House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 196

SENATE BILL 1387

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.28; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-812; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2114.01; AMENDING SECTIONS 32-2115, 32-2183, 32-2183.05, 33-422, 37-102 AND 41-603, ARIZONA REVISED STATUTES; RELATING TO REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.28, to read:

9-500.28. Disclosure of filings; military electronics range; definition

A. A CITY OR TOWN THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE CITY OR TOWN TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS RANGE:

1. REZONE THE PROPERTY.

2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY OPERATED UTILITY, FOR THE PROPERTY.

3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL, INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

B. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE CITY OR TOWN SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN SUBSECTION A OF THIS SECTION DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE CITY OR TOWN ON WRITTEN COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, AND IF THERE IS A HEARING, THE CITY OR TOWN SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

C. THE CITY OR TOWN SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE PROCEDURES THE CITY OR TOWN USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A CITY OR TOWN TO DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A CITY OR TOWN TO MEET THE NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE" MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION, MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY MISSION OF A MILITARY INSTALLATION.

Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 11-812, to read:

11-812. Disclosure of filings; military electronics range; definition

A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS RANGE:

1. REZONE THE PROPERTY.

2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY OPERATED UTILITY, FOR THE PROPERTY.

3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL, INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

B. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN SUBSECTION A DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE COUNTY ON WRITTEN COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE. IF THE INSTALLATION CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, AND IF THERE IS A HEARING, THE COUNTY SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE PROCEDURES THE COUNTY USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A COUNTY TO MEET THE NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE" MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION, MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY MISSION OF A MILITARY INSTALLATION.

Sec. 3. Title 32, chapter 20, article 1, Arizona Revised Statutes, is amended by adding section 32-2114.01, to read:

32-2114.01. Military electronics range

A. THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE COUNTY RECORDER IN EACH COUNTY IN THIS STATE THAT INCLUDES A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 A DOCUMENT THAT APPLIES TO LAND CONTAINED IN A MILITARY ELECTRONICS RANGE AND THAT DISCLOSES THAT THE LAND IS CONTAINED IN A MILITARY ELECTRONICS RANGE.

B. IF A MILITARY ELECTRONICS RANGE CHANGES AND PERSONS WHO WERE NOTIFIED PURSUANT TO SUBSECTION A OF THIS SECTION NO LONGER HAVE PROPERTY CONTAINED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP, THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED A DOCUMENT DISCLOSING THAT THE LAND IS NOT CONTAINED IN A MILITARY ELECTRONICS RANGE.

C. THE ATTORNEY GENERAL SHALL PREPARE IN RECORDABLE FORM THE DOCUMENTS THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER PURSUANT TO THIS SECTION.

D. THE DOCUMENTS THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL INCLUDE A GEOSPATIAL DESCRIPTION OF THE MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP.

Sec. 4. Section 32-2115, Arizona Revised Statutes, is amended to read:

32-2115. Department's website; military training route map; restricted air space map; military electronics range map

The department shall post on its ~~web site~~ WEBSITE THE FOLLOWING MAPS PREPARED BY THE STATE LAND DEPARTMENT AS PRESCRIBED BY LAW:

1. The military training route map. ~~and~~

2. The restricted air space map ~~prepared by the state land department pursuant to section 37-102~~.

3. THE MILITARY ELECTRONICS RANGE OF A MILITARY INSTALLATION.

Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:

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

A. Upon examination of a subdivision, the commissioner, unless there are grounds for denial, shall issue to the subdivider a public report authorizing the sale or lease in this state of the lots, parcels or fractional interests within the subdivision. The report shall contain the

data obtained in accordance with section 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. If any of the lots, parcels or fractional interests within the subdivision are located within territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, under a military training route as delineated in the military training route map prepared pursuant to section 37-102, ~~or~~ under restricted air space as delineated in the restricted air space map prepared pursuant to section 37-102 OR CONTAINED IN THE MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102, the report shall include, in bold twelve point font block letters on the first page of the report, the statements required pursuant to section 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the department has been provided a map prepared pursuant to section 28-8484, subsection B or section 37-102, the report shall include a copy of the map. The military airport report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001 or on or before December 31 of the year in which the lots, parcels or fractional interests within a subdivision become territory in the vicinity of a military airport or ancillary military facility. The military training route report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2004. The restricted air space report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2006. THE MILITARY ELECTRONICS RANGE REPORT REQUIREMENTS DO NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY PUBLIC REPORT ISSUED ON OR BEFORE DECEMBER 31, 2008. The commissioner shall require the subdivider to reproduce the report, make the report available to each prospective customer and furnish each buyer or lessee with a copy before the buyer or lessee signs any offer to purchase or lease, taking a receipt therefor.

B. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A PUBLIC REPORT ISSUED SIXTY OR FEWER DAYS PRIOR TO THE FILING OF THE MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102 TO MEET THE MILITARY ELECTRONICS RANGE NOTIFICATION REQUIREMENTS OF THIS SECTION.

C. A PUBLIC REPORT ISSUED SIXTY-ONE OR MORE DAYS AFTER THE FILING OF THE MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102 SHALL MEET ALL OF THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. All proposed or promised subdivision improvements are completed.

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

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

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

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

~~F.~~ H. In areas outside of active management areas, if the subdivision is located in a county that has adopted the provision authorized by section 11-806.01, subsection F or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless one of the following applies:

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

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

3. The plat was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section 11-806.01, subsection G, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

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

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

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

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

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

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

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

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

Sec. 6. Section 32-2183.05, Arizona Revised Statutes, is amended to read:

32-2183.05. Military training route disclosure; military electronics range disclosure; residential property

A. Any public report that is issued after December 31, 2004 pursuant to section 32-2183 or 32-2195.03 and that is applicable to property located under a military training route, as delineated in the military training route map prepared by the state land department pursuant to section 37-102, AND ANY PUBLIC REPORT THAT IS ISSUED AFTER DECEMBER 31, 2008 AND THAT IS APPLICABLE TO PROPERTY LOCATED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102, shall include the following statements:

1. The property is located under a military training route OR IN A MILITARY ELECTRONICS RANGE.

2. The state land department and the state real estate department maintain military training route maps AND MILITARY ELECTRONICS RANGE MAPS available to the public.

3. The military training route map ~~is~~ AND MILITARY ELECTRONICS RANGE MAP ARE posted on the state real estate department's ~~web site~~ WEBSITE.

B. The public report prescribed by subsection A of this section may contain a disclaimer that the subdivider has no control over the military training routes as delineated in the military training route map or the timing or frequency of flights and associated levels of noise AND HAS NO CONTROL OVER THE MILITARY ELECTRONICS RANGE AND ITS TESTING AND TRAINING OPERATIONS.

C. For any lot reservation or conditional sale that occurs before the issuance of a public report, the disclosure statements listed in subsection A of this section shall be included within the reservation document or conditional sales contract.

D. This section does not require the amendment or reissuance of any public report issued on or before December 31, 2004 THAT IS APPLICABLE TO PROPERTY LOCATED UNDER A MILITARY TRAINING ROUTE, AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 OR ON OR BEFORE DECEMBER 31, 2008 THAT IS APPLICABLE TO PROPERTY LOCATED IN A MILITARY ELECTRONICS RANGE, AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 or the amendment or reissuance of any reservation document or conditional sales contract accepted on or before December 31, 2004 OR ON OR BEFORE DECEMBER 31, 2008.

E. Notwithstanding any other law, if the public report complies with subsection A of this section, a subdivider is not liable to any person or governmental entity for any act or failure to act in connection with the disclosure of a military training route as delineated in the military

training route map OR A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP.

F. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A PUBLIC REPORT ISSUED SIXTY OR FEWER DAYS PRIOR TO THE FILING OF THE MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102 TO MEET THE MILITARY ELECTRONICS RANGE NOTIFICATION REQUIREMENTS OF THIS SECTION.

G. A PUBLIC REPORT ISSUED SIXTY-ONE OR MORE DAYS AFTER THE FILING OF THE MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102 SHALL MEET ALL OF THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION.

Sec. 7. Section 33-422, Arizona Revised Statutes, is amended to read:

33-422. Land divisions; recording; disclosure affidavit

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

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

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

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

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

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

When recorded mail to:

_____

_____

_____

_____

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

I, _____ (seller(s)) being duly sworn, hereby make this affidavit of disclosure relating to the real property situated in the unincorporated area of:

_____, County, State of Arizona, located at:

_____

and legally described as:

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

1. There ☐ is ☐ is not . . . . legal access to the property, as defined in A.R.S. § 11-809 . . . . ☐ unknown
   Explain: _____
   _____
   _____
2. There ☐ is ☐ is not . . . . physical access to the property. ☐ unknown
   Explain: _____
   _____
   _____
3. There ☐ is ☐ is not . . . . a statement from a licensed surveyor or engineer available stating whether the property has physical access that is traversable by a two-wheel drive passenger motor vehicle.
4. The legal and physical access to the property ☐ is ☐ is not . . . . the same....☐ unknown ☐ not applicable.
   Explain: _____
   _____
   _____
   If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.
5. The road(s) is/are ☐ publicly maintained ☐ privately maintained ☐ not maintained ☐ not applicable. If applicable, there ☐ is ☐ is not . . . . a recorded road maintenance agreement.
   If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.
6. A portion or all of the property ☐ is ☐ is not . . . . located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.
7. The property ☐ is ☐ is not subject to ☐ fissures or ☐ expansive soils. ☐ unknown
   Explain: _____
   _____
   _____
8. The following services are currently provided to the property: ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single party telephone ☐ cable television services.

9. The property ☐ is ☐ is not . . . . served by a water supply that requires the transportation of water to the property.

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

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

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

12. The property ☐ has been ☐ has not been . . . . subject to a percolation test. ☐ unknown.

13. The property ☐ does ☐ does not . . . . meet the minimum applicable county zoning requirements of the applicable zoning designation.

14. The sale of the property ☐ does ☐ does not . . . meet the requirements of A.R.S. § 11-809 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: _____

_____

_____

15. The property ☐ is ☐ is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's ~~web site~~ WEBSITE.)

16. The property ☐ is ☐ is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's ~~web site~~ WEBSITE.)

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

18. The property ☐ is ☐ is not located under military restricted airspace. ☐ unknown. (Maps are available at the state real estate department's ~~web site~~ WEBSITE.)

19. THE PROPERTY ☐ IS ☐ IS NOT LOCATED IN A MILITARY ELECTRONICS RANGE AS DEFINED IN A.R.S. SECTIONS 9-500.28 AND 11-812. ☐ UNKNOWN. (MAPS ARE AVAILABLE AT THE STATE REAL ESTATE DEPARTMENT'S WEBSITE.)

This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

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. If the seller is a trustee of a subdivision trust as defined in section 6-801, the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

Sec. 8. Section 37-102, Arizona Revised Statutes, is amended to read:

37-102. State land department; powers and duties

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

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

C. The department, in the name of the state, may commence, prosecute and defend all actions and proceedings to protect the interest of the state

in lands within the state or the proceeds thereof. Actions shall be commenced and prosecuted at the request of the department by the attorney general, a county attorney or a special counsel under the direction of the attorney general.

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

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

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

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

H. The state land department shall:

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

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

3. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND ON RECEIPT OF PROPER INFORMATION FROM THE MILITARY INSTALLATION COMMANDER WITH RESPONSIBILITY FOR THE MILITARY ELECTRONICS RANGE, PREPARE A MAP OF THE MILITARY ELECTRONICS RANGE AS DEFINED IN SECTION 9-500.28 AND MAKE THAT MAP AVAILABLE TO THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT AND PROVIDE THE MAP IN PRINTED OR ELECTRONIC FORMAT TO THE STATE REAL ESTATE DEPARTMENT. WITHIN NINETY DAYS OF RECEIPT OF NOTICE OF ANY CHANGE IN THE BOUNDARIES OF THE MILITARY ELECTRONICS RANGE FROM THE MILITARY INSTALLATION COMMANDER, THE STATE LAND DEPARTMENT SHALL REVISE ITS MAP AND PROVIDE THE MAP TO THE PUBLIC AND TO THE STATE REAL ESTATE DEPARTMENT.

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

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

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

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

J. The state land department shall prepare a military training route map. The map shall contain military training route numbers in this state that are used by various United States armed forces. The map shall be dated.

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

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

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

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

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

P. ~~Within ninety days after the effective date of this amendment to this section,~~ The state land department shall prepare a military restricted airspace map. The map shall contain military restricted airspace in this state that is used by various United States armed forces. The map shall be dated.

Q. When preparing the military restricted airspace map, the state land department shall use information contained in the most current department of transportation publication that is entitled aeronautical chart.

R. The military restricted airspace map shall be made available in printed or electronic format to the public at the state land department and at the state real estate department.

S. Within ninety days after the department is notified of a change of military restricted airspace in this state, the department shall prepare a revised military restricted airspace map. The map shall be dated and contain a statement that the map supersedes all previously dated maps. The state land department shall send the revised map to the state real estate department electronically and shall also send an accompanying letter specifying the military restricted airspace changes. The state land department shall send the revised map and an accompanying letter specifying the military restricted airspace changes to the municipalities affected by the changes and to all counties.

T. The department shall submit the military restricted airspace map prepared pursuant to this section to the counties in either an electronic or a printed format. The format shall be determined by the receiving county.

U. The state land department shall provide the legal description of the boundaries of the military restricted airspace as delineated in the military restricted airspace map to the state real estate department in electronic format.

V. THE DEPARTMENT MAY ACCEPT TITLE TO AND MANAGE REAL ESTATE, PROPERTY RIGHTS AND RELATED INFRASTRUCTURE ACQUIRED PURSUANT TO SECTION 41-603, SUBSECTION C, PARAGRAPH 3 FOR PRESERVING OR ENHANCING MILITARY INSTALLATIONS IN THIS STATE.

Sec. 9. Section 41-603, Arizona Revised Statutes, is amended to read:

41-603. Powers and duties

A. The department may act as guardian of an incapacitated veteran, the incapacitated spouse of a veteran or minor children of a veteran, or as conservator of the estate of a protected veteran or of the veteran's incapacitated or surviving spouse or of the minor children of a veteran. The department may act in all fiduciary matters, including as power of attorney, trustee, custodian or representative payee of a veteran, spouse of a veteran or minor child of a veteran. The department may act as the personal representative of the estate of a deceased veteran, deceased spouse of a veteran or deceased child of a veteran.

B. The department shall:

1. Assist veterans and their families and dependents in presenting, providing and establishing claims, privileges, rights and benefits they may have under federal, state or local law.

2. Inform veterans and their families and dependents and military and civilian authorities about federal, state and local laws enacted to benefit veterans and their families and dependents and members of the armed forces.

3. Collect information relating to services and facilities available to veterans.

4. Cooperate with all government and private agencies receiving services for or benefits to veterans and their families and dependents.

5. Conduct administrative reviews and, if possible, correct abuses or prevent exploitation of veterans and their families or dependents and recommend corrective legislation.

6. Adopt rules deemed necessary to administer this article.

7. Enter into agreements with veterans' organizations in this state holding a charter granted by the Congress of the United States for the beneficial interest of veterans.

8. Verify and provide written confirmation to the person of eligibility for special license plates issued pursuant to section 28-2455 by determining that all of the following are true:

(a) The person was a member of the United States armed forces on December 7, 1941.

(b) The person received an honorable discharge from the United States armed forces.

(c) The person was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time at Pearl Harbor, the Island of Oahu or offshore, at a distance not exceeding three miles.

9. Evaluate, supervise, approve and disapprove programs offered by educational institutions and training establishments pursuant to United States Code titles 10 and 38 and state rules, so that veterans and their dependents may draw the educational allowance provided by federal law while pursuing approved programs.

10. Approve or disapprove veterans' organizations seeking to solicit money or other support in this state in the name of American veterans.

C. The department may:

1. Acquire property for and construct and operate a veterans' home facility in southern Arizona.

2. Acquire property for and establish and operate cemeteries for veterans in this state.

3. Acquire real estate, property rights and related infrastructure pursuant to section 41-1512.01, subsection G. THE DEPARTMENT OF VETERANS' SERVICES SHALL TRANSFER ANY REAL ESTATE, PROPERTY RIGHTS AND RELATED INFRASTRUCTURE TO THE STATE LAND DEPARTMENT for THE PURPOSES OF preserving or enhancing military installations in this state.

4. Establish a training center to provide training to current or potential employees and the veteran community. The department may establish a fee for this training.

APPROVED BY THE GOVERNOR MAY 12, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2008.