

**FIRST REGULAR SESSION—1997****Ch. 261, § 1**

PRESERVE THE RIGHT TO BRING A CONSTRUCTIVE DISCHARGE CLAIM AGAINST THE EMPLOYER. AN EMPLOYEE MAY BE ENTITLED TO PAID OR UNPAID LEAVE OF ABSENCE OF UP TO FIFTEEN CALENDAR DAYS WHILE WAITING FOR THE EMPLOYER TO RESPOND TO THE EMPLOYEE'S WRITTEN COMMUNICATION ABOUT THE EMPLOYEE'S WORKING CONDITION.

F. NOTWITHSTANDING ANY OTHER REQUIREMENTS OF THIS SECTION, AN EMPLOYEE MAY BRING A CONSTRUCTIVE DISCHARGE CLAIM WITHOUT PRIOR WRITTEN NOTICE IN THE EVENT OF OUTRAGEOUS CONDUCT BY THE EMPLOYER OR BY A MANAGING AGENT OF THE EMPLOYER INCLUDING SEXUAL ASSAULT, THREATS OF VIOLENCE DIRECTED AT THE EMPLOYEE, A CONTINUOUS PATTERN OF DISCRIMINATORY HARASSMENT BY THE EMPLOYER OR BY A MANAGING AGENT OF THE EMPLOYER OR OTHER CONDUCT IF THE CONDUCT WOULD CAUSE A REASONABLE EMPLOYEE TO FEEL COMPELLED TO RESIGN.

Approved by the Governor April 29, 1997.

Filed in the Office of the Secretary of State April 30, 1997.

**ARIZONA STATE LAND PRESERVE INITIATIVE—CONSERVATION  
ACQUISITION BOARD**

**CHAPTER 261**

**H.B. 2303**

**AN ACT AMENDING SECTIONS 37-312 AND 41-511.05, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARTICLE 4.2, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-312.01; AMENDING TITLE 41, CHAPTER 3, ARTICLE 1.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-511.23; RELATING TO STATE TRUST LANDS SUITABLE FOR CONSERVATION.**

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

**Section 1.** Section 37-312, Arizona Revised Statutes, is amended to read:

**37-312. Nominating and classifying trust land as suitable for conservation purposes**

A. On the commissioner's initiative, or on petition as provided by ~~this~~ subsection C OF THIS SECTION, the commissioner may nominate certain trust lands as being under consideration for classification as trust lands suitable for conservation purposes. The commissioner shall not nominate trust lands as being under consideration for classification as trust lands suitable for conservation purposes unless the trust lands are eligible for classification under THIS section 37-212, ~~subsection E~~ and are located within:

1. One mile of the corporate boundaries of an incorporated city or town having a population of less than ten thousand ~~people~~ PERSONS according to the most recent United States decennial census.
2. Three miles of the corporate boundaries of an incorporated city or town having a population of ten thousand ~~people~~ PERSONS or more according to the most recent United States decennial census.
3. TEN MILES OF THE BOUNDARIES ESTABLISHED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION THAT ARE LOCATED WITHIN COUNTIES WITH A POPULATION GREATER THAN SEVEN HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS AND ARE ADJACENT TO LANDS THAT ARE ELIGIBLE FOR CONSERVATION AND SHARE WITH THEM A SPECIFIC PHYSICAL CHARACTERISTIC SUCH AS A REACH OF A RIVER, A MOUNTAIN SLOPE OR AN ARCHAEOLOGICAL FEATURE.

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B. IN ADDITION TO THE LANDS IDENTIFIED IN SUBSECTION A, PARAGRAPHS 1 THROUGH 3 OF THIS SECTION, THE FOLLOWING LANDS MAY BE NOMINATED FOR RECLASSIFICATION BY THE COMMISSIONER:

1. THOSE LANDS WITHIN THE TORTOLITA MOUNTAIN PARK IN PINAL COUNTY LOCATED WITHIN T10S, R12E AND T10S, R13E.

2. THOSE LANDS IN THE VICINITY OF THE SUPERSTITION MOUNTAINS IN PINAL COUNTY LOCATED WITHIN T1N, R9E; T1N, R10E; T1S, R9E; AND T1S, R10E.

B- C. The commissioner shall receive a petition to nominate trust lands as being under consideration for classification as trust lands suitable for conservation purposes from:

1. A state agency that leases the land or intends to lease or purchase the land.

2. The board of supervisors of the county in which the land is located.

3. The governing body of a city or town if the land is located within:

(a) The corporate boundaries of the city or town.

(b) One mile outside the corporate boundaries and the city or town has a population of less than ten thousand persons.

(c) Three miles outside the corporate boundaries and the city OR TOWN has a population of ten thousand persons or more.

4. Ten or more private individuals who:

(a) Reside in the county in which the land is located.

(b) Have the financial capability to lease or purchase the land.

5. A nonprofit corporation or trust, the purpose or powers of which include conservation of natural, scenic, open space or other conservation values.

6. The current lessee of the land.

7. A business or corporation that is legally empowered to own or manage real property in this state and that intends to lease or purchase the land.

C- D. The petitioner shall ~~also~~ post a bond or other security sufficient to cover the costs of the planning, notice, advertisement and public hearing as required by this article AND as determined by the commissioner. The bond or security is forfeit to this state if the commissioner reclassifies the land pursuant to this article.

D- E. The commissioner shall not nominate or classify trust land as suitable for conservation purposes if ~~the land has an approved~~ A development plan WAS APPROVED FOR THE LAND pursuant to article 5.1 of this chapter BEFORE JULY 26, 1996. THE COMMISSIONER MAY NOMINATE AND CLASSIFY TRUST LAND FOR CONSERVATION PURPOSES IN AN AREA WITHIN A DEVELOPMENT PLAN APPROVED AFTER JULY 26, 1996 IF APPROPRIATE CONSERVATION PURPOSES ARE INCORPORATED WITHIN THE DEVELOPMENT PLAN PREPARED FOR THE COMMISSIONER'S APPROVAL.

E- F. After nominating the trust lands under subsection A OR B of this section, the commissioner shall:

1. Mail notice of intent to classify the lands as trust lands suitable for conservation purposes to existing lessees, local planning authorities, the appropriate regional planning authorities and owners of property that is located within three hundred feet of the trust land. THE NOTICE SHALL INCLUDE THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO BE HELD PURSUANT TO SUBSECTION G OF THIS SECTION.

2. Within thirty days after giving the notice under paragraph 1 of this subsection:

(a) Publish the notice stating a date, time and place of a public hearing for six publications in a newspaper of general circulation in the county in which the designated lands are located.

(b) Mail the notice to any person who has requested notice of any classification under this article.

(c) Mail the notice to the Arizona game and fish department, the Arizona department of agriculture, the Arizona state parks board, the Arizona department of transportation and any other affected state agency.

F- G. Within sixty days after the last date of publication of notice under subsection E- F of this section, the commissioner or the commissioner's designee shall conduct a public hearing in a location in this state as close as conveniently possible to the trust land to receive and record oral and written testimony concerning the proposed classification.

G- H. In determining whether reclassification is in the ~~trust lands'~~ best interest OF THE TRUST, the commissioner shall:

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1. CONSULT WITH THE GOVERNING BODY OF EACH CITY OR TOWN IN WHICH THE LAND PROPOSED FOR RECLASSIFICATION IS LOCATED OR TO WHICH THE LAND IS CONTIGUOUS, THE COUNTY BOARD OF SUPERVISORS OF EACH COUNTY IN WHICH THE LAND IS LOCATED IF THE LAND IS NOT LOCATED WITHIN THE BOUNDARIES OF A CITY OR TOWN AND THE LOCAL PLANNING AND ZONING AUTHORITIES, INCLUDING THE AFFECTED REGIONAL PLANNING AUTHORITIES.

~~1-~~ 2. Consider recommendations of the conservation advisory committee.

~~2-~~ 3. Consider all evidence and testimony that are submitted at the hearing under subsection ~~F- G~~ of this section.

~~3-~~ 4. Consider the physical and economic impacts that the reclassification would have on other lands owned or controlled by the current lessee AND THE PHYSICAL AND ECONOMIC IMPACTS ON THE LOCAL COMMUNITY.

~~4-~~ 5. Consider the existence of any holding lease on the lands.

~~5-~~ 6. Consider the existence of any planning permit issued by the commissioner for the lands pursuant to article 5.1 of this chapter.

~~6-~~ 7. Consider the amount of progress on any development plans being completed for the lands pursuant to article 5.1 of this chapter.

~~7-~~ Consult with local planning and zoning authorities, including the affected regional planning authorities.

8. Evaluate the mineral potential of the land.

~~H-~~ I. The commissioner shall determine whether the reclassification is in the best interest of the trust and, in making the determination, shall state in writing the reasons why the classification is or is not in the best interests of the trust.

~~I-~~ J. If the commissioner reclassifies the trust land as suitable for conservation purposes, the commissioner shall adopt a plan to allow existing and conservation uses to be coordinated in a manner that will protect both existing uses and conservation and open space values. In adopting the plan, the commissioner shall consult with:

1. The conservation advisory committee.

2. The governing body of the city or town if the land is located in a city or town.

3. The county board of supervisors if the land is not located in a city or town.

4. Existing lessees of the trust land, local and regional planning authorities and owners of private land that is located within three hundred feet of the trust land.

5. Any other person or entity that the commissioner considers to be necessary.

K. THE CLASSIFICATION OF STATE LAND AS SUITABLE FOR CONSERVATION DOES NOT AFFECT THE DESIGNATION OR USE OF ADJACENT FEDERAL, STATE OR PRIVATE LAND.

~~J-~~ L. A person who is adversely affected by the commissioner's decision to reclassify land as suitable for conservation purposes may appeal the decision to the board of appeals pursuant to section 37-215.

~~K-~~ M. On classifying trust lands suitable for conservation purposes, existing leases shall not be canceled or modified as a result of any actions taken pursuant to this article, and renewals of existing leases shall be pursuant to section 37-291.

**Sec. 2.** Title 37, chapter 2, article 4.2, Arizona Revised Statutes, is amended by adding section 37-312.01, to read:

**37-312.01. Access to private lands**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE RECLASSIFICATION OF TRUST LANDS FOR CONSERVATION PURPOSES SHALL NOT RESTRICT OR UNREASONABLY LIMIT ACCESS TO PRIVATE LANDS. ANY LEASE OR SALE OF LAND PURSUANT TO THIS ARTICLE SHALL INCLUDE A CONDITION REQUIRING THAT PERMANENT ACCESS TO PRIVATE LANDS BE ALLOWED.

**Sec. 3.** Section 41-511.05, Arizona Revised Statutes, is amended to read:

**41-511.05. Powers; compensation**

The board may, subject to legislative budgetary control within the limitations of this article:

1. Employ, determine conditions of employment and specify the duties of such administrative, secretarial and clerical workers and technical employees such as naturalists, archaeologists, landscape architects, rangers, park supervisors, caretakers, guides, skilled tradesmen, laborers, historians and engineers, and contract to have the services of such advisors or consultants as are reasonably necessary or desirable to enable it to perform adequately its duties. The

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compensation of the director and of all workers and employees shall be as determined pursuant to section 38-611.

2. Make such contracts, leases and agreements and incur such obligations as are reasonably necessary or desirable within the general scope of its activities and operations to enable it to perform adequately its duties.

3. Acquire through purchase, lease, agreement, donation, grant, bequest or otherwise real and personal property and acquire real property through eminent domain for state park or monument purposes. No property may be acquired in the manner hereinbefore provided which will require an expenditure in excess of funds theretofore budgeted or received for such purposes. No state park or monument, or additions thereto, shall be created containing in excess of one hundred sixty acres of land unless the same is created by act of the legislature. This acreage limitation shall not apply, however, in the case of lands given or donated for state park or monument purposes nor to state owned lands THAT ARE selected by the board AND which are not subject to outstanding leases, permits or other rights for the use thereof including preferential rights to renew such leases and permits.

4. Sell, lease, exchange or otherwise dispose of real and personal property. Any disposition of real property shall be submitted for approval of the joint committee on capital review. The disposition of office equipment, furnishings, vehicles and other materials is subject to chapter 23, article 8 of this title. The disposition of artifacts and other property of scientific, archaeological, historical or sociological interest is exempt from chapter 23, article 8 of this title, but the board shall consult with the Arizona historical society in disposing of property of historical interest.

5. Construct at state parks and monuments necessary sanitary and other facilities including picnic tables, fireplaces, campsites, service buildings and maintenance shops, and contract with private persons for the construction and operation of cabins, hotels and restaurants, and like establishments.

6. Erect suitable signs and markers at parks and monuments and write, prepare and publish written material describing the historical significance of monuments and other places of historical or other significance.

7. Solicit and work in cooperation with the state department of transportation and the highway departments of various counties and the United States federal highway administration for necessary roads and trails within the state parks and monuments and access roads thereto. For the purposes of this paragraph, the board may designate roads, spurs and other traffic related appurtenances within state park boundaries as public highways. Designation of roads, spurs or other traffic related appurtenances as public highways shall not prohibit the board from closing such public highways when the park is closed, charging for admission to the park to persons using the public highway within the park or otherwise managing such public highways in the same manner as other lands within the park.

8. Levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided under the jurisdiction of the board.

9. Make reasonable rules for the protection of, and maintain and keep the peace in, state parks and monuments. Such rules adopted by the parks board are subject to review and approval by the legislature. After a board rule has been finally adopted pursuant to chapter 6 of this title, the board shall immediately forward a certified copy of the rule to the legislature. The legislature may review and, by concurrent resolution, approve, disapprove or modify such rule. However, such rule shall be given full force and effect pending legislative review. If no concurrent resolution is passed by the legislature with respect to the rule within one year following receipt of a certified copy thereof, the rule shall be deemed to have been approved by the legislature. If the legislature disapproves a rule or a section thereof, the board shall immediately discontinue the use of any procedure, action or proceeding authorized or required by such rule or section thereof. If the legislature modifies a rule or section thereof, the board shall immediately suspend the use of any procedure, action or proceeding authorized or required by the rule or section thereof until the modified rule has been adopted in accordance with chapter 6 of this title, after which all proceedings pursuant to the rule shall be conducted in accordance with the modified version thereof.

10. Furnish advisory services to city and county park or recreation boards and organizations.

11. Delegate to the director, the deputy director or the director's designee any of its powers and duties, whether ministerial or discretionary, which are prescribed by law, except that the board may not delegate its power or duty to make rules.

12. Furnish staff assistance and support services to the Arizona conservation corps commission.

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13. Reimburse board volunteers for travel and lodging expenses and per diem subsistence allowances incurred while on public business for the board. Reimbursement amounts shall not exceed those allowed ~~public officers and employees~~ under title 38, chapter 4, article 2.

14. IN CONSULTATION WITH THE CONSERVATION ACQUISITION BOARD, DEVELOP A GRANT PROGRAM AND ADOPT GUIDELINES FOR ALLOCATING AND OBLIGATING MONIES IN THE LAND CONSERVATION FUND PURSUANT TO SECTION 41-511.23.

**Sec. 4.** Title 41, chapter 3, article 1.1, Arizona Revised Statutes, is amended by adding section 41-511.23, to read:

**41-511.23. Conservation acquisition board; land conservation fund; public and private accounts; exemption from lapsing**

A. THE CONSERVATION ACQUISITION BOARD IS ESTABLISHED, AS AN ADVISORY BODY TO THE ARIZONA STATE PARKS BOARD, CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR, AT LEAST ONE OF WHOM SHALL BE EXPERIENCED IN SOLICITING MONEY FROM PRIVATE SOURCES:

1. ONE STATE LAND LESSEE.
2. ONE MEMBER WHO IS QUALIFIED BY EXPERIENCE IN MANAGING LARGE HOLDINGS OF PRIVATE LAND FOR INCOME PRODUCTION OR CONSERVATION PURPOSES.
3. ONE MEMBER OF THE STATE BAR OF ARIZONA WHO IS EXPERIENCED IN THE PRACTICE OF PRIVATE REAL ESTATE LAW.
4. ONE REAL ESTATE APPRAISER WHO IS LICENSED OR CERTIFIED UNDER TITLE 32, CHAPTER 36.
5. ONE MEMBER WHO IS QUALIFIED BY EXPERIENCE IN MARKETING REAL ESTATE.

6. ONE REPRESENTATIVE OF A CONSERVATION ORGANIZATION.

7. ONE REPRESENTATIVE OF A STATE PUBLIC EDUCATIONAL INSTITUTION.

B. THE GOVERNOR SHALL DESIGNATE A PRESIDING MEMBER OF THE BOARD. THE TERM OF OFFICE IS FIVE YEARS EXCEPT THAT INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO TERMS OF ONE, TWO, THREE, TWO MEMBERS FOR FOUR AND TWO MEMBERS FOR FIVE YEARS IN OFFICE.

C. THE CONSERVATION ACQUISITION BOARD SHALL:

1. SOLICIT DONATIONS TO THE CONSERVATION DONATION ACCOUNT.
2. CONSULT WITH ENTITIES SUCH AS PRIVATE LAND TRUSTS, STATE LAND LESSEES, THE STATE LAND DEPARTMENT, THE ARIZONA STATE PARKS BOARD AND OTHERS TO IDENTIFY CONSERVATION AREAS RECLASSIFIED PURSUANT TO SECTION 37-312 THAT ARE SUITABLE FOR FUNDING.
3. RECOMMEND TO THE ARIZONA STATE PARKS BOARD APPROPRIATE GRANTS FROM THE LAND CONSERVATION FUND.

D. THE LAND CONSERVATION FUND IS ESTABLISHED CONSISTING OF THE FOLLOWING ACCOUNTS:

1. THE CONSERVATION DONATION ACCOUNT CONSISTING OF MONIES RECEIVED AS DONATIONS. MONIES IN THE ACCOUNT ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

2. THE PUBLIC CONSERVATION ACCOUNT CONSISTING OF MONIES APPROPRIATED BY THE LEGISLATURE FROM THE STATE GENERAL FUND. SUBJECT TO LEGISLATIVE APPROPRIATION, BEGINNING IN FISCAL YEAR 1998-1999, EACH EXPENDITURE OF MONIES FROM THE PUBLIC CONSERVATION ACCOUNT SHALL BE MATCHED BY AN EQUAL EXPENDITURE OF MONIES FROM THE CONSERVATION DONATION ACCOUNT AND ANY AMOUNT THAT IS SO APPROPRIATED IN A FISCAL YEAR AND THAT IS NOT MATCHED AT THE END OF THE FISCAL YEAR REVERTS TO THE STATE GENERAL FUND. THE MATCHED MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. MONIES IN THE PUBLIC CONSERVATION ACCOUNT, WITH MATCHING MONIES FROM THE CONSERVATION DONATION ACCOUNT, ARE APPROPRIATED TO THE ARIZONA STATE PARKS BOARD FOR THE EXCLUSIVE PURPOSE OF GRANTING MONIES TO THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS FOR THE PURCHASE OR LEASE OF STATE TRUST LANDS THAT ARE CLASSIFIED AS SUITABLE FOR CONSERVATION PURPOSES PURSUANT TO SECTION 37-312. IF THE LEGISLATURE FAILS TO APPROPRIATE MONIES TO THE PUBLIC CONSERVATION ACCOUNT IN A FISCAL YEAR, THE ARIZONA STATE PARKS BOARD

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MAY EITHER GRANT NOTHING FROM THE FUND IN THAT YEAR OR, ON RECOMMENDATION BY THE CONSERVATION ACQUISITION BOARD, GRANT AVAILABLE MONIES IN THE CONSERVATION DONATION ACCOUNT FOR PURPOSES AUTHORIZED IN THIS PARAGRAPH.

E. THE ARIZONA STATE PARKS BOARD SHALL ADMINISTER THE LAND CONSERVATION FUND. ON NOTICE FROM THE BOARD, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN EITHER ACCOUNT IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENTS SHALL BE CREDITED TO THE APPROPRIATE ACCOUNT IN THE FUND.

Approved by the Governor April 29, 1997.

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**TOBACCO TAX ACCOUNT—LIVER DISEASE RESEARCH**
**CHAPTER 262****H.B. 2008****AN ACT RELATING TO LIVER DISEASE RESEARCH.**

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

**Section 1. DHS; withdrawal; purpose**

A. Notwithstanding any other provision of law, for state fiscal year 1997-1998, the department of health services shall withdraw the sum of \$500,000 from the health research account of the tobacco tax and health care fund established pursuant to section 42-1241, subsection C, paragraph 2, Arizona Revised Statutes, subject to the availability of monies in the account, for transfer to the university of Arizona college of medicine for liver disease research.

B. Eight full-time equivalent positions are appropriated to the university of Arizona college of medicine for the purposes listed in subsection A.

C. The university of Arizona college of medicine shall establish a liver research institute for clinical research of liver diseases and acquisition of outside grants and donations from both public and private institutions and individuals. The focus of the research shall be the search for chemical or natural agents that offer a potential cure for liver diseases.

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**DOMESTIC VIOLENCE—INJUNCTION**
**CHAPTER 263****H.B. 2025****AN ACT AMENDING SECTIONS 12-1809, 13-1601, 13-3601, 13-3602 AND 13-3624, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC VIOLENCE.**

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

**Section 1. Section 12-1809, Arizona Revised Statutes, is amended to read:****12-1809. Injunction against harassment; petition; venue; fees; notices; enforcement; definition**

A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment. If a person is either temporarily or permanently unable to request an injunction, a third party may request an injunction on behalf of the plaintiff.

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Additions are indicated by UPPER CASE; deletions by ~~strikeout~~