Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 168

HOUSE BILL 2662

AN ACT

AMENDING SECTION 28-8461, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-2114, 32-2115 AND 32-2116; AMENDING SECTION 32-2183, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2183.05; AMENDING SECTION 37-102, ARIZONA REVISED STATUTES; RELATING TO AIRPORT ZONING AND REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-8461, Arizona Revised Statutes, is amended to read:

28-8461. Definitions

In this article, unless the context otherwise requires:

1. "Accident potential zone one" means an area three thousand feet wide by five thousand feet long that starts at the end of each clear zone and that is centered and measured on the extended runway centerline, terminating eight thousand feet from the end of each runway.

2. "Accident potential zone two" means an area three thousand feet wide by seven thousand feet long that starts at the end of each accident potential zone one and that is centered and measured on the extended runway centerline, terminating fifteen thousand feet from the end of each runway, except that, for political subdivisions described in paragraph 8, subdivision (a), accident potential zone two extends thirty thousand feet southwest from the end of each runway.

3. "Airport" means an area of land or water that is designed and set aside for the landing and taking off of aircraft and that is utilized or to be utilized in the interest of the public for those purposes.

4. "Airport hazard" means a structure, tree or use of land that obstructs the air space required for flight of aircraft in taking off or landing at an airport or that is otherwise hazardous to aircraft taking off or landing.

5. "Airport hazard area" means an area of land or water on which an airport hazard might be established if not prevented as provided in this article.

6. "Airstrip" means a strip of ground that is artificially or naturally surfaced and that is designed and used at an airport or landing field for the landing and takeoff of aircraft.

7. "Clear zone" means an area three thousand feet long measured along the extended runway centerline beginning at the end of all main military runways and three thousand feet wide centered on and measured at right angles to the extended runway centerline.

8. "High noise or accident potential zone" means any property located in the following zones:

(a) In political subdivisions located in a county with a population of two million or more persons, within the 1988 noise contours developed and recognized by the regional planning agency in that county that includes the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the south end of the westernmost runway at a width of one thousand five hundred feet west and two thousand five hundred feet east, measured perpendicular to the centerline of the runway, and extending southwesterly parallel to the runway for a distance of thirty thousand feet.

(b) In political subdivisions located in a county with a population of more than eight hundred thousand persons but less than two million persons, the area southeast of the runway within the noise contours established by the most recent air installation compatible use zone report recognized by the military airport and political subdivisions in that county, including the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the southeast runway end at a width of two thousand feet and extending outward thirty thousand feet to a width of ten thousand four hundred feet.

(c) In political subdivisions located in a county with a population of eight hundred thousand persons or less, within the noise contours established by the most recent air installation compatible use zone report recognized by the military airport and political subdivisions in that county, including the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the end points of the main runways and at a width of three thousand feet and symmetrical about a centerline between the runways extending outward to a point thirty thousand feet from the point of beginning. The outer width is seventeen thousand five hundred feet.

9. "Military airport" means an airport that is operated by an armed force of the United States and that is primarily used for military fixed wing aircraft operations, excluding a runway or airstrip that is not immediately adjacent to facilities primarily used for operational control, maintenance and permanent parking of aircraft.

10. "MILITARY TRAINING ROUTE" MEANS A LOW LEVEL MILITARY ROUTE THAT ALLOWS DEPARTMENT OF DEFENSE AIRCRAFT TO CONDUCT FLIGHTS THAT MAY BE AS LOW AS ONE HUNDRED FEET ABOVE THE GROUND AT SPEEDS IN EXCESS OF TWO HUNDRED FIFTY KNOTS INDICATED AIR SPEED AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP PURSUANT TO SECTION 37-102.

~~10.~~ 11. "Occupied building" means any building where people live, work or are otherwise received.

~~11.~~ 12. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, including any trustee, receiver, assignee or other representative of a trustee, receiver or assignee.

~~12.~~ 13. "Political subdivision" means a city, town or county and includes a school district.

~~13.~~ 14. "Previous reporting period" means from July 1 of the year before the report is due through June 30 of the year the report is due.

~~14.~~ 15. "Runway" means an artificially surfaced strip of ground that is designed and used at an airport for the landing and takeoff of aircraft.

~~15.~~ 16. "School" means any public institution established for the purposes of offering instruction to pupils in programs for preschool children

with disabilities, kindergarten programs or any combination of grades one through twelve.

~~16.~~ 17. "School district" means a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or an accommodation school.

~~17.~~ 18. "School district development plan" means any proposal to build or expand a school but does not include repairing, maintaining or remodeling an existing school.

~~18.~~ 19. "Structure" means an object that is constructed or installed by a human including a building, tower, smokestack or overhead transmission line.

~~19.~~ 20. "Territory in the vicinity of a military airport" means any property located in the following zones:

(a) In counties that have a population of two million or more persons, the zone is ten miles to the north, south and west and four miles to the east parallel from the center of the main runway of a military airport.

(b) In counties that have a population of more than eight hundred thousand but less than two million persons, the zone is five miles to the northwest along a line extending from the end of the northwest runway, one and one-half miles to the southwest, six and one-half miles to the northeast and perpendicular to the runway centerline and ten miles to the southeast along a line extending from the end of the southeast runway of a military airport.

(c) In counties that have a population of eight hundred thousand persons or less, the zone is five miles to the north, south and west and ten miles to the east of the center of the main runway of a military airport.

~~20.~~ 21. "Tree" means an object of natural growth.

Sec. 2. Title 32, chapter 20, article 1, Arizona Revised Statutes, is amended by adding sections 32-2114, 32-2115 and 32-2116, to read:

32-2114. <u>Recorded disclosure for land under a military training route</u>

A. THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE COUNTY RECORDER IN EACH COUNTY IN THIS STATE THAT INCLUDES LAND UNDER A MILITARY TRAINING ROUTE AS DEFINED IN SECTION 28-8461 AND AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 A DOCUMENT, APPLICABLE TO LAND UNDER A MILITARY TRAINING ROUTE AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP, DISCLOSING THAT THE LAND IS UNDER A MILITARY TRAINING ROUTE.

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

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

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

32-2115. Department's web site; military training route map

THE DEPARTMENT SHALL POST ON ITS WEB SITE THE MILITARY TRAINING ROUTE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102.

32-2116. Military training routes; contacts

A. EACH YEAR THE DEPARTMENT SHALL CONTACT THE CHAIRPERSON OF THE ARIZONA MILITARY AIRSPACE WORKING GROUP AND REQUEST THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CHAIRPERSON.

B. THE DEPARTMENT SHALL POST THE INFORMATION IT RECEIVES PURSUANT TO SUBSECTION A ON THE DEPARTMENT'S WEB SITE.

Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to read:

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

A. Upon examination of a subdivision, the commissioner ~~shall~~, 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 as defined in section 28-8461 OR UNDER A MILITARY TRAINING ROUTE AS DELINEATED IN THE MILITARY TRAINING ROUTE 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 OR SECTION 32-2183.05 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. ~~These~~ THE MILITARY AIRPORT report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001. 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 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. 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 ~~data base~~ DATABASE of all of these submissions. The subdivider shall place the number on each public report.

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

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

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

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

C. The commissioner may suspend, revoke or 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 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 any of the provisions of 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 which is materially false or misleading.

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

9. Failure of any blanket encumbrance or valid supplementary agreement executed by the holder of the blanket encumbrance to contain provisions that enable the purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance, on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the

purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the commissioner containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

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

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

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

1. All proposed or promised subdivision improvements are completed.

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

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

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

E. If the subdivision is within a groundwater 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, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576.

F. ~~No~~ A subdivider shall NOT sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

G. Any applicant objecting to the denial of a public report ~~may~~, 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.

H. 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 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 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.

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

J. 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.

K. The court upon 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.

L. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon 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 which 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. 4. Title 32, chapter 20, article 4, Arizona Revised Statutes, is amended by adding section 32-2183.05, to read:

32-2183.05. <u>Military training route disclosure; residential property</u>

A. ANY PUBLIC REPORT THAT IS ISSUED AFTER DECEMBER 31, 2004 PURSUANT TO SECTION 32-2183 OR 32-2195.03 AND THAT IS APPLICABLE TO PROPERTY LOCATED UNDER A MILITARY TRAINING ROUTE, AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102, SHALL INCLUDE THE FOLLOWING STATEMENTS:

1. THE PROPERTY IS LOCATED UNDER A MILITARY TRAINING ROUTE.

2. THE STATE LAND DEPARTMENT AND THE STATE REAL ESTATE DEPARTMENT MAINTAIN MILITARY TRAINING ROUTE MAPS AVAILABLE TO THE PUBLIC.

3. THE MILITARY TRAINING ROUTE MAP IS POSTED ON THE STATE REAL ESTATE DEPARTMENT'S WEB SITE.

B. THE PUBLIC REPORT PRESCRIBED BY SUBSECTION A OF THIS SECTION MAY CONTAIN A DISCLAIMER THAT THE SUBDIVIDER HAS NO CONTROL OVER THE MILITARY TRAINING ROUTES AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP OR THE TIMING OR FREQUENCY OF FLIGHTS AND ASSOCIATED LEVELS OF NOISE.

C. FOR ANY LOT RESERVATION OR CONDITIONAL SALE THAT OCCURS BEFORE THE ISSUANCE OF A PUBLIC REPORT, THE DISCLOSURE STATEMENTS LISTED IN SUBSECTION A OF THIS SECTION SHALL BE INCLUDED WITHIN THE RESERVATION DOCUMENT OR CONDITIONAL SALES CONTRACT.

D. THIS SECTION DOES NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY PUBLIC REPORT ISSUED ON OR BEFORE DECEMBER 31, 2004 OR THE AMENDMENT OR

REISSUANCE OF ANY RESERVATION DOCUMENT OR CONDITIONAL SALES CONTRACT ACCEPTED ON OR BEFORE DECEMBER 31, 2004.

E. NOTWITHSTANDING ANY OTHER LAW, IF THE PUBLIC REPORT COMPLIES WITH SUBSECTION A OF THIS SECTION, A SUBDIVIDER IS NOT LIABLE TO ANY PERSON OR GOVERNMENTAL ENTITY FOR ANY ACT OR FAILURE TO ACT IN CONNECTION WITH THE DISCLOSURE OF A MILITARY TRAINING ROUTE AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP.

Sec. 5. Section 37-102, Arizona Revised Statutes, is amended to read:

37-102. State land department; powers and duties

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

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

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

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

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

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

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

H. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE STATE LAND DEPARTMENT SHALL PREPARE A MILITARY TRAINING ROUTE MAP. THE MAP SHALL CONTAIN MILITARY TRAINING ROUTE NUMBERS IN THIS STATE THAT ARE USED BY VARIOUS UNITED STATES ARMED FORCES. THE MAP SHALL BE DATED.

I. WHEN PREPARING THE MILITARY TRAINING ROUTE MAP, THE STATE LAND DEPARTMENT SHALL USE INFORMATION CONTAINED IN THE MOST CURRENT DEPARTMENT OF DEFENSE PUBLICATION THAT IS ENTITLED AREA PLANNING MILITARY TRAINING ROUTES FOR NORTH AND SOUTH AMERICA.

J. THE MILITARY TRAINING ROUTE MAP SHALL BE MADE AVAILABLE IN PRINTED OR ELECTRONIC FORMAT TO THE PUBLIC AT THE STATE LAND DEPARTMENT AND AT THE STATE REAL ESTATE DEPARTMENT.

K. WITHIN NINETY DAYS AFTER THE DEPARTMENT IS NOTIFIED OF A CHANGE OF A MILITARY TRAINING ROUTE IN THIS STATE, THE DEPARTMENT SHALL PREPARE A REVISED MILITARY TRAINING ROUTE MAP. THE MAP SHALL BE DATED AND CONTAIN A STATEMENT THAT THE MAP SUPERSEDES ALL PREVIOUSLY DATED MAPS. THE STATE LAND DEPARTMENT SHALL SEND THE REVISED MAP TO THE STATE REAL ESTATE DEPARTMENT ELECTRONICALLY AND SHALL ALSO SEND AN ACCOMPANYING LETTER SPECIFYING THE MILITARY TRAINING ROUTE CHANGES. THE STATE LAND DEPARTMENT SHALL SEND THE REVISED MAP AND AN ACCOMPANYING LETTER SPECIFYING THE MILITARY TRAINING ROUTE CHANGES TO THE MUNICIPALITIES AFFECTED BY THE CHANGES AND TO ALL COUNTIES.

L. THE DEPARTMENT SHALL SUBMIT THE MILITARY TRAINING ROUTE MAP PREPARED PURSUANT TO THIS SECTION TO THE COUNTIES IN EITHER AN ELECTRONIC OR A PRINTED FORMAT. THE FORMAT SHALL BE DETERMINED BY THE RECEIVING COUNTY.

M. THE STATE LAND DEPARTMENT SHALL PROVIDE THE LEGAL DESCRIPTION OF THE BOUNDARIES OF THE MILITARY TRAINING ROUTES AS DELINEATED IN THE MILITARY TRAINING ROUTE MAP TO THE STATE REAL ESTATE DEPARTMENT IN ELECTRONIC FORMAT.

Sec. 6. Legislative findings; purpose

A. The legislature finds that:

1. Military training routes, the Fort Huachuca Army Post, the Barry M. Goldwater Range and the Yuma Proving Ground are important to the economic viability of this state and the national security of this country.

2. The military missions conducted on the military training routes, the Fort Huachuca Army Post, the Barry M. Goldwater Range and the Yuma Proving Ground will be affected by uncoordinated development.

3. The public should be aware of the effect of encroachment on the mission of the military training routes, the Fort Huachuca Army Post, the Barry M. Goldwater Range and the Yuma Proving Ground.

4. The public should be aware of safety and quality of life issues related to military training routes.

5. Military training routes are important to train air crews how to operate at low altitudes and high speeds under simulated war conditions.

6. The operations on the military training routes include reacting to simulated threats such as antiaircraft artillery, surface to air missiles or an air threat.

7. Military training route tactics usually include high gravity turns, use of an afterburner and vertical maneuvering with noise estimates for a single event ranging from one hundred ten to one hundred forty decibels.

8. The Fort Huachuca Army Post, the Barry M. Goldwater Range and the Yuma Proving Ground are important national military test and training facilities that permit live ordnance training and joint operations.

9. There is a need to protect private property rights while supporting military missions.

B. The legislature does not intend that this act apply to land under a military training route as delineated in the military training route map prepared by the state land department pursuant to section 37-102, Arizona Revised Statutes, as amended by this act, if use of the military training route is discontinued.

C. The legislature intends to ensure that development in this state does not interfere with military training routes, the Fort Huachuca Army Post, the Barry M. Goldwater Range or the Yuma Proving Ground.

APPROVED BY THE GOVERNOR APRIL 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2004.