served basis.

(f) A description of any right to make any additions, substitutions or deletions of accommodations or amenities and a description of the basis on which accommodations and amenities may be added to, substituted in or deleted from the multisite timeshare plan.

(g) A description of the purchaser's liability for any fees associated with the multisite timeshare plan.

(h) The location and the anticipated relative use demand of each component site in a multisite timeshare plan as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multisite timeshare plan.

(i) Any other information reasonably required by the commissioner or established by rule necessary for the protection of purchasers of timeshare interests in timeshare plans.

(j) Any other information that the developer, with the approval of the commissioner, desires to include in the public report.

16. If a developer offers a nonspecific timeshare interest in a multisite timeshare plan, the information set forth in paragraphs 1 through 14 of this subsection as to each component site.

17. Any other information that the commissioner determines or establishes by rule is necessary to implement the purpose of this article.

B. Except as otherwise provided in this subsection, the requirements prescribed by subsection A of this section apply to a developer's application for approval to use an amended public report for the sale of timeshare interests in a timeshare plan, including an amended public report to disclose and address a material change under section 32-2197.04. A developer may elect to prepare an amended public report for use in the sale of timeshare interests as follows:

1. The developer shall prepare the amended public report and provide a copy of the report to the commissioner with the submission of the application for an amended public report, including any notification required by section 32-2197.04, and shall comply with all other requirements of this article.

2. An amendment filing fee established pursuant to section 32-2197.07 shall accompany the application prescribed by paragraph 1 of this subsection.
3. On receipt of the application and amended public report, the department shall review and, within fifteen business days if the amendment adds less than six new component sites to the timeshare plan or within thirty calendar days if the amendment adds six or more new component sites to the timeshare plan, issue either a certification that the application and amended public report are administratively complete or a denial letter if it appears that the application, amended public report or timeshare plan is not in compliance with all legal requirements, that the applicant has a background of violations of state or federal law or that the applicant or timeshare plan presents an unnecessary risk of harm to the public. If the commissioner has received the application and amended public report but has not issued a certification or a denial letter within the required time period, the application and amended public report are deemed administratively complete.

4. The developer may commence sales or leasing activities as permitted under this article using an amended public report when the commissioner issues a certification of administrative completeness or as of the date the application and amended public report are deemed administratively complete pursuant to paragraph 3 of this subsection. The certification may be issued on paper or electronically.

5. Before or after the commissioner issues a certification of administrative completeness or, if applicable, after the application and amended public report are deemed to be administratively complete pursuant to paragraph 3 of this subsection, the department may examine any public report, timeshare plan or applicant that has applied for or received the certification. If the commissioner determines that the public report, timeshare plan or applicant is not in compliance with any requirement of state law or that grounds exist under this chapter to suspend, deny or revoke a public report, the commissioner may commence an administrative action under section 32-2154, 32-2157 or 32-2197.14. If the developer immediately corrects the deficiency and fully complies with state law, the commissioner shall promptly vacate any action that the commissioner may have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

6. The department shall provide forms and guidelines for the submission of the application and amended public report pursuant to this subsection.

C. In the event of denial, suspension or revocation, grounds shall be set forth in writing at the time of denial, suspension or revocation. The commissioner may deny, suspend or revoke the public report on any of the following grounds:

1. Failure to comply with this article or the rules of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for completion of
the timeshare property, installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.

4. The developer, including if an entity, an officer, director, member, manager, partner, owner, trust beneficiary holding ten percent or more beneficial interest, stockholder owning ten percent or more of the stock or other person exercising control of the entity, has:
   (a) Been convicted of a felony or misdemeanor involving theft, fraud or dishonesty or involving the conduct of any business or a transaction in real estate, cemetery property, timeshare interests or membership camping campgrounds or contracts.
   (b) Been permanently or temporarily enjoined by order, judgment or decree from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate, cemetery property, timeshare interests, membership camping campgrounds or contracts, or securities or involving consumer fraud or the Arizona racketeering laws of this state.
   (c) Had an administrative order entered against him by a real estate regulatory agency.
   (d) Had an adverse decision or judgment entered against him involving fraud or dishonesty or involving the conduct of any business in or a transaction in real estate, cemetery property, timeshare interests or membership camping campgrounds or contracts.
   (e) Disregarded or violated this chapter or the rules of the commissioner pertaining to this chapter.
   (f) Participated in, operated or held an interest in any entity to which subdivision (b), (c), (d), or (e) of this paragraph applies.

5. If within this state, the timeshare property is incompatible with the existing neighborhood and would introduce into a neighborhood a character of property or use that would clearly be detrimental to property values in that neighborhood.

D. If the timeshare property is within an active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report unless the developer has been issued a certificate of assured water supply by the director of water resources and has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the developer has obtained a written commitment of water service for the timeshare property from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576.

E. In areas outside of active management areas, if the timeshare property is located in a county that has adopted the provision authorized by SUBJECT TO section 11-823, subsection A or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O-J, the commissioner shall deny issuance of a public report unless one of the following applies:

1. The director of water resources has reported pursuant to section 45-108 that the timeshare property has an adequate water supply.
2. The developer has obtained a written commitment of water service for the timeshare property from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

3. The timeshare property was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section 11-823, subsection B, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

4. The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108.

F. In addition to providing to each prospective customer a copy of the public report as required in subsection A of this section, the developer shall also provide to each customer before the close of any transaction information and materials that identify any timeshare exchange companies currently under contract and disclosure statements regarding the use of the timeshare exchange companies, as well as any additional information the commissioner deems appropriate.

G. The commissioner may authorize for use in this state by a developer of a timeshare plan in which all accommodations are located outside of this state a current public report that is issued by another jurisdiction or an equivalent registration and disclosure document that is required before offering a timeshare plan for sale, lease or use and that is issued by another jurisdiction. This authorization does not constitute an exemption from other applicable requirements of this article.

Sec. 5. Section 45-108, Arizona Revised Statutes, is amended to read:

45-108. Evaluation of subdivision water supply; definition

A. In areas outside of active management areas established pursuant to chapter 2, article 2 of this title, the developer of a proposed subdivision including dry lot subdivisions, regardless of subdivided lot size, prior to BEFORE recordation of the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy of the water supply to meet the needs projected by the developer to the director. The director shall evaluate the plans and issue a report on the plans.

B. The director shall evaluate the proposed source of water for the subdivision to determine whether there is an adequate water supply for the subdivision, and shall forward a copy of the director's report to the state real estate commissioner and the city, town or county responsible for platting the subdivision.
C. The director may designate cities, towns and private water companies as having an adequate water supply by reporting that designation to the water department of the city or town or private water company and the state real estate commissioner.

D. As an alternative to designation under subsection C of this section, the director may designate a city or town that has entered into a contract with the United States secretary of the interior or a county water authority established pursuant to chapter 13 of this title for permanent supplies of Colorado river water for municipal and industrial use as having an adequate water supply if all of the following apply:

1. The city or town has entered into a contract with each private water company that serves water within the city or town to provide Colorado river water to those private water companies.

2. The Colorado river water for which the city or town has contracted is sufficient together with other water supplies available to the city or town and the private water companies that serve water within that city or town to provide an adequate supply of water for the city or town.

3. The director finds that new subdivisions within the city or town will be served primarily with Colorado river water by the city or town or one of the private water companies that serve water within that city or town.

E. The director shall not require a developer to submit plans for the water supply pursuant to subsection A of this section if either:

1. Both of the following apply:
   a. The developer has obtained a written commitment of water service from cities, towns or private water companies that have been designated as having an adequate water supply.
   b. That city, town or private water company has been designated as having an adequate water supply pursuant to subsection C of this section.

2. All of the following apply:
   a. The city or town has been designated as having an adequate water supply pursuant to subsection D of this section.
   b. The developer has obtained a written commitment of water service from the city or town or a private water company that serves water within that city or town.
   c. The developer has obtained the written concurrence of the city or town that has been designated.

F. The director may revoke a designation made pursuant to this section when the director finds that the water supply may become inadequate.

G. The state of Arizona and the director or department shall not be liable for any report, designation or evaluation prepared in good faith pursuant to this section.

H. If the director receives written notice from the board of supervisors of a county that it has adopted the provision authorized by section 11-823, subsection A, the director shall give written notice of the provision to the mayors of all cities and towns in the county. A city or town...
town that receives the notice shall comply with section 9-463.01, subsections J, K, L, M and N.

For the purposes of this section, "adequate water supply" means both of the following:

1. Sufficient groundwater, surface water or effluent of adequate quality will be continuously, legally and physically available to satisfy the water needs of the proposed use for at least one hundred years.

2. The financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The director may accept evidence of the construction assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this requirement.

Sec. 6. Section 45-108.01, Arizona Revised Statutes, is amended to read:

45-108.01. Application for water report or designation of adequate water supply; notice; objections; hearing; appeals

A. On receipt of an application for a water report or an application by a city, town or private water company to be designated as having an adequate water supply under section 45-108, if the proposed use is in a county that has adopted the provision authorized by FINAL PLAT APPROVAL FOR A SUBDIVISION IS SUBJECT TO section 11-823, subsection A or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection Q-J, the director shall publish notice of the application once each week for two consecutive weeks in a newspaper of general circulation in the groundwater basin in which the applicant proposes to use water. The first publication shall occur within fifteen days after the application is determined or deemed to be administratively complete. If the application is substantially modified after notice of the application is given pursuant to this subsection, the director shall give notice of the application as modified in the manner prescribed by this subsection. The first publication of any subsequent notice shall occur within fifteen days after the modified application is determined or deemed to be administratively complete.

B. Notice pursuant to subsection A of this section shall state that written objections to the application may be filed with the director by residents and landowners within the groundwater basin within fifteen days after the last publication of notice. An objection shall state the name and mailing address of the objector and be signed by the objector, the objector's agent or the objector's attorney. The grounds for objection are limited to whether the application meets the criteria for determining an adequate water supply set forth AS DEFINED in section 45-108, subsection I. The objection shall clearly set forth reasons why the application does not meet the criteria.
C. In appropriate cases, including cases in which a proper written objection to the application has been filed, an administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary. Thirty days before the date of the hearing, the director shall give notice of the hearing to the applicant and to any person who filed a proper written objection to the application. The hearing shall be scheduled for at least sixty days but not more than ninety days after the expiration of the time in which to file objections.

D. If the application is for a water report:
   1. If the director determines that an adequate water supply exists for the proposed use, the director shall issue a water report stating that the water supply for the subdivision is adequate.
   2. If the director determines that an adequate water supply does not exist, the director shall issue a water report stating that the water supply for the subdivision is inadequate.

E. If the application is for a designation of adequate water supply:
   1. If the director determines that an adequate water supply exists for the proposed use, the director shall approve the application.
   2. If the director determines that an adequate water supply does not exist, the director shall deny the application.

F. The applicant or a person who contested the application by filing a proper objection pursuant to subsection B of this section may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in the superior court.

G. Section 45-114, subsections A and B govern administrative proceedings, rehearings or reviews and judicial reviews of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the groundwater basin in which the use is located.

Sec. 7. Section 45-108.02, Arizona Revised Statutes, is amended to read:

45-108.02. Exemption from adequate water supply requirements for city, town or county based on substantial capital investment; application; criteria; expiration

A. If the director determines pursuant to section 45-108 that an adequate water supply does not exist for a proposed subdivision and the proposed subdivision is located in a city, town or county that requires a determination of adequate water supply by the director as a condition of approval of the plat pursuant to section 9-463.01, subsection J or section 11-823, subsection A, the subdivider may apply to the director for an exemption from the water adequacy requirement pursuant to this section on a form prescribed by the director within one year after the requirement first becomes effective. The director shall grant the exemption if the subdivider demonstrates to the satisfaction of the director that all of the following apply:
1. The subdivider has made substantial capital investment toward the construction of the proposed subdivision before the date the water adequacy requirement first became effective. For the purposes of this paragraph, substantial capital investment may include construction costs, site preparation costs, construction of off-site improvements and conversion or remodeling costs for existing structures, as well as planning and design costs associated with those items, but does not include the original cost of acquiring the property.

2. The subdivider was not aware of the proposed water adequacy requirement at the time the investment was made.

3. The proposed subdivision complied in all other respects with existing state laws as of the date the water adequacy requirement became effective.

B. If the director grants an exemption pursuant to subsection A of this section:

1. The exemption expires five years after the date the exemption is granted, unless before that date at least one parcel in the subdivision is sold to a bona fide purchaser or the director extends the exemption pursuant to paragraph 2 of this subsection.

2. The director may extend the period of the exemption for no more than two successive five-year periods if the subdivider applies for an extension before the exemption expires and demonstrates to the satisfaction of the director that the subdivider has made material progress in developing the subdivision, but that sales of parcels in the subdivision have been delayed for reasons outside the control of the subdivider.

C. If an exemption granted under this section expires, any public report issued for the subdivision by the state real estate commissioner pursuant to section 32-2183 expires and the subdivider shall not sell any lots in the subdivision unless both of the following apply:

1. The subdivider files with the state real estate commissioner a new notice of intention to subdivide lands pursuant to section 32-2181 and complies with section 32-2181, subsection F.

2. The state real estate commissioner issues a new public report for the subdivision pursuant to section 32-2183.

D. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.

Sec. 8. Section 45-108.03, Arizona Revised Statutes, is amended to read:

45-108.03. Exemption from adequate water supply requirements for city, town or county based on an adequate water supply within twenty years; criteria; application

A. If a proposed subdivision is located in a city, town or county that requires an adequate water supply determination by the director as a
condition of approval of the plat pursuant to section 9-463.01, subsection J or O or section 11-823, subsection A, the subdivider may apply to the director for an exemption from the requirement pursuant to this section on a form prescribed by the director. The director shall grant the exemption if the subdivider demonstrates to the satisfaction of the director that the subdivision will be served by a water supply project to which both of the following apply:

1. The subdivider has demonstrated financial capability pursuant to section 45-108, subsection H, but the water supply project will not be capable of serving the subdivision with sufficient water to meet its demands in a timely manner because of one of the following:
   (a) The physical works for delivering water to the subdivision are not complete but are under construction and will be completed within twenty years.
   (b) The subdivision will be served Colorado river water by a water provider that does not currently have the legal right to serve the water to the subdivision, but the water provider has an existing permanent contract for the Colorado river water and will have the legal right to serve the water to the subdivision within twenty years.

2. The subdivision will have an adequate water supply when the construction of the physical works is completed or the water supply is legally available to serve the subdivision, whichever applies, and the interim water supply that will serve the subdivision meets all of the criteria for an adequate water supply under section 45-108 except that the interim water supply will not be available for one hundred years.

B. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.

Sec. 9. Section 48-6414, Arizona Revised Statutes, is amended to read:

48-6414. Inapplicability of other adequate water supply provisions to proposed subdivisions in the district

Section 9-463.01, subsections J through O, section 11-823, section 32-2181, subsection F, section 32-2183, subsection H, section 32-2197.08, subsection E, section 45-108, subsection H, section 45-108.01, section 45-108.02 and section 45-108.03 do not apply to proposed subdivisions in the district.