

**Ch. 347, § 1****42nd LEGISLATURE****STATE TRUST LAND CONSERVATION****CHAPTER 347****H.B. 2555****AN ACT AMENDING SECTIONS 37-211 AND 37-212, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.2; MAKING AN APPROPRIATION; RELATING TO STATE TRUST LANDS.**

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

**Section 1. Purpose**

The legislature finds that the long-term conservation of certain urban state trust land containing unique and significant value as open space is critically important to the citizens of this state. Promoting and enhancing the open space characteristics of state trust land is inherently necessary to conserve open space, protect cultural values and historic traditional uses. Therefore, the legislature intends to create a process to conserve state trust land as open space to benefit future generations that will use and enjoy the land.

**Sec. 2.** Section 37-211, Arizona Revised Statutes, is amended to read:

**37-211. Investigations of and experiments on state lands to determine possible uses; reclassification**

A. The state land commissioner may conduct investigations and experiments on the lands of the state to:

1. Determine which are suitable for agricultural purposes, or which may be suitable therefor by the development of water and otherwise.
2. Determine which are useful for grazing purposes only.
3. Ascertain the requirements of lands susceptible of agricultural development and the method or means best adapted to insure the development.
4. DETERMINE WHICH TRUST LANDS ARE SUITABLE FOR CONSERVATION PURPOSES PURSUANT TO ARTICLE 4.2 OF THIS CHAPTER.

~~4~~ 5. Obtain other information and data which will aid in the leasing, sale and administration of lands belonging to the state.

B. If in the investigation the commissioner determines that lands have been erroneously classified, the classification shall be changed.

**Sec. 3.** Section 37-212, Arizona Revised Statutes, is amended to read:

**37-212. Classification of lands selected; reclassification**

A. The commissioner shall promptly classify all lands selected as provided in article 1 of this chapter.

B. In classifying state lands, the commissioner shall maintain in the offices of the department plats, maps or books containing the description of lands and disclosing:

1. Lands suitable for agricultural purposes.
2. Lands suitable for grazing purposes.
3. Lands suitable for homesite purposes.
4. Lands suitable for commercial purposes.
5. Lands containing timber, stone, or other products which may become valuable.
6. Lands which may become agricultural lands by expenditure of a reasonable amount for development of water thereon.
7. Lands within the boundaries of any school district which may, within the discretion of the governing board of the applicable school district within which the lands are located and within the discretion of the commissioner, become adaptable to public educational purposes, provided such lands shall not exceed sixty acres for school buildings and grounds.
8. Lands suitable for exchange.
9. Urban lands suitable for urban planning.
10. Lands suitable for self-contained community site planning.
11. Urban lands consistent with a development or secondary plan.
12. Lands suitable for multipurpose use.

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C. The commissioner may reclassify lands when he determines that reclassification is in the best interest of the trust and of the state. The intended use of the reclassified land shall be consistent with the development or secondary plan and zoning of the local governmental authority unless the commissioner determines that this will be detrimental to the interests of the trust. If the commissioner so determines, a written statement of the reasons for the determination shall be prepared and provided to the local governmental authority having jurisdiction for the area in which the lands are located. The local governmental authority shall have thirty days from the receipt of this statement to appeal the commissioner's decision to the board of appeals as provided in section 37-214. If no development or secondary plan or zoning has been adopted for the area in which the lands are located, the commissioner may reclassify the lands. Notice of such reclassification shall be provided to the local governmental authority.

D. Classification of urban lands as suitable for urban planning or for self-contained community site planning shall not cause an existing lease to be terminated under section 37-290, and such classification shall be accomplished pursuant to the requirements of articles 5.1 and 5.2 of this chapter.

E. CLASSIFICATION OF TRUST LANDS SUITABLE FOR CONSERVATION PURSUANT TO SUBSECTION B, PARAGRAPH 13 OF THIS SECTION SHALL BE ACCOMPLISHED PURSUANT TO ARTICLE 4.2 OF THIS CHAPTER AND SHALL NOT CAUSE AN EXISTING LEASE TO BE IMPAIRED OR CANCELED UNDER SECTION 37-290.

**Sec. 4.** Title 37, chapter 2, Arizona Revised Statutes, is amended by adding article 4.2, to read:

**ARTICLE 4.2. TRUST LANDS SUITABLE FOR CONSERVATION****37-311. Definitions**

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSERVATION" MEANS PROTECTION OF THE NATURAL ASSETS OF STATE TRUST LANDS FOR THE LONG-TERM BENEFIT OF THE LAND, THE TRUST BENEFICIARIES, LESSEES, THE PUBLIC AND THE UNIQUE RESOURCES THAT EACH AREA CONTAINS, SUCH AS OPEN SPACE, SCENIC BEAUTY, PROTECTED PLANTS, WILDLIFE, ARCHAEOLOGY AND MULTIPLE USE VALUES.

2. "EXISTING LESSEE" MEANS ANY OF THE FOLLOWING:

(a) THE LESSEE WHO IS ENTITLED TO THE USE OF STATE LANDS AT THE TIME THE LANDS ARE CONSIDERED FOR CLASSIFICATION AND ARE CLASSIFIED AS TRUST LANDS SUITABLE FOR CONSERVATION PURPOSES.

(b) AN EXISTING LESSEE WHO CONTINUES TO LEASE THE TRUST LANDS AFTER CLASSIFICATION AS TRUST LANDS SUITABLE FOR CONSERVATION PURPOSES.

3. "OPEN SPACE" MEANS LAND THAT IS GENERALLY FREE OF LAND USES THAT WOULD JEOPARDIZE THE CONSERVATION AND OPEN SPACE VALUES OF THE LAND OR DEVELOPMENT THAT WOULD OBSTRUCT THE SCENIC BEAUTY OF THE LAND.

4. "TRUST LAND" MEANS ANY LAND THAT IS OWNED OR HELD IN TRUST BY THIS STATE.

**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, 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 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 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 OR MORE ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

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B. 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 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. 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 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. THE COMMISSIONER SHALL NOT NOMINATE OR CLASSIFY TRUST LAND AS SUITABLE FOR CONSERVATION PURPOSES IF THE LAND HAS AN APPROVED DEVELOPMENT PLAN PURSUANT TO ARTICLE 5.1 OF THIS CHAPTER.

E. AFTER NOMINATING THE TRUST LANDS UNDER SUBSECTION A 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.

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. WITHIN SIXTY DAYS AFTER THE LAST DATE OF PUBLICATION OF NOTICE UNDER SUBSECTION E 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. IN DETERMINING WHETHER RECLASSIFICATION IS IN THE TRUST LANDS' BEST INTEREST, THE COMMISSIONER SHALL:

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1. CONSIDER RECOMMENDATIONS OF THE CONSERVATION ADVISORY COMMITTEE.

2. CONSIDER ALL EVIDENCE AND TESTIMONY THAT ARE SUBMITTED AT THE HEARING UNDER SUBSECTION F OF THIS SECTION.

3. CONSIDER THE PHYSICAL AND ECONOMIC IMPACTS THAT THE RECLASSIFICATION WOULD HAVE ON OTHER LANDS OWNED OR CONTROLLED BY THE CURRENT LESSEE.

4. CONSIDER THE EXISTENCE OF ANY HOLDING LEASE ON THE LANDS.

5. CONSIDER THE EXISTENCE OF ANY PLANNING PERMIT ISSUED BY THE COMMISSIONER FOR THE LANDS PURSUANT TO ARTICLE 5.1 OF THIS CHAPTER.

6. 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. 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. 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.

J. 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. 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.

**37-313. Conservation lease of trust lands suitable for conservation**

A. THE COMMISSIONER MAY SELL LEASES OF TRUST LAND FOR CONSERVATION PURPOSES TO A QUALIFYING LESSEE WHEN IT IS IN THE BEST INTEREST OF THE TRUST. THE CONSERVATION LEASE MAY AUTHORIZE THE LESSEE TO PROTECT THE CONSERVATION AND OPEN SPACE VALUE OF THE LAND IN COOPERATION WITH OTHER LESSEES OF THE LAND, CONSISTENT WITH THE PLAN ADOPTED UNDER SECTION 37-312. THE COMMISSIONER RETAINS THE RIGHT TO AUTHORIZE OTHER COMPATIBLE USES OF THE LAND.

B. THE TERM OF THE LEASE MAY BE FOR LESS THAN TEN YEARS OR FOR AT LEAST TEN BUT NOT MORE THAN FIFTY YEARS. THE SALE OF ANY LEASE SHALL BE:

1. AT PUBLIC AUCTION.

2. BASED ON TWO INDEPENDENT APPRAISALS OF THE FAIR MARKET VALUE OF THE INTEREST IN THE TRUST LAND THAT IS BEING OFFERED, INCLUDING MINERAL, SAND AND GRAVEL AND OIL AND GAS VALUE.

3. CONSISTENT WITH THE REQUIREMENTS OF THE CONSTITUTION OF ARIZONA, APPLICABLE PROVISIONS OF THIS TITLE AND RULES ADOPTED BY THE COMMISSIONER.

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C. IF AN EXISTING LEASE IS NOT RENEWED AS A RESULT OF ANY ACTION TAKEN PURSUANT TO THIS ARTICLE AND THE CONSERVATION LESSEE AND THE EXISTING LESSEE CANNOT AGREE ON COMPENSATION, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF REASONABLE COMPENSATION FOR DAMAGES SUSTAINED BY THE EXISTING LESSEE AFTER CONSIDERING THE FOLLOWING FACTORS:

1. THE ACTUAL USE OF THE LEASED LAND.
2. THE RENTALS PAID DURING THE TERM OF THE LEASE.
3. THE ACTUAL AMOUNT OF ECONOMIC DAMAGE TO THE PRODUCTION UNIT CAUSED BY THE FAILURE TO RENEW. IN DETERMINING THE AMOUNT OF ECONOMIC DAMAGE TO THE PRODUCTION UNIT, THE COMMISSIONER SHALL NOT LIMIT THE SCOPE OF REVIEW TO ONLY THAT PORTION OF THE LANDS INVOLVED IN THE RECLASSIFICATION BUT SHALL TAKE INTO CONSIDERATION THE IMPACT OF THE LOSS OF THESE LANDS ON THE OVERALL PRODUCTION UNIT, INCLUDING SITUATIONS IN WHICH OTHER LEASED OR PRIVATE LANDS ARE NECESSARY AND HAVE BEEN LEASED BY THE EXISTING LESSEE FOR OPERATION AS A PRODUCTION UNIT.

4. OTHER FACTORS THAT THE COMMISSIONER OR THE EXISTING LESSEE DETERMINE TO BE RELEVANT.

D. THE CONSERVATION LESSEE SHALL MAKE PAYMENTS FOR REIMBURSEMENT OR COMPENSATION, OR BOTH, AS ESTABLISHED IN THIS SECTION TO THE EXISTING LESSEE AT THE TIME THE LEASE IS NOT RENEWED. THIS SECTION DOES NOT PREVENT THE PAYMENT FOR REIMBURSEMENT OR COMPENSATION, OR BOTH, FROM BEING MADE IN INSTALLMENTS IF THE FORMER LESSEE AND CONSERVATION LESSEE AGREE TO INSTALLMENT PAYMENTS.

E. IF TRUST LANDS THAT ARE LEASED PURSUANT TO THIS SECTION ARE SUBJECT TO A CURRENT PLANNING PERMIT UNDER ARTICLE 5.1 OF THIS CHAPTER, THE SUCCEEDING LESSEE SHALL REIMBURSE THE HOLDER OF THE PERMIT AS PROVIDED BY SECTION 37-338.

F. THE DEPARTMENT SHALL MAKE APPLICATION FORMS AVAILABLE FOR LEASES. THE APPLICATION FORM SHALL CONTAIN A STATEMENT UNDER PENALTY OF PERJURY THAT THE PERSON SIGNING THE APPLICATION REPRESENTS THAT THE INFORMATION IN THE APPLICATION IS COMPLETE AND CORRECT. A MATERIAL FALSE STATEMENT OR OMISSION OF FACTS IN THE APPLICATION IS CAUSE FOR CANCELING A CONSERVATION LEASE THAT WAS ISSUED ON THE APPLICATION.

G. AT THE TIME OF APPLICATION THE APPLICANT SHALL POST A BOND OR OTHER SECURITY CONSIDERED ADEQUATE BY THE COMMISSIONER EQUAL TO AN ESTIMATE OF THE FIRST YEAR'S RENT AND ADVERTISING, APPRAISAL AND OTHER COSTS PURSUANT TO SECTION 37-108. THE BOND OR SECURITY IS FORFEIT TO THIS STATE IF NO BIDDER BIDS AT THE AUCTION FOR THE CONSERVATION LEASE.

H. A LESSEE UNDER A CONSERVATION LEASE SHALL NOT:

1. USE THE LANDS FOR ANY PURPOSE OTHER THAN THAT FOR WHICH THE LEASE WAS ISSUED.
2. SUBLEASE THE LANDS EXCEPT TO ANOTHER QUALIFYING LESSEE AND ON APPROVAL BY THE COMMISSIONER.
3. INHIBIT OR INTERFERE WITH OTHER EXISTING LEASES.

I. A STATE LAND TRUST BENEFICIARY MAY LEASE TRUST LAND UNDER THIS SECTION BUT MAY NOT MAKE PAYMENTS ON THE LEASE FROM MONIES THAT WERE RECEIVED FROM THE STATE TRUST.

J. FOR PURPOSES OF THIS SECTION "QUALIFYING LESSEE" INCLUDES:

1. THE UNITED STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES.
2. AN AGENCY OF THIS STATE, INCLUDING A STATE LAND TRUST BENEFICIARY.
3. A COUNTY, CITY, TOWN, SCHOOL DISTRICT, COMMUNITY COLLEGE DISTRICT OR SPECIAL TAXING DISTRICT OR ANY OF THEIR AGENCIES OR INSTRUMENTALITIES.

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4. AN INDIVIDUAL OR A PRIVATE ORGANIZATION OR ENTITY THAT IS LEGALLY EMPOWERED TO OWN OR MANAGE REAL PROPERTY IN THIS STATE.

**37-314. Conveyance of title to trust lands suitable for conservation purposes**

A. THE COMMISSIONER MAY SELL OR OTHERWISE TRANSFER TITLE TO TRUST LANDS SUITABLE FOR CONSERVATION PURPOSES WHEN IT IS IN THE BEST INTEREST OF THE TRUST.

B. A SALE OF TRUST LAND UNDER THIS SECTION SHALL BE:

1. AT PUBLIC AUCTION.

2. BASED ON TWO INDEPENDENT APPRAISALS OF THE FAIR MARKET VALUE OF THE TRUST LAND THAT IS BEING OFFERED. THE APPRAISAL SHALL NOT TAKE INTO CONSIDERATION THE CONDITIONS OR COVENANTS WHICH MAY BE IMPOSED UNDER SUBSECTION C OF THIS SECTION IN ORDER TO REDUCE THE APPRAISED VALUE.

3. CONSISTENT WITH THE REQUIREMENTS OF THE CONSTITUTION OF ARIZONA, APPLICABLE PROVISIONS OF THIS TITLE AND RULES ADOPTED BY THE COMMISSIONER.

C. THE TERMS OF THE SALE MAY INCLUDE THE CONDITION THAT THE CONVEYANCE OF TITLE IS SUBJECT TO A COVENANT THAT RUNS WITH THE LAND AND THAT THE LAND SHALL BE USED ONLY FOR PURPOSES THAT ARE CONSISTENT WITH THE CONSERVATION OF SPECIFICALLY NAMED RESOURCES OR PUBLIC VALUES.

D. THE COMMISSIONER SHALL INCLUDE THE APPLICABLE CONDITIONS UNDER SUBSECTION C IN ANY PUBLIC NOTICES RELATING TO THE SALE UNDER THIS SECTION.

E. IF THE TRUST LAND IS SOLD SUBJECT TO A LEASE AND THE LEASE IS CANCELED OR MODIFIED DUE TO A SALE OF LAND UNDER THIS SECTION AND THE PURCHASER AND THE EXISTING LESSEE CANNOT AGREE ON COMPENSATION, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF REASONABLE COMPENSATION FOR DAMAGES SUSTAINED BY THE EXISTING LESSEE AFTER CONSIDERING THE FOLLOWING FACTORS:

1. THE TIME REMAINING IN THE TERM OF THE LEASE AT THE TIME THAT THE LEASE IS CANCELED OR MODIFIED.

2. THE ACTUAL USE OF THE LEASED LAND.

3. THE RENTALS PAID DURING THE TERM OF THE LEASE.

4. THE ACTUAL AMOUNT OF ECONOMIC DAMAGE TO THE PRODUCTION UNIT CAUSED BY THE CANCELLATION OR MODIFICATION. IN DETERMINING THE AMOUNT OF ECONOMIC DAMAGE TO THE PRODUCTION UNIT, THE COMMISSIONER SHALL NOT LIMIT THE SCOPE OF REVIEW TO ONLY THAT PORTION OF THE LANDS INVOLVED IN THE RECLASSIFICATION BUT SHALL TAKE INTO CONSIDERATION THE IMPACT OF THE LOSS OF THESE LANDS ON THE OVERALL PRODUCTION UNIT, INCLUDING SITUATIONS IN WHICH OTHER LEASED OR PRIVATE LANDS ARE NECESSARY AND HAVE BEEN LEASED BY THE EXISTING LESSEE FOR OPERATION AS A PRODUCTION UNIT.

5. OTHER FACTORS THAT THE COMMISSIONER OR THE EXISTING LESSEE DETERMINE TO BE RELEVANT.

F. THE PURCHASER SHALL MAKE PAYMENTS FOR REIMBURSEMENT OR COMPENSATION, OR BOTH, AS ESTABLISHED IN THIS SECTION TO THE EXISTING LESSEE AT THE TIME OF SALE. THIS SECTION DOES NOT PREVENT THE PAYMENT FOR REIMBURSEMENT OR COMPENSATION, OR BOTH, FROM BEING MADE IN INSTALLMENTS IF THE EXISTING LESSEE AND PURCHASER AGREE TO INSTALLMENT PAYMENTS.

G. IF TRUST LANDS THAT ARE CONVEYED PURSUANT TO THIS SECTION ARE SUBJECT TO A CURRENT PLANNING PERMIT UNDER ARTICLE 5.1 OF THIS CHAPTER, THE TRANSFEREE SHALL REIMBURSE THE HOLDER OF THE PERMIT AS PROVIDED BY SECTION 37-338.

H. AT THE TIME OF APPLICATION THE APPLICANT SHALL POST A BOND OR OTHER SECURITY CONSIDERED ADEQUATE BY THE COMMISSIONER EQUAL TO AN ESTIMATE OF TEN PER CENT OF THE LAND VALUE AND ADVERTISING, APPRAISAL AND OTHER COSTS PURSUANT TO SECTION 37-108. THE BOND OR OTHER SECURITY

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IS FORFEIT TO THIS STATE IF NO BIDDER BIDS AT THE AUCTION FOR THE SALE OF THE LAND.

**37-315. Withdrawing trust lands suitable for conservation purposes by department without lease or sale**

A. NOTWITHSTANDING ANY OTHER LAW, WHEN IT IS IN THE BEST INTEREST OF THE TRUST, THE COMMISSIONER MAY WITHDRAW TRUST LAND SUITABLE FOR CONSERVATION PURPOSES FROM LEASE OR SALE FOR DEVELOPMENT PURPOSES TO ALLOW QUALIFYING LESSEES OR BUYERS TO COMPLETE THE PLANS AND ARRANGEMENTS NECESSARY TO ACCOMPLISH THE PURPOSES OF THE CLASSIFICATION AND PLAN OF THE LANDS.

B. THE COMMISSIONER SHALL PRESCRIBE A TERMINATION DATE, OF AT LEAST THREE BUT NOT MORE THAN FIVE YEARS, AFTER WHICH THE LEASE OR SALE MAY PROCEED. WITHIN ONE YEAR BEFORE THE EXPIRATION OF THE WITHDRAWAL PERIOD THE COMMISSIONER, AFTER A PUBLIC HEARING, MAY EXTEND THE WITHDRAWAL PERIOD FOR NOT MORE THAN ONE ADDITIONAL THREE YEAR PERIOD IF SIGNIFICANT PROGRESS IS EVIDENT IN THE EFFORT TOWARD ACQUIRING THE LAND.

C. THE COMMISSIONER'S DECISION UNDER THIS SECTION IS SUBJECT TO APPEAL PURSUANT TO SECTION 37-214.

D. DURING A WITHDRAWAL PERIOD UNDER THIS SECTION:

1. THE COMMISSIONER MAY ALLOW EXISTING LESSEES OF THE LAND TO CONTINUE THEIR NORMAL AND CUSTOMARY USE OF THE LAND. THE COMMISSIONER MAY RENEW EXISTING LEASES PURSUANT TO SECTION 37-291.

2. THE COMMISSIONER MAY AUTHORIZE A NEW USE OF THE LAND THAT IS CONSISTENT WITH THE CLASSIFICATION.

E. IF THE COMMISSIONER WITHDRAWS TRUST LANDS FROM LEASE OR SALE PURSUANT TO THIS SECTION, OR FAILS TO LEASE OR CONVEY TRUST LANDS SUITABLE FOR CONSERVATION PURPOSES AS PROVIDED BY THIS ARTICLE WITHIN THREE YEARS AFTER CLASSIFICATION, AND THE TRUST LANDS ARE SUBJECT TO A CURRENT PLANNING PERMIT UNDER ARTICLE 5.1 OF THIS CHAPTER, THE COMMISSIONER SHALL REIMBURSE THE HOLDER OF THE PERMIT PURSUANT TO SECTION 37-338.

**37-316. Conservation advisory committee**

A. A CONSERVATION ADVISORY COMMITTEE IS ESTABLISHED TO PROVIDE INFORMATION AND ADVICE ON CONSERVATION ISSUES BY HELPING EVALUATE AND PRIORITIZE APPLICATIONS AND PROPOSALS AND REFERRING ITS RECOMMENDATIONS TO THE COMMISSIONER.

B. THE GOVERNOR SHALL APPOINT A PRESIDING MEMBER OF THE COMMITTEE, WHO IS NOT AN EMPLOYEE OF THIS STATE. THE GOVERNOR SHALL APPOINT TWO ADDITIONAL MEMBERS. THE COMMISSIONER SHALL APPOINT TWO MEMBERS. THE TERM OF OFFICE IS FIVE YEARS, EXCEPT THAT THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO TERMS OF ONE, TWO, THREE, FOUR AND FIVE YEARS IN OFFICE.

C. ALL MEMBERS OF THE COMMITTEE SHALL BE KNOWLEDGEABLE ON ISSUES RELATING TO CONSERVATION OF NATURAL AND HISTORICAL RESOURCES.

D. MEMBERS OF THE COMMITTEE WHO ARE NOT EMPLOYEES OF THIS STATE ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

E. THE COMMITTEE SHALL MEET AT LEAST ONCE EACH CALENDAR QUARTER IN SPACE PROVIDED BY THE DEPARTMENT BUT, IF AUTHORIZED BY THE COMMISSIONER, MAY TRAVEL WITHIN THIS STATE AS NECESSARY TO PROVIDE ACCURATE AND COMPETENT ADVICE TO THE COMMISSIONER AND DEPARTMENT RELATING TO SPECIFIC PARCELS OF TRUST LAND.

F. THE DEPARTMENT SHALL PROVIDE FINANCIAL AND STAFF SUPPORT TO THE COMMITTEE.

**37-317. Subordination to constitution and enabling act**

THIS ARTICLE SHALL NOT BE CONSTRUED TO REPLACE OR SUPERSEDE THE RESPONSIBILITIES AND OBLIGATIONS OF THE STATE LAND DEPARTMENT AND THE STATE LAND COMMISSIONER UNDER ARTICLE X, CONSTITUTION OF ARIZONA, AND SECTION 28 OF THE ENABLING ACT OF JUNE 20, 1910.

**Sec. 5. State land conservation task force**

A. A state land conservation task force is established consisting of thirteen members appointed as follows:



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1. The governor or the governor's designee, who shall chair the task force.
  2. Two members of the senate, each from different political parties, appointed by the president of the senate.
  3. Two members of the house of representatives, each from different political parties, appointed by the speaker of the house of representatives.
  4. Two state trust land lessees, appointed by the governor.
  5. One representative of a private land trust, appointed by the governor.
  6. Two representatives of natural resource conservation organizations which are tax exempt under section 501c of the internal revenue code, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the speaker of the house of representatives.
  7. One representative of an incorporated city or town having a population of greater than ten thousand people according to the most recent United States decennial census, appointed by the governor.
  8. One representative of an incorporated city or town having a population of fewer than ten thousand people according to the most recent United States decennial census, appointed by the speaker of the house of representatives.
  9. One member of a county board of supervisors, appointed by the president of the senate.
- B. The task force shall:
1. Recommend criteria for assessing environmentally sensitive trust lands and determining their suitability for conservation.
  2. Assess trust lands that are identified by the state land department as candidates for conservation, and other trust lands, if appropriate, and determine their suitability for conservation by acquisition or other mechanisms.
  3. Evaluate alternatives for financing the purchase, lease or other acquisition of suitable trust lands and recommend appropriate funding sources for consideration by the legislature.
  4. Evaluate and recommend appropriate ownership and management alternatives for the proposed acquisitions.
  5. Solicit and review public comments from citizens, governmental entities and other interested parties.
  6. Review and evaluate the activities and findings of the Arizona preserve initiative task force established pursuant to executive order 95-7.
  7. On or before December 13, 1996 make recommendations to the legislature and the governor in a manner consistent with upholding the fiduciary responsibilities of the state land department and requirements of the Enabling Act and the Constitution of Arizona relating to the use and disposition of state trust lands.

**Sec. 6. Repeal**

Section 5 of this act is repealed from and after December 31, 1996.

**Sec. 7. Appropriation and transfer**

A. The sum of \$84,020 is appropriated from the general fund in fiscal year 1996-1997 to the state land department. Subject to review by the joint legislative budget committee, the state land commissioner shall use the appropriated monies for contracted private sector appraisals, personal services for three permanent employees, non-capitalized equipment and other operating expenses associated with this act.

B. The remaining sum of \$38,079.92 from the amount appropriated in fiscal year 1995-1996 and the sum of \$75,400 appropriated in fiscal year 1996-1997 for the land 2000 line item by Laws 1995, first special session, chapter 1, section 56 is transferred to the operating budget of the state land department to support three permanent employees pursuant to subsection A of this section.

Approved by the Governor May 1, 1996.

Filed in the Office of the Secretary of State May 1, 1996.

**SAME SEX MARRIAGES—PROHIBITION****CHAPTER 348****S.B. 1038****AN ACT AMENDING SECTIONS 25-101 AND 25-112, ARIZONA REVISED STATUTES; RELATING TO MARRIAGE.**

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

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