

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 153

# HOUSE BILL 2308

AN ACT

AMENDING SECTIONS 33-422 AND 37-102, ARIZONA REVISED STATUTES; RELATING TO  
CONVEYANCES AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to  
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

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

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

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

14 D. The buyer has the right to rescind the sales transaction for a  
15 period of five days after the affidavit of disclosure is furnished to the  
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at the  
18 same time that the deed is recorded. The county recorder is not required to  
19 verify the accuracy of any statement in the affidavit of disclosure. A  
20 subsequently recorded affidavit supersedes any previous affidavit.

21 F. The affidavit of disclosure shall meet the requirements of section  
22 11-480 and follow substantially the following form:

23 When recorded mail to:

24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_

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

30 I, \_\_\_\_\_ (seller(s))  
31 being duly sworn, hereby make this affidavit of disclosure  
32 relating to the real property situated in the unincorporated  
33 area of:

34 \_\_\_\_\_, County, State of Arizona, located at:  
35 \_\_\_\_\_

36 and legally described as:

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

39 1. There  is  is not....legal access to the property, as  
40 defined in A.R.S. § 11-809.... unknown

41 Explain: \_\_\_\_\_  
42 \_\_\_\_\_  
43 \_\_\_\_\_

1 2. There  is  is not....physical access to the property.  
2  unknown  
3 Explain: \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_

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

10 4. The legal and physical access to the property  is  is  
11 not....the same.... unknown  not applicable.  
12 Explain: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

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

19 5. The road(s) is/are  publicly maintained  privately  
20 maintained  not maintained  not applicable. If applicable,  
21 there  is  is not....a recorded road maintenance agreement.  
22 *If the roads are not publicly maintained, it is the*  
23 *responsibility of the property owner(s) to maintain the roads*  
24 *and roads that are not improved to county standards and accepted*  
25 *for maintenance are not the county's responsibility.*

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

29 7. The following services are currently provided to the property:  
30  water  sewer  electric  natural gas  single  
31 party telephone  cable television services.

32 8. The property is served by  a private well  a shared well  
33  no well. If served by a shared well, the shared well  is  
34  is not....a public water system, as defined by the safe  
35 drinking water act (42 United States Code § 300f).

36 9. The property  does have  does not have . . . . an on-site  
37 wastewater treatment facility (i.e., standard septic or  
38 alternative system to treat and dispose of wastewater).  
39  unknown. If applicable: a) The property  will  will not  
40 . . . . require installation of an on-site wastewater treatment  
41 facility; b) The on-site wastewater treatment facility  has  
42  has not been inspected.

- 1 10. The property  has been  has not been . . . . subject to a
- 2 percolation test.  unknown.
- 3 11. The property  does  does not....meet the minimum applicable
- 4 county zoning requirements of the applicable zoning designation.
- 5 12. The sale of the property  does  does not...meet the
- 6 requirements of A.R.S. § 11-809 regarding land divisions. If those
- 7 requirements are not met, the property owner may not be able to
- 8 obtain a building permit. The seller or property owner shall
- 9 disclose each of the deficiencies to the buyer.

10 Explain: \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

- 13 13. THE PROPERTY  IS  IS NOT LOCATED IN THE CLEAR ZONE OF A
- 14 MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY, AS DEFINED IN
- 15 A.R.S. § 28-8461. (MAPS ARE AVAILABLE AT THE STATE REAL ESTATE
- 16 DEPARTMENT'S WEB SITE.)
- 17 14. THE PROPERTY  IS  IS NOT LOCATED IN THE HIGH NOISE OR
- 18 ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY
- 19 FACILITY, AS DEFINED IN A.R.S. § 28-8461. (MAPS ARE AVAILABLE AT
- 20 THE STATE REAL ESTATE DEPARTMENT'S WEB SITE.)
- 21 15. NOTICE: IF THE PROPERTY IS LOCATED WITHIN THE TERRITORY IN THE
- 22 VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY THE
- 23 PROPERTY IS REQUIRED TO COMPLY WITH SOUND ATTENUATION STANDARDS AS
- 24 PRESCRIBED BY A.R.S. § 28-2482. (MAPS ARE AVAILABLE AT THE STATE
- 25 REAL ESTATE DEPARTMENT'S WEB SITE.)
- 26 16. THE PROPERTY  IS  IS NOT LOCATED UNDER MILITARY RESTRICTED
- 27 AIRSPACE.  UNKNOWN. (MAPS ARE AVAILABLE AT THE STATE REAL
- 28 ESTATE DEPARTMENT'S WEB SITE.)

29 This affidavit of disclosure supersedes any previously recorded

30 affidavit of disclosure.

31 I certify under penalty of perjury that the information

32 contained in this affidavit is true, complete and correct

33 according to my best belief and knowledge.

34 Dated this \_\_\_(date)\_\_\_ day of \_\_\_(year)\_\_\_ by:

35 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

36 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

37 State of Arizona )

38 ) ss.

39 County of \_\_\_\_\_)

40 Subscribed and sworn before me this \_\_\_(date)\_\_\_ day of

41 \_\_\_(year)\_\_\_, by \_\_\_\_\_.

42 \_\_\_\_\_

43 Notary public

44 My commission expires:

45 \_\_\_\_\_(date)\_\_\_\_\_

1 Buyer(s) hereby acknowledges receipt of a copy of this affidavit  
2 of disclosure this \_\_\_\_\_ (date) \_\_\_\_\_ day of \_\_\_\_\_ (year) \_\_\_\_\_

3 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

4 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

5 G. For the purposes of this section, seller and subsequent seller do  
6 not include a trustee of a deed of trust who is selling property by a  
7 trustee's sale pursuant to title 33, chapter 6.1, OR any officer who is  
8 selling property by execution sale pursuant to title 12, chapter 9 and title  
9 33, chapter 6. ~~When~~ IF THE seller is a trustee of a subdivision trust as  
10 defined in section 6-801 the disclosure affidavit required by this section  
11 shall be provided by the beneficiary of the subdivision trust.

12 Sec. 2. Section 37-102, Arizona Revised Statutes, is amended to read:  
13 37-102. State land department; powers and duties

14 A. The state land department shall administer all laws relating to  
15 lands owned by, belonging to and under the control of the state.

16 B. The department shall have charge and control of all lands owned by  
17 the state, and timber, stone, gravel and other products of such lands, except  
18 lands under the specific use and control of state institutions and the  
19 products of such lands.

20 C. The department, in the name of the state, may commence, prosecute  
21 and defend all actions and proceedings to protect the interest of the state  
22 in lands within the state or the proceeds thereof. Actions shall be  
23 commenced and prosecuted at the request of the department by the attorney  
24 general, a county attorney or a special counsel under the direction of the  
25 attorney general.

26 D. The department shall be the official representative of the state in  
27 any communication between the state and the United States government in all  
28 matters respecting state lands or any interest of the state in or to the  
29 public lands within the state.

30 E. The summons in any action against the state respecting any lands of  
31 the state or the products of such lands and all notices concerning such lands  
32 or products shall be served upon the commissioner. Summonses, warrants or  
33 legal notices served on behalf of the department may be served by the  
34 commissioner or the commissioner's deputy, or by the sheriff or a constable  
35 of any county of the state.

36 F. The department shall maintain as a public record in each of its  
37 offices a public docket and index of all matters before the department which  
38 may be subject to appeal to the board of appeals or to the courts and all  
39 sale, exchange and lease transactions subject to bidding by the public. The  
40 department shall list a matter on the public docket immediately after an  
41 application or other request for department action is received by the  
42 department. The department shall include in the public docket every formal  
43 action and decision affecting each matter in question. The department shall  
44 establish by rule a means by which any person may obtain a copy of the public  
45 docket at the current copying cost.

1 G. The department shall reappraise or update its original appraisal of  
2 property to be leased, exchanged or sold if the board of appeals' approval of  
3 the lease or sale occurred more than one hundred eighty days before the  
4 auction.

5 ~~H. Within ninety days after the effective date of this amendment to~~  
6 ~~this section,~~ The state land department shall:

7 1. Prepare maps of the ancillary military facilities described in  
8 section 28-8461, paragraph 7, subdivisions (b) and (c).

9 2. Make a map of the ancillary military facility described in section  
10 28-8461, paragraph 7, subdivision (a) available to the public in printed or  
11 electronic format and provide the map in printed or electronic format to the  
12 state real estate department.

13 I. The state land department shall provide each map and the legal  
14 description of the boundaries of each ancillary military facility described  
15 in section 28-8461, paragraph 7 in electronic format to the state real estate  
16 department. Each map prepared by the state land department pursuant to this  
17 section shall:

18 1. Describe the ancillary military facility, the territory in the  
19 vicinity of the ancillary military facility and the high noise and accident  
20 potential zone, accident potential zone one and accident potential zone two  
21 associated with the ancillary military facility.

22 2. Be submitted to the county in which the ancillary military facility  
23 is located.

24 3. Be made available in printed or electronic format to the public at  
25 the state land department and at the state real estate department.

26 ~~J. Within ninety days after the effective date of this amendment to~~  
27 ~~this section,~~ The state land department shall prepare a military training  
28 route map. The map shall contain military training route numbers in this  
29 state that are used by various United States armed forces. The map shall be  
30 dated.

31 K. When preparing the military training route map, the state land  
32 department shall use information contained in the most current department of  
33 defense publication that is entitled area planning military training routes  
34 for North and South America.

35 L. The military training route map shall be made available in printed  
36 or electronic format to the public at the state land department and at the  
37 state real estate department.

38 M. Within ninety days after the department is notified of a change of  
39 a military training route in this state, the department shall prepare a  
40 revised military training route map. The map shall be dated and contain a  
41 statement that the map supersedes all previously dated maps. The state land  
42 department shall send the revised map to the state real estate department  
43 electronically and shall also send an accompanying letter specifying the  
44 military training route changes. The state land department shall send the

1 revised map and an accompanying letter specifying the military training route  
2 changes to the municipalities affected by the changes and to all counties.

3 N. The department shall submit the military training route map  
4 prepared pursuant to this section to the counties in either an electronic or  
5 a printed format. The format shall be determined by the receiving county.

6 O. The state land department shall provide the legal description of  
7 the boundaries of the military training routes as delineated in the military  
8 training route map to the state real estate department in electronic format.

9 P. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO  
10 THIS SECTION, THE STATE LAND DEPARTMENT SHALL PREPARE A MILITARY RESTRICTED  
11 AIRSPACE MAP. THE MAP SHALL CONTAIN MILITARY RESTRICTED AIRSPACE IN THIS  
12 STATE THAT IS USED BY VARIOUS UNITED STATES ARMED FORCES. THE MAP SHALL BE  
13 DATED.

14 Q. WHEN PREPARING THE MILITARY RESTRICTED AIRSPACE MAP, THE STATE LAND  
15 DEPARTMENT SHALL USE INFORMATION CONTAINED IN THE MOST CURRENT DEPARTMENT OF  
16 TRANSPORTATION PUBLICATION THAT IS ENTITLED AERONAUTICAL CHART.

17 R. THE MILITARY RESTRICTED AIRSPACE MAP SHALL BE MADE AVAILABLE IN  
18 PRINTED OR ELECTRONIC FORMAT TO THE PUBLIC AT THE STATE LAND DEPARTMENT AND  
19 AT THE STATE REAL ESTATE DEPARTMENT.

20 S. WITHIN NINETY DAYS AFTER THE DEPARTMENT IS NOTIFIED OF A CHANGE OF  
21 MILITARY RESTRICTED AIRSPACE IN THIS STATE, THE DEPARTMENT SHALL PREPARE A  
22 REVISED MILITARY RESTRICTED AIRSPACE MAP. THE MAP SHALL BE DATED AND CONTAIN  
23 A STATEMENT THAT THE MAP SUPERSEDES ALL PREVIOUSLY DATED MAPS. THE STATE  
24 LAND DEPARTMENT SHALL SEND THE REVISED MAP TO THE STATE REAL ESTATE  
25 DEPARTMENT ELECTRONICALLY AND SHALL ALSO SEND AN ACCOMPANYING LETTER  
26 SPECIFYING THE MILITARY RESTRICTED AIRSPACE CHANGES. THE STATE LAND  
27 DEPARTMENT SHALL SEND THE REVISED MAP AND AN ACCOMPANYING LETTER SPECIFYING  
28 THE MILITARY RESTRICTED AIRSPACE CHANGES TO THE MUNICIPALITIES AFFECTED BY  
29 THE CHANGES AND TO ALL COUNTIES.

30 T. THE DEPARTMENT SHALL SUBMIT THE MILITARY RESTRICTED AIRSPACE MAP  
31 PREPARED PURSUANT TO THIS SECTION TO THE COUNTIES IN EITHER AN ELECTRONIC OR  
32 A PRINTED FORMAT. THE FORMAT SHALL BE DETERMINED BY THE RECEIVING COUNTY.

33 U. THE STATE LAND DEPARTMENT SHALL PROVIDE THE LEGAL DESCRIPTION OF  
34 THE BOUNDARIES OF THE MILITARY RESTRICTED AIRSPACE AS DELINEATED IN THE  
35 MILITARY RESTRICTED AIRSPACE MAP TO THE STATE REAL ESTATE DEPARTMENT IN  
36 ELECTRONIC FORMAT.

APPROVED BY THE GOVERNOR APRIL 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2005.

Passed the House February 28, 2005

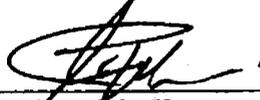
Passed the Senate April 12, 2005,

by the following vote: 54 Ayes,

by the following vote: 30 Ayes,

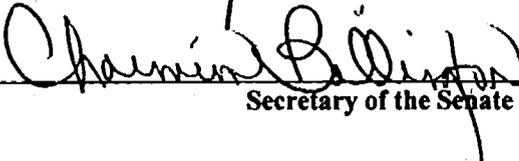
4 Nays, 2 Not Voting

0 Nays, 0 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
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

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

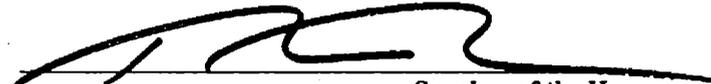
H.B. 2308

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 14, 2005,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

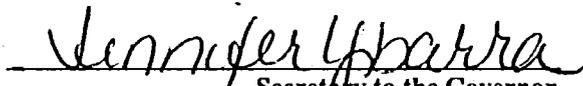
  
\_\_\_\_\_  
Speaker of the House  
Pro Tempore  
Thomas L. Moore  
\_\_\_\_\_  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15<sup>th</sup> day of April, 2005

at 9:00 o'clock a. M.

  
\_\_\_\_\_  
Secretary to the Governor

Approved this 20 day of

April, 2005,

at 2<sup>nd</sup> o'clock P. M.

  
\_\_\_\_\_  
Governor of Arizona

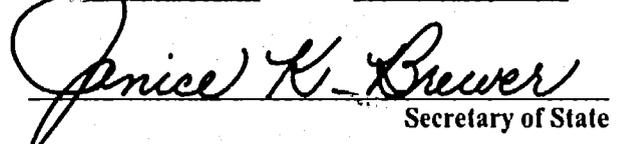
H.B. 2308

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of April, 2005,

at 4:10 o'clock P. M.

  
\_\_\_\_\_  
Secretary of State