

State of Arizona
House of Representatives
Forty-third Legislature
Second Regular Session
1998

HOUSE BILL 2509

AN ACT

AMENDING SECTIONS 37-101 AND 37-281, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-281.01; AMENDING SECTIONS 37-283, 37-284 AND 37-322.01, ARIZONA REVISED STATUTES; RELATING TO GRAZING LEASES ON STATE LANDS.

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

2 Section 1. Section 37-101, Arizona Revised Statutes, is amended to
3 read:

4 37-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Agricultural lands" means lands which are used or can be used
7 principally for raising crops, fruits, grains and similar farm products.

8 2. "Amortized value" means the value for improvements established
9 pursuant to section 37-281.02, subsection G.

10 3. "Commercial lands" means lands which can be used principally for
11 business, institutional, religious, charitable, governmental or recreational
12 purposes, or any general purpose other than agricultural, grazing, mining,
13 oil, homesite or rights-of-way.

14 4. "Commissioner" means the state land commissioner.

15 5. "Community identity package" means a design theme including such
16 elements as architecture, landscape, lighting, street furniture, walls and
17 signage.

18 6. "Department" means the state land department.

19 7. "Grazing lands" means lands which can be used only for the ranging
20 of ~~animals~~ LIVESTOCK.

1 8. "Holding lease" means a commercial lease issued solely to grant a
2 limited use leasehold interest in state land in anticipation of future
3 development.

4 9. "Homesite lands" means lands which are suitable for residential
5 purposes.

6 10. "Improvements" means anything permanent in character which is the
7 result of labor or capital expended by the lessee or his predecessors in
8 interest on state land in its reclamation or development, and the
9 appropriation of water thereon, and which has enhanced the value of the land.

10 11. "Infrastructure" means facilities or amenities, such as streets,
11 utilities, landscaping and open space, which are constructed or located on
12 state lands and which are intended to benefit more than the land on which
13 they are immediately located by enhancing the development potential and value
14 of the state lands impacted by the facility or amenities.

15 12. "Leapfrog development" means the development of lands in a manner
16 requiring the extension of public facilities and services from their existing
17 terminal point through intervening undeveloped areas that are scheduled for
18 development at a later time, according to the plans of the local governing
19 body having jurisdiction for the area and which is responsible for the
20 provision of these facilities and services.

21 13. "Leased school or university land" means school or university land
22 for which a lease has been issued by the state, or the territory of Arizona,
23 under which the lessee retains rights.

24 14. "Master developer" means a person who assumes, as a condition of
25 a land disposition, the responsibilities prescribed by the department for
26 infrastructure or community identity package amenities, or both, or for
27 implementing a development plan containing a master plan area.

28 15. "Participation contract" means a contract arising out of a sale
29 together with other rights and obligations in trust lands whereby the
30 department receives a share of the revenues generated by subsequent sales or
31 leases.

32 16. "Section of land" means an area of land consisting of six hundred
33 forty acres.

34 17. "State lands" means any land owned or held in trust, or otherwise,
35 by the state, including leased school or university land.

36 18. "SUBLEASE" MEANS AN AGREEMENT IN WHICH THE LESSEE RELINQUISHES
37 CONTROL OF THE LEASED LAND TO ANOTHER PARTY FOR THE PURPOSES AUTHORIZED IN
38 THE LEASE.

39 ~~18.~~ 19. "Urban lands" means any state lands which are adjoining
40 existing commercially or homesite developed lands and which are either:

41 (a) Within the corporate boundaries of a city or town.

42 (b) Adjacent to the corporate boundaries of a city or town.

1 (c) Lands for which the designation as urban lands is requested
2 pursuant to section 37-331.01.

3 ~~19.~~ 20. "Urban sprawl" means the development of lands in a manner
4 requiring the extension of public facilities and services on the periphery
5 of an existing urbanized area where such extension is not provided for in the
6 existing plans of the local governing body having the responsibility for the
7 provision of these facilities and services to the lands in question.

8 Sec. 2. Section 37-281, Arizona Revised Statutes, is amended to read:

9 ~~37-281.~~ 37-281. Lease of state lands for certain purposes without
10 advertising; terms and conditions

11 A. All state lands are subject to lease as provided in this article
12 for a term of not more than ten years for agricultural, ~~grazing,~~ commercial
13 and homesite purposes, without advertising. The leases shall be granted
14 according to the constitution, the law and the rules of the state land
15 department.

16 B. No lease shall be granted as provided by this section without
17 application. All applications for leases shall be made upon forms prepared
18 and furnished by the department, shall be signed and sworn to by the
19 applicant or his authorized agent or attorney and shall be filed with the
20 department. In lieu of signing and swearing to the application before a
21 notary public or other person authorized to take acknowledgments, the
22 applicant may affix his signature to the application, accompanied by a
23 certification, under penalty of perjury, that the information and statements
24 made in the application are to the best of his knowledge and belief true,
25 correct and complete, and the application shall be accepted as duly executed.

26 C. Any material false statement or concealment of facts made by an
27 applicant, his authorized agent or his attorney in the application to lease,
28 which, if known to the department, would have prevented issuance of the lease
29 in the form or to the person issued, shall be grounds for cancellation of a
30 lease issued upon such application.

31 D. No lessee shall use lands leased to him except for the purpose for
32 which the lands are leased.

33 E. No lessee shall sublease lands leased to him without written
34 permission of the state land department.

35 Sec. 3. Title 37, chapter 2, article 4, Arizona Revised Statutes, is
36 amended by adding section 37-281.01, to read:

37 ~~37-281.01.~~ 37-281.01. Lease of state lands for grazing purposes; legal
38 advertising

39 A. ALL STATE LANDS ARE SUBJECT TO LEASE AS PROVIDED IN THIS ARTICLE
40 FOR A TERM OF NOT MORE THAN TEN YEARS FOR GRAZING PURPOSES WITHOUT PUBLIC
41 AUCTION. IN ADDITION TO THE REQUIREMENTS OF SECTION 37-281, SUBSECTIONS B,
42 C, D AND E, THE LEASES SHALL BE GRANTED ACCORDING TO THE CONSTITUTION AND
43 LAWS OF THIS STATE AND RULES OF THE DEPARTMENT.

1 B. THE DEPARTMENT SHALL GIVE NOTICE OF THE AVAILABILITY OF EXPIRING
2 GRAZING LEASES ON STATE LANDS BY ADVERTISEMENT, PUBLISHED IN DECEMBER OF EACH
3 YEAR, AT LEAST ONE YEAR IN ADVANCE OF THE EXPIRATION DATE OF ANY GRAZING
4 LEASE. THE NOTICE SHALL BE PUBLISHED IN A NEWSPAPER WITH GENERAL STATEWIDE
5 CIRCULATION. THE ADVERTISEMENT SHALL INDICATE THE EXPIRING LEASE NUMBER, THE
6 LOCATION BY COUNTY OR COUNTIES, EXPIRATION DATE AND LOCATION OF POSTING FOR
7 ADDITIONAL INFORMATION. THE DEPARTMENT SHALL POST NOTICE OF EXPIRING LEASES
8 BY LEASE NUMBER, ABBREVIATED LEGAL DESCRIPTION OF THE LEASE AREA, CARRYING
9 CAPACITY, EXPIRATION DATE AND APPLICATION INFORMATION IN THE FOLLOWING
10 LOCATIONS:

- 11 1. IN EACH DEPARTMENT OFFICE.
- 12 2. ON THE DEPARTMENT'S INTERNET WEB SITE.
- 13 3. IN THE OFFICE OR OFFICES OF THE COUNTY BOARD OF SUPERVISORS WHERE
14 THE LAND IS LOCATED.
- 15 4. IN UNITED STATES BUREAU OF LAND MANAGEMENT OFFICES IN THIS STATE
16 WHERE POSTING IS ALLOWED.

17 Sec. 4. Section 37-283, Arizona Revised Statutes, is amended to read:
18 37-283. Subleases by grazing lessee; limitation upon grazing
19 use; sublease surcharge

20 A. A grazing lessee shall not sublease his lease or sell or lease
21 pasturage to lands included in his lease, without written permission from the
22 state land department. A grazing lessee, his sublessee or users under
23 pasturage agreement shall not graze, without written permission of the
24 department, in excess of the carrying capacity as previously determined by
25 the department, upon state lands under lease or being used by such persons,
26 within the exterior boundaries of any one ranch unit or units in the same
27 general locality jointly operated. If permission is granted for such excess,
28 the department shall assess and collect the rental for the excess on the
29 rental basis provided for in this article.

30 B. IN ADDITION TO THE ANNUAL RENTAL ON GRAZING LANDS ESTABLISHED
31 PURSUANT TO SECTION 37-285, GRAZING SUBLEASES ARE SUBJECT TO A SURCHARGE THAT
32 IS EQUAL TO TWENTY-FIVE PER CENT OF THE ANNUAL RENTAL ON GRAZING LAND,
33 MULTIPLIED BY THE NUMBER OF ANIMAL UNIT MONTHS TO BE GRAZED ON THE SUBLEASED
34 STATE TRUST LAND. THE SURCHARGE SHALL BE ASSESSED ONLY FOR THAT PERIOD OF
35 TIME THE STATE TRUST LAND IS SUBLEASED. THE SURCHARGE SHALL BE PAID TO THE
36 DEPARTMENT WHEN THE ANNUAL RENTAL IS DUE, OR UPON RECEIVING DEPARTMENT
37 PERMISSION TO SUBLEASE IF THE SUBLEASE IS APPROVED AFTER THE ANNUAL RENTAL
38 IS DUE.

39 Sec. 5. Section 37-284, Arizona Revised Statutes, is amended to read:
40 37-284. Granting lease to one of several applicants; criteria;
41 preference

42 A. A CONFLICTING APPLICATION FOR AN EXISTING LEASE SHALL BE FILED AT
43 LEAST NINE MONTHS BUT NOT MORE THAN ONE YEAR BEFORE THE EXPIRATION DATE ON

1 THE LEASE. WHEN THE DEPARTMENT RECEIVES A CONFLICTING APPLICATION, THE
2 DEPARTMENT SHALL GIVE THE EXISTING LESSEE THIRTY DAYS NOTICE TO FILE AN
3 APPLICATION FOR RENEWAL PURSUANT TO THIS SECTION. If two or more applicants
4 apply to lease the same land, the department shall approve the application
5 of the one who, after investigation or hearing, appears to have the best
6 right to the lease. The order of filing shall not be a controlling factor
7 in deciding who is entitled to the lease. If it appears that none of the
8 applicants has any right or equities superior to those of another THAT WOULD
9 OUTWEIGH AN OFFER OF ADDITIONAL RENT, AND IF IT IS IN THE BEST INTEREST OF
10 THE TRUST, the department may, at a stated time and after due notice to all
11 applicants, receive ~~sealed~~ bids submitted in accordance with rules ~~and~~
12 ~~regulations~~ of the department. IF ONE OF THE COMPETING APPLICANTS IS THE
13 EXISTING LESSEE WHO HAS A PREFERRED RIGHT OF RENEWAL PURSUANT TO SECTION
14 37-291, THE DEPARTMENT MAY EXTEND THE PREFERRED RIGHT OF RENEWAL TO THE
15 EXISTING LESSEE IF THE EXISTING LESSEE OFFERS A BID MATCHING THE HIGHEST BID.
16 The department shall approve the application of the bidder who in all
17 respects is eligible to receive a lease upon the land and will pay the
18 highest annual rental therefor, or the department may reject all bids.

19 B. Any person residing upon contiguous land for which he has an
20 allowed United States homestead entry or for which he has received patent
21 from the United States upon a homestead entry shall, upon application, have
22 a preferred right to lease the amount of contiguous state land necessary for
23 his personal use.

24 C. Any person lawfully occupying any lands, the title to which is
25 acquired by the state by operation of law, shall have a preference right to
26 lease the occupied land provided application so to do is made within thirty
27 days from and after written notice by the state land department to such
28 occupant of the acquisition of title.

29 Sec. 6. Section 37-322.01, Arizona Revised Statutes, is amended to
30 read:

31 37-322.01. Reimbursement by succeeding lessee for nonremovable
32 improvements; application for appraisal; notice;
33 failure to pay; penalty

34 A. A lessee of state lands shall be reimbursed by a succeeding lessee
35 for improvements placed on the lands which are not removable.

36 B. If the retiring lessee and the new lessee do not agree upon the
37 value of the improvements, or if there is no amortized value established for
38 the improvements, either party may file with the state land department an
39 application for appraisal of the improvements. IF A LEASE IS GRANTED
40 PURSUANT TO SECTION 37-284, A REQUEST FOR AN APPRAISAL SHALL BE MADE MORE
41 THAN NINETY DAYS BEFORE THE EXPIRATION OF THE LEASE. Thereafter an appraisal
42 of the improvements shall be made pursuant to section 37-322.

1 C. Upon making the appraisal, the department shall give notice of the
2 amount by certified mail to each person interested in the appraisal. The
3 notice shall require that the new lessee pay to the department for the prior
4 lessee the entire amount of the appraisal within thirty days from the date
5 of the ~~notice, or the department, when the value is greater than the rental~~
6 ~~for the period of the lease, may require that payment of ten per cent of the~~
7 ~~appraised value be made within thirty days, fifteen per cent within sixty~~
8 ~~days, twenty-five per cent at the end of the first year of the new lease, and~~
9 ~~twenty-five per cent at the end of each year thereafter until the entire~~
10 ~~balance is paid~~ ISSUANCE OF THE LEASE UNLESS ALL PARTIES AGREE TO AN EXTENDED
11 PAYMENT SCHEDULE.

12 D. If the improvements are not paid for as required in the notice, the
13 succeeding lessee shall not be permitted to sell, assign, or transfer his
14 lease, nor sell, assign or remove any improvements whatever from the land
15 until the entire amount of the appraised value of the improvements has been
16 paid. Upon default he shall be subject to the same penalties and liabilities
17 as provided by section 37-288 for failure to pay rents, including a
18 cancellation of the lease.

19 Sec. 7. Purpose

20 A. The legislature of the state of Arizona finds that:

21 1. The productive use of state trust lands is a valuable resource to
22 the people of Arizona, supporting employment opportunities and creating a
23 significant source of income to the state and state trust beneficiaries.

24 2. Maximum long-term financial returns to the trust beneficiaries are
25 best obtained through conservative management by the state and good
26 stewardship by its lessees.

27 B. The purposes of this act are to:

28 1. Support the trust beneficiaries and the state by encouraging
29 productive uses of state land to generate related business and employment
30 opportunities on a state and local level, thus supporting additional sales,
31 income and property taxes.

32 2. Enhance the long-term financial returns to the trust beneficiaries
33 and the state from the state trust lands available for lease by promoting
34 cooperative planning and good stewardship by state lessees.

35 Sec. 8. Requirements for enactment

36 Pursuant to article IX, section 22, Constitution of Arizona, this act
37 is effective only on the affirmative vote of at least two-thirds of the
38 members of each house of the legislature and is effective immediately on the
39 signature of the governor or, if the governor vetoes this act, on the
40 subsequent affirmative vote of at least three-fourths of the members of each
41 house of the legislature.