



Forty-eighth Legislature - First Regular Session

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HOUSE OF REPRESENTATIVES

SB 1575

water adequacy amendments

Sponsors: Senator Arzberger, Senator Aguirre, Senator Landrum Taylor et al

X As Transmitted to Governor (Substituted for HB 2693 at Third Reading)

HB 1575 allows counties, cities and towns to require new subdivisions that are located outside an Active Management Area (AMA) to have an adequate water supply in order for the proposed development to be approved.

History

The Statewide Water Advisory Group (SWAG) was formed in 2006 to discuss statewide water resource issues, methods to provide reliable future water supplies issues and to develop recommendations regarding long-term water resource development for the state. SWAG began meeting in May 2006 and continued through the summer and fall. HB 2693 includes SWAG recommendations regarding adequate water supplies for new subdivisions that are located outside AMAs.

Under current law, real estate developers must follow certain requirements when subdividing land. When a developer applies for approval of a subdivision that is outside an AMA, the Arizona Department of Water Resources (ADWR) determines if the subdivision will have an adequate or inadequate water supply. An adequate water supply is one that will be available for current and committed uses for at least 100 years. The one hundred year supply must be physically, legally and continuously available.

If the supply is determined to be inadequate, lots may still be sold, however the information regarding the supply must be included in documents pertaining to the initial sale of the property.

Provisions

Authority to adopt adequate water supply requirements

- Authorizes a county board of supervisors to adopt a provision, by unanimous vote, that requires a new subdivision, located outside an AMA, to have an adequate water supply in order for the subdivision to be approved by the platting authority. (ARS 11-806.01, subsection F)
- Provides that if a county adopts an adequacy provision, cities and towns within the county may not approve a new subdivision, located outside an AMA, unless the subdivision has an adequate water supply. (ARS 9-463.01, subsection J)

- If a county does not adopt an adequacy provision, a city or town may adopt a local adequacy ordinance to require that a new subdivision, located outside an AMA, demonstrate that an adequate water supply exists before the final plat can be approved. A municipality that enacts a local adequacy ordinance must notify the Director of ADWR, the Department of Environmental Quality (DEQ), State Real Estate Commissioner and the Board of Supervisors of the county in which the city is located. (ARS 9-463.01, subsection O)
- States that a county shall not rescind the adequacy requirement. (ARS 11-806.01, subsection G, paragraph 3)
- Provides that a water provider in a city, town or county that has adopted an adequate water supply requirement may be eligible for financial assistance. (ARS 9-463.01, subsection O and ARS 11-806.01, subsection G)

Adequate Water Supply

- Defines *adequate water supply* as sufficient groundwater, surface water or effluent of adequate quality to satisfy the needs of the proposed use for at least 100 years. The supply must be continuously, legally and physically available. In addition, the financial capability to construct the water delivery, treatment and storage facilities must exist. (ARS 45-108, subsection I)

Exemptions from Adequacy Requirements

- Allows a city, town or county to provide an exemption for a subdivision if the water supply will be delivered by motor vehicle or train. The local governing body must determine there is no alternative water supply and the delivery will not cause significant risk to the residents of the subdivision. If the transported water will be taken from the service area of a municipal provider, the provider must consent to the withdrawal or diversion. (ARS 9-463.01 subsection K and ARS 11-806.01 subsection G)
- Requires written notice and certified copy of approval of the hauled water exemption to be provided to the Director of ADWR, DEQ and the State Real Estate Commissioner. Requires notice to the same parties if the exemption is rescinded. If the exemption is rescinded it can not be readopted for at least five years after the rescission becomes effective. (ARS 9-463.01 subsection L and ARS 11-806.01 subsection G)
- Provides an exemption for subdividers who have made a substantial capital investment toward construction of the project or received a final plat approval before the adequacy provision was adopted by the city, town or county. Requires ADWR to determine whether a development qualifies for this exemption. (ARS 45-108.02, ARS 9-463.01, subsection P and ARS 11-806.01, subsection H)
- Provides an exemption from the adequacy requirement if the subdivision will be served by a water supply project that is under construction. The project must be completed within 20 years, the subdivision must have an adequate water supply when the project is completed and an interim water supply must provide enough water until the project is completed. Requires ADWR to determine whether a development qualifies for this exemption. (ARS 45-108.03)

Real Estate Provisions

- Requires the Real Estate Commissioner to deny issuance of a public report for a subdivision or timeshare that is located in a city, town or county that has adopted a local adequacy requirement if the subdivision or timeshare does not have: 1) an adequate water supply, 2) an exemption from the adequacy requirements or 3) final plat approval before the adequacy requirement has become effective. (ARS 32-2183 and ARS 32-2197.08)
- Requires specific information regarding adequacy of water supplies and any exemptions to be included in promotional material and contracts for the sale of the lot. This information must also be recorded on the face of the subdivision's plat.
- Requires information regarding any exemption from an adequate water supply requirement based on hauled water to be recorded with the plat. (ARS 33-406)

Department of Water Resources (DWR)

- Requires the Director of ADWR to send a copy of an adequacy determination for a subdivision that is located outside an AMA to the city, town or county responsible for platting the subdivision. (ARS 45-108, subsection B) The Director is currently required to provide this information to the Real Estate Commissioner.
- Requires the Director to notify cities and towns that are located in a county that has adopted an adequate water supply provision. States that the city or town must comply with the provisions. (ARS 45-108, subsection H)

- Outlines the process for ADWR to provide notice and an opportunity for residents and landowners to file a written objection to an application for a water report or a designation of an adequate water supply. (ARS 45-108.01, subsections A and B)
- Authorizes the Director to conduct an administrative hearing on an application before making a decision. If a hearing is held, a notice of the hearing must be provided to the applicant and to anyone who filed an objection. The hearing must be held in the groundwater basin in which the use is located. (45-108.01, subsection C and G)
- Allows an applicant or a person who filed an objection to seek judicial review of the Director's final decision in superior court.(45-108.01. subsection F)
- Requires the Director to consider existing and projected uses when determining whether an adequate water supply exists. (Session law)
- Requires the Director to adopt rules that incorporate the adequate water supply provisions included in HB 1575. (Session law)

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Forty-eighth Legislature
First Regular Session 2

May 24, 2007

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State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1575

AN ACT

AMENDING SECTIONS 9-463.01, 11-806.01, 32-2181, 32-2181.02, 32-2183 AND 32-2197.08, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-406; AMENDING SECTION 45-108, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-108.01, 45-108.02 AND 45-108.03; RELATING TO WATER SUPPLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-463.01. Authority

5 A. Pursuant to the ~~provisions of~~ this article, the legislative body of
6 every municipality shall regulate the subdivision of all lands within its
7 corporate limits.

8 B. The legislative body of a municipality shall exercise the authority
9 granted in subsection A of this section by ordinance prescribing:

10 1. Procedures to be followed in the preparation, submission, review
11 and approval or rejection of all final plats.

12 2. Standards governing the design of subdivision plats.

13 3. Minimum requirements and standards for the installation of
14 subdivision streets, sewer and water utilities and improvements as a
15 condition of final plat approval.

16 C. By ordinance, the legislative body of any municipality shall:

17 1. Require the preparation, submission and approval of a preliminary
18 plat as a condition precedent to submission of a final plat.

19 2. Establish the procedures to be followed in the preparation,
20 submission, review and approval of preliminary plats.

21 3. Make requirements as to the form and content of preliminary plats.

22 4. EITHER determine that certain lands may ~~either~~ not be subdivided,
23 by reason of adverse topography, periodic inundation, adverse soils,
24 subsidence of the earth's surface, high water table, lack of water or other
25 natural or man-made hazard to life or property, or control the lot size,
26 establish special grading and drainage requirements, and impose other
27 regulations deemed reasonable and necessary for the public health, safety or
28 general welfare on any lands to be subdivided affected by such
29 characteristics.

30 5. Require payment of a proper and reasonable fee by the subdivider
31 based upon the number of lots or parcels on the surface of the land to defray
32 municipal costs of plat review and site inspection.

33 6. Require the dedication of public streets, sewer and water utility
34 easements or rights-of-way, within the proposed subdivision.

35 7. Require the preparation and submission of acceptable engineering
36 plans and specifications for the installation of required street, sewer,
37 electric and water utilities, drainage, flood control, adequacy of water and
38 improvements as a condition precedent to recordation of an approved final
39 plat.

40 8. Require the posting of performance bonds, assurances or such other
41 security as may be appropriate and necessary to assure the installation of
42 required street, sewer, electric and water utilities, drainage, flood control
43 and improvements meeting established minimum standards of design and
44 construction.

1 D. The legislative body of any municipality may require by ordinance
2 that land areas within a subdivision be reserved for parks, recreational
3 facilities, school sites and fire stations subject to the following
4 conditions:

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

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

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

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

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

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

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

32 1. Final subdivision plats.

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

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

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

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

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

1 2. Rules as may be established by a county flood control district
2 relating to the construction or prevention of construction of streets in land
3 established as being subject to periodic inundation.

4 3. Rules as may be established by the department of health services or
5 a county health department relating to the provision of domestic water supply
6 and sanitary sewage disposal.

7 I. If the subdivision is comprised of subdivided lands, as defined in
8 section 32-2101, and is within ~~a groundwater~~ AN active management area, as
9 defined in section 45-402, the final plat shall not be approved unless it is
10 accompanied by a certificate of assured water supply issued by the director
11 of water resources, or unless the subdivider has obtained a written
12 commitment of water service for the subdivision from a city, town or private
13 water company designated as having an assured water supply by the director of
14 water resources pursuant to section 45-576 or is exempt from the requirement
15 pursuant to section 45-576. The legislative body of the municipality shall
16 note on the face of the final plat that a certificate of assured water supply
17 has been submitted with the plat or that the subdivider has obtained a
18 written commitment of water service for the proposed subdivision from a city,
19 town or private water company designated as having an assured water supply,
20 pursuant to section 45-576, or is exempt from the requirement pursuant to
21 section 45-576.

22 J. EXCEPT AS PROVIDED IN SUBSECTIONS K AND P OF THIS SECTION, IF THE
23 SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101
24 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE DIRECTOR OF WATER RESOURCES HAS
25 GIVEN WRITTEN NOTICE TO THE MUNICIPALITY PURSUANT TO SECTION 45-108,
26 SUBSECTION H, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS ONE OF THE
27 FOLLOWING APPLIES:

28 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
29 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
30 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

31 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
32 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
33 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
34 TO SECTION 45-108.

35 K. THE LEGISLATIVE BODY OF A MUNICIPALITY THAT HAS RECEIVED WRITTEN
36 NOTICE FROM THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108,
37 SUBSECTION H OR THAT HAS ADOPTED AN ORDINANCE PURSUANT TO SUBSECTION O OF
38 THIS SECTION MAY PROVIDE BY ORDINANCE AN EXEMPTION FROM THE REQUIREMENT IN
39 SUBSECTION J OR O OF THIS SECTION FOR A SUBDIVISION THAT THE DIRECTOR OF
40 WATER RESOURCES HAS DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE
41 THE WATER SUPPLY WILL BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR
42 TRAIN IF ALL OF THE FOLLOWING APPLY:

43 1. THE LEGISLATIVE BODY DETERMINES THAT THERE IS NO FEASIBLE
44 ALTERNATIVE WATER SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF

1 WATER TO THE SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH
2 AND SAFETY OF THE RESIDENTS OF THE SUBDIVISION.

3 2. IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE WITHDRAWN
4 OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED IN SECTION
5 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR DIVERSION.

6 3. IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION
7 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN
8 TITLE 45, CHAPTER 2, ARTICLE 8.

9 4. THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY ADDITIONAL
10 CONDITIONS IMPOSED BY THE LEGISLATIVE BODY.

11 L. A MUNICIPALITY THAT ADOPTS THE EXEMPTION AUTHORIZED BY SUBSECTION K
12 OF THIS SECTION SHALL GIVE WRITTEN NOTICE OF THE ADOPTION OF THE EXEMPTION,
13 INCLUDING A CERTIFIED COPY OF THE ORDINANCE CONTAINING THE EXEMPTION, TO THE
14 DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE
15 STATE REAL ESTATE COMMISSIONER. IF THE MUNICIPALITY LATER RESCINDS THE
16 EXEMPTION, THE MUNICIPALITY SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO
17 THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND
18 THE STATE REAL ESTATE COMMISSIONER. A MUNICIPALITY THAT RESCINDS AN
19 EXEMPTION ADOPTED PURSUANT TO SUBSECTION K OF THIS SECTION SHALL NOT READOPT
20 THE EXEMPTION FOR AT LEAST FIVE YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

21 M. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION
22 PLAT PURSUANT TO SUBSECTION J, PARAGRAPH 1 OR 2 OR SUBSECTION O OF THIS
23 SECTION, THE LEGISLATIVE BODY SHALL NOTE ON THE FACE OF THE PLAT THAT THE
24 DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION HAS AN ADEQUATE
25 WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT OF WATER
26 SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER
27 COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION
28 45-108.

29 N. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION
30 PLAT PURSUANT TO AN EXEMPTION AUTHORIZED BY SUBSECTION K OF THIS SECTION OR
31 GRANTED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR
32 45-108.03:

33 1. THE LEGISLATIVE BODY SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO
34 THE DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

35 2. THE LEGISLATIVE BODY SHALL INCLUDE ON THE FACE OF THE PLAT A
36 STATEMENT THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER
37 SUPPLY FOR THE SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE
38 EXEMPTION UNDER WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE
39 LEGISLATIVE BODY OR THE DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS
40 DETERMINED THAT THE SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE
41 LEGISLATIVE BODY SUBSEQUENTLY INFORMS THE LEGISLATIVE BODY THAT THE
42 SUBDIVISION IS BEING SERVED BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY
43 THE DIRECTOR AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108,
44 THE LEGISLATIVE BODY SHALL RECORD IN THE COUNTY RECORDER'S OFFICE A STATEMENT
45 DISCLOSING THAT FACT.

1 O. IF A MUNICIPALITY HAS NOT BEEN GIVEN WRITTEN NOTICE BY THE DIRECTOR
2 OF WATER RESOURCES PURSUANT TO SECTION 45-108, SUBSECTION H, THE LEGISLATIVE
3 BODY OF THE MUNICIPALITY, TO PROTECT THE PUBLIC HEALTH AND SAFETY, MAY
4 PROVIDE BY ORDINANCE THAT, EXCEPT AS PROVIDED IN SUBSECTIONS K AND P OF THIS
5 SECTION, THE FINAL PLAT OF A SUBDIVISION LOCATED IN THE MUNICIPALITY AND
6 OUTSIDE OF AN ACTIVE MANAGEMENT AREA WILL NOT BE APPROVED BY THE LEGISLATIVE
7 BODY UNLESS THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
8 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR THE
9 SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE
10 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING
11 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO
12 SECTION 45-108. BEFORE HOLDING A PUBLIC HEARING TO CONSIDER WHETHER TO ENACT
13 AN ORDINANCE PURSUANT TO THIS SUBSECTION, A MUNICIPALITY SHALL PROVIDE
14 WRITTEN NOTICE OF THE HEARING TO THE BOARD OF SUPERVISORS OF THE COUNTY IN
15 WHICH THE MUNICIPALITY IS LOCATED. A MUNICIPALITY THAT ENACTS AN ORDINANCE
16 PURSUANT TO THIS SUBSECTION SHALL GIVE WRITTEN NOTICE OF THE ENACTMENT OF THE
17 ORDINANCE, INCLUDING A CERTIFIED COPY OF THE ORDINANCE, TO THE DIRECTOR OF
18 WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY, THE STATE REAL ESTATE
19 COMMISSIONER AND THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE CITY IS
20 LOCATED. IF A MUNICIPALITY ENACTS AN ORDINANCE PURSUANT TO THIS SUBSECTION,
21 WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE MONIES IN A WATER SUPPLY
22 DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

23 P. SUBSECTIONS J AND O OF THIS SECTION DO NOT APPLY TO:

24 1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
25 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF
26 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION
27 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR IF THE DIRECTOR GRANTS AN
28 EXEMPTION PURSUANT TO SECTION 45-108.03.

29 2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE
30 MUNICIPALITY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME
31 EFFECTIVE IN THE MUNICIPALITY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED
32 SINCE IT RECEIVED THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT
33 AFTER THE PLAT RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER
34 RESOURCES SHALL DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE
35 RULES ADOPTED BY THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE
36 MUNICIPALITY APPROVES A PLAT PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF
37 WATER RESOURCES HAS DETERMINED THAT THERE IS AN INADEQUATE WATER SUPPLY FOR
38 THE SUBDIVISION PURSUANT TO SECTION 45-108, THE MUNICIPALITY SHALL NOTE THIS
39 ON THE FACE OF THE PLAT.

40 Q. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN
41 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE MUNICIPALITY HAS
42 NOT RECEIVED WRITTEN NOTICE PURSUANT TO SECTION 45-108, SUBSECTION H AND HAS
43 NOT ADOPTED AN ORDINANCE PURSUANT TO SUBSECTION O OF THIS SECTION:

44 1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
45 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF

1 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE
2 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING
3 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO
4 SECTION 45-108, THE MUNICIPALITY SHALL NOTE THIS ON THE FACE OF THE PLAT IF
5 THE PLAT IS APPROVED.

6 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
7 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE
8 MUNICIPALITY SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

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

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

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

23 ~~M.~~ U. For any subdivision that consists of ten or fewer lots, tracts
24 or parcels, each of which is of a size as prescribed by the legislative body,
25 the legislative body of each municipality may waive the requirement to
26 prepare, submit and receive approval of a preliminary plat as a condition
27 precedent to submitting a final plat and may waive or reduce infrastructure
28 standards or requirements except for improved dust-controlled access and
29 minimum drainage improvements.

30 Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to
31 read:

32 11-806.01. Subdivision regulation; platting regulations;
33 violation; classification; easement vesting

34 A. The county board of supervisors shall regulate the subdivision of
35 all lands within its corporate limits, except subdivisions which are
36 regulated by municipalities.

37 B. No plat of a subdivision of land within the area of jurisdiction of
38 such county shall be accepted for recording or recorded until it has been
39 approved by the board. The approval of the board shall be endorsed in
40 writing on the plat and shall also include specific identification and
41 approval of the assurances except those for hiking and equestrian trails
42 required by this section. If a county planning and zoning commission exists,
43 the plat may be referred to such commission for its consideration and the
44 board may receive the recommendation of the commission. If the subdivision
45 is comprised of subdivided land, as defined in section 32-2101, and is within

1 ~~a groundwater~~ AN active management area, as defined in section 45-402, the
2 plat shall not be approved unless it is accompanied by a certificate of
3 assured water supply issued by the director of water resources, or unless the
4 subdivider has obtained a written commitment of water service for the
5 subdivision from a city, town or private water company designated as having
6 an assured water supply by the director of water resources pursuant to
7 section 45-576 or is exempt from such requirement pursuant to section 45-576.
8 The board shall note on the face of the plat that a certificate of assured
9 water supply has been submitted with the plat or that the subdivider has
10 obtained a commitment of water service for the proposed subdivision ~~for~~ FROM
11 a city, town or private water company designated as having an assured water
12 supply, pursuant to section 45-576.

13 C. Any person causing a final plat to be recorded without first
14 submitting the plat and obtaining approval of the board is guilty of a class
15 2 misdemeanor. No county recorder shall accept for recording or record any
16 plat which has not been approved as provided by this article.

17 D. The ground of refusal or approval of any plat submitted, including
18 citation of or reference to the rule or regulation violated by the plat,
19 shall be stated upon the record of the board.

20 E. The commission shall recommend to the board and the board shall
21 adopt general regulations of uniform application governing plats and
22 subdivisions of land within its area of jurisdiction. The regulations
23 adopted shall secure and provide for the proper arrangement of streets or
24 other highways in relation to existing or planned streets, highways or
25 bicycle facilities or to the official map for adequate and convenient open
26 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
27 recreation, light and air. The board may adopt general regulations to
28 provide for the proper arrangement of hiking and equestrian trails in
29 relation to existing or planned streets or highways, and if adopted, such
30 hiking and equestrian trails shall conform to the official map for adequate
31 and convenient open spaces for traffic, utilities, drainage, access of fire
32 fighting apparatus, recreation, light and air. The general regulations may
33 provide for modification by the commission in planned area development or
34 specific cases where unusual topographical or other exceptional conditions
35 may require such action. The regulations shall include provisions as to the
36 extent to which streets and other highways shall be graded and improved and
37 to which water, sewer or other utility mains, piping or other facilities
38 shall be installed or provided for on the plat as a condition precedent to
39 the approval of the final plat.

40 F. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS
41 ADOPTED BY THE BOARD PURSUANT TO SUBSECTION E OF THIS SECTION, IF APPROVED BY
42 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT, EXCEPT AS
43 PROVIDED IN SUBSECTION G, PARAGRAPH 1 AND SUBSECTION H OF THIS SECTION, THE
44 BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED

1 LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT
2 AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:
3 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
4 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
5 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.
6 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
7 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
8 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
9 TO SECTION 45-108.
10 G. IF THE BOARD UNANIMOUSLY ADOPTS THE PROVISION AUTHORIZED BY
11 SUBSECTION F OF THIS SECTION:
12 1. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
13 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
14 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL
15 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE
16 FOLLOWING APPLY:
17 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER
18 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE
19 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY
20 OF THE RESIDENTS OF THE SUBDIVISION.
21 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE
22 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED
23 IN SECTION 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR
24 DIVERSION.
25 (c) IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION
26 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN
27 TITLE 45, CHAPTER 2, ARTICLE 8.
28 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY
29 ADDITIONAL CONDITIONS IMPOSED BY THE COUNTY.
30 2. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE
31 PROVISION TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL
32 QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE SHALL INCLUDE A
33 CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS ADOPTED PURSUANT TO
34 PARAGRAPH 1 OF THIS SUBSECTION. WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE
35 MONIES IN A WATER SUPPLY DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.
36 3. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER
37 THAT IS INCONSISTENT WITH SUBSECTION F OF THIS SECTION. IF THE BOARD AMENDS
38 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR
39 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL
40 ESTATE COMMISSIONER. THE BOARD MAY RESCIND AN EXEMPTION ADOPTED PURSUANT TO
41 PARAGRAPH 1 OF THIS SUBSECTION. IF THE BOARD RESCINDS THE EXEMPTION, IT
42 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER
43 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE
44 COMMISSIONER, AND THE BOARD SHALL NOT READOPT THE EXEMPTION FOR AT LEAST FIVE
45 YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

1 4. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION F,
2 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE
3 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION
4 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
5 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
6 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO
7 SECTION 45-108.

8 5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION
9 AUTHORIZED BY PARAGRAPH 1 OF THIS SUBSECTION OR GRANTED BY THE DIRECTOR OF
10 WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR 45-108.03:

11 (a) THE BOARD SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE
12 DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

13 (b) THE BOARD SHALL INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT
14 THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE
15 SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER
16 WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE BOARD OR THE
17 DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS DETERMINED THAT THE
18 SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR OF WATER
19 RESOURCES SUBSEQUENTLY INFORMS THE BOARD THAT THE SUBDIVISION IS BEING SERVED
20 BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN
21 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE BOARD SHALL RECORD IN
22 THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

23 H. SUBSECTION F OF THIS SECTION DOES NOT APPLY TO:

24 1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
25 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF
26 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION
27 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN
28 EXEMPTION PURSUANT TO SECTION 45-108.03.

29 2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE
30 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE
31 IN THE COUNTY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED
32 THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT
33 RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL
34 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY
35 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE COUNTY APPROVES A PLAT
36 PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
37 THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO
38 SECTION 45-108, THE COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

39 I. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN
40 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE BOARD AND HAS
41 NOT ADOPTED A PROVISION PURSUANT TO SUBSECTION F OF THIS SECTION:

42 1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
43 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF
44 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE
45 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING

1 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO
2 SECTION 45-108, THE BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT
3 IS APPROVED.

4 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
5 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE
6 BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

7 ~~F.~~ J. On recording of a plat, the fee of the streets, alleys,
8 avenues, highways, easements, parks and other parcels of ground reserved to
9 the use of the public vests in trust in the county for the uses and to the
10 extent depicted on the plat including, but not limited to, ingress and egress
11 easements depicted on such plat. On annexation by any city or town such fee
12 automatically vests in the city or town.

13 ~~G.~~ K. Boards of supervisors of counties shall prepare specifications
14 and make orders, inspections, examinations and certificates as may be
15 necessary to protect and complete the provisions and make them effective.
16 The regulations shall require the posting of performance bonds, assurances or
17 such other security as may be appropriate and necessary to assure the
18 installation of required street, sewer, electric and water utilities,
19 drainage, flood control and improvements meeting established minimum
20 standards of design and construction.

21 ~~H.~~ L. Before adoption of regulations by the board or any amendment as
22 provided in this article, a public hearing shall be held by the commission.
23 A copy of the regulations shall be certified by the commission to the county
24 board of supervisors, which shall hold a public hearing after notice of the
25 time and place has been given by one publication fifteen days prior to the
26 public hearing in a newspaper of general circulation in the county.

27 ~~I.~~ M. Approval of a plat shall not be deemed to constitute or effect
28 an acceptance by the county for designation of any street, highway, bicycle
29 facility or other way or open space shown upon the plat into the county
30 maintenance system except for hiking and equestrian trails which shall be
31 constructed and maintained by the county. However, at such time as the
32 streets, highways, bicycle facilities or other ways are fully completed in
33 accordance with the approved plat and written specifications made by the
34 county board, the county shall accept such streets, highways, bicycle
35 facilities and other ways into the county maintenance system within one year
36 of completion.

37 ~~J.~~ N. For any subdivision that consists of lots, tracts or parcels,
38 each of which is of a size as prescribed by the board of supervisors, the
39 board may waive the requirement to prepare, submit and receive approval of a
40 preliminary plat as a condition precedent to submitting a final plat and may
41 waive or reduce infrastructure standards or requirements except for improved
42 dust-controlled access and minimum drainage improvements.

1 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to read:
2 32-2181. Notice to commissioner of intention to subdivide
3 lands; unlawful acting in concert; exceptions; deed
4 restrictions; definition

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

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

16 2. The name and address of the subdivider.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (a) Any subdivision in this state.

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

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

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

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

16 (b) The subdivider.

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

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

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

32 (a) That the property is a conversion from multifamily rental to
33 condominiums.

34 (b) The date original construction was completed.

35 25. Other information and documents and certifications as the
36 commissioner may reasonably require.

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

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

15 D. It is unlawful for a person or group of persons acting in concert
16 to attempt to avoid this article by acting in concert to divide a parcel of
17 land or sell subdivision lots by using a series of owners or conveyances or
18 by any other method that ultimately results in the division of the lands into
19 a subdivision or the sale of subdivided land. The plan or offering is
20 subject to this article. Unlawful acting in concert pursuant to this
21 subsection with respect to the sale or lease of subdivision lots requires
22 proof that the real estate licensee or other licensed professional knew or
23 with the exercise of reasonable diligence should have known that property
24 which the licensee listed or for which the licensee acted in any capacity as
25 agent was subdivided land subject to this article.

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

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

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

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

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

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

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

9 F. In areas outside of ~~groundwater~~ active management areas established
10 pursuant to title 45, chapter 2, article 2,--:

11 1. IF THE SUBDIVISION IS LOCATED IN A COUNTY THAT HAS ADOPTED THE
12 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN
13 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE
14 SUBDIVIDER SHALL ACCOMPANY THE NOTICE WITH A REPORT ISSUED BY THE DIRECTOR OF
15 WATER RESOURCES PURSUANT TO SECTION 45-108 STATING THAT THE SUBDIVISION HAS
16 AN ADEQUATE WATER SUPPLY, UNLESS ONE OF THE FOLLOWING APPLIES:

17 (a) THE SUBDIVIDER SUBMITTED THE REPORT TO A CITY, TOWN OR COUNTY
18 BEFORE APPROVAL OF THE PLAT BY THE CITY, TOWN OR COUNTY AND THIS HAS BEEN
19 NOTED ON THE FACE OF THE PLAT.

20 (b) THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
21 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
22 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
23 TO SECTION 45-108.

24 (c) THE PLAT WAS APPROVED PURSUANT TO AN EXEMPTION AUTHORIZED BY
25 SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION AUTHORIZED BY
26 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN EXEMPTION
27 GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02 AND THE
28 EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR
29 UNDER SECTION 45-108.03. IF THE PLAT WAS APPROVED PURSUANT TO AN AUTHORIZED
30 EXEMPTION, THE STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL
31 PROMOTIONAL MATERIAL AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION
32 ADEQUATELY DISPLAY THE FOLLOWING:

33 (i) THE DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF
34 SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER
35 SUPPLY FOR THE SUBDIVISION.

36 (ii) A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE SUBDIVISION
37 WAS APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE EXEMPTION THAT WERE
38 MET. IF THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
39 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR BY
40 THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION AUTHORIZED BY
41 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, THE SUBDIVIDER SHALL RECORD THE
42 DOCUMENT REQUIRED BY SECTION 33-406.

43 (d) THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN
44 OR COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME
45 EFFECTIVE IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL

1 CHANGES TO THE PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO
2 THE PLAT AFTER THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL
3 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY
4 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THIS SUBDIVISION APPLIES, THE
5 STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIALS
6 AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE
7 DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF SUMMARY OF THE
8 REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER SUPPLY FOR THE
9 SUBDIVISION.

10 2. IF THE SUBDIVISION IS NOT LOCATED IN A COUNTY THAT HAS ADOPTED THE
11 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN
12 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, AND
13 IF THE DIRECTOR OF WATER RESOURCES, PURSUANT TO SECTION 45-108, REPORTS AN
14 INADEQUATE ON-SITE SUPPLY OF WATER TO MEET THE NEEDS PROJECTED BY THE
15 DEVELOPER OR IF NO WATER IS AVAILABLE, THE STATE REAL ESTATE COMMISSIONER
16 SHALL REQUIRE THAT ALL PROMOTIONAL MATERIAL AND CONTRACTS FOR THE SALE OF
17 LOTS IN SUBDIVISIONS APPROVED BY THE COMMISSIONER ADEQUATELY DISPLAY THE
18 DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF SUMMARY OF THE
19 REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER SUPPLY FOR THE
20 SUBDIVISION.

21 G. THE COMMISSIONER MAY REQUIRE THE SUBDIVIDER TO SUPPLEMENT THE
22 NOTICE OF INTENTION TO SUBDIVIDE LANDS AND MAY REQUIRE THE FILING OF PERIODIC
23 REPORTS TO UPDATE THE INFORMATION CONTAINED IN THE ORIGINAL NOTICE OF
24 INTENTION TO SUBDIVIDE LANDS.

25 H. THE COMMISSIONER MAY AUTHORIZE THE SUBDIVIDER TO FILE AS THE NOTICE
26 OF INTENTION TO SUBDIVIDE LANDS, IN LIEU OF SOME OR ALL OF THE REQUIREMENTS
27 OF SUBSECTION A OF THIS SECTION, A COPY OF THE STATEMENT OF RECORD FILED WITH
28 RESPECT TO THE SUBDIVISION PURSUANT TO THE FEDERAL INTERSTATE LAND SALES FULL
29 DISCLOSURE ACT IF THE STATEMENT COMPLIES WITH THE REQUIREMENTS OF THE ACT AND
30 THE REGULATIONS PERTINENT TO THE ACT.

31 I. NEITHER A REAL ESTATE SALES CONTRACT, CONVEYANCE, LEASE, ASSIGNMENT
32 OR OTHER INSTRUMENT TO TRANSFER ANY INTEREST IN SUBDIVIDED LAND NOR ANY
33 COVENANT OR RESTRICTION AFFECTING REAL PROPERTY SHALL CONTAIN ANY PROVISION
34 LIMITING THE RIGHT OF ANY PARTY TO APPEAR OR TESTIFY IN SUPPORT OF OR
35 OPPOSITION TO ZONING CHANGES, BUILDING PERMITS OR ANY OTHER OFFICIAL ACTS
36 AFFECTING REAL PROPERTY BEFORE A GOVERNMENTAL BODY OR OFFICIAL CONSIDERING
37 ZONING CHANGES, BUILDING PERMITS OR ANY OTHER OFFICIAL ACTS AFFECTING REAL
38 PROPERTY, WHETHER THE PROPERTY IS LOCATED WITHIN OR OUTSIDE OF THE BOUNDARIES
39 OF THE SUBDIVISION. ALL CONTRACTUAL PROVISIONS THAT CONFLICT WITH THIS
40 SUBSECTION ARE DECLARED TO BE CONTRARY TO PUBLIC POLICY. NOTHING CONTAINED
41 IN THIS SUBSECTION SHALL PROHIBIT PRIVATE RESTRICTIONS ON THE USE OF ANY REAL
42 PROPERTY.

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

7 Sec. 4. Section 32-2181.02, Arizona Revised Statutes, is amended to
8 read:

9 32-2181.02. Exempt sales and leases

10 A. The following are exempt under this article:

11 1. The sale or lease in bulk of six or more lots, parcels or
12 fractional interests to one buyer in one transaction.

13 2. The sale or lease of lots or parcels of one hundred sixty acres or
14 more.

15 B. The following are exempt from section 32-2181, subsection A and
16 section 32-2183, subsection A:

17 1. The sale or lease of parcels, lots, units or spaces that are zoned
18 and restricted to commercial or industrial uses.

19 2. The sale or lease of lots or parcels located in a single platted
20 subdivision by a subdivider if:

21 (a) A public report has been issued within the past two years pursuant
22 to this article on the subdivision lots or parcels.

23 (b) The subdivision meets all current requirements otherwise required
24 of a subdivision under this article.

25 (c) The method of sale or lease of lots or parcels meets all current
26 requirements under this article.

27 (d) The lots or parcels are included on a recorded subdivision plat
28 that is approved by a municipal or county government.

29 (e) All roads within the subdivision, all utilities to the lots or
30 parcels being offered for sale or lease and all other required improvements
31 within the subdivision, other than a residence to be built, are complete,
32 paid for and free of any blanket encumbrances.

33 (f) The roads, utilities or other improvements are not complete, but
34 the completion of all improvements is assured pursuant to section 32-2183,
35 subsection D.

36 (g) Except for matters relating to ownership, there have been no
37 material changes to the information set forth in the most recent public
38 report issued for the subdivision lots that would require an amendment to the
39 public report.

40 (h) No owner of a ten per cent or greater interest, subdivider,
41 director, partner, agent, officer or developer of the subdivision has:

42 (i) Been convicted of a felony or any crime involving theft,
43 dishonesty, violence against another person, fraud or real estate, regardless
44 of whether the convictions were subsequently expunged.

1 (ii) Had a civil judgment entered against the person in a case
2 involving allegations of misrepresentation, fraud, breach of fiduciary duty,
3 misappropriation, dishonesty or, if the subject matter involved real
4 property, securities or investments.

5 (iii) Had a business or professional license, including a real estate
6 license, denied, suspended or revoked or voluntarily surrendered a business
7 or professional license during the course of an investigative or disciplinary
8 proceeding or other disciplinary action taken in this state or any other
9 state.

10 (i) The sale of the subdivided lands violates no laws or ordinances of
11 any governmental authority.

12 (j) Before the buyer's or lessee's execution of a purchase contract or
13 lease, the subdivider has provided the buyer or lessee with a copy of the
14 most recent public report on the lot and has taken a receipt from the buyer
15 for the copy.

16 (k) The subdivider has provided to the buyer or lessee, along with the
17 public report, a signed statement that the subdivider has reviewed and is in
18 compliance with the terms of the exemption provided in this paragraph.

19 (l) Before sale or lease, the subdivider has notified the
20 commissioner, on a form provided by the department, of the subdivider's
21 intent to sell or lease lots or parcels pursuant to this paragraph. The
22 notice shall include:

23 (i) The name, address and telephone number of the subdivider.

24 (ii) The name, address and telephone number of any real estate broker
25 retained by the subdivider to make sales or leases of the lots.

26 (iii) The name and location of the subdivision.

27 (iv) The most recent subdivision public report reference number on the
28 lots.

29 (v) The completion status of subdivision improvements.

30 3. The conveyance to a person who previously conveyed the lot to a
31 home builder for the purpose of constructing a dwelling for the person.

32 4. The sale or lease by a person of individual lots or parcels that
33 were separately acquired by the person from different persons and that were
34 not acquired for the purpose of development if:

35 (a) The lots or parcels are not located in a platted subdivision.

36 (b) Each lot or parcel bears the same legal description that it bore
37 when the lot or parcel was acquired by the person.

38 (c) The seller or lessor is in compliance with all other applicable
39 state and local government requirements.

40 5. The sale of an improved lot in a subdivision that is located
41 outside of this state if:

42 (a) The subdivision is located within the United States and the sale
43 is exempt from ~~the provisions of~~ the interstate land sales full disclosure
44 act (P.L. 90-448; 82 Stat. 590; 15 United States Code sections 1701 through
45 1720).

1 (b) The subdivider is required by the state where the subdivision is
2 located to deliver a public report or equivalent disclosure document to
3 prospective purchasers and the subdivider delivers the report or equivalent
4 disclosure document.

5 6. The sale of an improved lot in a subdivision located in this state
6 where five or more sales were previously made by the seller if:

7 (a) The sale is the seller's first or second sale in the subdivision
8 within the previous twelve month period.

9 (b) The subdivision is located within the corporate limits of a town
10 or city.

11 (c) Electricity and telephone service are complete and available to
12 the improved lot.

13 (d) Water and sewage service is complete and available to the improved
14 lot.

15 (e) Streets and roads located outside of the subdivision provide
16 permanent access to the subdivision and are complete and maintained by the
17 county, town or city, or by a legally created and operational property
18 owners' association.

19 (f) Streets within the subdivision are dedicated, provide permanent
20 access to the lot, are complete to town or city standards and are maintained
21 by the town or city or, in the case of private streets, a legally created and
22 operational property owners' association accepts the responsibility of
23 perpetual maintenance.

24 (g) All subdivision common area improvements, including landscaping,
25 recreational facilities and other jointly used and maintained improvements,
26 are complete and maintained by a legally created and operational property
27 owners' association.

28 (h) The purchaser's down payment, earnest money, deposit or other
29 advanced money is placed and held in a neutral escrow depository in this
30 state until escrow closes and the deed is delivered to the purchaser.

31 (i) Within the previous twelve months the seller has not had an
32 ownership interest in more than two lots in the subdivision, including an
33 interest by option, an agreement for sale, a beneficial interest under a
34 trust or a purchase contract.

35 C. Nothing in this section shall be construed to increase, decrease or
36 otherwise affect any rights or powers granted the commissioner under this
37 chapter.

38 D. ~~The provisions of~~ This section ~~do~~ DOES not apply to lands on which
39 the commissioner has issued orders pursuant to sections 32-2154 and 32-2157
40 and section 32-2183, subsection ~~I~~ J unless the commissioner has issued a
41 public report on those lands subsequent to the date of the orders.

42 E. Nothing in this section shall be construed to increase, to decrease
43 or to otherwise affect any rights or powers granted to political subdivisions
44 of this state with respect to their jurisdictions.

1 Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:
2 32-2183. Subdivision public reports; denial of issuance;
3 unlawful sales; voidable sale or lease; order
4 prohibiting sale or lease; investigations; hearings;
5 summary orders

6 A. Upon examination of a subdivision, the commissioner, unless there
7 are grounds for denial, shall issue to the subdivider a public report
8 authorizing the sale or lease in this state of the lots, parcels or
9 fractional interests within the subdivision. The report shall contain the
10 data obtained in accordance with section 32-2181 and any other information
11 which the commissioner determines is necessary to implement the purposes of
12 this article. If any of the lots, parcels or fractional interests within the
13 subdivision are located within territory in the vicinity of a military
14 airport or ancillary military facility as defined in section 28-8461, under a
15 military training route as delineated in the military training route map
16 prepared pursuant to section 37-102 or under restricted air space as
17 delineated in the restricted air space map prepared pursuant to section
18 37-102, the report shall include, in bold twelve point font block letters on
19 the first page of the report, the statements required pursuant to section
20 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the
21 department has been provided a map prepared pursuant to section 28-8484,
22 subsection B, ~~OR~~ section 37-102, the report shall include a copy of the map.
23 The military airport report requirements do not require the amendment or
24 reissuance of any public report issued on or before December 31, 2001 or on
25 or before December 31 of the year in which the lots, parcels or fractional
26 interests within a subdivision become territory in the vicinity of a military
27 airport or ancillary military facility. The military training route report
28 requirements do not require the amendment or reissuance of any public report
29 issued on or before December 31, 2004. The restricted air space report
30 requirements do not require the amendment or reissuance of any public report
31 issued on or before December 31, 2006. The commissioner shall require the
32 subdivider to reproduce the report, make the report available to each
33 prospective customer and furnish each buyer or lessee with a copy before the
34 buyer or lessee signs any offer to purchase or lease, taking a receipt
35 therefor.

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

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

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

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

5 4. The department shall determine within fifteen business days after
6 the receipt of the notification and public report whether the notification
7 and public report are administratively complete. The commissioner either may
8 issue a certification that the notification and public report are
9 administratively complete or may deny issuance of the certification if it
10 appears that the application or project is not in compliance with all legal
11 requirements, that the applicant has a background of violations of state or
12 federal law or that the applicant or project presents an unnecessary risk of
13 harm to the public.

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

17 6. Before or after the commissioner issues a certificate of
18 administrative completeness, the department may examine any public report,
19 subdivision or applicant that has applied for or received the certificate.
20 If the commissioner determines that the subdivider or subdivision is not in
21 compliance with any requirement of state law or that grounds exist under this
22 chapter to suspend, deny or revoke a public report, the commissioner may
23 commence an administrative action under section 32-2154 or 32-2157. If the
24 subdivider immediately corrects the deficiency and comes into full compliance
25 with state law, the commissioner shall vacate any action that the
26 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

27 7. The department shall provide forms and guidelines for the
28 submission of the notification and public report pursuant to this section.

29 C. The commissioner may suspend, revoke or deny issuance of a public
30 report on any of the following grounds:

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

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

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

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

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

43 6. The owner, agent, subdivider, officer, director or partner,
44 subdivider trust beneficiary holding ten per cent or more direct or indirect

1 beneficial interest or, if a corporation, any stockholder owning ten per cent
2 or more of the stock in the corporation has:

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

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

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

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

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

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

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

25 8. Failure of the declaration for a condominium created pursuant to
26 title 33, chapter 9, article 2 to comply with the requirements of section
27 33-1215 or failure of the plat for the condominium to comply with the
28 requirements of section 33-1219. The commissioner may require an applicant
29 for a public report to submit a notarized statement signed by the subdivider
30 or an engineer or attorney licensed to practice in this state certifying that
31 the condominium plat and declaration of condominium are in compliance with
32 the requirements of sections 33-1215 and 33-1219. If the notarized statement
33 is provided, the commissioner is entitled to rely on this statement.

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

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

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

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

6 1. All proposed or promised subdivision improvements are completed.

7 2. The completion of all proposed or promised subdivision improvements
8 is assured by financial arrangements acceptable to the commissioner. The
9 financial arrangements may be made in phases for common community and
10 recreation facilities required by a municipality or county as a stipulation
11 for approval of a plan for a master planned community.

12 3. The municipal or county government agrees to prohibit occupancy and
13 the subdivider agrees not to close escrow for lots in the subdivision until
14 all proposed or promised subdivision improvements are completed.

15 4. The municipal or county government enters into an assurance
16 agreement with any trustee not to convey lots until improvements are
17 completed within the portion of the subdivision containing these lots, if the
18 improvements can be used and maintained separately from the improvements
19 required for the entire subdivision plat. The agreement shall be recorded in
20 the county in which the subdivision is located.

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

31 F. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE SUBDIVISION IS
32 LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION
33 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE
34 PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE COMMISSIONER SHALL DENY
35 ISSUANCE OF A PUBLIC REPORT OR THE USE OF ANY EXEMPTION PURSUANT TO SECTION
36 32-2181.02, SUBSECTION B UNLESS ONE OF THE FOLLOWING APPLIES:

37 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
38 45-108 THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY.

39 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
40 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
41 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
42 TO SECTION 45-108.

43 3. THE PLAT WAS APPROVED PURSUANT TO AN EXEMPTION AUTHORIZED BY
44 SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION AUTHORIZED BY
45 SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN EXEMPTION

1 GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02 AND THE
2 EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR
3 OF WATER RESOURCES UNDER SECTION 45-108.03.

4 4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR
5 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE
6 IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE
7 PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER
8 THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE
9 WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE
10 DIRECTOR TO IMPLEMENT SECTION 45-108.

11 ~~F.~~ G. A subdivider shall not sell or lease or offer for sale or lease
12 in this state any lots, parcels or fractional interests in a subdivision
13 without first obtaining a public report from the commissioner except as
14 provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or
15 lease of subdivided lands prior to issuance of the public report or failure
16 to deliver the public report to the purchaser or lessee shall render the sale
17 or lease rescindable by the purchaser or lessee. An action by the purchaser
18 or lessee to rescind the transaction shall be brought within three years of
19 the date of execution of the purchase or lease agreement by the purchaser or
20 lessee. In any rescission action, the prevailing party is entitled to
21 reasonable attorney fees as determined by the court.

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

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

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

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

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

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

1 Sec. 6. Section 32-2197.08, Arizona Revised Statutes, is amended to
2 read:

3 32-2197.08. Issuance of public report by commissioner on
4 timeshare plan; denial of issuance; additional
5 information; use of another state's public report

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

- 16 1. The name and principal address of the owner and developer.
- 17 2. A description of the type of timeshare interests being offered.
- 18 3. A description of the existing and proposed accommodations and
19 amenities of the timeshare plan, including type and number, any use
20 restrictions and any required fees for use.
- 21 4. A description of any accommodations and amenities that are
22 committed to be built, including:
 - 23 (a) The developer's schedule of commencement and completion of all
24 accommodations and amenities.
 - 25 (b) The estimated number of accommodations per site that may become
26 subject to the timeshare plan.
- 27 5. A brief description of the duration, phases and operation of the
28 timeshare plan.
- 29 6. The current annual budget if available or the projected annual
30 budget for the timeshare plan. The budget shall include:
 - 31 (a) A statement of the amount or a statement that there is no amount
32 included in the budget as a reserve for repairs and replacement.
 - 33 (b) The projected common expense liability, if any, by category of
34 expenditures for the timeshare plan.
 - 35 (c) A statement of any services or expenses that are not reflected in
36 the budget and that the developer provides or pays.
- 37 7. A description of any liens, defects or encumbrances on or affecting
38 the title to the timeshare interests.
- 39 8. A statement that by midnight of the seventh calendar day after
40 execution of the purchase agreement a purchaser may cancel any purchase
41 agreement for a timeshare interest from a developer together with a statement
42 providing the name and street address where the purchaser should mail any
43 notice of cancellation. However, if, by agreement of the parties through the
44 purchase agreement, the purchase agreement allows for cancellation of the
45 purchase agreement for a period of time exceeding seven calendar days, the

1 public report shall include a statement that the cancellation of the purchase
2 agreement is allowed for that period of time exceeding seven calendar days.

3 9. A description of any bankruptcies, pending suits, adjudications or
4 disciplinary actions material to the timeshare interests of which the
5 developer has knowledge.

6 10. Any restrictions on alienation of any number or portion of any
7 timeshare interests.

8 11. Any current or expected fees or charges to be paid by timeshare
9 purchasers for the use of any amenities related to the timeshare plan.

10 12. The extent to which financial arrangements have been provided for
11 completion of all promised improvements.

12 13. If the timeshare plan provides purchasers with the opportunity to
13 participate in any exchange programs, a description of the name and address
14 of the exchange companies and the method by which a purchaser accesses the
15 exchange programs.

16 14. Any other information that the developer, with the approval of the
17 commissioner, desires to include in the public report.

18 15. If the developer is offering a multisite timeshare plan, the
19 following information, which may be disclosed in a written, graphic or
20 tabular form:

21 (a) A description of each component site, including the name and
22 address of each component site.

23 (b) The number of accommodations and timeshare periods, expressed in
24 periods of use availability, committed to the multisite timeshare plan and
25 available for use by purchasers.

26 (c) Each type of accommodation in terms of the number of bedrooms,
27 bathrooms and sleeping capacity and a statement of whether or not the
28 accommodation contains a full kitchen. For the purposes of this subdivision,
29 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
30 sink and refrigerator.

31 (d) A description of amenities available for use by the purchaser at
32 each component site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 4. The developer, including if an entity, an officer, director,
31 member, manager, partner, owner, trust beneficiary holding ten per cent or
32 more beneficial interest, stockholder owning ten per cent or more of the
33 stock or other person exercising control of the entity, has:

34 (a) Been convicted of a felony or misdemeanor involving theft, fraud
35 or dishonesty or involving the conduct of any business or a transaction in
36 real estate, cemetery property, timeshare interests or membership camping
37 campgrounds or contracts.

38 (b) Been permanently or temporarily enjoined by order, judgment or
39 decree from engaging in or continuing any conduct or practice in connection
40 with the sale or purchase of real estate, cemetery property, timeshare
41 interests, membership camping campgrounds or contracts, or securities or
42 involving consumer fraud or the Arizona racketeering laws.

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

1 (d) Had an adverse decision or judgment entered against him involving
2 fraud or dishonesty or involving the conduct of any business in or a
3 transaction in real estate, cemetery property, timeshare interests or
4 membership camping campgrounds or contracts.

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

7 (f) Participated in, operated or held an interest in any entity to
8 which subdivision (b), (c), (d), or (e) of this paragraph applies.

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

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

22 D. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE TIMESHARE
23 PROPERTY IS LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY
24 SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN
25 ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION O, THE COMMISSIONER SHALL
26 DENY ISSUANCE OF A PUBLIC REPORT UNLESS ONE OF THE FOLLOWING APPLIES:

27 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
28 45-108 THAT THE TIMESHARE PROPERTY HAS AN ADEQUATE WATER SUPPLY.

29 2. THE DEVELOPER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
30 FOR THE TIMESHARE PROPERTY FROM A CITY, TOWN OR PRIVATE WATER COMPANY
31 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
32 RESOURCES PURSUANT TO SECTION 45-108.

33 3. THE TIMESHARE PROPERTY WAS APPROVED PURSUANT TO AN EXEMPTION
34 AUTHORIZED BY SECTION 9-463.01, SUBSECTION K, PURSUANT TO AN EXEMPTION
35 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1, PURSUANT TO AN
36 EXEMPTION GRANTED BY THE DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.02
37 AND THE EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE
38 DIRECTOR OF WATER RESOURCES UNDER SECTION 45-108.03.

39 4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR
40 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE
41 IN THE CITY, TOWN OR COUNTY, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE
42 PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER
43 THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE
44 WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE
45 DIRECTOR TO IMPLEMENT SECTION 45-108.

1 C. The director may designate cities, towns and private water
2 companies as having an adequate water supply by reporting that designation to
3 the water department of the city or town or private water company and the
4 state real estate commissioner.

5 D. The director may designate a city or town that does not directly
6 supply water to customers as having an adequate water supply by reporting
7 that designation to the city or town and the state real estate commissioner
8 if all of the following apply:

9 1. The city or town has entered into a contract with the United States
10 secretary of the interior or a county water authority established pursuant to
11 chapter 13 of this title for permanent supplies of Colorado river water for
12 municipal and industrial use.

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

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

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

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

25 1. Both of the following apply:

26 (a) The developer has obtained a written commitment of water service
27 from cities, towns or private water companies that have been designated as
28 having an adequate water supply.

29 (b) That city, town or private water company has been designated as
30 having an adequate water supply pursuant to subsection C of this section.

31 2. All of the following apply:

32 (a) The city or town has been designated as having an adequate water
33 supply pursuant to subsection D of this section.

34 (b) The developer has obtained a written commitment of water service
35 from a private water company that serves water within that city or town.

36 (c) The developer has obtained the written concurrence of the city or
37 town that has been designated.

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

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

43 H. IF THE DIRECTOR RECEIVES WRITTEN NOTICE FROM THE BOARD OF
44 SUPERVISORS OF A COUNTY THAT IT HAS ADOPTED THE PROVISION AUTHORIZED BY
45 SECTION 11-806.01, SUBSECTION F, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF

1 THE PROVISION TO THE MAYORS OF ALL CITIES AND TOWNS IN THE COUNTY. A CITY OR
2 TOWN THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 9-463.01, SUBSECTIONS
3 J, K, L, M AND N.

4 I. FOR THE PURPOSES OF THIS SECTION, "ADEQUATE WATER SUPPLY" MEANS
5 BOTH OF THE FOLLOWING:

6 1. SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE
7 QUALITY WILL BE CONTINUOUSLY, LEGALLY AND PHYSICALLY AVAILABLE TO SATISFY THE
8 WATER NEEDS OF THE PROPOSED USE FOR AT LEAST ONE HUNDRED YEARS.

9 2. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE
10 WATER FACILITIES NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE
11 PROPOSED USE, INCLUDING A DELIVERY SYSTEM AND ANY STORAGE FACILITIES OR
12 TREATMENT WORKS. THE DIRECTOR MAY ACCEPT EVIDENCE OF THE CONSTRUCTION
13 ASSURANCES REQUIRED BY SECTION 9-463.01, 11-806.01 OR 32-2181 TO SATISFY THIS
14 REQUIREMENT.

15 Sec. 9. Title 45, chapter 1, article 1, Arizona Revised Statutes, is
16 amended by adding sections 45-108.01, 45-108.02 and 45-108.03, to read:

17 45-108.01. Adequate water supply; notice; objections; hearing;
18 appeals

19 A. ON RECEIPT OF AN APPLICATION FOR A WATER REPORT OR AN APPLICATION
20 BY A CITY, TOWN OR PRIVATE WATER COMPANY TO BE DESIGNATED AS HAVING AN
21 ADEQUATE WATER SUPPLY UNDER SECTION 45-108, IF THE PROPOSED USE IS IN A
22 COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01,
23 SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE PURSUANT TO
24 SECTION 9-463.01, SUBSECTION O, THE DIRECTOR SHALL PUBLISH NOTICE OF THE
25 APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF
26 GENERAL CIRCULATION IN THE GROUNDWATER BASIN IN WHICH THE APPLICANT PROPOSES
27 TO USE WATER. THE FIRST PUBLICATION SHALL OCCUR WITHIN FIFTEEN DAYS AFTER
28 THE APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE. IF
29 THE APPLICATION IS SUBSTANTIALLY MODIFIED AFTER NOTICE OF THE APPLICATION IS
30 GIVEN PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL GIVE NOTICE OF THE
31 APPLICATION AS MODIFIED IN THE MANNER PRESCRIBED BY THIS SUBSECTION. THE
32 FIRST PUBLICATION OF ANY SUBSEQUENT NOTICE SHALL OCCUR WITHIN FIFTEEN DAYS
33 AFTER THE MODIFIED APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY
34 COMPLETE.

35 B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT
36 WRITTEN OBJECTIONS TO THE APPLICATION MAY BE FILED WITH THE DIRECTOR BY
37 RESIDENTS AND LANDOWNERS WITHIN THE GROUNDWATER BASIN WITHIN FIFTEEN DAYS
38 AFTER THE LAST PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME AND
39 MAILING ADDRESS OF THE OBJECTOR AND BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S
40 AGENT OR THE OBJECTOR'S ATTORNEY. THE GROUNDS FOR OBJECTION ARE LIMITED TO
41 WHETHER THE APPLICATION MEETS THE CRITERIA FOR DETERMINING AN ADEQUATE WATER
42 SUPPLY SET FORTH IN SECTION 45-108, SUBSECTION I. THE OBJECTION SHALL
43 CLEARLY SET FORTH REASONS WHY THE APPLICATION DOES NOT MEET THE CRITERIA.

1 C. IN APPROPRIATE CASES, INCLUDING CASES IN WHICH A PROPER WRITTEN
2 OBJECTION TO THE APPLICATION HAS BEEN FILED, AN ADMINISTRATIVE HEARING MAY BE
3 HELD BEFORE THE DIRECTOR'S DECISION ON THE APPLICATION IF THE DIRECTOR DEEMS
4 A HEARING NECESSARY. THIRTY DAYS BEFORE THE DATE OF THE HEARING, THE
5 DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON
6 WHO FILED A PROPER WRITTEN OBJECTION TO THE APPLICATION. THE HEARING SHALL
7 BE SCHEDULED FOR AT LEAST SIXTY DAYS BUT NOT MORE THAN NINETY DAYS AFTER THE
8 EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

9 D. IF THE APPLICATION IS FOR A WATER REPORT:

10 1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR
11 THE PROPOSED USE, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE
12 WATER SUPPLY FOR THE SUBDIVISION IS ADEQUATE.

13 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT
14 EXIST, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY
15 FOR THE SUBDIVISION IS INADEQUATE.

16 E. IF THE APPLICATION IS FOR A DESIGNATION OF ADEQUATE WATER SUPPLY:

17 1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR
18 THE PROPOSED USE, THE DIRECTOR SHALL APPROVE THE APPLICATION.

19 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT
20 EXIST, THE DIRECTOR SHALL DENY THE APPLICATION.

21 F. THE APPLICANT OR A PERSON WHO CONTESTED THE APPLICATION BY FILING A
22 PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS SECTION MAY SEEK JUDICIAL
23 REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS PROVIDED IN SECTION 45-114,
24 SUBSECTION B IN THE SUPERIOR COURT.

25 G. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
26 PROCEEDINGS, REHEARINGS OR REVIEWS AND JUDICIAL REVIEWS OF FINAL DECISIONS OF
27 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD, IT
28 SHALL BE CONDUCTED IN THE GROUNDWATER BASIN IN WHICH THE USE IS LOCATED.

29 45-108.02. Exemption from adequate water supply requirements of
30 city, town or county based on substantial capital
31 investment; application; criteria; expiration

32 A. IF THE DIRECTOR DETERMINES PURSUANT TO SECTION 45-108 THAT AN
33 ADEQUATE WATER SUPPLY DOES NOT EXIST FOR A PROPOSED SUBDIVISION AND THE
34 PROPOSED SUBDIVISION IS LOCATED IN A CITY, TOWN OR COUNTY THAT REQUIRES A
35 DETERMINATION OF ADEQUATE WATER SUPPLY BY THE DIRECTOR AS A CONDITION OF
36 APPROVAL OF THE PLAT PURSUANT TO SECTION 9-463.01, SUBSECTION J OR O OR
37 SECTION 11-806.01, SUBSECTION F, THE SUBDIVIDER MAY APPLY TO THE DIRECTOR FOR
38 AN EXEMPTION FROM THE WATER ADEQUACY REQUIREMENT PURSUANT TO THIS SECTION ON
39 A FORM PRESCRIBED BY THE DIRECTOR WITHIN ONE YEAR AFTER THE REQUIREMENT FIRST
40 BECOMES EFFECTIVE. THE DIRECTOR SHALL GRANT THE EXEMPTION IF THE SUBDIVIDER
41 DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT ALL OF THE FOLLOWING
42 APPLY:

43 1. THE SUBDIVIDER HAS MADE SUBSTANTIAL CAPITAL INVESTMENT TOWARD THE
44 CONSTRUCTION OF THE PROPOSED SUBDIVISION BEFORE THE DATE THE WATER ADEQUACY
45 REQUIREMENT FIRST BECAME EFFECTIVE. FOR THE PURPOSES OF THIS PARAGRAPH,

1 SUBSTANTIAL CAPITAL INVESTMENT MAY INCLUDE CONSTRUCTION COSTS, SITE
2 PREPARATION COSTS, CONSTRUCTION OF OFF-SITE IMPROVEMENTS AND CONVERSION OR
3 REMODELING COSTS FOR EXISTING STRUCTURES, AS WELL AS PLANNING AND DESIGN
4 COSTS ASSOCIATED WITH THOSE ITEMS, BUT DOES NOT INCLUDE THE ORIGINAL COST OF
5 ACQUIRING THE PROPERTY.

6 2. THE SUBDIVIDER WAS NOT AWARE OF THE PROPOSED WATER ADEQUACY
7 REQUIREMENT AT THE TIME THE INVESTMENT WAS MADE.

8 3. THE PROPOSED SUBDIVISION COMPLIED IN ALL OTHER RESPECTS WITH
9 EXISTING STATE LAWS AS OF THE DATE THE WATER ADEQUACY REQUIREMENT BECAME
10 EFFECTIVE.

11 B. IF THE DIRECTOR GRANTS AN EXEMPTION PURSUANT TO SUBSECTION A OF
12 THIS SECTION:

13 1. THE EXEMPTION EXPIRES FIVE YEARS AFTER THE DATE THE EXEMPTION IS
14 GRANTED UNLESS BEFORE THAT DATE, AT LEAST ONE PARCEL IN THE SUBDIVISION IS
15 SOLD TO A BONA FIDE PURCHASER OR THE DIRECTOR EXTENDS THE EXEMPTION PURSUANT
16 TO PARAGRAPH 2 OF THIS SUBSECTION.

17 2. THE DIRECTOR MAY EXTEND THE PERIOD OF THE EXEMPTION FOR NO MORE
18 THAN TWO SUCCESSIVE FIVE-YEAR PERIODS IF THE SUBDIVIDER APPLIES FOR AN
19 EXTENSION BEFORE THE EXEMPTION EXPIRES AND DEMONSTRATES TO THE SATISFACTION
20 OF THE DIRECTOR THAT THE SUBDIVIDER HAS MADE MATERIAL PROGRESS IN DEVELOPING
21 THE SUBDIVISION, BUT THAT SALES OF PARCELS IN THE SUBDIVISION HAVE BEEN
22 DELAYED FOR REASONS OUTSIDE THE CONTROL OF THE SUBDIVIDER.

23 C. IF AN EXEMPTION GRANTED UNDER THIS SECTION EXPIRES, ANY PUBLIC
24 REPORT ISSUED FOR THE SUBDIVISION BY THE STATE REAL ESTATE COMMISSIONER
25 PURSUANT TO SECTION 32-2183 EXPIRES AND THE SUBDIVIDER SHALL NOT SELL ANY
26 LOTS IN THE SUBDIVISION UNLESS BOTH OF THE FOLLOWING APPLY:

27 1. THE SUBDIVIDER FILES WITH THE STATE REAL ESTATE COMMISSIONER A NEW
28 NOTICE OF INTENTION TO SUBDIVIDE LANDS PURSUANT TO SECTION 32-2181 AND
29 COMPLIES WITH SECTION 32-2181, SUBSECTION F.

30 2. THE STATE REAL ESTATE COMMISSIONER ISSUES A NEW PUBLIC REPORT FOR
31 THE SUBDIVISION PURSUANT TO SECTION 32-2183.

32 D. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
33 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
34 THE DIRECTOR UNDER THIS SECTION.

35 45-108.03. Exemption from adequate water supply requirements of
36 city, town or county based on an adequate water
37 supply within twenty years; criteria; application

38 A. IF A PROPOSED SUBDIVISION IS LOCATED IN A CITY, TOWN OR COUNTY THAT
39 REQUIRES AN ADEQUATE WATER SUPPLY DETERMINATION BY THE DIRECTOR AS A
40 CONDITION OF APPROVAL OF THE PLAT PURSUANT TO SECTION 9-463.01, SUBSECTION J
41 OR O OR SECTION 11-806.01, SUBSECTION F, THE SUBDIVIDER MAY APPLY TO THE
42 DIRECTOR FOR AN EXEMPTION FROM THE REQUIREMENT PURSUANT TO THIS SECTION ON A
43 FORM PRESCRIBED BY THE DIRECTOR. THE DIRECTOR SHALL GRANT THE EXEMPTION IF
44 THE SUBDIVIDER DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT THE

1 SUBDIVISION WILL BE SERVED BY A WATER SUPPLY PROJECT TO WHICH BOTH OF THE
2 FOLLOWING APPLY:

3 1. THE SUBDIVIDER HAS DEMONSTRATED FINANCIAL CAPABILITY PURSUANT TO
4 SECTION 45-108, SUBSECTION I, BUT THE WATER SUPPLY PROJECT WILL NOT BE
5 CAPABLE OF SERVING THE SUBDIVISION WITH SUFFICIENT WATER TO MEET ITS DEMANDS
6 IN A TIMELY MANNER BECAUSE OF ONE OF THE FOLLOWING:

7 (a) THE PHYSICAL WORKS FOR DELIVERING WATER TO THE SUBDIVISION ARE NOT
8 COMPLETE BUT ARE UNDER CONSTRUCTION AND WILL BE COMPLETED WITHIN TWENTY
9 YEARS.

10 (b) THE SUBDIVISION WILL BE SERVED COLORADO RIVER WATER BY A WATER
11 PROVIDER THAT DOES NOT CURRENTLY HAVE THE LEGAL RIGHT TO SERVE THE WATER TO
12 THE SUBDIVISION, BUT THE WATER PROVIDER HAS AN EXISTING PERMANENT CONTRACT
13 FOR THE COLORADO RIVER WATER AND WILL HAVE THE LEGAL RIGHT TO SERVE THE WATER
14 TO THE SUBDIVISION WITHIN TWENTY YEARS.

15 2. THE SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE
16 CONSTRUCTION OF THE PHYSICAL WORKS IS COMPLETED OR THE WATER SUPPLY IS
17 LEGALLY AVAILABLE TO SERVE THE SUBDIVISION, WHICHEVER APPLIES, AND THE
18 INTERIM WATER SUPPLY THAT WILL SERVE THE SUBDIVISION MEETS ALL OF THE
19 CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER SECTION 45-108 EXCEPT THAT THE
20 INTERIM WATER SUPPLY WILL NOT BE AVAILABLE FOR ONE HUNDRED YEARS.

21 B. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
22 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
23 THE DIRECTOR UNDER THIS SECTION.

24 Sec. 10. Adequate water supply requirements; amendment of
25 assured water supply rules

26 A. In determining whether an adequate water supply exists under
27 section 45-108, Arizona Revised Statutes, as amended by this act, if the
28 proposed use is located in a city or town that has enacted an ordinance
29 authorized by section 9-463.01, subsection O, Arizona Revised Statutes, as
30 amended by this act, or in a county that has adopted the provision authorized
31 by section 11-806.01, subsection F, Arizona Revised Statutes, as amended by
32 this act, the director of water resources shall include in the calculation of
33 the projected one hundred-year depth-to-static water level under
34 R12-15-716(B)(3), Arizona Administrative Code, the estimated water demand of
35 any projected use in the same groundwater basin to which both of the
36 following apply:

37 1. The use will not be located in a county that has adopted the
38 provision authorized by section 11-806.01, subsection F, Arizona Revised
39 Statutes, as amended by this act, or in a city or town that has enacted an
40 ordinance authorized by section 9-463.01, subsection O, Arizona Revised
41 Statutes, as amended by this act.

42 2. The use is not included in a submitted application for a water
43 report or a designation of adequate water supply.

1 B. The director of water resources shall amend the rules adopted to
2 implement section 45-108, Arizona Revised Statutes, as amended by this act,
3 to include the following:

4 1. Criteria for making determinations pursuant to section 45-108.03,
5 Arizona Revised Statutes, as added by this act.

6 2. Criteria for demonstrating a physically available one hundred-year
7 supply of groundwater or stored water to be recovered outside the area of
8 impact, as defined in section 45-802.01, Arizona Revised Statutes, in
9 specific aquifer systems and groundwater basins and subbasins outside of
10 active management areas. The criteria may include depth-to-static water
11 level limits or limits based on other physical aquifer characteristics that
12 affect the physical availability of water for a proposed use and shall be
13 appropriate for the groundwater basin or subbasin.

14 C. In developing rule amendments pursuant to this section, the
15 director of water resources shall consult with cities and towns that have
16 enacted an ordinance authorized by section 9-463.01, subsection O, Arizona
17 Revised Statutes, as amended by this act, and counties that have adopted the
18 provision authorized by section 11-806.01, subsection F, Arizona Revised
19 Statutes, as amended by this act, and the cities and towns located within
20 those counties.