Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 328

HOUSE BILL 2005

AN ACT

AMENDING SECTION 9-463.01, ARIZONA REVISED STATUTES; AMENDING SECTION 11-831, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING SECTIONS 32-2101 AND 32-2157, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2181, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 18; AMENDING SECTION 32-2182, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2183, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 144, SECTION 2; REPEALING SECTION 32-2183, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 19; AMENDING SECTIONS 32-2183.03 AND 32-2195.03, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO THE SALE OF LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

9-463.01. Authority

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

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

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

2. Standards governing the design of subdivision plats.

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

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

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

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

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

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

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

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

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

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

D. The legislative body of any municipality may require by ordinance that land areas within a subdivision be reserved for parks, recreational

facilities, school sites and fire stations subject to the following conditions:

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

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

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

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

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

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

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

1. Final subdivision plats.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The legislative body shall include on the face of the plat a statement that the director of water resources has determined that the water supply for the subdivision is inadequate and a statement describing the exemption under which the plat was approved, including a statement that the legislative body or the director of water resources, whichever applies, has determined that the specific conditions of the exemption were met. If the ~~legislative body~~ DIRECTOR subsequently informs the legislative body that the subdivision is being served by a water provider that has been designated by the director as having an adequate water supply pursuant to section 45-108, the legislative body shall record in the county recorder's office a statement disclosing that fact.

O. If a municipality has not been given written notice by the director of water resources pursuant to section 45-108, subsection H, the legislative

body of the municipality, to protect the public health and safety, may provide by ordinance that, except as provided in subsections K and P of this section, the final plat of a subdivision located in the municipality and outside of an active management area will not be approved by the legislative body unless the director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108. Before holding a public hearing to consider whether to enact an ordinance pursuant to this subsection, a municipality shall provide written notice of the hearing to the board of supervisors of the county in which the municipality is located. A municipality that enacts an ordinance pursuant to this subsection shall give written notice of the enactment of the ordinance, including a certified copy of the ordinance, to the director of water resources, the director of environmental quality, the state real estate commissioner and the board of supervisors of the county in which the ~~city~~ MUNICIPALITY is located. If a municipality enacts an ordinance pursuant to this subsection, water providers may be eligible to receive monies in a water supply development fund, as otherwise provided by law.

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

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

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

Q. If the subdivision is composed of subdivided lands as defined in section 32-2101 outside of an active management area and the municipality has not received written notice pursuant to section 45-108, subsection H and has not adopted an ordinance pursuant to subsection O of this section:

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

an adequate water supply by the director of water resources pursuant to section 45-108, the municipality shall note this on the face of the plat if the plat is approved.

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

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

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

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

U. For any subdivision that consists of ten or fewer lots, tracts or parcels, each of which is of a size as prescribed by the legislative body, the legislative body of each municipality may EXPEDITE THE PROCESSING OF OR waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements ~~except for improved dust-controlled access and minimum drainage improvements~~ PROPORTIONAL TO THE IMPACT OF THE SUBDIVISION. REQUIREMENTS FOR DUST-CONTROLLED ACCESS AND DRAINAGE IMPROVEMENTS SHALL NOT BE WAIVED.

Sec. 2. Section 11-831, Arizona Revised Statutes, as added by Laws 2010, chapter 244, section 7, is amended to read:

11-831. Review of land divisions; definitions

A. The board of supervisors of each county may adopt ordinances and regulations pursuant to this section for staff review and approval of land divisions of five or fewer lots, parcels or fractional interests, any of which is ten acres or smaller in size. The county may not deny approval of any land division that meets the requirements of this section. If review of the request is not completed within thirty days after receiving the request, the land division is considered to be approved. At its option, the board of supervisors may submit a ballot question to the voters of the county to allow the voters to determine the application of subsections B and C to qualifying land divisions in that county.

B. An application to split a parcel of land shall be approved if:

1. The lots, parcels or fractional interests each meet the minimum applicable county zoning requirements of the applicable zoning designation.

2. The applicant provides a standard preliminary title report or other acceptable document that demonstrates legal access to the lots, parcels or fractional interests.

3. The applicant provides a statement from a licensed surveyor or engineer, or other evidence acceptable to the county, stating whether each lot, parcel or fractional interest has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The applicant reserves the necessary and appropriate utility easements to serve each lot, parcel or fractional interest created by the land division.

C. An application to split a parcel of land that does not comply with one or more of the items listed in subsection B shall still be approved if the applicant provides an acknowledgment that is signed by the applicant and that confirms that no building or use permit will be issued by the county until the lot, parcel or fractional interest has met the requirements of subsection B. The county may grant a variance from one or more of the items listed in subsection B.

D. Any approval of a land division under this section may:

1. Include the minimum statutory requirements for legal and physical on-site access that must be met as a condition to the issuance of a building or use permit for the lots, parcels or fractional interests.

2. Identify topographic, hydrologic or other site constraints, requirements or limitations that must be addressed as conditions to the eventual issuance of a building or use permit. These constraints, requirements or limitations may be as noted by the applicant or through county staff review, but there shall be no requirement for independent studies.

E. If the requirements of subsections A through D do not apply, a county may adopt ordinances and regulations pursuant to this chapter for staff review of land divisions of five or fewer lots, parcels or fractional interests but only to determine compliance with minimum applicable county zoning requirements and legal access and may grant waivers from the county zoning and legal access requirements. The county may not deny approval of any land division that meets the requirements of this section or where the deficiencies are noticed in the deed. A county may not require a public hearing on a request to divide five or fewer lots, parcels or fractional interests. If review of the request is not completed within thirty days from receipt of the request, the land division shall be deemed approved. If no legal access is available, the legal access does not allow access by emergency vehicles or the county zoning requirements are not met, the access or zoning deficiencies shall be noticed in the deed. If a county by ordinance requires a legal access of more than twenty-four feet roadway width, the county is responsible for the improvement and maintenance of the improvement. If the legal access does not allow access to the lots, parcels or fractional interests by emergency vehicles, neither the county nor its

agents or employees are liable for damages resulting from the failure of emergency vehicles to reach the lot, parcel or fractional interest.

F. It is unlawful for a person or group of persons acting in concert to attempt to avoid this section or the subdivision laws of this state by acting in concert to divide a parcel of land into six or more lots or sell or lease six or more lots by using a series of owners or conveyances. ~~Any~~ EITHER THE county where the division occurred or the state real estate department pursuant to title 32, chapter 20, BUT NOT BOTH, may enforce this prohibition. A FAMILIAL RELATIONSHIP ALONE IS NOT SUFFICIENT TO CONSTITUTE UNLAWFUL ACTING IN CONCERT.

G. FOR ANY SUBDIVISION THAT CONSISTS OF TEN OR FEWER LOTS, TRACTS OR PARCELS, EACH OF WHICH IS OF A SIZE AS PRESCRIBED BY THE BOARD OF SUPERVISORS, THE BOARD OF SUPERVISORS OF EACH COUNTY MAY WAIVE THE REQUIREMENT TO PREPARE, SUBMIT AND RECEIVE APPROVAL OF A PRELIMINARY PLAT AS A CONDITION PRECEDENT TO SUBMITTING A FINAL PLAT AND MAY WAIVE OR REDUCE INFRASTRUCTURE STANDARDS OR REQUIREMENTS EXCEPT FOR IMPROVED DUST-CONTROLLED ACCESS AND MINIMUM DRAINAGE IMPROVEMENTS.

~~G.~~ H. For the purposes of this section:

1. "Legal access" means a public right of vehicular ingress and egress between the lots, parcels or fractional interests being created.

2. "Minimum applicable county zoning requirements" means the minimum acreage and dimensions of the resulting lot, parcel or fractional interest as required by the county's zoning ordinance.

3. "Utility easement" means an easement of eight feet in width dedicated to the general public to install, maintain and access sewer, electric, gas and water utilities.

Sec. 3. Section 32-2101, Arizona Revised Statutes, is amended to read:

32-2101. Definitions

In this chapter, unless the context otherwise requires:

1. "Acting in concert" means evidence of collaborating to pursue a concerted plan.

2. "Advertising" means the attempt by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in lands subject to this chapter including the land sales contract to be used and any photographs, drawings or artist's presentations of physical conditions or facilities existing or to exist on the property. Advertising does not include:

(a) Press releases or other communications delivered to newspapers, periodicals or other news media for general information or public relations purposes if no charge is made by the newspapers, periodicals or other news media for the publication or use of any part of these communications.

(b) Communications to stockholders as follows:

(i) Annual reports and interim financial reports.

(ii) Proxy materials.

(iii) Registration statements.
(iv) Securities prospectuses.
(v) Applications for listing of securities on stock exchanges.
(vi) Prospectuses.
(vii) Property reports.
(viii) Offering statements.

3. "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.

4. "Associate broker" means a licensed broker employed by another broker. Unless otherwise specifically provided, an associate broker has the same license privileges as a salesperson.

5. "Barrier" means a natural or man-made geographical feature that prevents parcels of land from being practicably, reasonably and economically united or reunited and that was not caused or created by the owner of the parcels.

6. "Blanket encumbrance" means any mortgage, any deed of trust or any other encumbrance or lien securing or evidencing the payment of money and affecting more than one lot or parcel of subdivided land, or an agreement affecting more than one lot or parcel by which the subdivider holds the subdivision under an option, contract to sell or trust agreement. Blanket encumbrance does not include taxes and assessments levied by public authority.

7. "Board" means the state real estate advisory board.

8. "Broker", when used without modification, means a person who is licensed as a broker under this chapter or who is required to be licensed as a broker under this chapter.

9. "Business broker" means a real estate broker who acts as an intermediary or agent between sellers or buyers, or both, in the sale or purchase, or both, of businesses or business opportunities where a lease or sale of real property is either a direct or incidental part of the transaction.

10. "Camping site" means a space designed and promoted for the purpose of locating any trailer, tent, tent trailer, pickup camper or other similar device used for camping.

11. "Cemetery" or "cemetery property" means any one, or a combination of more than one, of the following in a place used, or intended to be used, and dedicated for cemetery purposes:

(a) A burial park, for earth interments.
(b) A mausoleum, for crypt or vault entombments.
(c) A crematory, or a crematory and columbarium, for cinerary interments.
(d) A cemetery plot, including interment rights, mausoleum crypts, niches and burial spaces.

12. "Cemetery broker" means a person other than a real estate broker or real estate salesperson who, for another, for compensation:

(a) Sells, leases or exchanges cemetery property or interment services of or for another, or on the person's own account.

(b) Offers for another or for the person's own account to buy, sell, lease or exchange cemetery property or interment services.

(c) Negotiates the purchase and sale, lease or exchange of cemetery property or interment services.

(d) Negotiates the purchase or sale, lease or exchange, or lists or solicits, or negotiates a loan on or leasing of cemetery property or interment services.

13. "Cemetery salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed cemetery or real estate broker, or through and on behalf of a corporation, partnership or limited liability company that is licensed as a cemetery or real estate broker, to perform any act or transaction included in the definition of cemetery broker.

14. "Commissioner" means the state real estate commissioner.

15. "Common promotional plan" means a plan, undertaken by a person or a group of persons acting in concert, to offer lots for sale or lease. If the land is offered for sale by a person or group of persons acting in concert, and the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan. Separate subdividers selling lots or parcels in separately platted subdivisions within a master planned community shall not be deemed to be offering their combined lots for sale or lease as part of a common promotional plan.

16. "Compensation" means any fee, commission, salary, money or other valuable consideration for services rendered or to be rendered as well as the promise of consideration whether contingent or not.

17. "Contiguous" means lots, parcels or fractional interests that share a common boundary or point. Lots, parcels or fractional interests are not contiguous if they are separated by either of the following:

(a) A barrier.

(b) A road, street or highway that has been established by this state or by any agency or political subdivision of this state, that has been designated by the federal government as an interstate highway or that has been regularly maintained by this state or by any agency or political subdivision of this state and has been used continuously by the public for at least the last five years.

18. "Control" or "controlled" means a person who, through ownership, voting rights, power of attorney, proxy, management rights, operational

rights or other rights, has the right to make decisions binding on an entity, whether a corporation, a partnership or any other entity.

19. "Corporation licensee" means a lawfully organized corporation that is registered with the Arizona corporation commission and that has an officer licensed as the designated broker pursuant to section 32-2125.

20. "Department" means the state real estate department.

21. "Designated broker" means the natural person who is licensed as a broker under this chapter and who is either:

(a) Designated to act on behalf of an employing real estate, cemetery or membership camping entity.

(b) Doing business as a sole proprietor.

22. "Developer" means a person who offers real property in a development for sale, lease or use, either immediately or in the future, on the person's own behalf or on behalf of another person, under this chapter. Developer does not include a person whose involvement with a development is limited to the listing of property within the development for sale, lease or use.

23. "Development" means any division, proposed division or use of real property that the department has authority to regulate, including subdivided and unsubdivided lands, cemeteries, condominiums, timeshares, membership campgrounds and stock cooperatives.

24. "Employing broker" means a person who is licensed or is required to be licensed as a:

(a) Broker entity pursuant to section 32-2125, subsection A.

(b) Sole proprietorship if the sole proprietor is a broker licensed pursuant to this chapter.

25. "Fractional interest" means an undivided interest in improved or unimproved land, lots or parcels of any size created for the purpose of sale or lease and evidenced by any receipt, certificate, deed or other document conveying the interest. Undivided interests in land, lots or parcels created in the names of a husband and wife as community property, joint tenants or tenants in common, or in the names of other persons who, acting together as part of a single transaction, acquire the interests without a purpose to divide the interests for present or future sale or lease shall be deemed to constitute only one fractional interest.

26. "Improved lot or parcel" means a lot or parcel of a subdivision upon which lot or parcel there is a residential, commercial or industrial building or concerning which a contract has been entered into between a subdivider and a purchaser that obligates the subdivider directly, or indirectly through a building contractor, to complete construction of a residential, commercial or industrial building on the lot or parcel within two years from the date on which the contract of sale for the lot is entered into.

27. "Inactive license" means a license issued pursuant to article 2 of this chapter to a licensee who is on inactive status during the current license period and who is not engaged by or on behalf of a broker.

28. "Lease" or "leasing" includes any lease, whether it is the sole, the principal or any incidental part of a transaction.

29. "License" means the whole or part of any agency permit, certificate, approval, registration, public report, charter or similar form of permission required by this chapter.

30. "License period" means the two year period beginning with the date of original issue or renewal of a particular license and ending on the expiration date, if any.

31. "Licensee" means a person to whom a license for the current license period has been granted under any provision of this chapter, and, for purposes of section 32-2153, subsection A, shall include original license applicants.

32. "Limited liability company licensee" means a lawfully organized limited liability company that has a member or manager who is a natural person and who is licensed as the designated broker pursuant to section 32-2125.

33. "Lot reservation" means an expression of interest by a prospective purchaser in buying at some time in the future a subdivided or unsubdivided lot, unit or parcel in this state. In all cases, a subsequent affirmative action by the prospective purchaser must be taken to create a contractual obligation to purchase.

34. "Master planned community" means a development that consists of two or more separately platted subdivisions and that is either subject to a master declaration of covenants, conditions or restrictions, is subject to restrictive covenants sufficiently uniform in character to clearly indicate a general scheme for improvement or development of real property or is governed or administered by a master owner's association.

35. "Member" means a member of the real estate advisory board.

36. "Membership camping broker" means a person, other than a salesperson, who, for compensation:

(a) Sells, purchases, lists, exchanges or leases membership camping contracts.

(b) Offers to sell, purchase, exchange or lease membership camping contracts.

(c) Negotiates or offers, attempts or agrees to negotiate the sale, purchase, exchange or lease of membership camping contracts.

(d) Advertises or holds himself out as being engaged in the business of selling, buying, exchanging or leasing membership camping contracts or counseling or advising regarding membership camping contracts.

(e) Assists or directs in the procuring of prospects calculated or intended to result in the sale, purchase, listing, exchange or lease of membership camping contracts.

(f) Performs any of the foregoing acts as an employee or on behalf of a membership camping operator or membership contract owner.

37. "Membership camping contract" means an agreement offered or sold in this state evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator and includes a membership that provides for this use.

38. "Membership camping operator" means an enterprise, other than one that is tax exempt under section 501(c)(3) of the internal revenue code of 1986, as amended, that solicits membership paid for by a fee or periodic payments and has as one of its purposes camping or outdoor recreation including the use of camping sites primarily by members. Membership camping operator does not include camping or recreational trailer parks that are open to the general public and that contain camping sites rented for a per use fee or a mobile home park.

39. "Membership camping salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed membership camping or real estate broker, or by or on behalf of a corporation, partnership or limited liability company that is licensed as a membership camping or real estate broker, to perform any act or participate in any transaction in a manner included in the definition of membership camping broker.

40. "Partnership licensee" means a partnership with a managing general partner who is licensed as the designated broker pursuant to section 32-2125.

41. "Permanent access", as required under article 4 of this chapter, means permanent access from the subdivision to any federal, state or county highway.

42. "Perpetual or endowed-care cemetery" means a cemetery wherein lots or other burial spaces are sold or transferred under the representation that the cemetery will receive "perpetual" or "endowed" care as defined in this section free of further cost to the purchaser after payment of the original purchase price for the lot, burial space or interment right.

43. "Perpetual-care" or "endowed-care" means the maintenance and care of all places where interments have been made of the trees, shrubs, roads, streets and other improvements and embellishments contained within or forming a part of the cemetery. This shall not include the maintenance or repair of monuments, tombs, copings or other man-made ornaments as associated with individual burial spaces.

44. "Person" means any individual, corporation, partnership or company and any other form of multiple organization for carrying on business, foreign or domestic.

45. "Private cemetery" means a cemetery or place that is not licensed under article 6 of this chapter, where burials or interments of human remains are made, in which sales or transfers of interment rights or burial plots are

not made to the public and in which not more than ten interments or burials occur annually.

46. "Promotion" or "promotional practice" means advertising and any other act, practice, device or scheme to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in or use of real property subject to this chapter, including meetings with prospective purchasers, arrangements for prospective purchasers to visit real property, travel allowances and discount, exchange, refund and cancellation privileges.

47. "Real estate" includes leasehold interests and any estates in land as defined in title 33, chapter 2, articles 1 and 2, regardless of whether located in this state.

48. "Real estate broker" means a person, other than a salesperson, who, for another and for compensation:

(a) Sells, exchanges, purchases, rents or leases real estate, businesses and business opportunities or timeshare interests.

(b) Offers to sell, exchange, purchase, rent or lease real estate, businesses and business opportunities or timeshare interests.

(c) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate, businesses and business opportunities or timeshare interests.

(d) Lists or offers, attempts or agrees to list real estate, businesses and business opportunities or timeshare interests for sale, lease or exchange.

(e) Auctions or offers, attempts or agrees to auction real estate, businesses and business opportunities or timeshare interests.

(f) Buys, sells, offers to buy or sell or otherwise deals in options on real estate, businesses and business opportunities or timeshare interests or improvements to real estate, businesses and business opportunities or timeshare interests.

(g) Collects or offers, attempts or agrees to collect rent for the use of real estate, businesses and business opportunities or timeshare interests.

(h) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate, businesses and business opportunities or timeshare interests or counseling or advising regarding real estate, businesses and business opportunities or timeshare interests.

(i) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate, businesses and business opportunities or timeshare interests.

(j) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate, businesses and business opportunities or timeshare interests.

(k) Incident to the sale of real estate, businesses and business opportunities negotiates or offers, attempts or agrees to negotiate a loan

secured or to be secured by any mortgage or other encumbrance upon or transfer of real estate, businesses and business opportunities or timeshare interests subject to section 32-2155, subsection C. This subdivision does not apply to mortgage brokers as defined in and subject to title 6, chapter 9, article 1.

(l) Engages in the business of assisting or offering to assist another in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal government.

(m) Claims, demands, charges, receives, collects or contracts for the collection of an advance fee in connection with any employment enumerated in this section, including employment undertaken to promote the sale or lease of real property by advance fee listing, by furnishing rental information to a prospective tenant for a fee paid by the prospective tenant, by advertisement or by any other offering to sell, lease, exchange or rent real property or selling kits connected therewith. This shall not include the activities of any communications media of general circulation or coverage not primarily engaged in the advertisement of real estate or any communications media activities that are specifically exempt from applicability of this article under section 32-2121.

(n) Engages in any of the acts listed in subdivisions (a) through (m) of this paragraph for the sale or lease of other than real property if a real property sale or lease is a part of, contingent on or ancillary to the transaction.

(o) Performs any of the acts listed in subdivisions (a) through (m) of this paragraph as an employee of, or in behalf of, the owner of real estate, or interest in the real estate, or improvements affixed on the real estate, for compensation.

(p) Acts as a business broker.

49. "Real estate sales contract" means an agreement in which one party agrees to convey title to real estate to another party upon the satisfaction of specified conditions set forth in the contract.

50. "Real estate salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed real estate broker, or by or on behalf of a limited liability company, partnership or corporation that is licensed as a real estate broker, to perform any act or participate in any transaction in a manner included in the definition of real estate broker subject to section 32-2155.

51. "Sale" or "lease" includes every disposition, transfer, option or offer or attempt to dispose of or transfer real property, or an interest, use or estate in the real property, including the offering of the property as a prize or gift if a monetary charge or consideration for whatever purpose is required.

52. "Salesperson", when used without modification, means a natural person who acts on the person's own behalf or through and on behalf of a

professional limited liability company or a professional corporation licensed under this chapter or any person required to be licensed as a salesperson under this chapter.

53. "School" means a person or entity that offers a course of study towards completion of the education requirements leading to licensure or renewal of licensure under this chapter.

54. "Stock cooperative" means a corporation to which all of the following apply:

(a) The corporation is formed or used to hold title to improved real property in fee simple or for a term of years.

(b) All or substantially all of the shareholders of the corporation each receive a right of exclusive occupancy in a portion of the real property to which the corporation holds title.

(c) The right of occupancy may only be transferred with the concurrent transfer of the shares of stock in the corporation held by the person having the right of occupancy.

55. "Subdivider" means any person who offers for sale or lease six or more lots, parcels or fractional interests in a subdivision or who causes land to be subdivided into a subdivision for the subdivider or for others, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to create subdivisions.

56. "Subdivision" or "subdivided lands":

(a) Means improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests.

(b) Includes a stock cooperative, lands divided or proposed to be divided as part of a common promotional plan and residential condominiums as defined in title 33, chapter 9.

(c) Does not include:

(i) Leasehold offerings of one year or less.

(ii) The division or proposed division of land located in this state into lots or parcels each of which is or will be thirty-six acres or more in area including to the centerline of dedicated roads or easements, if any, contiguous to the lot or parcel.

(iii) The leasing of agricultural lands or apartments, offices, stores, hotels, motels, pads or similar space within an apartment building, industrial building, rental recreational vehicle community, rental manufactured home community, rental mobile home park or commercial building.

(iv) The subdivision into or development of parcels, plots or fractional portions within the boundaries of a cemetery that has been formed and approved pursuant to this chapter.

(v) A SALE OR LEASE OF A LOT, PARCEL OR FRACTIONAL INTEREST THAT OCCURS TEN OR MORE YEARS AFTER THE SALE OR LEASE OF ANOTHER LOT, PARCEL OR FRACTIONAL INTEREST IF THE OTHER LOT, PARCEL OR FRACTIONAL INTEREST IS NOT

SUBJECT TO THIS ARTICLE AND IS TREATED AS AN INDEPENDENT PARCEL UNLESS, UPON INVESTIGATION BY THE COMMISSIONER, THERE IS EVIDENCE OF INTENT TO SUBDIVIDE.

57. "Timeshare" or "timeshare property" means real property ownership or right of occupancy in real property pursuant to article 9 of this chapter. For the purposes of this chapter, a timeshare is not a security unless it meets the definition of a security under section 44-1801.

58. "Trustee" means:

(a) A person designated under section 32-2194.27 to act as a trustee for an endowment-care cemetery fund.

(b) A person holding bare legal title to real property under a subdivision trust. A trustee shall not be deemed to be a developer, subdivider, broker or salesperson within this chapter.

59. "Unimproved lot or parcel" means a lot or parcel of a subdivision that is not an improved lot or parcel.

60. "Unsubdivided lands" means land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests and the lots or parcels are thirty-six acres or more each but less than one hundred sixty acres each, or that are offered, known or advertised under a common promotional plan for sale or lease, except that agricultural leases shall not be included in this definition.

Sec. 4. Section 32-2157, Arizona Revised Statutes, is amended to read:

32-2157. Written notice of charges; summary suspension; hearing; voluntary surrender of license

A. Except as provided in subsections B and C of this section, before suspending, revoking or denying the renewal or the right of renewal of any license, or issuing any order prohibiting the sale or lease of property or the sale of cemetery lots or membership camping contracts as provided by this chapter, the commissioner shall present the licensee, owner, INCLUDING THE CURRENT OWNER OF THE PROPERTY, operator, agent or developer with written notice of the charges filed against the person, or reasons for prohibiting the sale or lease, and shall afford the person an opportunity for a hearing pursuant to title 41, chapter 6, article 10. Within twenty days after service of a notice of hearing, the respondent shall appear by filing a written answer to the complaint. A licensee against whom the department has commenced a disciplinary proceeding under this chapter may voluntarily surrender to the department the license if the surrender of the license occurs not less than ten days prior to a hearing under this section. After the acceptance of a voluntary surrender of a license under this section the department shall not thereafter issue a license under this chapter to the licensee.

B. If the commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in the commissioner's order, summary suspension of a license or sales may be ordered. Grounds for issuance of an order of summary suspension

include the violation of any of the provisions of section 32-2153 and the termination of a license pursuant to section 32-2188, subsection I. A licensee, owner, INCLUDING THE CURRENT OWNER OF THE PROPERTY, operator, agent or developer may request a hearing pursuant to title 41, chapter 6, article 10. A summary suspension shall be deemed to be final if a request for a hearing is not received within thirty days as provided by section 41-1092.03.

C. The department may issue a summary suspension when the department receives notice that a person licensed pursuant to this chapter has been convicted of a felony offense and is currently incarcerated for the conviction, paroled or under the supervision of a parole or community supervision officer or is on probation as a result of the conviction. This subsection does not limit the commissioner's authority to seek revocation of a license or other disciplinary action pursuant to this chapter.

Sec. 5. Section 32-2181, Arizona Revised Statutes, as amended by Laws 2010, chapter 244, section 18, is amended to read:

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

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

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

2. The name and address of the subdivider.

3. The legal description and area of the land.

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

5. The terms and conditions on which it is intended to dispose of the land, together with copies of any real estate sales contract, conveyance,

lease, assignment or other instrument intended to be used, and any other information the owner or the owner's agent or subdivider desires to present.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any subdivision in this state.

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

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

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

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

(b) The subdivider.

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

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

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

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

(b) The date original construction was completed.

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

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

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

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

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

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

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

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

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

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

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

7. A SALE OR LEASE OF A LOT, PARCEL OR FRACTIONAL INTEREST OCCURS TEN OR MORE YEARS AFTER THE SALE OR LEASE OF ANOTHER LOT, PARCEL OR FRACTIONAL INTEREST AND THE OTHER LOT, PARCEL OR FRACTIONAL INTEREST IS NOT SUBJECT TO THIS ARTICLE AND IS TREATED AS AN INDEPENDENT PARCEL UNLESS, UPON INVESTIGATION BY THE COMMISSIONER, THERE IS EVIDENCE OF INTENT TO SUBDIVIDE.

F. In areas outside of active management areas established pursuant to title 45, chapter 2, article 2:

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

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

(b) The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as

having an adequate water supply by the director of water resources pursuant to section 45-108.

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

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

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

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

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

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

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

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

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

Sec. 6. Section 32-2182, Arizona Revised Statutes, is amended to read:

32-2182. Examination of subdivision by commissioner; fee; time limit to determine violation

A. The commissioner shall examine any subdivision offered for sale or lease~~,~~ and shall make public his findings. The total cost of travel and subsistence expenses incurred by the department in the examination, in addition to the initial filing fee provided for in this section, shall be borne by the subdivider on the basis of actual cost to the department. A filing fee of five hundred dollars or such lesser fee as determined by the commissioner shall accompany the written notification required in section 32-2181.

B. The commissioner may, but is not required to, inspect a subdivision site if all of the following apply:

1. The commissioner has previously inspected the subdivision within the past two years.

2. All proposed improvements were complete at the time of the previous inspection.

3. The sales offering does not include any changes to the physical aspects of the subdivision, including the plat, site and locations of improvements.

C. The commissioner is not required to complete the inspection of the subdivision site before issuing a public report. Nevertheless, if the commissioner discovers anything during any subsequent inspection that would have been grounds to deny issuance of the public report or anything that would have warranted additional disclosure in the public report, the commissioner may issue a summary order as provided in section 32-2157 ~~and take whatever other action he deems necessary to ensure compliance with the subdivision laws of this state~~.

D. NOTWITHSTANDING ANY OTHER LAW, THE COMMISSIONER HAS NO MORE THAN FIVE YEARS AFTER THE DATE OF AN INITIAL COMPLAINT OR INITIATION OF AN INVESTIGATION BY THE COMMISSIONER TO DETERMINE IF THE SALE OR LEASE VIOLATED THIS ARTICLE.

Sec. 7. Section 32-2183, Arizona Revised Statutes, as amended by Laws 2010, chapter 144, section 2, is amended to read:

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

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

do not require the amendment or reissuance of any public report issued on or before December 31, 2004. The restricted air space report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2006. The military electronics range report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2008. The commissioner shall require the subdivider to reproduce the report, make the report available to each 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.

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

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

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

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

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

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

6. Before or after the commissioner issues a certificate of administrative completeness or, if applicable, after the notification and

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

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

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

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

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

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

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

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

6. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary holding ten 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.

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

1. All proposed or promised subdivision improvements are completed.

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

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

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

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

H. In areas outside of active management areas, if the subdivision is located in a county that has adopted the provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A 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~~ 11-823, SUBSECTION B, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

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

I. A subdivider shall not sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02, AND A CERTIFICATE OF ADMINISTRATIVE COMPLETENESS ISSUED PURSUANT TO THIS SECTION. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of

the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

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

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

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

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

may be necessary to restore to any person in interest any monies or property, real or personal, that may have been acquired by means of any practice in this article declared to be unlawful.

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

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

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

Sec. 8. Repeal

Section 32-2183, Arizona Revised Statutes, as amended by Laws 2010, chapter 244, section 19, is repealed.

Sec. 9. Section 32-2183.03, Arizona Revised Statutes, is amended to read:

32-2183.03. Civil liabilities

A. When any part of the notice of intention filed pursuant to section 32-2181 contains an untrue statement of a material fact or omits a material fact required to be stated in such notice, the subdivider or agent shall be liable as provided in this section to any person who acquires a lot or parcel in the subdivision covered by such notice of intention during such period the notice of intention remained uncorrected unless at the time of such acquisition the person acquiring the lot knew of such untruth or omission.

B. Any subdivider or agent who sells or leases a lot or parcel in a subdivision in violation of section 32-2183 or by means of a public report ~~which~~ THAT contains an untrue statement of a material fact or omits a material fact required to be stated in such report shall be liable to the purchaser of such lot or parcel as provided in this section unless at the time of purchase the purchaser knew of the untruth or omission.

C. It is unlawful for a subdivider or agent in selling or leasing, or offering to sell or lease, any lot or parcel in a subdivision to:

1. Employ any device, scheme or artifice to defraud.

2. Obtain money or property by means of a material misrepresentation with respect to any information included in the notice of intention or the public report or with respect to any other information pertinent to the lot, parcel or subdivision and ~~upon~~ ON which the purchaser relies.

3. Engage in any transaction, practice or course of business ~~which~~ THAT operates or would operate as a fraud or deceit ~~upon~~ ON a purchaser.

D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, damages in any suit brought pursuant to this section shall be the difference between the purchase price of the lot or parcel plus the cost of any improvements made to such lot or parcel and the following applicable amount:

1. The price at which such lot or parcel was sold in a bona fide market transaction prior to suit or judgment.

2. If the lot or parcel has not been sold before judgment, the current market value of the lot or parcel and any improvements as of the date the suit was filed.

E. THE DAMAGES DESCRIBED IN SUBSECTION D OF THIS SECTION SHALL NOT EXCEED THE DOLLAR AMOUNT THAT IS THE DIFFERENCE IN PRICE OR MARKET VALUE THAT RESULTS FROM THE UNTRUE STATEMENT OF MATERIAL FACT OR OMISSION OF MATERIAL FACT THAT IS REQUIRED TO BE STATED IN THE PUBLIC REPORT.

~~E.~~ F. In any action in which a violation of this section is established the purchaser shall also be entitled to recover reasonable attorney fees as determined by the court. If a violation is not established, the court, in its discretion, may award reasonable attorney fees to the defendant.

~~F.~~ G. Every person who becomes liable to make any payment pursuant to this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

~~G.~~ H. In no case shall the amount recoverable pursuant to this section exceed the sum of the purchase price of the lot or parcel, the reasonable cost of improvements installed by the purchaser and reasonable court costs and attorneys' fees.

~~H.~~ I. Nothing contained in this section shall be construed to preclude any other remedies that may exist at law or in equity.

~~I.~~ J. No action shall be maintained to enforce any liability created pursuant to subsection A or B of this section unless brought within one year after the discovery of the untrue statement or the omission or after such discovery should have been made by the exercise of reasonable diligence. No action shall be maintained to enforce any liability created pursuant to subsection C of this section unless brought within two years after the violation ~~upon~~ ON which it is based. In no event shall any such action be brought by a purchaser more than three years after the sale or lease to such purchaser.

Sec. 10. Section 32-2195.03, Arizona Revised Statutes, is amended to read:

32-2195.03. Unsubdivided land reports; denial of issuance; order prohibiting sale or lease; investigations; hearings; summary orders

A. Upon examination of unsubdivided land, the commissioner, unless there are grounds for denial, shall prepare and issue to the owner or agent a public report authorizing the sale or lease of the unsubdivided lands in this state. The report shall contain the data obtained in accordance with section 32-2195 and any other information which the commissioner determines is necessary to implement the purposes of this article. If any of the unsubdivided land is located within territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, 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 and, if the department has been provided a map prepared pursuant to section 28-8484, subsection B, the report shall include a copy of the map. These report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001 or on or after December 31 of the year in which the unsubdivided land becomes territory in the vicinity of a military airport or ancillary military facility. The commissioner shall require the owner or agent to reproduce the report and furnish each prospective buyer with a copy before the buyer signs an offer to purchase, taking a receipt therefor.

B. Notwithstanding any provision of subsection A of this section, an owner may prepare a final public report for use in the sale of unsubdivided lands as defined in section 32-2101, as follows:

1. The owner shall prepare the public report and provide a copy of the report to the commissioner with the submission of the notification required by sections 32-2195 and 32-2195.10 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 owner 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 may either 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. An owner 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, development or applicant that has applied for or received the certificate. If the commissioner determines that the owner or development 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 owner immediately corrects the deficiency and comes into full compliance with state law, the commissioner shall vacate any action that he 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. The commissioner may deny issuance of a public report on any of the following grounds:

1. Failure to comply with any of the provisions of 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 installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.

5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.

6. Failure to provide in the contract or other writing the use or uses, if any, for which the parcels are offered, together with any covenants or conditions relative to the parcel.

7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.

8. The owner or agent, officer, director or partner or trust beneficiary holding a ten per cent or more 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 in or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

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

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

D. No owner or agent may sell or lease or offer for sale or lease unsubdivided lands without first obtaining a public report AND A CERTIFICATE OF ADMINISTRATIVE COMPLETENESS from the commissioner. Any sale or lease of unsubdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void the transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any voidance action the prevailing party is entitled to reasonable attorney fees as determined by the court.

E. 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 requests 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.

F. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that the owner or agent is violating any provision set forth in 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 unsubdivided 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 owner or agent. For the purpose of examination, the owner or agent shall keep and maintain records of all sales transactions and funds received by the owner or agent pursuant to the sales transactions and shall make them accessible to the commissioner upon reasonable notice and demand.

G. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that grounds exist as provided in subsection C of this section or that any person has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale

of unsubdivided lands or deviated from the provisions of the public report, 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. If, after the hearing, the violation of the law, rules or public report continues, the commissioner may bring an 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.

Sec. 11. Effective date

This act is effective from and after September 30, 2011.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House February 17, 2011

by the following vote: 39 Ayes,

20 Nays, 1 Not Voting

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 19, 2011

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 2011

by the following vote: 36 Ayes,

23 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 20, 2011

by the following vote: 19 Ayes,

7 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 2011

at 8:30 o'clock A. M.

Secretary to the Governor

Approved this 29th day of

April

at 10:09 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of April, 2011

at 7:30 o'clock P M.

Secretary of State

H.B. 2005