

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 86

SENATE BILL 1283

AN ACT

AMENDING SECTIONS 11-806.01 AND 11-806.03, ARIZONA REVISED STATUTES; RELATING TO COUNTY SUBDIVISION REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-806.01, Arizona Revised Statutes, is amended to
3 read:

4 11-806.01. Subdivision regulation; platting regulations;
5 violation; classification; easement vesting

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

9 B. No plat of a subdivision of land within the area of jurisdiction
10 of such county shall be accepted for recording or recorded until it has been
11 approved by the board. The approval of the board shall be endorsed in
12 writing on the plat and shall also include specific identification and
13 approval of the assurances except those for hiking and equestrian trails
14 required by this section. If a county planning and zoning commission
15 exists, the plat may be referred to such commission for its consideration and
16 the board may receive the recommendation of the commission. If the
17 subdivision is comprised of subdivided land, as defined in section 32-2101,
18 and is within a groundwater active management area, as defined in section
19 45-402, the plat shall not be approved unless it is accompanied by a
20 certificate of assured water supply issued by the director of water
21 resources, or unless the subdivider has obtained a written commitment of
22 water service for the subdivision from a city, town or private water company
23 designated as having an assured water supply by the director of water
24 resources pursuant to section 45-576 or is exempt from such requirement
25 pursuant to section 45-576. The board shall note on the face of the plat
26 that a certificate of assured water supply has been submitted with the plat
27 or that the subdivider has obtained a commitment of water service for the
28 proposed subdivision for a city, town or private water company designated as
29 having an assured water supply, pursuant to section 45-576.

30 C. Any person causing a final plat to be recorded without first
31 submitting the plat and obtaining approval of the board is guilty of a class
32 2 misdemeanor. No county recorder shall accept for recording or record any
33 plat which has not been approved as provided by this article.

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

37 E. The commission shall recommend to the board and the board shall
38 adopt general regulations of uniform application governing plats and
39 subdivisions of land within its area of jurisdiction. The regulations
40 adopted shall secure and provide for the proper arrangement of streets or
41 other highways in relation to existing or planned streets, highways or
42 bicycle facilities or to the official map for adequate and convenient open
43 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
44 recreation, light and air. The board may adopt general regulations to
45 provide for the proper arrangement of hiking and equestrian trails in

1 relation to existing or planned streets or highways, and if adopted, such
2 hiking and equestrian trails shall conform to the official map for adequate
3 and convenient open spaces for traffic, utilities, drainage, access of fire
4 fighting apparatus, recreation, light and air. The general regulations may
5 provide for modification by the commission in planned area development or
6 specific cases where unusual topographical or other exceptional conditions
7 may require such action. The regulations shall include provisions as to the
8 extent to which streets and other highways shall be graded and improved and
9 to which water, sewer or other utility mains, piping or other facilities
10 shall be installed or provided for on the plat as a condition precedent to
11 the approval of the final plat.

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

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

26 H. Before adoption of regulations by the board or any amendment as
27 provided in this article, a public hearing shall be held by the
28 commission. A copy of the regulations shall be certified by the commission
29 to the county board of supervisors which shall hold a public hearing after
30 notice of the time and place has been given by one publication fifteen days
31 prior to the public hearing in a newspaper of general circulation in the
32 county.

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

43 J. For any subdivision that consists of ~~ten or fewer~~ lots, tracts or
44 parcels, each of which is of a size as prescribed by the board of
45 supervisors, the board may waive the requirement to prepare, submit and

1 receive approval of a preliminary plat as a condition precedent to submitting
2 a final plat and may waive or reduce infrastructure standards or requirements
3 except for improved dust-controlled access and minimum drainage improvements.

4 Sec. 2. Section 11-806.03, Arizona Revised Statutes, is amended to
5 read:

6 11-806.03. Land divisions; recording; disclosure affidavit

7 A. A seller of five or fewer parcels of land, other than subdivided
8 land, in an unincorporated area of a county and any subsequent seller of such
9 a parcel shall furnish a written affidavit of disclosure to the buyer, at
10 least seven days before the transfer of the property, and the buyer shall
11 acknowledge receipt of the affidavit. ~~The affidavit shall disclose:~~

12 ~~1. Whether there is legal access to the property.~~

13 ~~2. Whether there is physical access to the property.~~

14 ~~3. Whether the legal and physical access to the property are the same.~~

15 ~~4. Whether the roads are publicly maintained, privately maintained or
16 not maintained, whether there is a road maintenance agreement, and in bold
17 print a statement that if the roads are not publicly maintained, it is the
18 responsibility of the property owners to maintain the roads and that roads
19 that are not improved to county standards and accepted for maintenance are
20 not the county's responsibility.~~

21 ~~5. Whether any portion of the property is located in a regulatory
22 floodplain.~~

23 ~~6. Whether the seller knows if the property has ever been flooded.~~

24 ~~7. Whether water, sewer, electric, natural gas, single party telephone
25 or cable television services are currently provided to the property.~~

26 ~~8. Whether the property will be served by a private well, a shared
27 well or no well, and if it is served by a shared well, whether the shared
28 well is a public water system, as defined by the safe drinking water act (42
29 United States Code section 300f).~~

30 ~~9. Whether the property has a septic tank or will require installation
31 of a septic system.~~

32 ~~10. Whether the property has been subject to a percolation test.~~

33 ~~11. Whether emergency vehicles have access to the property to provide
34 emergency service, and a statement that if access to the parcel is not
35 traversable by emergency vehicles, neither the county nor emergency service
36 providers may be held liable for any damages resulting from the inability to
37 traverse the access to provide needed services.~~

38 ~~12. Whether the sale of the property meets the requirements of section
39 11-809, subsection B regarding land divisions. If those requirements are not
40 met, the seller or property owner shall disclose each of the deficiencies to
41 the buyer.~~

42 B. The affidavit must be written in twelve point type.

43 C. No release or waiver of a seller's liability arising out of any
44 omission or misrepresentation contained in an affidavit of disclosure is
45 valid or binding on the buyer.

1 D. The buyer has the right to rescind the sales transaction for a
2 period of five days after the affidavit of disclosure is furnished to the
3 buyer.

4 E. The seller shall record the executed affidavit of disclosure at the
5 time of transfer of the deed. The county recorder is not required to verify
6 the accuracy of any statement in the affidavit of disclosure. A subsequently
7 recorded affidavit supersedes any previous affidavit.

8 F. THE AFFIDAVIT OF DISCLOSURE SHALL MEET THE REQUIREMENTS OF SECTION
9 11-480 AND FOLLOW SUBSTANTIALLY THE FOLLOWING FORM:

10 WHEN RECORDED MAIL TO:

11 _____
12 _____
13 _____
14 _____
15 _____

16
17 AFFIDAVIT OF DISCLOSURE
18 PURSUANT TO A.R.S. § 11-806.03
19

20 I, _____ (SELLER(S))
21 BEING DULY SWORN, HEREBY MAKE THIS AFFIDAVIT OF DISCLOSURE
22 RELATING TO THE REAL PROPERTY SITUATED IN THE UNINCORPORATED
23 AREA OF:

24 _____, COUNTY, STATE OF ARIZONA, LOCATED AT:
25 _____

26 AND LEGALLY DESCRIBED AS:

27
28 (LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A")

29
30 (PROPERTY).

31
32 1. THERE IS IS NOT....LEGAL ACCESS TO THE PROPERTY, AS
33 DEFINED IN A.R.S. § 11-809.... UNKNOWN

34 EXPLAIN: _____
35 _____
36 _____

37 2. THERE IS IS NOT....PHYSICAL ACCESS TO THE PROPERTY.
38 UNKNOWN

39 EXPLAIN: _____
40 _____
41 _____

42 3. THERE IS IS NOT....A STATEMENT FROM A LICENSED
43 SURVEYOR OR ENGINEER AVAILABLE STATING WHETHER THE PROPERTY
44 HAS PHYSICAL ACCESS THAT IS TRAVERSABLE BY A TWO-WHEEL DRIVE
45 PASSENGER MOTOR VEHICLE.

1 4. THE LEGAL AND PHYSICAL ACCESS TO THE PROPERTY IS IS
2 NOT....THE SAME.... UNKNOWN NOT APPLICABLE.

3 EXPLAIN: _____
4 _____

5
6 *IF ACCESS TO THE PARCEL IS NOT TRAVERSABLE BY EMERGENCY*
7 *VEHICLES, NEITHER THE COUNTY NOR EMERGENCY SERVICE PROVIDERS MAY*
8 *BE HELD LIABLE FOR ANY DAMAGES RESULTING FROM THE INABILITY TO*
9 *TRAVERSE THE ACCESS TO PROVIDE NEEDED SERVICES.*

10 5. THE ROAD(S) IS/ARE PUBLICLY MAINTAINED PRIVATELY
11 MAINTAINED NOT MAINTAINED NOT APPLICABLE. IF
12 APPLICABLE, THERE IS IS NOT....A RECORDED ROAD
13 MAINTENANCE AGREEMENT.

14 *IF THE ROADS ARE NOT PUBLICLY MAINTAINED, IT IS THE*
15 *RESPONSIBILITY OF THE PROPERTY OWNER(S) TO MAINTAIN THE ROADS*
16 *AND ROADS THAT ARE NOT IMPROVED TO COUNTY STANDARDS AND ACCEPTED*
17 *FOR MAINTENANCE ARE NOT THE COUNTY'S RESPONSIBILITY.*

18 6. A PORTION OR ALL OF THE PROPERTY IS IS NOT....LOCATED
19 IN A FEMA DESIGNATED REGULATORY FLOODPLAIN.

20 7. THE FOLLOWING SERVICES ARE CURRENTLY PROVIDED TO THE
21 PROPERTY: WATER SEWER ELECTRIC NATURAL
22 GAS SINGLE PARTY TELEPHONE CABLE TELEVISION SERVICES.

23 8. THE PROPERTY IS SERVED BY A PRIVATE WELL A SHARED
24 WELL NO WELL. IF SERVED BY A SHARED WELL, THE SHARED
25 WELL IS IS NOT....A PUBLIC WATER SYSTEM, AS DEFINED
26 BY THE SAFE DRINKING WATER ACT (42 UNITED STATES CODE
27 § 300f).

28 9. THE PROPERTY DOES HAVE DOES NOT HAVE....AN ONSITE
29 WASTEWATER TREATMENT FACILITY (i.e., STANDARD SEPTIC OR
30 ALTERNATIVE SYSTEM TO TREAT AND DISPOSE OF WASTEWATER).
31 UNKNOWN. IF APPLICABLE, THE PROPERTY WILL WILL
32 NOT....REQUIRE INSTALLATION OF AN ONSITE WASTEWATER FACILITY.

33 10. THE PROPERTY HAS BEEN HAS NOT BEEN....SUBJECT TO A
34 PERCOLATION TEST. UNKNOWN

35 11. THE PROPERTY DOES DOES NOT....MEET THE MINIMUM
36 APPLICABLE COUNTY ZONING REQUIREMENTS OF THE APPLICABLE
37 ZONING DESIGNATION.

38 12. WHETHER THE SALE OF THE PROPERTY MEETS THE REQUIREMENTS OF
39 A.R.S. § 11-809 REGARDING LAND DIVISIONS. IF THOSE
40 REQUIREMENTS ARE NOT MET, THE SELLER OR PROPERTY OWNER SHALL
41 DISCLOSE EACH OF THE DEFICIENCIES TO THE BUYER.

42 EXPLAIN: _____
43 _____
44 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

THIS AFFIDAVIT OF DISCLOSURE SUPERCEDES ANY PREVIOUSLY RECORDED AFFIDAVIT OF DISCLOSURE.

DATED THIS ____ (DATE) ____ DAY OF ____ (YEAR) ____ BY:

SELLER'S NAME (PRINT): _____ SIGNATURE: _____

SELLER'S NAME (PRINT): _____ SIGNATURE: _____

STATE OF ARIZONA)
) SS.
COUNTY OF _____)

SUBSCRIBED AND SWORN BEFORE ME THIS ____ (DATE) ____ DAY OF ____ (YEAR) ____, BY _____.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

(DATE)

BUYER(S) HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT OF DISCLOSURE THIS ____ (DATE) ____ DAY OF ____ (YEAR) ____

BUYER'S NAME (PRINT): _____ SIGNATURE: _____

BUYER'S NAME (PRINT): _____ SIGNATURE: _____

G. FOR THE PURPOSES OF THIS SECTION, "SELLER" AND "SUBSEQUENT SELLER" DO NOT INCLUDE A TRUSTEE OF A DEED OF TRUST WHO IS SELLING PROPERTY BY A TRUSTEE'S SALE PURSUANT TO TITLE 33, CHAPTER 6.1 OR ANY OFFICER WHO IS SELLING PROPERTY BY EXECUTION SALE PURSUANT TO TITLE 12, CHAPTER 9 AND TITLE 33, CHAPTER 6.

APPROVED BY THE GOVERNOR APRIL 9, 2001.
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2001.

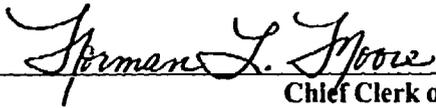
Passed the House March 26, 2001,

by the following vote: 41 Ayes,

15 Nays, 4 Not Voting



Speaker of the House



Chief Clerk of the House

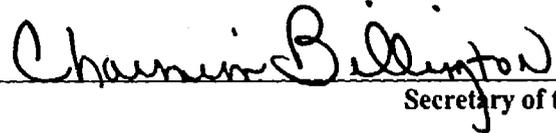
Passed the Senate February 28, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1283

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 3, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3 day of April, 2001,

at 12:35 o'clock P M.

[Signature]
Secretary to the Governor

APPROVED THIS 9 day of

April, 2001,

at 11:15 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of April, 2001,

at 4:33 o'clock P M.

[Signature]
Secretary of State

S.B. 1283