

COMMITTEE ON COUNTIES, MUNICIPALITIES AND MILITARY AFFAIRS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2495

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 9-500.28. Disclosure of filings in military electronics range;  
5 definition

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

12 1. REZONE THE PROPERTY.

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

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

19 B. IF THE BASE CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND  
20 USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE CITY  
21 OR TOWN SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE  
22 CHANGE. IF THE BASE CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, THE CITY OR  
23 TOWN SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT  
24 THE BASE HAS NO OBJECTION TO THE PROPOSED LAND USE CHANGE.

25 C. THE CITY OR TOWN SHALL PROVIDE NOTICE TO THE OFFICE OF THE BASE  
26 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND  
27 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE  
28 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE

1 BASE. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE PROCEDURES THE  
2 CITY OR TOWN USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND DEADLINES  
3 FOR SUBMITTING OFFICIAL COMMENTS.

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

8 E. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"  
9 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,  
10 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY  
11 MISSION OF A MILITARY BASE.

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

14 11-812. Disclosure of filings in military electronics range:  
15 definition

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

21 1. REZONE THE PROPERTY.

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

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

28 B. IF THE BASE CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND  
29 USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE  
30 COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE  
31 CHANGE. IF THE BASE CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, THE COUNTY

1 SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE  
2 BASE HAS NO OBJECTION TO THE PROPOSED LAND USE CHANGE.

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

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

14 E. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"  
15 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,  
16 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY  
17 MISSION OF A MILITARY BASE.

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

20 32-2114.01. Military electronics range

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

27 B. IF A MILITARY ELECTRONICS RANGE CHANGES AND PERSONS WHO WERE  
28 NOTIFIED PURSUANT TO SUBSECTION A OF THIS SECTION NO LONGER HAVE PROPERTY  
29 CONTAINED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY  
30 ELECTRONICS RANGE MAP, THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE  
31 OFFICE OF THE COUNTY RECORDER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED

1 A DOCUMENT DISCLOSING THAT THE LAND IS NOT CONTAINED IN A MILITARY  
2 ELECTRONICS RANGE.

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

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

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

10 32-2115. Department's website; military training route map;  
11 restricted air space map; military electronics  
12 range map

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

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

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

18 3. THE MILITARY ELECTRONICS RANGE OF A MILITARY BASE.

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

20 32-2183. Subdivision public reports; denial of issuance;  
21 unlawful sales; voidable sale or lease; order  
22 prohibiting sale or lease; investigations; hearings;  
23 summary orders

24 A. Upon examination of a subdivision, the commissioner, unless there  
25 are grounds for denial, shall issue to the subdivider a public report  
26 authorizing the sale or lease in this state of the lots, parcels or  
27 fractional interests within the subdivision. The report shall contain the  
28 data obtained in accordance with section 32-2181 and any other information  
29 which the commissioner determines is necessary to implement the purposes of  
30 this article. If any of the lots, parcels or fractional interests within the  
31 subdivision are located within territory in the vicinity of a military  
32 airport or ancillary military facility as defined in section 28-8461, under a

1 military training route as delineated in the military training route map  
2 prepared pursuant to section 37-102, ~~or~~ under restricted air space as  
3 delineated in the restricted air space map prepared pursuant to section  
4 37-102 OR CONTAINED IN THE MILITARY ELECTRONICS RANGE AS DELINEATED IN THE  
5 MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102, the  
6 report shall include, in bold twelve point font block letters on the first  
7 page of the report, the statements required pursuant to section 28-8484,  
8 subsection A, section 32-2183.05 or section 32-2183.06 and, if the department  
9 has been provided a map prepared pursuant to section 28-8484, subsection B or  
10 section 37-102, the report shall include a copy of the map. The military  
11 airport report requirements do not require the amendment or reissuance of any  
12 public report issued on or before December 31, 2001 or on or before December  
13 31 of the year in which the lots, parcels or fractional interests within a  
14 subdivision become territory in the vicinity of a military airport or  
15 ancillary military facility. The military training route report requirements  
16 do not require the amendment or reissuance of any public report issued on or  
17 before December 31, 2004. The restricted air space report requirements do  
18 not require the amendment or reissuance of any public report issued on or  
19 before December 31, 2006. THE MILITARY ELECTRONICS RANGE REPORT REQUIREMENTS  
20 DO NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY PUBLIC REPORT ISSUED ON OR  
21 BEFORE DECEMBER 31, 2008. The commissioner shall require the subdivider to  
22 reproduce the report, make the report available to each prospective customer  
23 and furnish each buyer or lessee with a copy before the buyer or lessee signs  
24 any offer to purchase or lease, taking a receipt therefor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30           (d) Had an adverse decision or judgment entered against him involving  
31 fraud or dishonesty or involving the conduct of any business or transaction

1 in real estate, cemetery property, time-share intervals or membership camping  
2 campgrounds or contracts.

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

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

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

10 8. Failure of the declaration for a condominium created pursuant to  
11 title 33, chapter 9, article 2 to comply with the requirements of section  
12 33-1215 or failure of the plat for the condominium to comply with the  
13 requirements of section 33-1219. The commissioner may require an applicant  
14 for a public report to submit a notarized statement signed by the subdivider  
15 or an engineer or attorney licensed to practice in this state certifying that  
16 the condominium plat and declaration of condominium are in compliance with  
17 the requirements of sections 33-1215 and 33-1219. If the notarized statement  
18 is provided, the commissioner is entitled to rely on this statement.

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

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

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



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

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

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

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

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

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

28           F. In areas outside of active management areas, if the subdivision is  
29 located in a county that has adopted the provision authorized by section  
30 11-806.01, subsection F or in a city or town that has enacted an ordinance  
31 pursuant to section 9-463.01, subsection 0, the commissioner shall deny

1 issuance of a public report or the use of any exemption pursuant to section  
2 32-2181.02, subsection B unless one of the following applies:

3 1. The director of water resources has reported pursuant to section  
4 45-108 that the subdivision has an adequate water supply.

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

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

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

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

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

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

21           J. On the commissioner's own motion, or when the commissioner has  
22 received a complaint and has satisfactory evidence that any person has  
23 violated this article or the rules of the commissioner or has engaged in any  
24 unlawful practice as defined in section 44-1522 with respect to the sale of  
25 subdivided lands or deviated from the provisions of the public report or  
26 special order of exemption, or has been indicted for fraud or against whom an  
27 information for fraud has been filed or has been convicted of a felony,  
28 before or after the commissioner issues the public report as provided in  
29 subsection A of this section, the commissioner may conduct an investigation  
30 of the matter, issue a summary order as provided in section 32-2157, or hold  
31 a public hearing and, after the hearing, may issue the order or orders the  
32 commissioner deems necessary to protect the public interest and ensure

1 compliance with the law, rules or public report or the commissioner may bring  
2 action in any court of competent jurisdiction against the person to enjoin  
3 the person from continuing the violation or engaging in or doing any act or  
4 acts in furtherance of the violation. The court may make orders or  
5 judgments, including the appointment of a receiver, necessary to prevent the  
6 use or employment by a person of any unlawful practices, or which may be  
7 necessary to restore to any person in interest any monies or property, real  
8 or personal, that may have been acquired by means of any practice in this  
9 article declared to be unlawful.

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

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

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

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

3           32-2183.05. Military training route disclosure; military  
4                                   electronics range disclosure; residential  
5                                   property

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

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

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

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

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

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

1           D. This section does not require the amendment or reissuance of any  
2 public report issued on or before December 31, 2004 **OR ON OR BEFORE DECEMBER**  
3 **31, 2008** or the amendment or reissuance of any reservation document or  
4 conditional sales contract accepted on or before December 31, 2004 **OR ON OR**  
5 **BEFORE DECEMBER 31, 2008.**

6           E. Notwithstanding any other law, if the public report complies with  
7 subsection A of this section, a subdivider is not liable to any person or  
8 governmental entity for any act or failure to act in connection with the  
9 disclosure of a military training route as delineated in the military  
10 training route map **OR A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE**  
11 **MILITARY ELECTRONICS RANGE MAP.**

12           Sec. 7. Section 33-422, Arizona Revised Statutes, is amended to read:  
13 **33-422. Land divisions; recording; disclosure affidavit**

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

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

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

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

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

30           F. The affidavit of disclosure shall meet the requirements of section  
31 11-480 and follow substantially the following form:

1 When recorded mail to:

2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_

6 Affidavit of Disclosure

7 Pursuant to A.R.S. §33-422

8 I, \_\_\_\_\_ (seller(s))  
9 being duly sworn, hereby make this affidavit of disclosure  
10 relating to the real property situated in the unincorporated area  
11 of:

12 \_\_\_\_\_, County, State of Arizona, located at:  
13 \_\_\_\_\_

14 and legally described as:

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

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

19 Explain: \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_

22 2. There  is  is not . . . . physical access to the  
23 property.  unknown

24 Explain: \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_

27 3. There  is  is not . . . . a statement from a  
28 licensed surveyor or engineer available stating whether the  
29 property has physical access that is traversable by a two-wheel  
30 drive passenger motor vehicle.

31 4. The legal and physical access to the property  is  
32  is not . . . . the same.... unknown  not applicable.

1 Explain: \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

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

8 5. The road(s) is/are  publicly maintained  
9  privately maintained  not maintained  not  
10 applicable. If applicable, there  is  is not . . . . a  
11 recorded road maintenance agreement.

12 *If the roads are not publicly maintained, it is the*  
13 *responsibility of the property owner(s) to maintain the roads and*  
14 *roads that are not improved to county standards and accepted for*  
15 *maintenance are not the county's responsibility.*

16 6. A portion or all of the property  is  is not .  
17 . . . located in a FEMA designated regulatory floodplain. If the  
18 property is in a floodplain, it may be subject to floodplain  
19 regulation.

20 7. The property  is  is not subject to  
21  fissures or  expansive soils.  unknown

22 Explain: \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_

25 8. The following services are currently provided to the  
26 property:  water  sewer  electric  natural gas  
27  single party telephone  cable television services.

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



1           10. The property is served by  a private water company  a  
2 municipal water provider  a private well  a shared well  no  
3 well. If served by a shared well, the shared well  is  is not .  
4 . . . a public water system, as defined by the safe drinking water act  
5 (42 United States Code § 300f).

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

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

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

19           13. The property  does  does not . . . . meet the minimum  
20 applicable county zoning requirements of the applicable zoning  
21 designation.

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

27           **Explain:** \_\_\_\_\_  
28 \_\_\_\_\_  
29 \_\_\_\_\_

30           15. The property  is  is not located in the clear zone of  
31 a military airport or ancillary military facility, as defined in A.R.S.  
32 § 28-8461. (Maps are available at the state real estate department's



1 My commission expires:  
2 \_\_\_\_\_ (date) \_\_\_\_\_

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

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

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

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

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

15 37-102. State land department; powers and duties

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

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

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

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

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

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

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

21           H. The state land department shall:

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

24           2. Make a map of the ancillary military facility described in section  
25 28-8461, paragraph 7, subdivision (a) available to the public in printed or  
26 electronic format and provide the map in printed or electronic format to the  
27 state real estate department.

28           3. ON RECEIPT OF PROPER INFORMATION FROM THE MILITARY BASE COMMANDER  
29 WITH RESPONSIBILITY FOR THE MILITARY ELECTRONICS RANGE, PREPARE A MAP OF THE  
30 MILITARY ELECTRONICS RANGE AS DEFINED IN SECTION 9-500.28 AND MAKE THAT MAP  
31 AVAILABLE TO THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT AND PROVIDE THE MAP  
32 IN PRINTED OR ELECTRONIC FORMAT TO THE STATE REAL ESTATE DEPARTMENT. ON

1 RECEIPT OF NOTICE OF ANY CHANGE IN THE BOUNDARIES OF THE MILITARY ELECTRONICS  
2 RANGE FROM THE MILITARY BASE COMMANDER, THE STATE LAND DEPARTMENT SHALL  
3 REVISE ITS MAP AND PROVIDE THE MAP TO THE PUBLIC AND TO THE STATE REAL ESTATE  
4 DEPARTMENT.

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

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

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

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

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

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

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

28 M. Within ninety days after the department is notified of a change of  
29 a military training route in this state, the department shall prepare a  
30 revised military training route map. The map shall be dated and contain a  
31 statement that the map supersedes all previously dated maps. The state land  
32 department shall send the revised map to the state real estate department

1 electronically and shall also send an accompanying letter specifying the  
2 military training route changes. The state land department shall send the  
3 revised map and an accompanying letter specifying the military training route  
4 changes to the municipalities affected by the changes and to all counties.

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

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

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

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

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

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

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

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

8 Amend title to conform

and, as so amended, it do pass

JOHN B. NELSON  
Chairman

2495-se-cmma  
3/4/08  
H:jmb

2495jn  
02/29/2008  
1:04 PM  
C: myr