**PETITION FOR CONDITIONAL SALES EXEMPTION INSTRUCTIONS**

With the enactment of Commissioner’s Rule R4-28-B1202 listed below and through the provisions of A.R.S. § 32-2181.01, prior to obtaining a Subdivision Disclosure Report (Public Report) from the Arizona Department of Real Estate, a developer may apply for a special order of exemption for conditional sales by written petition authorizing the offer for sale of a subdivision lot or unsubdivided land **in Arizona** and shall provide the following information to the Department.

Prior to accepting any conditional sale of a subdivision lot or unsubdivided land, written notice of the seller’s intention to offer conditional sales must be submitted to the Arizona Department of Real Estate. A sample petition for Conditional Sales Exemption (Petition) which includes the special Addendum to Purchase Contract and Contract Disclosures is located on the next page of this document. **Submit the completed Petition form and supporting documentation through the Message Center at** [www.azre.gov](http://www.azre.gov) **– Development Services, click** [here](http://services.azre.gov/publicdatabase/messagecenter/createmessage.aspx?subjectid=32).

Requests for Conditional Sales Exemption shall be submitted in accordance with and using the attached Petition/Form located on the next page of this document. The documents to be used for offering conditional sales is subject to approval by the Commissioner. The Commissioner may deny a petition for exemption to offer conditional sales. **THE CONDITIONAL SALES EXEMPTION SHALL EXPIRE UPON ISSUANCE OR DENIAL OF THE SUBDIVISION DISCLOSURE REPORT, OR UPON ISSUANCE OF AN ORDER SUMMARILY SUSPENDING SALES, TO CEASE AND DESIST OR A VOLUNTARY SUSPENSION OF CONDITIONAL SALES BY THE DEVELOPER OR OWNER.**

All monies paid by the prospective buyer will be impounded and held in a neutral escrow depository. Conditional Sales deposits must be delivered to an escrow agent licensed pursuant to Title 6, Chapter 7, Arizona Revised Statutes, and deposited by the escrow agent in an Arizona depository insured by an agency of the U.S. Government.

All advertising and promotional materials utilized during the conditional sales period MUST disclose that **SALES ARE CONDITIONED UPON BUYER’S ACCEPTANCE OF THE FINAL SUBDIVISION DISCLOSURE REPORT (PUBLIC REPORT)**.

**A.A.C. R4-28-B1202. Conditional Sales Exemption**

A. Any developer applying for a special order of exemption authorizing the offer for sale of a subdivision lot or unsubdivided land before issuance of a public report shall provide the following information to the Department:

1. The completed and executed Petition for Conditional Sales Exemption;

2. The completed and executed subdivision or unsubdivided land application for a public report;

3. The purchase contract containing all required contract disclosures and the Conditional Sales Addendum;

4. A current title report showing the ownership interest of the developer and acceptable condition of title;

5. A copy of the recorded development map, or if not recorded, a copy of the unrecorded map;

6. A copy of the Condominium Declaration, if applicable;

7. A Certificate of Assured Water Supply, or a letter from the ADWR or other evidence that the property is located in an area designated as having an assured water supply, if the property is located in a groundwater active management area;

8. A water adequacy report from the ADWR or evidence that the property is located in an area designated as having an adequate water supply, if the property is located outside of a groundwater active management area; and

9. Any other information revealed necessary after preliminary review.

B. The conditional sales exemption shall expire upon issuance or denial of the public report, or upon issuance of an order to summarily suspend sales, to cease and desist, or a voluntary suspension of sales by the developer or owner.

**Petition for Conditional Sales Exemption**

Date

Development Name

Dear Commissioner:

This letter constitutes a Petition for Exemption pursuant to A.R.S. 32-2181.01 from certain provisions of Article 4, Chapter 20, Title 32, Arizona Revised Statute.

We are currently processing or in the process of preparing our application for final Subdivision Disclosure Report (Public Report), as required by A.R.S. 32-2181, et seq. Petitioner hereby requests exemption from A.R.S. 32-2181 (A), 32-2183 (A) and (F) until such time as the final Subdivision Disclosure Report issues, under the following conditions:

1. All conditional sales buyers will be provided a copy of a draft subdivision disclosure report based on the questionnaire portion of the application for subdivision disclosure report, prior to signing the conditional sales contract.
2. Sales will be made on Purchase Contracts that comply with the Subdivision law and rules of the Arizona Department of Real Estate (ADRE).
3. The conditional sales addendum to purchase contract authorized by the ADRE will be used in all conditional sales.
4. All money paid by the buyer will be impounded and held in a neutral escrow depository. We plan to use       for the escrow depository.
5. Sales will not close until the final Subdivision Disclosure Report has been issued and delivered to the buyer(s).
6. Upon receiving the final Subdivision Disclosure Report, buyer will have the right to either cancel or affirm the decision to purchase within (no less than 5)       days after which time the contract becomes null and void and all money paid by the buyer shall be returned to buyer within 5 business days.
7. Buyer’s cancellation or affirmation of purchase shall be in writing on the authorized conditional sales addendum.
8. At any time prior to the issuance of the final Subdivision Disclosure Report, the buyer shall have the right to cancel the contract.
9. Should buyer elect to cancel the contract, all money paid by the buyer shall be returned to buyer within 5 business days.
10. Until such time as the final Subdivision Disclosure Report is issued and the buyer’s right to cancel has lapsed, seller shall have no cancellation rights.
11. All advertising and promotional material utilized during the conditional sales period will disclose that sales are conditioned upon buyer’s receipt and acceptance of the final Subdivision Disclosure Report.

If the requested Special Order of Exemption is granted, Petitioner understands and agrees that (1) failure to comply with any of the terms, conditions or representations made in connection with this petition or failure to comply with any term or condition of the order shall render the order void and a Summary Order of Suspension may be issued; (2) that the conditional sales exemption expires upon issuance of the final Subdivision Disclosure Report; (3) that there is no guarantee when or if a final Subdivision Disclosure Report will be issued; and (4) that representations made to conditional sale purchasers related to escrow closing or occupancy dates are made at Petitioner’s sole liability and risk.

Accordingly, Petitioner respectfully submits that compliance with A.R.S. 32-2181 (A) and 32-2183 (A) and (F) is not essential to the public interest or for the protection of Buyers for the reason(s) stated above. **Enclosed with this petition are:**

1. $100.00 filing fee (ADRE will send a payment request if petition is filed through the Message Center at [www.azre.gov](http://www.azre.gov))
2. Completed **and** executed Application for Subdivision Disclosure Report (Form O).
3. A draft Subdivision Disclosure Report based on the application.
4. Specimen purchase contract, which meets ADRE requirements for issuance of Subdivision Disclosure Reports and **with** Conditional Sales Addendum.
5. Current title report showing acceptable condition of title.
6. A copy of the final or recorded Plat.
7. The Certificate of Approval of Sanitary Facilities for Subdivisions issued by the Arizona Department of Environmental Quality (ADEQ), or its delegate.

**Petition for Conditional Sales Exemption (Continued)**

It is understood that this petition may need to be supplemented with additional information or documentation including assured or adequate water supply documentation from the Arizona Department of Water Resources.

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, being duly sworn deposes and says:

That the statements made herein and documents submitted hereto are full, true and completed as required by the Arizona Department of Real Estate and that the undersigned as Petitioner(s) is (are) the owner(s) of the property described herein, or that the undersigned is authorized to execute this Petition on behalf of the owner.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Owner(s)/Petitioner(s) Subscribed and sworn to before me this

 \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ My Commission Expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Printed Name and Title

**ADDENDUM TO PURCHASE CONTRACT**

The following shall constitute an Addendum to, and become a part of, that Purchase Contract dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and between\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Seller and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_as Buyer pertaining to Lot \_\_\_\_\_\_,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 (Development Name)

**Notwithstanding anything contained in the Purchase Contract, said contract shall be subject to the following conditions:**

1. Buyers will be given a copy of the **draft** Subdivision Disclosure Report (Public Report) filed by Seller with the Arizona Department of Real Estate prior to signing this conditional sales contract.
2. All money paid by the Buyer will be deposited and held in a neutral escrow.
3. Sales will not close until the final Subdivision Disclosure Report has been issued and delivered to the Buyer(s).
4. Upon receiving the final Subdivision Disclosure Report, Buyer will have the right to either cancel or affirm the decision to purchase within (no less than 5)\_\_\_\_\_\_\_\_\_\_\_days after which time the contract becomes null and void and all money paid by the Buyer shall be returned to the Buyer within 5 business days.
5. No escrow closing or occupancy date will be agreed to until after Buyers receipt of the final Subdivision Disclosure Report and their affirmation of the purchase contract.
6. At any time prior to the issuance of the final Subdivision Disclosure Report, the Buyer shall have the right to cancel the contract.
7. Should Buyer elect to cancel the contract, all money paid by the Buyer shall be returned to Buyer within 5 business days.
8. Until such time as the final Subdivision Disclosure Report is issued and the Buyer’s right to cancel has lapsed, Seller shall have no cancellation rights.
9. Buyers cancellation or affirmation of purchase shall be on page 2 of this Addendum.

Dated this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_\_\_.

**SELLER BUYER(S)**

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Its \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Buyers Cancellation or Affirmation of Purchase**

Buyer(s), having received a copy of the final Subdivision Disclosure Report issued by the State of Arizona Department of Real Estate pertaining to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do(es), by signing below, hereby elect to cancel or affirm the Purchase Contract.

 I (we) hereby elect to **CANCEL**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I (we) hereby elect to **AFFIRM** and understand that our earnest and down payment money will be held in or transferred from the neutral escrow depository as agreed to in the purchase contract.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

**CONTRACT DISCLOSURES**

1. Any agreement or contract for the sale or lease of a property interest in a development that requires a subdivision disclosure report shall contain the following language in large or bold print above the signature portion of the document:

THE DEVELOPER SHALL GIVE A PROSPECTIVE PURCHASER A COPY OF THE SUBDIVISION DISCLOSURE REPORT (PUBLIC REPORT) AND AN OPPORTUNITY TO READ AND REVIEW IT BEFORE THE PROSPECTIVE PURCHASER SIGNS THIS DOCUMENT.

1. Any agreement or contract for the sale or lease of a property interest in a development shall conspicuously disclose the nature of the document at or near the top of the document.
2. The contract shall indicate where the earnest money or down payment, if any, will be deposited and shall include the name of the title company, the name of the broker’s trust account, or other depository.
3. Any agreement or contract for the sale or lease of a property interest in a development where a down payment, earnest money deposit, or other advanced money, if any, is paid directly to the seller and not placed in a neutral escrow depository, shall conspicuously disclose this fact within the document, and the purchaser shall sign or initial this provision indicating approval in the space adjacent to or directly below the disclosure in the purchase contract or agreement of sale. The following disclosure shall be written in large or bold print and shall be included in the disclosure report, purchase contract, and agreement of sale.

**PROSPECTIVE PURCHASERS ARE ADVISED THAT EARNEST MONEY DEPOSITS, DOWN PAYMENTS, AND OTHER ADVANCED MONEY WILL NOT BE PLACED IN A NEUTRAL ESCROW. THIS MONEY WILL BE PAID DIRECTLY TO THE SELLER AND MAY BE USED BY THE SELLER. THIS MEANS THE PURCHASER ASSUMES A RISK OF LOSING THE MONEY IF THE SELLER IS UNABLE OR UNWILLING TO PERFORM UNDER THE TERMS OF THE PURCHASE CONTRACT.**

1. Any agreement or contract for the purchase or lease of an unimproved subdivided lot, or any unsubdivided land, shall contain the following language in large or bold print above the signature portion of the document:

**THE PURCHASER OR LESSEE HAS THE LEGAL RIGHT TO RESCIND (CANCEL) THIS AGREEMENT WITHOUT CAUSE OR REASON OF ANY KIND, AND TO THE RETURN OF ANY MONEY OR OTHER CONSIDERATION BY SENDING OR DELIVERING A WRITTEN NOTICE OF RESCISSION TO THE SELLER OR LESSOR BY MIDNIGHT OF THE 7TH CALENDAR DAY FOLLOWING THE DAY THE PURCHASER OR LESSEE EXECUTED THE AGREEMENT. IF THE PURCHASER OR LESSEE DOES NOT INSPECT THE LOT OR PARCEL BEFORE THE EXECUTION OF THE AGREEMENT, THE PURCHASER OR LESSEE SHALL HAVE SIX MONTHS TO INSPECT THE LOT OR PARCEL, AND AT THE TIME OF INSPECTION SHALL HAVE THE RIGHT TO UNILATERALLY RESCIND THE AGREEMENT.**

1. In areas outside of groundwater active management areas established pursuant to Title 45, Chapter 2, Article 2, if the Director of Water Resources, pursuant to § 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.
2. If the assurance for the subdivision improvements is a certificate of occupancy program, the contract or an addendum to the contract shall contain the following language:

 **ESCROW SHALL NOT CLOSE UNTIL THE CITY OR COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_ ISSUES ITS OCCUPANCY CLEARANCE AND ALL SUBDIVISION IMPROVEMENTS ARE COMPLETE.**

1. For applications seeking Consumer Financial Protection Bureau (CFPB-formerly HUD) Certification, see the CFPB Supplement Subdivision Questionnaire to this application for CFPB’s rescission language and additional contract disclosures required by CFPB.

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| **Notice to Applicant Pursuant to A.R.S. § 41-1030** |
| An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition. |
| This section may be enforced in a private civil action and relief may be awarded against the State. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section. |
| A State employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the Agency's adopted personnel policy. |
| This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02  |