

~~Maricopa non-expansion area; groundwater transportation~~
(now: water; transportation; turf; land divisions)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2201

AN ACT

AMENDING SECTIONS 11-321, 11-831, 32-2181 AND 32-2185.09, ARIZONA REVISED STATUTES; AMENDING SECTION 33-422, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 103, SECTION 1 AND CHAPTER 131, SECTION 1; REPEALING SECTION 33-422, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2023, CHAPTER 77, SECTION 3; AMENDING TITLE 45, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-465.05; AMENDING SECTION 45-554, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-563.03; AMENDING SECTIONS 45-576 AND 45-576.08, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-576.10; AMENDING SECTIONS 48-3771, 48-3775, 48-3778, 48-3780 AND 48-3781, ARIZONA REVISED STATUTES; RELATING TO WATER MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-321, Arizona Revised Statutes, is amended to
3 read:

4 11-321. Building permits; issuance; state preemption;
5 utilities; distribution of copies; ownership
6 interests; applicability; subsequent owner;
7 limitation; definition

8 A. Except in those cities and towns that have an ordinance relating
9 to the issuance of building permits, the board of supervisors shall
10 require a building permit for any construction of a building or an
11 addition to a building exceeding a cost of \$1,000 within its
12 jurisdiction. The building permit shall be filed with the board of
13 supervisors or its designated agent.

14 B. The regulation of a utility provider's authority to operate and
15 serve customers is a matter of statewide concern. The regulation of
16 building permits as it relates to a building permit applicant's ability to
17 use a utility provider that is capable and authorized to provide utility
18 service is allowed solely in accordance with subsections C and D of this
19 section. A building permit applicant's ability to use a utility provider
20 that is capable and authorized to provide utility service is not subject
21 to further regulation by a county.

22 C. A county may not deny a permit application based on the utility
23 provider proposed to provide utility service to the project.

24 D. A county issuing a building permit shall ensure that all
25 applicable permits and associated fees assessed on a building permit
26 applicant contain requirements and amounts that do not exceed the
27 requirements and amounts for use of other utility providers and do not
28 have the effect of restricting ~~a~~ THE permit applicant's ability to use
29 the services of a utility provider that is capable and authorized to
30 provide utility service.

31 E. The board of supervisors may not require an applicant for a
32 building permit to hold a transaction privilege tax license or business
33 license as a condition for issuing the building permit.

34 F. Where deemed of public convenience, the board of supervisors
35 shall allow the application for and the issuance of building permits by
36 mail.

37 G. One copy of the building permit required by the terms of
38 subsection A of this section shall be transmitted to the county assessor
39 and one copy shall be transmitted to the director of the department of
40 revenue. The permit copy provided to the assessor and the department of
41 revenue shall have the permit number, the issue date and the parcel number
42 for which the permit is issued. On the issuance of the certificate of
43 occupancy or the certificate of completion or on the expiration or
44 cancellation of the permit, the assessor and the department of revenue

1 shall be notified in writing or in electronic format of the permit number,
2 parcel number, issue date and completion date.

3 H. AT THE TIME OF APPLYING FOR A BUILDING PERMIT FOR NEW
4 CONSTRUCTION OF A RESIDENTIAL SINGLE-FAMILY HOME, AN APPLICANT MUST
5 IDENTIFY ANY OWNERSHIP INTERESTS IN THE PROPERTY THAT IS THE SUBJECT OF
6 THE PERMIT. THIS SUBSECTION DOES NOT APPLY IF, AT THE TIME OF APPLYING
7 FOR THE BUILDING PERMIT, THE APPLICANT PROVIDES A COPY OF THE SUBDIVISION
8 FINAL PLAT THAT INDICATES AN ASSURED WATER SUPPLY AND THAT IS APPROVED BY
9 THE MUNICIPALITY WHERE THE PARCELS, LOTS OR FRACTIONAL INTERESTS OF THE
10 PROPOSED NEW CONSTRUCTION EXIST.

11 ~~H.~~ I. If a person has constructed a building or an addition to a
12 building without obtaining a building permit, a county shall not require a
13 subsequent owner to obtain a permit for the construction or addition done
14 by the prior owner before issuing a permit for a building addition, except
15 that this section does not prohibit A COUNTY FROM enforcing an applicable
16 ordinance or code provision that affects the public health or safety.

17 ~~I.~~ J. This section does not prohibit a county from recovering
18 reasonable costs associated with reviewing and issuing a building permit.

19 ~~J.~~ K. This section does not affect any authority of a county to
20 manage or operate a county-owned utility.

21 ~~K.~~ L. For the purposes of this section, "utility service" means
22 water, wastewater, natural gas, including propane gas, or electric service
23 provided to an end user.

24 Sec. 2. Section 11-831, Arizona Revised Statutes, is amended to
25 read:

26 11-831. Review of land divisions; definitions

27 A. The board of supervisors of each county may adopt ordinances and
28 regulations pursuant to this section for staff review and approval of land
29 divisions of five or fewer lots, parcels or fractional interests, any of
30 which is ten acres or smaller in size. The county may not deny approval
31 of any land division that meets the requirements of this section. If a
32 review of the request is not completed within thirty days after receiving
33 the request, the land division is considered to be approved. At its
34 option, the board of supervisors may submit a ballot question to the
35 voters of the county to allow the voters to determine the application of
36 subsections B and C of this section to qualifying land divisions in that
37 county.

38 B. An application to split a parcel of land shall be approved if:

39 1. The lots, parcels or fractional interests each meet the minimum
40 applicable county zoning requirements of the applicable zoning
41 designation.

1 2. The applicant provides a standard preliminary title report or
2 other acceptable document that demonstrates legal access to the lots,
3 parcels or fractional interests.

4 3. The applicant provides a statement from a licensed surveyor or
5 engineer, or other evidence acceptable to the county, stating whether each
6 lot, parcel or fractional interest has physical access that is traversable
7 by a two-wheel drive passenger motor vehicle.

8 4. The applicant reserves the necessary and appropriate utility
9 easements to serve each lot, parcel or fractional interest created by the
10 land division.

11 5. EXCEPT FOR AN APPLICANT THAT PROVIDES A PLAT OF THE LOTS,
12 PARCELS OR FRACTIONAL INTERESTS THAT ARE THE SUBJECT OF THE APPLICATION,
13 THE APPLICANT PROVIDES AN ANSWER ON THE APPLICATION TO THE FOLLOWING
14 QUESTIONS:

15 (a) "DO YOU, OR ANY CORPORATION OR LIMITED LIABILITY COMPANY OF
16 WHICH YOU ARE A MEMBER, MANAGER OR OWNER OR FOR WHICH YOU ARE AN
17 INDEPENDENT CONTRACTOR, OWN OR REPRESENT ANY PROPERTY THAT IS IN THE SAME
18 TAX PARCEL MAP OR SUBDIVISION AS THE LOTS, PARCELS OR FRACTIONAL INTERESTS
19 THAT ARE THE SUBJECT OF THIS APPLICATION?"

20 (b) "HAVE YOU, OR ANY CORPORATION OR LIMITED LIABILITY COMPANY OF
21 WHICH YOU ARE A MEMBER, MANAGER OR OWNER OR FOR WHICH YOU ARE AN
22 INDEPENDENT CONTRACTOR, DIVIDED, SOLD OR LEASED ANY PROPERTY WITHIN THE
23 LAST TEN YEARS THAT IS IN THE SAME TAX PARCEL MAP OR SUBDIVISION AS THE
24 LOTS, PARCELS OR FRACTIONAL INTERESTS THAT ARE THE SUBJECT OF THIS
25 APPLICATION?"

26 ~~5.~~ 6. The applicant signs an affidavit or similar document under
27 oath acknowledging the following:

28 (a) The applicant is aware that it is unlawful pursuant to
29 subsection ~~F~~ H of this section and section 32-2181, subsection D for a
30 person or group of persons to attempt to avoid these sections or the
31 subdivision laws of this state by acting in concert to divide a parcel of
32 land into six or more lots or parcels.

33 (b) The applicant is aware that the county where the land division
34 occurred or the state real estate department may investigate and enforce
35 the prohibition against acting in concert to unlawfully divide a parcel of
36 land into six or more lots or parcels.

37 C. An application to split a parcel of land that does not comply
38 with one or more of the items listed in subsection B of this section shall
39 still be approved if the applicant provides an acknowledgment that is
40 signed by the applicant and that confirms that a building or use permit
41 will not be issued by the county until the lot, parcel or fractional
42 interest has met the requirements of subsection B of this section. The
43 county may grant a variance from one or more of the items listed in
44 subsection B of this section.

1 D. Any approval of a land division under this section may:

2 1. Include the minimum statutory requirements for legal and
3 physical on-site access that must be met as a condition to issuing a
4 building or use permit for the lots, parcels or fractional interests.

5 2. Identify topographic, hydrologic or other site constraints,
6 requirements or limitations that must be addressed as conditions to the
7 eventual issuance of a building or use permit. These constraints,
8 requirements or limitations may be as noted by the applicant or through
9 county staff review, but there shall be no requirement for independent
10 studies.

11 E. If the requirements of subsections A through D of this section
12 do not apply, a county may adopt ordinances and regulations pursuant to
13 this chapter for staff review of land divisions of five or fewer lots,
14 parcels or fractional interests but only to determine compliance with
15 minimum applicable county zoning requirements and legal access and may
16 grant waivers from the county zoning and legal access requirements. The
17 county may not deny approval of any land division that meets the
18 requirements of this section or if the deficiencies are noticed in the
19 deed. A county may not require a public hearing on a request to divide
20 five or fewer lots, parcels or fractional interests. If a review of the
21 request is not completed within thirty days after receipt of the request,
22 the land division shall be deemed approved. If legal access is not
23 available, the legal access does not allow access by emergency vehicles or
24 the county zoning requirements are not met, the access or zoning
25 deficiencies shall be noticed in the deed. If a county by ordinance
26 requires a legal access of more than twenty-four feet roadway width, the
27 county is responsible for the improvement and maintenance of the
28 improvement. If the legal access does not allow access to the lots,
29 parcels or fractional interests by emergency vehicles, neither the county
30 nor its agents or employees are liable for damages resulting from the
31 failure of emergency vehicles to reach the lot, parcel or fractional
32 interest.

33 F. WHEN APPLYING FOR A LAND DIVISION, AN APPLICANT SHALL DISCLOSE
34 ANY OWNERSHIP INTEREST IN THE PROPERTIES THAT ARE THE SUBJECT OF THE LAND
35 DIVISION APPLICATION.

36 G. AN APPLICATION FOR A LAND DIVISION SHALL INCLUDE THE FOLLOWING
37 ATTESTATION LANGUAGE:

38 STATE LAW REQUIRES A SUBDIVIDER AS DEFINED IN SECTION
39 32-2101, ARIZONA REVISED STATUTES, TO OBTAIN A PUBLIC REPORT
40 PURSUANT TO SECTION 32-2183, ARIZONA REVISED STATUTES, BEFORE
41 THE SALE OR LEASE OF SIX OR MORE CONTIGUOUS PARCELS, LOTS OR
42 FRACTIONAL INTERESTS WITHIN THE TEN-YEAR PERIOD FOLLOWING THE
43 LAND DIVISION. BY SUBMITTING AN APPLICATION TO DIVIDE LAND,
44 THE APPLICANT AND ANY OWNERSHIP INTERESTS IN THE SUBJECT OF
45 THE LAND DIVISION ATTEST TO THEIR UNDERSTANDING OF THE PUBLIC

1 REPORT REQUIREMENTS IF INTENDING TO SELL OR LEASE SIX OR MORE
2 CONTIGUOUS PARCELS, LOTS OR FRACTIONAL INTERESTS WITHIN A
3 TEN-YEAR PERIOD FOLLOWING THE LAND DIVISION AND FURTHER ATTEST
4 TO THEIR INTENT TO COMPLY WITH THE SUBDIVISION LAW OF THIS
5 STATE, AS APPLICABLE.

6 IF A PUBLIC REPORT IS REQUIRED PURSUANT TO SECTION
7 32-2183, ARIZONA REVISED STATUTES, AND A PUBLIC REPORT IS NOT
8 OBTAINED, THE COUNTY WHERE THE PROPERTIES ARE LOCATED OR THE
9 STATE REAL ESTATE DEPARTMENT MAY ENFORCE THE PUBLIC REPORT
10 REQUIREMENT AND ISSUE A CIVIL PENALTY PURSUANT TO SECTION
11 32-2185.09, ARIZONA REVISED STATUTES.

12 ~~F.~~ H. It is unlawful for a person or group of persons acting in
13 concert to attempt to avoid this section or the subdivision laws of this
14 state by acting in concert to divide a parcel of land into six or more
15 lots or sell or lease six or more lots by using a series of owners or
16 conveyances. Either the county where the division occurred or the state
17 real estate department pursuant to title 32, chapter 20, but not both, may
18 enforce this prohibition. ~~A familial relationship~~ ANY OF THE FOLLOWING
19 alone is not sufficient to constitute unlawful acting in concert: ~~:-~~

- 20 1. A FAMILIAL RELATIONSHIP.
- 21 2. A WELL SHARE AGREEMENT.
- 22 3. A ROAD MAINTENANCE AGREEMENT.
- 23 4. FOR A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED
24 THOUSAND PERSONS, THE USE OF OR REFERRAL TO THE SAME CONTRACTOR WHO IS
25 LICENSED PURSUANT TO TITLE 32, CHAPTER 10 OR THE SAME PERSON WHO IS
26 REGISTERED PURSUANT TO TITLE 32, CHAPTER 1.

27 ~~G.~~ I. For any subdivision that consists of ten or fewer lots,
28 tracts or parcels, each of which is of a size as prescribed by the board
29 of supervisors, the board of supervisors of each county may waive the
30 requirement to prepare, submit and receive approval of a preliminary plat
31 as a condition precedent to submitting a final plat and may waive or
32 reduce infrastructure standards or requirements except for improved
33 dust-controlled access and minimum drainage improvements.

34 ~~H.~~ J. For the purposes of this section:

- 35 1. "Legal access" means a public right of vehicular ingress and
36 egress between the lots, parcels or fractional interests being created.
- 37 2. "Minimum applicable county zoning requirements" means the
38 minimum acreage and dimensions of the resulting lot, parcel or fractional
39 interest as required by the county's zoning ordinance.
- 40 3. "Utility easement" means an easement of eight feet in width
41 dedicated to the general public to install, maintain and access sewer,
42 electric, gas and water utilities.

1 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to
2 read:

3 32-2181. Notice to commissioner of intention to subdivide
4 lands; unlawful acting in concert; exceptions; deed
5 restrictions; definition

6 A. Before offering subdivided lands for sale or lease, the
7 subdivider shall notify the commissioner in writing of the subdivider's
8 intention. The notice shall contain:

9 1. The name and address of the owner. If the holder of any
10 ownership interest in the land is other than an individual, such as a
11 corporation, partnership or trust, **THE NOTICE SHALL CONTAIN** a statement
12 naming the type of legal entity and listing the interest and the extent of
13 any interest of each principal in the entity. For the purposes of this
14 section, "principal" means any person or entity having a ten ~~per cent~~
15 **PERCENT** or more financial interest or, if the legal entity is a trust,
16 each beneficiary of the trust holding a ten ~~per cent~~ **PERCENT** or more
17 beneficial interest.

18 2. The name and address of the subdivider.

19 3. The legal description and area of the land.

20 4. A true statement of the condition of the title to the land,
21 including all encumbrances on the land, and a statement of the provisions
22 agreed to by the holder of any blanket encumbrance enabling a purchaser to
23 acquire title to a lot or parcel free of the lien of the blanket
24 encumbrance on completion of all payments and performance of all of the
25 terms and provisions required to be made or performed by the purchaser
26 under the real estate sales contract by which the purchaser has acquired
27 the lot or parcel. The subdivider shall file copies of documents
28 acceptable to the department containing these provisions with the
29 commissioner before the sale of any subdivision lot or parcel subject to a
30 blanket encumbrance.

31 5. The terms and conditions on which it is intended to dispose of
32 the land, together with copies of any real estate sales contract,
33 conveyance, lease, assignment or other instrument intended to be used, and
34 any other information the owner or the owner's agent or subdivider desires
35 to present.

36 6. A map of the subdivision that has been filed in the office of
37 the county recorder in the county in which the subdivision is located.

38 7. A brief but comprehensive statement describing the land on and
39 the locality in which the subdivision is located.

40 8. A statement of the provisions that have been made for permanent
41 access and provisions, if any, for health department approved sewage and
42 solid waste collection and disposal and public utilities in the proposed
43 subdivision, including water, electricity, gas and telephone facilities.

- 1 9. A statement as to the location of the nearest public common and
2 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
3 residing on the subdivision property.
- 4 10. A statement of the use or uses for which the proposed
5 subdivision will be offered.
- 6 11. A statement of the provisions, if any, limiting the use or
7 occupancy of the parcels in the subdivision, together with copies of any
8 restrictive covenants affecting all or part of the subdivision.
- 9 12. The name and business address of the principal broker selling
10 or leasing, within this state, lots or parcels in the subdivision.
- 11 13. A true statement of the approximate amount of indebtedness that
12 is a lien on the subdivision or any part of the subdivision and that was
13 incurred to pay for the construction of any on-site or off-site
14 improvement, or any community or recreational facility.
- 15 14. A true statement or reasonable estimate, if applicable, of the
16 amount of any indebtedness that has been or is proposed to be incurred by
17 an existing or proposed special district, entity, taxing area or
18 assessment district, within the boundaries of which the subdivision, or
19 any part of the subdivision, is located, and that is to pay for the
20 construction or installation of any improvement or to furnish community or
21 recreational facilities to the subdivision, and which amounts are to be
22 obtained by ad valorem tax or assessment, or by a special assessment or
23 tax ~~upon~~ ON the subdivision or any part of the subdivision.
- 24 15. A true statement as to the approximate amount of annual taxes,
25 special assessments or fees to be paid by the buyer for the proposed
26 annual maintenance of common facilities in the subdivision.
- 27 16. A statement of the provisions for easements for permanent
28 access for irrigation water, ~~where~~ IF applicable.
- 29 17. A true statement of assurances for the completion of off-site
30 improvements, such as roads, utilities, community or recreational
31 facilities and other improvements to be included in the offering or
32 represented as being in the offering, and approval of the offering by the
33 political subdivision with authority. This statement shall include a
34 trust agreement or any other evidence of assurances for delivery of the
35 improvements and a statement of the provisions, if any, for the continued
36 maintenance of the improvements.
- 37 18. A true statement of the nature of any improvements to be
38 installed by the subdivider, the estimated schedule for completion and the
39 estimated costs related to the improvements that will be borne by
40 purchasers of lots in the subdivision.
- 41 19. A true statement of the availability of sewage disposal
42 facilities and other public utilities, including water, electricity, gas
43 and telephone facilities in the subdivision, the estimated schedule for
44 their installation, and the estimated costs related to the facilities and
45 utilities that will be borne by purchasers of lots in the subdivision.

1 20. A true statement as to whether all or any portion of the
2 subdivision is located in an open range or area in which livestock may
3 roam at large under the laws of this state and what provisions, if any,
4 have been made for ~~the~~ fencing ~~of~~ the subdivision to preclude livestock
5 from roaming within the subdivided lands.

6 21. If the subdivider is a subsidiary corporation, a true statement
7 identifying the parent corporation and any of the following in which the
8 parent or any of its subsidiaries is or has been involved within the past
9 five years:

10 (a) Any subdivision in this state.

11 (b) Any subdivision, wherever located, for which registration is
12 required pursuant to the federal interstate land sales full disclosure
13 act.

14 (c) Any subdivision, wherever located, for which registration would
15 have been required pursuant to the federal interstate land sales full
16 disclosure act but for the exemption for subdivisions whose lots are all
17 twenty acres or more in size.

18 22. A true statement identifying all other subdivisions, designated
19 in paragraph 21 of this subsection, in which any of the following is or,
20 within the last five years, has been directly or indirectly involved:

21 (a) The holder of any ownership interest in the land.

22 (b) The subdivider.

23 (c) Any principal or officer in the holder or subdivider.

24 23. A true statement as to whether all or any portion of the
25 subdivision is located in territory in the vicinity of a military airport
26 or ancillary military facility as defined in section 28-8461, in territory
27 in the vicinity of a public airport as defined in section 28-8486, on or
28 after July 1, 2001, in a high noise or accident potential zone as defined
29 in section 28-8461 or on or after July 1 of the year in which the
30 subdivision becomes located in a high noise or accident potential
31 zone. The statement required pursuant to this paragraph does not require
32 the amendment or refiling of any notice filed before July 1, 2001 or
33 before July 1 of the year in which the subdivision becomes located in a
34 high noise or accident potential zone.

35 24. If the subdivision is a conversion from multifamily rental to
36 condominiums as defined in section 33-1202, a true statement as to the
37 following:

38 (a) That the property is a conversion from multifamily rental to
39 condominiums.

40 (b) The date original construction was completed.

41 25. Other information and documents and certifications as the
42 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
43 shall not be required to disclose any critical infrastructure information
44 as defined in section 41-1801 or any information contained in a report
45 issued pursuant to section 41-4273.

1 B. The commissioner, on application, may grant a subdivider of lots
2 or parcels within a subdivision for which a public report was previously
3 issued by the commissioner an exemption from all or part of the
4 notification requirements of subsection A of this section. The subdivider
5 shall file a statement with the commissioner indicating the change of
6 ownership in the lots or parcels together with any material changes
7 occurring subsequent to the original approval of the subdivision within
8 which the lots or parcels are located. The statement shall further refer
9 to the original approval by the commissioner.

10 C. If the subdivision is within an active management area, as
11 defined in section 45-402, the subdivider shall accompany the notice with
12 a certificate of assured water supply issued by the director of water
13 resources along with proof that all applicable fees have been paid
14 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply by the director of water resources pursuant to section 45-576 or is
18 exempt from the requirement pursuant to section 45-576. If the subdivider
19 has submitted a certificate of assured water supply to a city, town or
20 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
21 and this has been noted on the face of the plat, the submission
22 constitutes compliance with this subsection if the subdivider provides
23 proof to the commissioner that all applicable fees have been paid pursuant
24 to sections 48-3772 and 48-3774.01.

25 D. It is unlawful for a person or group of persons acting in
26 concert to attempt to avoid this article by acting in concert to divide a
27 parcel of land or sell subdivision lots by using a series of owners or
28 conveyances or by any other method that ultimately results in the division
29 of the lands into a subdivision or the sale of subdivided land. The plan
30 or offering is subject to this article. Unlawful acting in concert
31 pursuant to this subsection with respect to the sale or lease of
32 subdivision lots requires proof that the real estate licensee or other
33 licensed professional knew or with the exercise of reasonable diligence
34 should have known that property ~~which~~ THAT the licensee listed or for
35 which the licensee acted in any capacity as agent was subdivided land
36 subject to this article. ~~A familial relationship~~ ANY OF THE FOLLOWING
37 alone is not sufficient to constitute unlawful acting in concert: ~~-~~

- 38 1. A FAMILIAL RELATIONSHIP.
- 39 2. A WELL SHARE AGREEMENT.
- 40 3. A ROAD MAINTENANCE AGREEMENT.
- 41 4. FOR A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED
42 THOUSAND PERSONS, THE USE OF OR REFERRAL TO THE SAME CONTRACTOR WHO IS
43 LICENSED PURSUANT TO CHAPTER 10 OF THIS TITLE OR THE SAME PERSON WHO IS
44 REGISTERED PURSUANT TO CHAPTER 1 OF THIS TITLE.

1 E. A creation of six or more lots, parcels or fractional interests
2 in improved or unimproved land, lots or parcels of any size is subject to
3 this article except when:

4 1. Each of the lots, parcels or fractional interests represents, on
5 a partition basis, thirty-six acres or more in area of land located in
6 this state, including to the centerline of dedicated roads or easements,
7 if any, contiguous to the land in which the interests are held.

8 2. The lots, parcels or fractional interests are the result of a
9 foreclosure sale, the exercise by a trustee under a deed of trust of a
10 power of sale or the grant of a deed in lieu of foreclosure. This
11 paragraph does not allow circumvention of the requirements of this
12 article.

13 3. The lots, parcels or fractional interests are created by a valid
14 order or decree of a court pursuant to and through compliance with title
15 12, chapter 8, article 7 or by operation of law. This paragraph does not
16 allow circumvention of the requirements of this article.

17 4. The lots, parcels or fractional interests consist of interests
18 in any oil, gas or mineral lease, permit, claim or right therein and such
19 interests are regulated as securities by the United States or by this
20 state.

21 5. The lots, parcels or fractional interests are registered as
22 securities under the laws of the United States or the laws of this state
23 or are exempt transactions under section 44-1844, 44-1845 or 44-1846.

24 6. The commissioner by special order exempts offerings or
25 dispositions of any lots, parcels or fractional interests from compliance
26 with this article on written petition and on a showing satisfactory to the
27 commissioner that compliance is not essential to the public interest or
28 for the protection of buyers. LOTS, PARCELS OR FRACTIONAL INTERESTS FOR
29 WHICH COMPLIANCE IS NOT ESSENTIAL TO THE PUBLIC INTEREST OR FOR THE
30 PROTECTION OF BUYERS INCLUDE THOSE THAT HAVE BEEN INCLUDED WITH A PREVIOUS
31 PUBLIC REPORT APPROVED WITHIN THE PRECEDING TEN YEARS IN WHICH THE
32 APPLICANT FOR AN EXEMPTION ATTESTS THAT THERE ARE NO MATERIAL CHANGES
33 ALTERING THE FACTS OF THE PUBLIC REPORT.

34 7. A sale or lease of a lot, parcel or fractional interest occurs
35 ten or more years after the sale or lease of another lot, parcel or
36 fractional interest and the other lot, parcel or fractional interest is
37 not subject to this article and is treated as an independent parcel
38 unless, upon ON investigation by the commissioner, there is evidence of
39 intent to subdivide.

40 8. THE LOTS, PARCELS OR FRACTIONAL INTERESTS ARE OWNED BY A
41 LICENSED FINANCIAL INSTITUTION IN THIS STATE AS A RESULT OF FORECLOSURE
42 AND ARE BEING SOLD BY OR ON BEHALF OF THE FINANCIAL INSTITUTION BY A REAL
43 ESTATE LICENSEE OF THIS STATE IF LIMITED TO THOSE LOTS, PARCELS OR
44 FRACTIONAL INTERESTS THAT HAVE BEEN INCLUDED WITH A PREVIOUS PUBLIC REPORT

1 WHEN THE PUBLIC REPORT WAS APPROVED WITHIN THE PRECEDING TEN YEARS AND NO
2 MATERIAL CHANGES HAVE OCCURRED WITHIN THE PUBLIC REPORT.

3 F. In areas outside of active management areas established pursuant
4 to title 45, chapter 2, article 2:

5 1. If the subdivision is located in a county that has adopted the
6 provision authorized by section 11-823, subsection A, or in a city or town
7 that has enacted an ordinance pursuant to section 9-463.01, subsection O,
8 the subdivider shall accompany the notice with a report issued by the
9 director of water resources pursuant to section 45-108 stating that the
10 subdivision has an adequate water supply, unless one of the following
11 applies:

12 (a) The subdivider submitted the report to a city, town or county
13 before approval of the plat by the city, town or county and this has been
14 noted on the face of the plat.

15 (b) The subdivider has obtained a written commitment of water
16 service for the subdivision from a city, town or private water company
17 designated as having an adequate water supply by the director of water
18 resources pursuant to section 45-108.

19 (c) The plat was approved pursuant to an exemption authorized by
20 section 9-463.01, subsection K, pursuant to an exemption authorized by
21 section 11-823, subsection B, paragraph 1, pursuant to an exemption
22 granted by the director of water resources under section 45-108.02 and the
23 exemption has not expired or pursuant to an exemption granted by the
24 director under section 45-108.03. If the plat was approved pursuant to an
25 authorized exemption, the state real estate commissioner shall require
26 that all promotional material and contracts for the sale of lots in the
27 subdivision adequately display the following:

28 (i) The director of water resources' report or the developer's
29 brief summary of the report as approved by the commissioner on the
30 proposed water supply for the subdivision.

31 (ii) A statement describing the exemption under which the
32 subdivision was approved, including the specific conditions of the
33 exemption that were met. If the plat was approved by the legislative body
34 of a city or town pursuant to an exemption authorized by section 9-463.01,
35 subsection K or by the board of supervisors of a county pursuant to an
36 exemption authorized by section 11-823, subsection B, paragraph 1, the
37 subdivider shall record the document required by section 33-406.

38 (d) The subdivision received final plat approval from the city,
39 town or county before the requirement for an adequate water supply became
40 effective in the city, town or county, and there have been no material
41 changes to the plat since the final plat approval. If changes were made
42 to the plat after the final plat approval, the director of water resources
43 shall determine whether the changes are material pursuant to the rules
44 adopted by the director to implement section 45-108. If this subdivision
45 applies, the state real estate commissioner shall require that all

1 promotional materials and contracts for the sale of lots in the
2 subdivision adequately display the director of water resources' report or
3 the developer's brief summary of the report as approved by the
4 commissioner on the proposed water supply for the subdivision.

5 2. If the subdivision is not located in a county that has adopted
6 the provision authorized by section 11-823, subsection A or in a city or
7 town that has enacted an ordinance pursuant to section 9-463.01,
8 subsection 0, and if the director of water resources, pursuant to section
9 45-108, reports an inadequate on-site supply of water to meet the needs
10 projected by the developer or if no water is available, the state real
11 estate commissioner shall require that all promotional material and
12 contracts for the sale of lots in subdivisions approved by the
13 commissioner adequately display the director of water resources' report or
14 the developer's brief summary of the report as approved by the
15 commissioner on the proposed water supply for the subdivision.

16 G. The commissioner may require the subdivider to supplement the
17 notice of intention to subdivide lands and may require the filing of
18 periodic reports to update the information contained in the original
19 notice of intention to subdivide lands.

20 H. The commissioner may authorize the subdivider to file as the
21 notice of intention to subdivide lands, in lieu of some or all of the
22 requirements of subsection A of this section, a copy of the statement of
23 record filed with respect to the subdivision pursuant to the federal
24 interstate land sales full disclosure act if the statement complies with
25 the requirements of the act and the regulations pertinent to the act.

26 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
27 assignment or other instrument to transfer any interest in subdivided land
28 ~~nor~~ AND any covenant or restriction affecting real property shall NOT
29 contain any provision limiting the right of any party to appear or testify
30 in support of or opposition to zoning changes, building permits or any
31 other official acts affecting real property before a governmental body or
32 official considering zoning changes, building permits or any other
33 official acts affecting real property, whether the property is located
34 within or outside of the boundaries of the subdivision. All contractual
35 provisions that conflict with this subsection are declared to be contrary
36 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
37 prohibit private restrictions on the use of any real property.

38 J. Before offering subdivided lands for lease or sale, the
39 subdivider who makes any promises through any form of advertising media
40 that the subdivided lands will be exclusively a retirement community or
41 one that is limited to the residency of adults or senior citizens shall
42 include the promises in the deed restrictions affecting any interest in
43 real property within the subdivided lands.

1 K. Except as otherwise provided in this section, a subdivider ~~shall~~
2 IS not ~~be~~ required to disclose items that are over one mile from the
3 subdivision boundaries. The existence of foreign nations or tribal lands
4 shall also be disclosed if located within the ~~one-mile~~ ONE-MILE radius of
5 the subdivision boundaries.

6 Sec. 4. Section 32-2185.09, Arizona Revised Statutes, is amended to
7 read:

8 32-2185.09. Civil penalties; limitation

9 A. A subdivider or agent ~~who~~ THAT is subject to the jurisdiction of
10 the department, ~~who~~ THAT violates this chapter or any rule adopted or
11 order issued by the commissioner or ~~who~~ THAT engages in any unlawful
12 practices defined in section 44-1522 with respect to the sale or lease of
13 subdivided lands may be assessed a civil penalty by the commissioner,
14 after a hearing, AS FOLLOWS:

15 1. In an amount not to exceed \$2,000 for each ~~infraction~~ LOT WHERE
16 A VIOLATION OCCURS IF THE SUBDIVIDER OR AGENT DOES NOT OBTAIN A PUBLIC
17 REPORT. An infraction that concerns more than one lot in a subdivision is
18 a single infraction for the purposes of this ~~section~~ PARAGRAPH.

19 2. IF THE SUBDIVIDER OR AGENT OBTAINS A PUBLIC REPORT THAT IS
20 SUBSEQUENTLY REVOKED AND AFTER THE REVOCATION COMMITS THE VIOLATION OR
21 ENGAGES IN UNLAWFUL PRACTICES DEFINED IN SECTION 44-1522 WITH RESPECT TO
22 THE SALE OR LEASE OF SUBDIVIDED LANDS THAT ARE INCLUDED IN THE REVOKED
23 PUBLIC REPORT, IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH LOT THAT IS
24 INCLUDED IN THE REVOKED PUBLIC REPORT WHERE A VIOLATION OCCURS.

25 B. A proceeding ~~for imposition of~~ TO IMPOSE a civil penalty or ~~for~~
26 ~~suspension~~ TO SUSPEND or ~~revocation of~~ REVOKE a license for a violation of
27 this article or any rule adopted or order issued by the commissioner must
28 be commenced within five years of actual discovery by the department or
29 discovery that should have occurred with the exercise of reasonable
30 diligence by the department.

31 C. A subdivider ~~who~~ THAT sells or leases in this state any lots,
32 parcels or fractional interest in a subdivision without first obtaining a
33 public report from the commissioner except as provided in section
34 32-2181.01 or 32-2181.02 for a lot or lots created from and after
35 December 31, 2008 and on an order issued by the commissioner may be
36 assessed a civil penalty by the commissioner, after a hearing, in an
37 amount not to exceed \$5,000 for each infraction. A proceeding ~~for the~~
38 ~~imposition of~~ TO IMPOSE a civil penalty or ~~suspension~~ TO SUSPEND or
39 ~~revocation of~~ REVOKE a license for a violation of this subsection or any
40 rule adopted or order issued by the commissioner must be commenced within
41 five years after actual discovery by the department or discovery that
42 should have occurred with the exercise of reasonable diligence by the
43 department.

1 Sec. 5. Section 33-422, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 103, section 1 and chapter 131, section 1, is amended
3 to read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of
7 such a parcel shall COMPLETE AND furnish a written affidavit of disclosure
8 to the buyer at least seven days before the transfer of the property and
9 the buyer shall acknowledge receipt of the affidavit.

10 B. The affidavit must be written in twelve-point type.

11 C. A release or waiver of a seller's liability arising out of any
12 omission or misrepresentation contained in an affidavit of disclosure is
13 not valid or binding on the buyer.

14 D. The buyer has the right to rescind the sales transaction for a
15 period of five days after the affidavit of disclosure is furnished to the
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at
18 the same time that the deed is recorded. The county recorder is not
19 required to verify the accuracy of any statement in the affidavit of
20 disclosure. A subsequently recorded affidavit supersedes any previous
21 affidavit.

22 F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING
23 DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section
24 11-480 and follow substantially the following form:

25 When recorded mail to:

26 _____
27 _____
28 _____
29 _____

30 Affidavit of Disclosure
31 Pursuant to A.R.S. § 33-422

32 I, _____ (seller(s))
33 being duly sworn, hereby make this affidavit of disclosure
34 relating to the real property situated in the unincorporated
35 area of:

36 _____, County, State of Arizona, located at:
37 _____

38 and legally described as:

39 (Legal description attached hereto as exhibit "A")
40 (property).

41 1. There is is not legal access to the property,
42 as defined in A.R.S. § 11-831 unknown

43 Explain: _____
44 _____
45 _____

- 1 2. There is is not physical access to the property.
2 unknown
3 Explain: _____
4 _____
5 _____
- 6 3. There is is not a statement from a licensed
7 surveyor or engineer available stating whether the property has
8 physical access that is traversable by a two-wheel drive
9 passenger motor vehicle.
- 10 4. The legal and physical access to the property is is not
11 the same.... unknown not applicable.
12 Explain: _____
13 _____
14 _____
15 *If access to the parcel is not traversable by emergency*
16 *vehicles, the county and emergency service providers may not*
17 *be held liable for any damages resulting from the inability to*
18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are publicly maintained privately
20 maintained not maintained not applicable. If
21 applicable, there is is not a recorded road
22 maintenance agreement.
23 *If the roads are not publicly maintained, it is the*
24 *responsibility of the property owner(s) to maintain the roads*
25 *and roads that are not improved to county standards and*
26 *accepted for maintenance are not the county's responsibility.*
- 27 6. A portion or all of the property is is not
28 located in a FEMA designated regulatory floodplain. If the
29 property is in a floodplain, it may be subject to floodplain
30 regulation.
- 31 7. The property is is not subject to fissures or
32 expansive soils. unknown
33 Explain: _____
34 _____
35 _____
- 36 8. The following services are currently provided to the property:
37 water sewer electric natural gas single
38 party telephone cable television services.
- 39 9. The property is is not served by a water
40 supply that requires the transportation of water to the
41 property. IF THE PROPERTY IS SERVED BY A WATER SUPPLY THAT
42 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY, THE
43 SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE
44 WATER HAULER OR WATER HAULING COMPANY THAT IS CURRENTLY
45 PROVIDING THE TRANSPORTATION SERVICES TO THE PROPERTY AND THE

1 NAME AND LOCATION OF THE WATER SUPPLY FROM WHICH THE WATER IS
2 CURRENTLY BEING TRANSPORTED.

3 WATER HAULER NAME: _____ PHONE: _____

4 WATER SUPPLY: _____ LOCATION: _____

- 5 10. The property is served by a private water company a
6 municipal water provider a private well a shared well
7 no well. If served by a shared well, the shared well
8 is is not . . . a public water system, as defined by
9 the safe drinking water act (42 United States Code § 300f).

10 *Notice to buyer: If the property is served by a well, a*
11 *private water company or a municipal water provider the*
12 *Arizona department of water resources may not have made a*
13 *water supply determination. For more information about water*
14 *supply, contact the water provider.*

- 15 11. The property or the water used on the property is is not
16 the subject of a statement of claimant for the use of water in
17 a general adjudication of water rights. unknown.

18 *This is a lawsuit to determine the use of and relative*
19 *priority of water rights. A map of adjudicated areas is*
20 *available at the website of the department of water resources.*

- 21 12. The property does have does not have . . . an on-site
22 wastewater treatment facility (i.e., standard septic or
23 alternative system to treat and dispose of wastewater).
24 unknown. If applicable: a) The property will will not
25 . . . require installation of an on-site wastewater treatment
26 facility; b) The on-site wastewater treatment facility has
27 has not been inspected.

- 28 13. The property has been has not been . . . subject to a
29 percolation test. unknown.

- 30 14. The property does have does not have one or more solar
31 energy devices that are leased owned.

32 ~~*Notice to buyer: If the property contains solar energy*~~
33 ~~*devices, it is the responsibility of the buyer to verify the*~~
34 ~~*proper replacement and disposal method for the devices, as*~~
35 ~~*applicable. If the solar energy devices are leased, the seller*~~
36 ~~*or property owner shall disclose the name and contact*~~
37 ~~*information of the leasing company.*~~

38 *Leasing company name: _____ Phone: _____*

- 39 15. THE PROPERTY DOES HAVE DOES NOT HAVE ONE OR MORE
40 BATTERY ENERGY STORAGE DEVICES THAT ARE LEASED OWNED.

41 IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER
42 SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING
43 COMPANY.

44 LEASING COMPANY NAME: _____ PHONE: _____

1 ~~15.~~ 16. The property does does not meet the
2 minimum applicable county zoning requirements of the applicable
3 zoning designation.

4 ~~16.~~ 17. The sale of the property does does not . . . meet
5 the requirements of A.R.S. § 11-831 AND § 32-2181 regarding
6 land divisions. If those requirements are not met, the
7 property owner may not be able to obtain a building permit. IT
8 IS UNLAWFUL PURSUANT TO A.R.S. § 11-831, SUBSECTION H AND
9 A.R.S. § 32-2181, SUBSECTION D FOR A PERSON OR GROUP OF PERSONS
10 TO ATTEMPT TO AVOID THE SUBDIVISION LAWS OF THIS STATE BY
11 ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE
12 LOTS OR PARCELS. THE COUNTY WHERE THE LAND DIVISION OCCURRED
13 OR THE STATE REAL ESTATE DEPARTMENT MAY INVESTIGATE AND ENFORCE
14 THE PROHIBITION AGAINST ACTING IN CONCERT TO UNLAWFULLY DIVIDE
15 A PARCEL OF LAND INTO SIX OR MORE LOTS OR PARCELS. The seller
16 or property owner shall disclose each of the deficiencies to
17 the buyer.

18 Explain: _____
19 _____
20 _____

21 ~~17.~~ 18. The property is is not located in the clear zone
22 of a military airport or ancillary military facility, as
23 defined in A.R.S. § 28-8461. (Maps are available at the state
24 real estate department's website.)

25 ~~18.~~ 19. The property is is not located in the high noise
26 or accident potential zone of a military airport or ancillary
27 military facility, as defined in A.R.S. § 28-8461. (Maps are
28 available at the state real estate department's website.)

29 ~~19.~~ 20. Notice: If the property is located within the territory in
30 the vicinity of a military airport or ancillary military
31 facility, the property is required to comply with sound
32 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps
33 are available at the state real estate department's website.)

34 ~~20.~~ 21. The property is is not located under military
35 restricted airspace. unknown. (Maps are available at the
36 state real estate department's website.)

37 ~~21.~~ 22. The property is is not located in a military
38 electronics range as defined in A.R.S. § 9-500.28 and § 11-818.
39 unknown. (Maps are available at the state real estate
40 department's website.)

1 ~~22.~~ 23. Use of the property is is not limited in any way
2 relating to an encumbrance of title due to a lis pendens, a
3 court order or a state real estate department order or a
4 pending legal action. If the use of the property is limited
5 due to an encumbrance of title, the seller or property owner
6 shall disclose the limitations to the buyer.

7 Explain: _____
8 _____
9 _____

10 This affidavit of disclosure supersedes any previously
11 recorded affidavit of disclosure.

12 I certify under penalty of perjury that the information
13 contained in this affidavit is true, complete and correct
14 according to my best belief and knowledge.

15 Dated this _____ (date) day of _____ (year) by:
16 Seller's name (print): _____ Signature: _____
17 Seller's name (print): _____ Signature: _____
18 State of Arizona)

19) ss.
20 County of _____)

21 Subscribed and sworn before me this _____ (date) day
22 of _____ (year) , by _____.

23 _____
24 Notary public

25 My commission expires:
26 _____ (date)

27 Buyer(s) hereby acknowledges receipt of a copy of this
28 affidavit of disclosure this _____ (date) day
29 of _____ (year)

30 Buyer's name (print): _____ Signature: _____
31 Buyer's name (print): _____ Signature: _____

32 G. For the purposes of this section, seller and subsequent seller
33 do not include a trustee of a deed of trust who is selling property by a
34 trustee's sale pursuant to chapter 6.1 of this title or any officer who is
35 selling property by execution sale pursuant to title 12, chapter 9 and
36 chapter 6 of this title. If the seller is a trustee of a subdivision
37 trust as defined in section 6-801, the disclosure affidavit required by
38 this section shall be provided by the beneficiary of the subdivision
39 trust.

40 Sec. 6. Repeal
41 Section 33-422, Arizona Revised Statutes, as amended by Laws 2023,
42 chapter 77, section 3, is repealed.

1 Sec. 7. Title 45, chapter 2, article 5, Arizona Revised Statutes,
2 is amended by adding section 45-465.05, to read:

3 45-465.05. Permanent relinquishment of irrigation
4 grandfathered rights; physical availability
5 exemption credits; assured water supply;
6 definitions

7 A. A PERSON WHO OWNS LAND WITHIN AN ACTIVE MANAGEMENT AREA THAT MAY
8 BE LEGALLY IRRIGATED WITH GROUNDWATER PURSUANT TO AN IRRIGATION
9 GRANDFATHERED RIGHT MAY PERMANENTLY RELINQUISH ALL OR A PORTION OF THE
10 IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL AVAILABILITY
11 EXEMPTION CREDIT IF BOTH OF THE FOLLOWING APPLY:

12 1. THE IRRIGATION GRANDFATHERED RIGHT HAS BEEN EXERCISED IN AT
13 LEAST ONE OF THE LAST FIVE CALENDAR YEARS.

14 2. THE PERSON'S USE OF THE IRRIGATION GRANDFATHERED RIGHT COMPLIES
15 WITH THIS CHAPTER AND THE APPLICABLE MANAGEMENT PLAN.

16 B. THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED
17 ANNUALLY PER ACRE PURSUANT TO THIS SECTION SHALL BE THE LESSER OF EITHER
18 OF THE FOLLOWING:

19 1. THE MAXIMUM AMOUNT OF GROUNDWATER THAT A PERSON MAY USE PURSUANT
20 TO AN IRRIGATION GRANDFATHERED RIGHT FOR THE ACRE AT THE TIME IT IS
21 RELINQUISHED PURSUANT TO SECTION 45-465.

22 2. EITHER:

23 (a) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED BY
24 DECEMBER 31, 2035, TWO ACRE-FEET MULTIPLIED BY THE RETIRED IRRIGATION
25 ACRES IN THE FARM OR PORTION OF THE FARM.

26 (b) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED ON OR
27 AFTER JANUARY 1, 2036, ONE AND FIVE-TENTHS OF AN ACRE-FOOT MULTIPLIED BY
28 THE RETIRED IRRIGATION ACRES IN THE FARM OR PORTION OF THE FARM.

29 C. THE DIRECTOR SHALL IDENTIFY ALL OF THE FOLLOWING WHEN ISSUING A
30 PHYSICAL AVAILABILITY EXEMPTION CREDIT:

31 1. THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED AS
32 CALCULATED PURSUANT TO SUBSECTION B OF THIS SECTION.

33 2. THE NUMBER AND LOCATION OF THE ACRES THAT ARE ASSOCIATED WITH
34 THE RELINQUISHMENT.

35 3. THE WELLS THAT HAVE BEEN USED TO SERVE THE IRRIGATION
36 GRANDFATHERED RIGHT.

37 4. THE OWNER OF THE LAND AT THE TIME OF THE RELINQUISHMENT, WHICH
38 SHALL BE THE HOLDER OF THE PHYSICAL AVAILABILITY EXEMPTION CREDIT.

39 5. THE DIRECTOR'S DETERMINATION WHETHER THE CRITERIA PRESCRIBED IN
40 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
41 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
42 PROJECTION. THIS DETERMINATION SHALL BE APPLIED TO AN ASSURED WATER
43 SUPPLY APPLICATION THAT IS SUBMITTED TO THE DEPARTMENT WITHIN TWO YEARS
44 FROM THE DATE THE PHYSICAL AVAILABILITY EXEMPTION CREDIT IS ISSUED AND

1 SHALL REMAIN VALID UNTIL THE DIRECTOR MAKES A FINAL DECISION ON THE
2 ASSURED WATER SUPPLY APPLICATION.

3 D. ON REQUEST OF THE HOLDER OF A PHYSICAL AVAILABILITY EXEMPTION
4 CREDIT FOR PURPOSES OF AN APPLICATION FOR AN ASSURED WATER SUPPLY, THE
5 VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SUBSECTION B OF THIS SECTION
6 SHALL BE EXEMPT FROM THE REQUIREMENT TO DEMONSTRATE THAT THE GROUNDWATER
7 SUPPLY IS PHYSICALLY AVAILABLE IN ACCORDANCE WITH SECTION 45-576 IF ALL OF
8 THE FOLLOWING APPLY:

9 1. THE PROPOSED GROUNDWATER USE ASSOCIATED WITH AN APPLICATION FOR
10 AN ASSURED WATER SUPPLY SHALL BE ON ONE OR MORE OF THE FOLLOWING
11 LOCATIONS:

12 (a) THE RETIRED IRRIGATION ACRES.

13 (b) LAND THAT IS UNDER COMMON OWNERSHIP AND CONTIGUOUS TO THE
14 RETIRED IRRIGATION ACRES, INCLUDING LAND SEPARATED BY A BARRIER, ROAD,
15 HIGHWAY, EASEMENT OR RIGHT-OF-WAY.

16 (c) LAND WITHIN ONE MILE OF THE EXTERIOR BOUNDARY OF THE RETIRED
17 IRRIGATION ACRES. FOR THE PURPOSES OF THIS SUBDIVISION, IF A PORTION OF A
18 PARCEL OF LAND IS WITHIN ONE MILE OF THE EXTERIOR BOUNDARY, THE ENTIRE
19 PARCEL SHALL BE INCLUDED.

20 2. THE APPLICANT FOR AN ASSURED WATER SUPPLY PROPOSES TO WITHDRAW
21 GROUNDWATER FROM ONE OR MORE OF THE FOLLOWING LOCATIONS:

22 (a) WELLS THAT WERE USED TO SERVE THE IRRIGATION GRANDFATHERED
23 RIGHT.

24 (b) WELLS LOCATED WITHIN ONE MILE OF ANY WELL THAT WAS USED TO
25 SERVE THE IRRIGATION GRANDFATHERED RIGHT.

26 (c) WELLS LOCATED ON THE ACRES ASSOCIATED WITH THE RELINQUISHMENT.

27 (d) WELLS LOCATED WITHIN ONE MILE OF THE ACRES ASSOCIATED WITH THE
28 RELINQUISHMENT.

29 3. THE APPLICANT DEMONSTRATES, USING A METHOD OF ANALYSIS APPROVED
30 BY THE DIRECTOR, THAT GROUNDWATER CAN BE WITHDRAWN TO SERVE THE PROPOSED
31 USE FOR ONE HUNDRED YEARS WITHOUT EXCEEDING THE DEPTH OF THE AQUIFER OR
32 THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL AS PRESCRIBED BY SUBSECTION K
33 OF THIS SECTION, WHICHEVER IS LESS. FOR THE PURPOSES OF THIS
34 DEMONSTRATION:

35 (a) THE DIRECTOR SHALL NOT CONSIDER OTHER WITHDRAWALS OF
36 GROUNDWATER THAT EXCEED THE DEPTH OF THE AQUIFER OR THE APPLICABLE
37 DEPTH-TO-STATIC WATER LEVEL DURING THE ONE HUNDRED YEAR PERIOD.

38 (b) FOR GROUNDWATER WITHDRAWALS LOCATED WITHIN ONE MILE OF ANY WELL
39 THAT WAS USED TO SERVE THE IRRIGATION GRANDFATHERED RIGHT PURSUANT TO
40 PARAGRAPH 2, SUBDIVISION (b) OF THIS SUBSECTION, THE APPLICANT MAY RELY ON
41 THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY PROJECTION TO SATISFY THIS
42 REQUIREMENT.

43 E. ON REQUEST FROM THE HOLDER OF AN IRRIGATION GRANDFATHERED RIGHT,
44 THE DIRECTOR SHALL MAKE A DETERMINATION TO GRANT A PHYSICAL AVAILABILITY
45 EXEMPTION CREDIT WITHIN AN OVERALL TIME FRAME OF NINETY DAYS PURSUANT TO

1 THE LICENSING TIME FRAMES PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1.
2 THE OVERALL TIME FRAME SHALL INCLUDE THIRTY DAYS FOR AN ADMINISTRATIVE
3 COMPLETENESS REVIEW AND SIXTY DAYS FOR A SUBSTANTIVE REVIEW. THE TIME
4 FRAME MAY BE EXTENDED BY MUTUAL AGREEMENT AS PRESCRIBED BY SECTION
5 41-1075.

6 F. BEFORE THE DIRECTOR ISSUES A PHYSICAL AVAILABILITY EXEMPTION
7 CREDIT, THE DIRECTOR SHALL NOTIFY THE HOLDER OF THE IRRIGATION
8 GRANDFATHERED RIGHT IN WRITING WHETHER THE CRITERIA PRESCRIBED IN
9 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
10 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
11 PROJECTION AND REQUEST WRITTEN CONFIRMATION THAT THE HOLDER OF THE
12 IRRIGATION GRANDFATHERED RIGHT WOULD LIKE TO PROCEED WITH THE
13 RELINQUISHMENT.

14 G. ON NOTICE TO THE DIRECTOR BY THE HOLDER OF A PHYSICAL
15 AVAILABILITY EXEMPTION CREDIT, SOME OR ALL OF THE CREDIT MAY BE ASSIGNED
16 TO A MUNICIPAL PROVIDER OR TO A SUBSEQUENT OWNER OF THE LAND ASSOCIATED
17 WITH THE RELINQUISHMENT.

18 H. IF ONLY A PORTION OF A PHYSICAL AVAILABILITY EXEMPTION CREDIT IS
19 APPLIED TO A CERTIFICATE OF ASSURED WATER SUPPLY OR A DESIGNATION OF
20 ASSURED WATER SUPPLY ISSUED PURSUANT TO SECTION 45-576, THE DIRECTOR SHALL
21 IDENTIFY THE VOLUMES REMAINING FOR THE PHYSICAL AVAILABILITY EXEMPTION
22 CREDIT.

23 I. AFTER THE ISSUANCE OF A CERTIFICATE OF ASSURED WATER SUPPLY
24 BASED ON A PHYSICAL AVAILABILITY EXEMPTION CREDIT, IF A MUNICIPAL PROVIDER
25 THAT SERVES LAND ASSOCIATED WITH THE RELINQUISHMENT BECOMES A DESIGNATED
26 PROVIDER, THE PHYSICAL AVAILABILITY EXEMPTION CREDIT ASSOCIATED WITH THE
27 CERTIFICATE SHALL BE USED TO SUPPORT THE DESIGNATION.

28 J. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
29 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
30 THE DIRECTOR PURSUANT TO THIS SECTION.

31 K. FOR THE PURPOSES OF SEEKING AN EXEMPTION FROM THE PHYSICAL
32 AVAILABILITY REQUIREMENT FOR AN ASSURED WATER SUPPLY AS PRESCRIBED BY
33 SUBSECTION D OF THIS SECTION, THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL
34 FOR EACH ACTIVE MANAGEMENT AREA SHALL BE:

35 1. IN THE PINAL ACTIVE MANAGEMENT AREA, ONE THOUSAND ONE HUNDRED
36 FEET BELOW LAND SURFACE.

37 2. IN ALL OTHER ACTIVE MANAGEMENT AREAS, ONE THOUSAND FEET BELOW
38 LAND SURFACE.

39 L. FOR THE PURPOSES OF THIS SECTION:

40 1. "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION
41 45-561.

42 2. "WELL" INCLUDES A REPLACEMENT WELL AS PRESCRIBED IN SECTIONS
43 45-597 AND 45-598.

1 Sec. 8. Section 45-554, Arizona Revised Statutes, is amended to
2 read:

3 45-554. Transportation of groundwater withdrawn in Harquahala
4 irrigation non-expansion area to an initial active
5 management area; annual report

6 A. A groundwater replenishment district established under title 48,
7 chapter 27 may lease from an irrigation district located entirely within
8 the Harquahala irrigation non-expansion area the use of one or more of the
9 wells in the irrigation district to withdraw the groundwater that can be
10 withdrawn from a depth to one thousand feet, at a rate that, when added to
11 the existing rates of withdrawal in the area, does not cause the
12 groundwater table at the site or sites to decline more than ten feet per
13 year, for transportation to an initial active management area. The lease
14 payments shall be made to the members of the irrigation district on a pro
15 rata basis, per acre of land that is eligible to be irrigated under
16 section 45-437, subsection B, minus the irrigation district's
17 administrative costs. Wells leased under this subsection are exempt from
18 well spacing requirements under section 45-559.

19 B. ~~This state or a political subdivision of this state that~~ AN
20 ENTITY DESCRIBED IN SUBSECTION D OF THIS SECTION THAT owns land eligible
21 to be irrigated under section 45-437, subsection B in the Harquahala
22 irrigation non-expansion area may withdraw groundwater from the land for
23 transportation to ~~an initial active management area for its own use or use~~
24 ~~by the Arizona water banking authority pursuant to section 45-2491 only~~ A
25 LOCATION AND FOR THE PURPOSES PRESCRIBED IN SUBSECTION F OF THIS SECTION:

26 1. If the groundwater is withdrawn:

27 (a) From a depth to one thousand feet at the site or sites of the
28 proposed withdrawals.

29 (b) At a rate that, when added to the existing rate of withdrawals
30 in the area, does not cause the groundwater table at the site or sites of
31 the withdrawals to decline more than an average of ten feet per year
32 during the one hundred year evaluation period.

33 2. In an amount either:

34 (a) Per acre of the eligible land, not to exceed:

35 (i) Six acre-feet in any year.

36 (ii) Thirty acre-feet for any period of ten consecutive years
37 computed in continuing progressive series beginning in the year
38 transportation of groundwater from the land begins.

39 (b) Established by the director, but only if the director
40 determines that withdrawals in an amount greater than that ~~permitted~~
41 ALLOWED by subdivision (a) of this paragraph will not unreasonably
42 increase damage to residents of surrounding land and other water users in
43 the irrigation non-expansion area, or that one or more of the entities
44 withdrawing the groundwater will mitigate the damage to the residents and
45 other water users.

1 3. BY A PUBLIC SERVICE CORPORATION, IF ALL COSTS ASSOCIATED WITH
2 WITHDRAWING, TRANSPORTING AND DELIVERING GROUNDWATER AWAY FROM THE
3 HARQUAHALA IRRIGATION NON-EXPANSION AREA ARE COLLECTED FROM THE CUSTOMERS
4 OF THE PUBLIC SERVICE CORPORATION'S WATER DISTRICT WHERE THE TRANSPORTED
5 GROUNDWATER IS USED.

6 4. IF BEFORE THE WITHDRAWAL OF GROUNDWATER FROM THE HARQUAHALA
7 IRRIGATION NON-EXPANSION AREA OR THE EFFECTIVE DATE OF THIS AMENDMENT TO
8 THIS SECTION, WHICHEVER IS LATER, THE ELIGIBLE ENTITY HAS DEMONSTRATED
9 COMPLIANCE WITH THE CRITERIA IN THIS SUBSECTION OR SUBSECTION C OF THIS
10 SECTION USING A HYDROLOGICAL STUDY. THE DIRECTOR SHALL PRESCRIBE THE
11 CONTENTS OF THE STUDY THAT IS SUBMITTED WITH THE APPLICATION.

12 5. IF BEFORE THE WITHDRAWAL OF GROUNDWATER FROM THE HARQUAHALA
13 IRRIGATION NON-EXPANSION AREA OR THE EFFECTIVE DATE OF THIS AMENDMENT TO
14 THIS SECTION, WHICHEVER IS LATER, THE ELIGIBLE ENTITY INSTALLS WATER
15 MEASURING DEVICES, OR OTHER SIMILARLY RELIABLE AND ACCESSIBLE METHODS AS
16 APPROVED BY THE DEPARTMENT TO DETERMINE THE VOLUME OF GROUNDWATER
17 WITHDRAWN FROM ALL RELEVANT WELLS AND TRANSPORTED OUT OF THE HARQUAHALA
18 IRRIGATION NON-EXPANSION AREA BY PIPELINES, CANALS OR CONDUITS.

19 6. IF BEFORE THE WITHDRAWAL OF GROUNDWATER FROM THE HARQUAHALA
20 IRRIGATION NON-EXPANSION AREA OR THE EFFECTIVE DATE OF THIS AMENDMENT TO
21 THIS SECTION, WHICHEVER IS LATER, THE ELIGIBLE ENTITY SUBMITS A MONTHLY
22 REPORT TO THE DEPARTMENT CONTAINING ALL OF THE FOLLOWING:

23 (a) THE VOLUME OF GROUNDWATER THE ENTITY WITHDREW FROM THE
24 HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE PRECEDING MONTH.

25 (b) THE VOLUME OF GROUNDWATER THE ENTITY TRANSPORTED OUT OF THE
26 HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE PRECEDING MONTH.

27 (c) THE END USE OR DESTINATION OF GROUNDWATER THE ENTITY
28 TRANSPORTED OUT OF THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE
29 PRECEDING MONTH.

30 C. If this state or one or more political subdivisions of this
31 state own eighty ~~per cent~~ PERCENT or more of the land that is eligible to
32 be irrigated under section 45-437, subsection B in the irrigation
33 non-expansion area, each of the entities may withdraw groundwater from the
34 eligible land it owns for transportation to an initial active management
35 area:

36 1. From a depth to one thousand feet at the site or sites of
37 withdrawals.

38 2. From a depth between one thousand and one thousand two hundred
39 feet at the site or sites of the withdrawals only if the director
40 determines either that the withdrawals will not unreasonably increase
41 damage to residents of surrounding land or that one or more of the
42 entities withdrawing the groundwater will mitigate the damage to the
43 residents.

1 D. THE FOLLOWING ENTITIES ARE ELIGIBLE TO TRANSPORT GROUNDWATER
2 AWAY FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA PURSUANT TO
3 SUBSECTION B OF THIS SECTION:

4 1. THIS STATE.

5 2. A POLITICAL SUBDIVISION OF THIS STATE.

6 3. A PUBLIC SERVICE CORPORATION THAT IS REGULATED BY THE
7 CORPORATION COMMISSION AND THAT HOLDS A CERTIFICATE OF CONVENIENCE AND
8 NECESSITY FOR WATER SERVICE.

9 E. THE DIRECTOR SHALL ADOPT RULES TO IMPLEMENT THIS SECTION,
10 INCLUDING FOR THE REPORTING OF GROUNDWATER TRANSPORTED FROM THE HARQUAHALA
11 IRRIGATION NON-EXPANSION AREA.

12 F. THE FOLLOWING LOCATIONS AND PURPOSES ARE ELIGIBLE TO RECEIVE
13 GROUNDWATER TRANSPORTED AWAY FROM THE HARQUAHALA IRRIGATION NON-EXPANSION
14 AREA PURSUANT TO SUBSECTION B OF THIS SECTION:

15 1. AN INITIAL ACTIVE MANAGEMENT AREA FOR USE BY AN ELIGIBLE ENTITY
16 OR THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491.

17 2. ANY LOCATION IN LA PAZ COUNTY FOR USE BY AN ELIGIBLE ENTITY.

18 G. ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT A
19 REPORT OF ALL OF THE FOLLOWING TO THE GOVERNOR, THE PRESIDENT OF THE
20 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A
21 COPY OF THIS REPORT TO THE SECRETARY OF STATE:

22 1. THE TOTAL AMOUNT OF GROUNDWATER ALL ELIGIBLE ENTITIES WITHDREW
23 FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE PRECEDING YEAR.

24 2. THE TOTAL AMOUNT OF GROUNDWATER EACH ELIGIBLE ENTITY WITHDREW
25 FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE PRECEDING YEAR
26 DELINEATED BY ENTITY.

27 3. THE TOTAL AMOUNT OF GROUNDWATER ALL ELIGIBLE ENTITIES
28 TRANSPORTED FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE
29 PRECEDING YEAR.

30 4. THE TOTAL AMOUNT OF GROUNDWATER EACH ELIGIBLE ENTITY TRANSPORTED
31 FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN THE PRECEDING YEAR
32 DELINEATED BY ENTITY.

33 5. THE END USE OR DESTINATION OF ALL GROUNDWATER ALL ELIGIBLE
34 ENTITIES TRANSPORTED FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN
35 THE PRECEDING YEAR.

36 6. THE END USE OR DESTINATION OF ALL GROUNDWATER ALL ELIGIBLE
37 ENTITIES TRANSPORTED FROM THE HARQUAHALA IRRIGATION NON-EXPANSION AREA IN
38 THE PRECEDING YEAR DELINEATED BY DESTINATION OR END USE.

39 Sec. 9. Title 45, chapter 2, article 9, Arizona Revised Statutes,
40 is amended by adding section 45-563.03, to read:

41 45-563.03. Turf and plant installation; prohibition;
42 exception; definitions

43 A. ON OR AFTER JANUARY 1, 2026, A MUNICIPAL PROVIDER MAY NOT APPLY
44 POTABLE WATER ON NONFUNCTIONAL TURF THAT IS INSTALLED AS PART OF A NEW

1 DEVELOPMENT PROJECT OR REDEVELOPMENT PROJECT ON ANY PORTION OF APPLICABLE
2 PROPERTY WITHIN AN INITIAL ACTIVE MANAGEMENT AREA.

3 B. THIS SECTION DOES NOT:

4 1. PRECLUDE A MUNICIPALITY FROM ADOPTING REQUIREMENTS THAT ARE MORE
5 RESTRICTIVE THAN THE REQUIREMENTS REGARDING APPLYING POTABLE WATER ON
6 NONFUNCTIONAL TURF.

7 2. IMPAIR VESTED RIGHTS TO THE USE OF WATER.

8 C. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY LOCATED IN AN
9 INITIAL ACTIVE MANAGEMENT AREA MAY NOT ADOPT OR ENFORCE ANY REQUIREMENT
10 ESTABLISHING, DIRECTLY OR INDIRECTLY, ANY OF THE FOLLOWING:

11 1. MINIMUM TURF REQUIREMENTS EXCEPT FOR FUNCTIONAL TURF
12 REQUIREMENTS THAT ARE ASSOCIATED WITH PUBLIC RECREATIONAL USE AREAS OR
13 OTHER PUBLIC SPACE THAT IS REGULARLY USED FOR CIVIC, COMMUNITY OR
14 RECREATIONAL PURPOSES, INCLUDING PLAYGROUNDS, SPORTS FIELDS, CEMETERIES,
15 SCHOOLYARDS AND STORM WATER MANAGEMENT.

16 2. THE INSTALLATION OF PLANTS THAT ARE NOT INCLUDED ON THE
17 LOW-WATER-USE AND DROUGHT-TOLERANT PLANT LIST THAT IS PUBLISHED BY THE
18 DEPARTMENT FOR THE MOST CURRENT MANAGEMENT PLAN IN THE INITIAL ACTIVE
19 MANAGEMENT AREAS.

20 D. FOR THE PURPOSES OF THIS SECTION:

21 1. "APPLICABLE PROPERTY" MEANS ALL OF THE FOLLOWING:

22 (a) COMMERCIAL PROPERTY, INSTITUTIONAL PROPERTY OR INDUSTRIAL
23 PROPERTY.

24 (b) HOMEOWNERS' ASSOCIATION PROPERTY.

25 (c) A STREET RIGHT-OF-WAY, PARKING LOT, MEDIAN OR TRANSPORTATION
26 CORRIDOR.

27 2. "COMMERCIAL PROPERTY" MEANS PROPERTY THAT IS USED FOR THE
28 PROVISION OR DISTRIBUTION OF GOODS OR SERVICES.

29 3. "FUNCTIONAL TURF" MEANS TURF THAT IS IN A RECREATIONAL USE AREA
30 OR OTHER SPACE THAT IS REGULARLY USED FOR CIVIC, COMMUNITY OR RECREATIONAL
31 PURPOSES, INCLUDING PLAYGROUNDS, SPORTS FIELDS, CEMETERIES AND
32 SCHOOLYARDS.

33 4. "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION AS DEFINED IN
34 SECTION 33-1202 OR 33-1802.

35 5. "INDUSTRIAL PROPERTY":

36 (a) MEANS PROPERTY THAT IS PRIMARILY USED FOR MANUFACTURING OR
37 PROCESSING MATERIALS.

38 (b) INCLUDES PROPERTY THAT IS PRIMARILY USED FOR RESEARCH AND
39 DEVELOPMENT.

40 6. "INSTITUTIONAL PROPERTY" MEANS PROPERTY THAT IS DEDICATED TO
41 PUBLIC SERVICE, INCLUDING HIGHER EDUCATION INSTITUTIONS, SCHOOLS, COURTS,
42 CHURCHES, HOSPITALS, GOVERNMENT FACILITIES AND NONPROFIT RESEARCH
43 INSTITUTIONS.

44 7. "NEW DEVELOPMENT PROJECT":

1 (a) MEANS A NEW CONSTRUCTION PROJECT THAT REQUIRES A BUILDING OR
2 LANDSCAPING PERMIT, PLAN CHECK OR DESIGN REVIEW.

3 (b) INCLUDES NEW CONSTRUCTION PROJECTS AT INSTITUTIONAL PROPERTIES
4 THAT ARE NOT SUBJECT TO LOCAL PERMITTING REQUIREMENTS.

5 8. "NONFUNCTIONAL TURF":

6 (a) MEANS ALL TURF THAT IS NOT FUNCTIONAL TURF.

7 (b) INCLUDES:

8 (i) TURF THAT IS LOCATED IN A STREET RIGHT-OF-WAY, PARKING LOT OR
9 MEDIAN.

10 (ii) TURF THAT IS ENCLOSED BY FENCING OR OTHER BARRIERS TO
11 PERMANENTLY PRECLUDE HUMAN ACCESS FOR RECREATION OR ASSEMBLY.

12 (c) DOES NOT INCLUDE TURF THAT IS USED FOR STORM WATER MANAGEMENT.

13 9. "REDEVELOPMENT PROJECT":

14 (a) MEANS A CONSTRUCTION PROJECT THAT REQUIRES A BUILDING OR
15 LANDSCAPING PERMIT, PLAN CHECK OR DESIGN REVIEW AND THAT RESULTS IN A
16 DISTURBANCE OF MORE THAN FIFTY PERCENT OF THE PARCEL OR PARCELS ON WHICH
17 THE CONSTRUCTION PROJECT OCCURS.

18 (b) INCLUDES CONSTRUCTION PROJECTS AT INSTITUTIONAL PROPERTIES THAT
19 ARE NOT SUBJECT TO LOCAL PERMITTING REQUIREMENTS AND THAT RESULT IN A
20 DISTURBANCE OF MORE THAN FIFTY PERCENT OF THE PARCEL OR PARCELS ON WHICH
21 THE CONSTRUCTION PROJECT OCCURS.

22 Sec. 10. Section 45-576, Arizona Revised Statutes, is amended to
23 read:

24 45-576. Certificate of assured water supply; designated
25 cities, towns and private water companies;
26 exemptions; definition

27 A. Except as provided in subsections G and J of this section, a
28 person who proposes to offer subdivided lands, as defined in section
29 32-2101, for sale or lease in an active management area shall apply for
30 and obtain a certificate of assured water supply from the director before
31 presenting the plat for approval to the city, town or county in which the
32 land is located, where such is required, and before filing with the state
33 real estate commissioner a notice of intention to offer such lands for
34 sale or lease, pursuant to section 32-2181, unless the subdivider has
35 obtained a written commitment of water service for the subdivision from a
36 city, town or private water company designated as having an assured water
37 supply pursuant to this section.

38 B. Except as provided in subsections G and J of this section, a
39 city, town or county may approve a subdivision plat only if the subdivider
40 has obtained a certificate of assured water supply from the director or
41 the subdivider has obtained a written commitment of water service for the
42 subdivision from a city, town or private water company designated as
43 having an assured water supply pursuant to this section. The city, town
44 or county shall note on the face of the approved plat that a certificate
45 of assured water supply has been submitted with the plat or that the

1 subdivider has obtained a written commitment of water service for the
2 proposed subdivision from a city, town or private water company designated
3 as having an assured water supply pursuant to this section.

4 C. Except as provided in subsections G and J of this section, the
5 state real estate commissioner may issue a public report authorizing the
6 sale or lease of subdivided lands only on compliance with either of the
7 following:

8 1. The subdivider, owner or agent has paid any activation fee
9 required under section 48-3772, subsection A, paragraph 7 and any
10 replenishment reserve fee required under section 48-3774.01, subsection A,
11 paragraph 2 and has obtained a certificate of assured water supply from
12 the director.

13 2. The subdivider has obtained a written commitment of water
14 service for the lands from a city, town or private water company
15 designated as having an assured water supply pursuant to this section and
16 the subdivider, owner or agent has paid any activation fee required under
17 section 48-3772, subsection A, paragraph 7.

18 D. The director shall designate private water companies in active
19 management areas that have an assured water supply. If a city or town
20 acquires a private water company that has contracted for central Arizona
21 project water, the city or town shall assume the private water company's
22 contract for central Arizona project water.

23 E. The director shall designate cities and towns in active
24 management areas where an assured water supply exists. If a city or town
25 has entered into a contract for central Arizona project water, the city or
26 town is deemed to continue to have an assured water supply until December
27 31, 1997. Commencing on January 1, 1998, the determination that the city
28 or town has an assured water supply is subject to review by the director
29 and the director may determine that a city or town does not have an
30 assured water supply.

31 F. The director shall notify the mayors of all cities and towns in
32 active management areas and the chairmen of the boards of supervisors of
33 counties in which active management areas are located of the cities, towns
34 and private water companies designated as having an assured water supply
35 and any modification of that designation within thirty days ~~of~~ AFTER the
36 designation or modification. If the service area of the city, town or
37 private water company has qualified as a member service area pursuant to
38 title 48, chapter 22, article 4, the director shall also notify the
39 conservation district of the designation or modification and shall report
40 the projected average annual replenishment obligation for the member
41 service area based on the projected and committed average annual demand
42 for water within the service area during the effective term of the
43 designation or modification subject to any limitation in an agreement
44 between the conservation district and the city, town or private water
45 company. For each city, town or private water company that qualified as a

1 member service area under title 48, chapter 22 and THAT was designated as
2 having an assured water supply before January 1, 2004, the director shall
3 report to the conservation district on or before January 1, 2005 the
4 projected average annual replenishment obligation based on the projected
5 and committed average annual demand for water within the service area
6 during the effective term of the designation subject to any limitation in
7 an agreement between the conservation district and the city, town or
8 private water company. Persons proposing to offer subdivided lands served
9 by those designated cities, towns and private water companies for sale or
10 lease are exempt from applying for and obtaining a certificate of assured
11 water supply.

12 G. This section does not apply in the case of the sale of lands for
13 developments that are subject to a mineral extraction and METALLURGICAL
14 processing permit or an industrial use permit pursuant to sections 45-514
15 and 45-515.

16 H. The director shall adopt rules to carry out the purposes of this
17 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
18 reduction in water demand for an application for a designation of assured
19 water supply or a certificate of assured water supply if a gray water
20 reuse system will be installed that meets the requirements of the rules
21 adopted by the department of environmental quality for gray water systems
22 and if the application is for a certificate of assured water supply, the
23 land for which the certificate is sought must qualify as a member land in
24 a conservation district pursuant to title 48, chapter 22, article 4. For
25 the purposes of this subsection, "gray water" has the same meaning
26 prescribed in section 49-201.

27 I. If the director designates a municipal provider as having an
28 assured water supply under this section and the designation lapses or
29 otherwise terminates while the municipal provider's service area is a
30 member service area of a conservation district, the municipal provider or
31 its successor shall continue to comply with the consistency with
32 management goal requirements in the rules adopted by the director under
33 subsection H of this section as if the designation was still in effect
34 with respect to the municipal provider's designation uses. When
35 determining compliance by the municipal provider or its successor with the
36 consistency with management goal requirements in the rules, the director
37 shall consider only water delivered by the municipal provider or its
38 successor to the municipal provider's designation uses. A person is the
39 successor of a municipal provider if the person commences water service to
40 uses that were previously designation uses of the municipal provider. Any
41 groundwater delivered by the municipal provider or its successor to the
42 municipal provider's designation uses in excess of the amount allowed
43 under the consistency with management goal requirements in the rules shall
44 be considered excess groundwater for purposes of title 48, chapter 22.
45 For the purposes of this subsection, "designation uses" means all water

1 uses served by a municipal provider on the date the municipal provider's
2 designation of assured water supply lapses or otherwise terminates and all
3 recorded lots within the municipal provider's service area that were not
4 being served by the municipal provider on that date but that received
5 final plat approval from a city, town or county on or before that
6 date. Designation uses do not include industrial uses served by an
7 irrigation district under section 45-497.

8 J. Subsections A, B and C of this section do not apply to a person
9 who proposes to offer subdivided land for sale or lease in an active
10 management area if all the following apply:

11 1. The director issued a certificate of assured water supply for
12 the land to a previous owner of the land and the certificate was
13 classified as a type A certificate under rules adopted by the director
14 pursuant to subsection H of this section.

15 2. The director has not revoked the certificate of assured water
16 supply described in paragraph 1 of this subsection, and proceedings to
17 revoke the certificate are not pending before the department or a court.
18 The department shall post on its website a list of all certificates of
19 assured water supply that have been revoked or for which proceedings are
20 pending before the department or a court.

21 3. The plat submitted to the department in the application for the
22 certificate of assured water supply described in paragraph 1 of this
23 subsection has not changed.

24 4. Water service is currently available to each lot within the
25 subdivided land and the water provider listed on the certificate of
26 assured water supply described in paragraph 1 of this subsection has not
27 changed.

28 5. The subdivided land qualifies as a member land under title 48,
29 chapter 22 and the subdivider has paid any activation fee required under
30 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
31 fee required under section 48-3774.01, subsection A, paragraph 2.

32 6. The plat is submitted for approval to a city, town or county
33 that is listed on the department's website as a qualified platting
34 authority.

35 K. Subsection J of this section does not affect the assignment of a
36 certificate of assured water supply as prescribed by section 45-579.

37 L. On or before December 31, 2023, the director shall study and
38 submit to the governor, president of the senate and speaker of the house
39 of representatives a report on whether and how a person that seeks a
40 building permit for six or more residences within an active management
41 area, without regard to any proposed lease term for those residences,
42 should apply for and obtain a certificate of assured water supply from the
43 director before presenting the permit application for approval to the
44 county in which the land is located, unless the applicant has obtained a
45 written commitment of water service for the residences from a city, town

1 or private water company designated as having an assured water supply
2 pursuant to this section.

3 M. FOR THE PURPOSES OF THIS SECTION, THE DIRECTOR SHALL FIND THAT
4 THE VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SECTION 45-465.05,
5 SUBSECTION B IS EXEMPT FROM THE PHYSICAL AVAILABILITY REQUIREMENT FOR AN
6 ASSURED WATER SUPPLY IF THE VOLUME OF GROUNDWATER CALCULATED PURSUANT TO
7 SECTION 45-465.05, SUBSECTION B MEETS THE REQUIREMENTS PRESCRIBED BY
8 SECTION 45-465.05, SUBSECTION D.

9 ~~M.~~ N. For the purposes of this section, "assured water supply"
10 means all of the following:

11 1. Sufficient groundwater, surface water or effluent of adequate
12 quality will be continuously available to satisfy the water needs of the
13 proposed use for at least one hundred years. Beginning January 1 of the
14 calendar year following the year in which a groundwater replenishment
15 district is required to submit its preliminary plan pursuant to section
16 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
17 a member of the district, "sufficient groundwater" for the purposes of
18 this paragraph means that the proposed groundwater withdrawals that the
19 applicant will cause over a period of one hundred years will be of
20 adequate quality and will not exceed, in combination with other
21 withdrawals from land in the replenishment district, a depth to water of
22 one thousand feet or the depth of the bottom of the aquifer, whichever is
23 less. In determining depth to water for the purposes of this paragraph,
24 the director shall consider the combination of:

25 (a) The existing rate of decline.

26 (b) The proposed withdrawals.

27 (c) The expected water requirements of all recorded lots that are
28 not yet served water and that are located in the service area of a
29 municipal provider.

30 2. The projected groundwater use is consistent with the management
31 plan and achievement of the management goal for the active management
32 area.

33 3. The financial capability has been demonstrated to construct the
34 water facilities necessary to make the supply of water available for the
35 proposed use, including a delivery system and any storage facilities or
36 treatment works. The director may accept evidence of the construction
37 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
38 satisfy this requirement.

39 Sec. 11. Section 45-576.08, Arizona Revised Statutes, is amended to
40 read:

41 45-576.08. Pinal active management area: assured water
42 supply; physical availability; exemption;
43 definitions

44 A. All of the following apply in the Pinal active management area
45 for an application to modify a designation of assured water supply:

1 1. **EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION**, if the total
2 volume of groundwater and stored water to be recovered outside the area of
3 impact of storage sought to be included in the designation does not exceed
4 the total volume of those sources of water included in the previous
5 designation minus the sum of the volume of groundwater actually withdrawn
6 and the volume of stored water recovered outside the area of impact of
7 storage by the applicant since issuance of the previous designation order:

8 (a) The director shall not review the physical availability of the
9 groundwater and stored water to be recovered outside of the area of impact
10 of storage sought to be included in the designation.

11 (b) The physical availability of the groundwater and stored water
12 to be recovered outside the area of impact of storage sought to be
13 included in the designation shall not be grounds for an objection.

14 2. Paragraph 1 of this subsection shall not affect the director's
15 review of assured water supply criteria other than the physical
16 availability of groundwater and stored water to be recovered outside the
17 area of impact of storage.

18 3. Both of the following are deemed physically available for
19 purposes of an assured water supply designation:

20 (a) Stored water that is to be recovered by the applicant within
21 the area of impact of storage pursuant to existing long-term storage
22 credits pledged to the designation of assured water supply.

23 (b) Stored water that is to be recovered by the applicant within
24 the area of impact of storage either on an annual basis pursuant to
25 section 45-851.01 or as long-term storage credits to be earned in the
26 future if the water to be stored meets the physical availability
27 requirements for the water supply under rules adopted pursuant to section
28 45-576, subsection H.

29 **B. FOR THE CALCULATION PRESCRIBED BY SUBSECTION A OF THIS SECTION,**
30 **THE DIRECTOR SHALL EXCLUDE ANY VOLUME OF GROUNDWATER THAT IS SUBJECT TO A**
31 **PHYSICAL AVAILABILITY EXEMPTION CREDIT AS PRESCRIBED IN SECTION 45-465.05.**

32 ~~B.~~ **C.** For the purposes of this section:

33 1. "Area of impact of storage" means any of the following:

34 (a) Within one mile of an existing or proposed underground storage
35 facility where the water to be recovered is or will be stored.

36 (b) Within the district boundaries of an irrigation district that
37 has a permit for a groundwater savings facility and where the water to be
38 recovered is or will be stored.

39 (c) An area not described in subdivision (a) or (b) of this
40 paragraph that has been shown to have been positively impacted by the
41 storage of the water to be recovered as demonstrated by a hydrologic model
42 approved by the director.

43 2. "Long-term storage credit" has the same meaning prescribed in
44 section 45-802.01.

1 3. "Stored water" has the same meaning prescribed in section
2 45-802.01.

3 Sec. 12. Title 45, chapter 2, article 9, Arizona Revised Statutes,
4 is amended by adding section 45-576.10, to read:

5 45-576.10. Waterlogged area; assured water supply;
6 designation

7 A. ON APPLICATION TO THE DEPARTMENT BY A CITY OR TOWN, THE DIRECTOR
8 MAY DESIGNATE A PORTION OF A CITY OR TOWN THAT IS LOCATED BOTH IN THE AREA
9 DELINEATED FOR EXEMPTION UNDER SECTION 45-411.01 AND IN THE PHOENIX ACTIVE
10 MANAGEMENT AREA AS HAVING AN ASSURED WATER SUPPLY IF ALL OF THE FOLLOWING
11 APPLY:

12 1. THE PORTION OF THE CITY OR TOWN SEEKING AN ASSURED WATER SUPPLY
13 DESIGNATION IS LOCATED ENTIRELY WITHIN AN IRRIGATION AND WATER
14 CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 19.

15 2. THE CITY OR TOWN SEEKING AN ASSURED WATER SUPPLY DESIGNATION HAS
16 CONTRACTED WITH THE IRRIGATION AND WATER CONSERVATION DISTRICT FOR A TERM
17 OF NOT LESS THAN ONE HUNDRED YEARS UNDER WHICH THE CITY OR TOWN WILL
18 RECEIVE WATER THAT THE LANDOWNERS IN THE DISTRICT HAVE THE RIGHT TO USE ON
19 THEIR LANDS AND WILL TREAT AND DELIVER THE WATER FOR EXCLUSIVE USE ON
20 IRRIGATION AND CONSERVATION DISTRICT LANDS FOR MUNICIPAL USE.

21 3. SUFFICIENT SURFACE WATER OR EFFLUENT OF AN ADEQUATE QUALITY WILL
22 BE CONTINUOUSLY AVAILABLE TO SATISFY THE PORTION OF A CITY'S OR TOWN'S
23 PROPOSED WATER NEEDS FOR NOT LESS THAN ONE HUNDRED YEARS.

24 4. THE CITY OR TOWN DEMONSTRATES THE FINANCIAL CAPABILITY TO
25 CONSTRUCT THE WATER FACILITIES, INCLUDING DELIVERY SYSTEMS, STORAGE
26 FACILITIES AND TREATMENT WORKS, THAT ARE NECESSARY TO MAKE THE SUPPLY OF
27 WATER AVAILABLE FOR THE PROPOSED USE. THE DIRECTOR MAY ACCEPT EVIDENCE OF
28 THE CONSTRUCTION ASSURANCES REQUIRED BY SECTION 9-463.01, 11-822 OR
29 32-2181 TO SATISFY THIS REQUIREMENT.

30 B. FOR THE PURPOSES OF THIS SECTION AND WITHIN AN EXEMPTION AREA
31 ESTABLISHED PURSUANT TO SECTION 45-411.01:

32 1. THE DIRECTOR MAY REVIEW THE DETERMINATION THAT A PORTION OF A
33 CITY OR TOWN HAS AN ASSURED WATER SUPPLY.

34 2. THE DIRECTOR MAY DETERMINE THAT A PORTION OF A CITY OR TOWN DOES
35 NOT HAVE AN ASSURED WATER SUPPLY.

36 Sec. 13. Section 48-3771, Arizona Revised Statutes, is amended to
37 read:

38 48-3771. District replenishment obligations; replenishment
39 location; source of replenishment; exception

40 A. For each active management area in which member lands or member
41 service areas are or may be located, the district shall replenish
42 groundwater in an amount equal to the groundwater replenishment obligation
43 for that active management area. Except as provided in section 48-3781,
44 subsection G, the district shall complete the replenishment of the
45 groundwater replenishment obligation of that active management area

1 applicable to a particular year within three full calendar years after the
2 year that the district incurs the groundwater replenishment obligation.
3 Replenishment of the groundwater replenishment obligation of an active
4 management area applicable to a particular year is complete when the
5 amount of water added to aquifers through water storage that has been
6 credited directly to the district's conservation district account pursuant
7 to title 45, chapter 3.1, plus long-term storage credits that have been
8 transferred from the district's long-term storage account to its
9 conservation district account pursuant to title 45, chapter 3.1, less the
10 groundwater replenishment obligation of member lands and member service
11 areas located in the active management area and applicable to previous
12 years, less the contract replenishment obligations relative to municipal
13 providers in the active management area for previous years and the year of
14 the calculation, equals or exceeds the groundwater replenishment
15 obligation of the active management area for that year.

16 B. With respect to the portion of the groundwater replenishment
17 obligation attributable to a parcel of member land or a member service
18 area, the district shall replenish groundwater in the active management
19 area where the parcel of member land or the member service area is located
20 in an amount equal to the groundwater replenishment obligation applicable
21 to that parcel of member land or that member service area.

22 C. Except as provided by title 45, chapter 3.1, the district may
23 replenish groundwater with central Arizona project water or water from any
24 other lawfully available source except groundwater withdrawn from within
25 an active management area.

26 D. Notwithstanding any other provision of this chapter, if a parcel
27 of member land is included in the service area of a municipal provider
28 that is not a member service area but that has been designated as having
29 an assured water supply under section 45-576, the parcel of member land
30 has no parcel replenishment obligation and the district has no groundwater
31 replenishment obligation attributable to that parcel of member land for as
32 long as the designation remains in effect.

33 E. Notwithstanding any other provision of this chapter **AND EXCEPT**
34 **AS PROVIDED IN SUBSECTION F OF THIS SECTION**, if a parcel of member land is
35 included in the service area of a municipal provider that is a member
36 service area and that has been designated as having an assured water
37 supply under section 45-576, the parcel of member land has no further
38 parcel replenishment obligation.

39 **F. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, A**
40 **MUNICIPAL PROVIDER THAT SUBMITS AN APPLICATION FOR A NEW DESIGNATION OF**
41 **ASSURED WATER SUPPLY PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF WATER**
42 **RESOURCES IN THE PHOENIX ACTIVE MANAGEMENT AREA THAT RELIES ON A MEMBER**
43 **SERVICE AREA AGREEMENT MAY ELECT FOR ALL PARCELS OF MEMBER LAND IN THE**
44 **MUNICIPAL SERVICE AREA TO RETAIN A REPLENISHMENT OBLIGATION. FOR PARCELS**
45 **OF MEMBER LAND THAT RETAIN A REPLENISHMENT OBLIGATION, THE DISTRICT SHALL**

1 REPLENISH GROUNDWATER IN AN AMOUNT EQUAL TO THE OBLIGATION APPLICABLE TO
2 THAT PARCEL OF MEMBER LAND.

3 G. IF, PURSUANT TO SUBSECTION F OF THIS SECTION, A MUNICIPAL
4 PROVIDER'S SERVICE AREA CONTAINS MEMBER LANDS AND THE MUNICIPAL PROVIDER
5 APPLIES TO BECOME DESIGNATED AS HAVING AN ASSURED WATER SUPPLY, THE
6 MUNICIPAL PROVIDER SHALL NOTIFY THE DISTRICT AND THE DIRECTOR OF THE
7 DEPARTMENT OF WATER RESOURCES AT THE TIME OF APPLICATION WHETHER IT
8 CHOOSES TO ASSUME THE MEMBER LANDS' REPLENISHMENT OBLIGATION UNDER THE
9 MUNICIPAL PROVIDER'S DESIGNATION OF ASSURED WATER SUPPLY AND MEMBER
10 SERVICE AREA AGREEMENT. THIS SECTION DOES NOT AUTHORIZE NEW MEMBER LANDS
11 TO BE ENROLLED WITHIN THE MUNICIPAL PROVIDER'S SERVICE AREA AFTER THE
12 SERVICE AREA IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.

13 H. IF A MUNICIPAL PROVIDER CHOOSES TO ALLOW PARCELS OF MEMBER LAND
14 WITHIN ITS SERVICE AREA TO RETAIN THE PARCEL REPLENISHMENT OBLIGATION
15 PURSUANT TO THIS SECTION, THE DESIGNATION OF ASSURED WATER SUPPLY AND
16 MEMBER SERVICE AREA AGREEMENT FOR THE MUNICIPAL PROVIDER SHALL PROVIDE
17 THAT THE PARCELS OF MEMBER LAND RETAIN THE PARCEL REPLENISHMENT OBLIGATION
18 FOR THE LESSER OF EITHER OF THE FOLLOWING:

19 1. TEN YEARS FROM THE DATE OF COMMENCEMENT OF THE FIRST TERM OF THE
20 DESIGNATION.

21 2. THE FIRST TERM OF THE DESIGNATION.

22 I. ON THE LESSER OF THE CONDITIONS PRESCRIBED BY SUBSECTION H OF
23 THIS SECTION, THE MUNICIPAL PROVIDER SHALL BEGIN TO ASSUME A PERCENTAGE OF
24 THE GROUNDWATER DELIVERED TO PARCELS OF MEMBER LAND AND ANY ASSOCIATED
25 PARCEL REPLENISHMENT OBLIGATION AND PROVIDE THE INFORMATION TO THE
26 DISTRICT IN THE ANNUAL REPORTS REQUIRED BY SECTION 48-3775. IN THE FIRST
27 YEAR OF REPORTING PURSUANT TO THIS SUBSECTION, THE MUNICIPAL PROVIDER MAY
28 ASSUME NOT LESS THAN TEN PERCENT OF THE TOTAL REPORTED GROUNDWATER
29 DELIVERED TO EACH PARCEL OF MEMBER LAND. IN EACH SUCCESSIVE YEAR THE
30 MUNICIPAL PROVIDER SHALL ASSUME AT LEAST AN ADDITIONAL TEN PERCENT SO THAT
31 WITHIN TEN YEARS, ALL REPORTED GROUNDWATER DELIVERED AND THE PARCEL
32 REPLENISHMENT OBLIGATION ARE ASSUMED BY THE MUNICIPAL PROVIDER AND THE
33 PARCELS OF MEMBER LAND HAVE NO FURTHER PARCEL REPLENISHMENT OBLIGATION.

34 J. AFTER A MUNICIPAL PROVIDER ASSUMES ALL GROUNDWATER DELIVERIES
35 FROM ALL PARCELS OF MEMBER LAND AS PRESCRIBED BY SUBSECTION I OF THIS
36 SECTION, THE MUNICIPAL PROVIDER SHALL CEASE SUBMITTING REPORTS TO THE
37 DISTRICT FOR PARCELS OF MEMBER LAND PURSUANT TO SECTION 48-3775 WHILE THE
38 MUNICIPAL PROVIDER'S DESIGNATION OF ASSURED WATER SUPPLY REMAINS VALID.

39 K. IF A MUNICIPAL PROVIDER ASSUMES THE PARCEL REPLENISHMENT
40 OBLIGATION OF MEMBER LANDS PURSUANT TO A DESIGNATION OF ASSURED WATER
41 SUPPLY THAT RELIES ON A MEMBER SERVICE AREA AGREEMENT, ANY GROUNDWATER
42 ALLOWANCE OR EXTINGUISHMENT CREDITS, AS PROVIDED IN RULES ADOPTED BY THE
43 DEPARTMENT OF WATER RESOURCES PURSUANT TO SECTION 45-576, ASSOCIATED WITH
44 THE MEMBER LANDS ASSUMED BY THE MUNICIPAL PROVIDER MAY BE USED AS FOLLOWS:

1 1. IF THE PARCEL REPLENISHMENT OBLIGATION AND REPORTED GROUNDWATER
2 DELIVERED TO THE MEMBER LANDS ARE ENTIRELY ASSUMED ON THE INITIAL
3 DESIGNATION OF AN ASSURED WATER SUPPLY, THE MUNICIPAL PROVIDER MAY USE THE
4 REMAINING EXTINGUISHMENT CREDITS OR GROUNDWATER ALLOWANCE ASSOCIATED WITH
5 THE MEMBER LANDS AS AUTHORIZED PURSUANT TO A MEMBER SERVICE AREA
6 AGREEMENT.

7 2. IF THE PARCEL REPLENISHMENT OBLIGATION AND REPORTED GROUNDWATER
8 DELIVERED TO THE MEMBER LANDS ARE ASSUMED IN STAGES AS PROVIDED IN
9 SUBSECTION I OF THIS SECTION, THE MUNICIPAL PROVIDER MAY USE THE
10 GROUNDWATER ALLOWANCE AND EXTINGUISHMENT CREDITS FOR THE MEMBER LANDS IN
11 THE SAME MANNER AS AUTHORIZED IN THE APPLICABLE AGREEMENT AND NOTICE OF
12 MUNICIPAL REPORTING REQUIREMENTS IF THE GROUNDWATER IS BEING REPORTED AS
13 DELIVERED TO MEMBER LANDS. THEREAFTER, THE MUNICIPAL PROVIDER MAY USE ANY
14 REMAINING EXTINGUISHMENT CREDITS OR GROUNDWATER ALLOWANCE AS AUTHORIZED
15 UNDER THE MEMBER SERVICE AREA AGREEMENT.

16 Sec. 14. Section 48-3775, Arizona Revised Statutes, is amended to
17 read:

18 48-3775. Reports

19 A. Except as provided in subsection H of this section, on or before
20 March 31 of each year after the recordation of the instrument described in
21 section 48-3774, subsection C, each municipal provider delivering water to
22 member land shall file ~~a report~~ with the district and with the director of
23 water resources **A REPORT** that contains the following information for the
24 preceding calendar year, which is the reporting year:

25 1. The amount of groundwater delivered by the municipal provider to
26 each parcel of member land, identified by the applicable tax parcel
27 number, and the basis for the calculation of the amount of groundwater
28 delivered.

29 2. The amount of groundwater delivered by the municipal provider to
30 the member land and the basis for the calculation of the amount of
31 groundwater delivered.

32 3. The amount of excess groundwater delivered by the municipal
33 provider to the member land and the basis for the calculation of the
34 amount of excess groundwater delivered.

35 4. The parcel replenishment obligation of each parcel of the member
36 land, identified by the applicable tax parcel number.

37 5. Such other information as the district may reasonably require.

38 B. On or before March 31 of each year after the qualification of a
39 municipal provider's service area as a member service area, the municipal
40 provider shall file ~~a report~~ with the district and with the director of
41 water resources **A REPORT** that contains the following information for the
42 preceding calendar year, which is the reporting year:

43 1. The amount of groundwater delivered by the municipal provider to
44 all customers within the member service area and the basis for the
45 calculation of the amount of groundwater delivered **AND, IF THE MUNICIPAL**

1 PROVIDER HAS ENTERED INTO A MEMBER SERVICE AREA AGREEMENT PURSUANT TO
2 SECTION 48-3771, SUBSECTIONS H AND I, THE AMOUNT OF GROUNDWATER DELIVERED
3 TO MEMBER LANDS AND THE PERCENTAGE OF THOSE GROUNDWATER DELIVERIES ASSUMED
4 BY THE MUNICIPAL PROVIDER.

5 2. The amount of excess groundwater delivered by the municipal
6 provider to all customers within the member service area and the basis for
7 the calculation of the amount of excess groundwater delivered.

8 3. Such other information as the district may require.

9 C. The district shall confirm the calculation of the parcel
10 replenishment obligation of each parcel of the member land and the service
11 area replenishment obligation of each member service area, using the
12 information provided in subsections A and B of this section.

13 D. To the extent allowed by the assured water supply rules adopted
14 by the department of water resources pursuant to section 45-576,
15 subsection H, in calculating the excess groundwater of a member land or a
16 member service area, the municipal provider shall reduce the amount of
17 groundwater that may be used, consistent with such rules, at a member land
18 or delivered for use within the member service area and that is not
19 derived from credits on a straight line basis over the applicable period
20 of years prescribed in such rules. The municipal provider may apply any
21 credits applicable to the member land or the member service area as
22 ~~permitted~~ ALLOWED under such rules.

23 E. The district shall prepare and file with the director of water
24 resources on or before August 31 of each year for the prior calendar year,
25 which is the reporting year, an annual report that includes the following
26 information:

27 1. The total amount of water that was stored by the district during
28 the reporting year pursuant to each water storage permit issued to it
29 under title 45, chapter 3.1.

30 2. The amount of water stored by the district during the reporting
31 year to be credited to the district's conservation district account
32 pursuant to title 45, chapter 3.1.

33 3. The amount of water stored by the district during the reporting
34 year to be credited to the district's replenishment reserve subaccount
35 pursuant to title 45, chapter 3.1.

36 4. The groundwater replenishment obligations for the reporting year
37 and for the two calendar years preceding the reporting year, and the
38 extent to which the district has completed the groundwater replenishment
39 obligations applicable to each of those years.

40 5. The information required under section 45-877.01.

41 6. The amount of water stored by the district during the reporting
42 year to be credited to the district's long-term storage account pursuant
43 to title 45, chapter 3.1.

1 7. The amount of long-term storage credits the district has
2 transferred and credited to its conservation district account pursuant to
3 title 45, chapter 3.1 during the reporting year.

4 F. The district and the municipal providers required to file
5 reports under this section shall maintain current, accurate records of the
6 information required to be included in the reports.

7 G. If a municipal provider fails to file a report as required by
8 the district, the district may assess a penalty of up to ~~one thousand~~
9 ~~dollars~~ \$1,000 per day that the report is overdue.

10 H. A municipal provider shall not file the report required by
11 subsection A of this section for a parcel of member land that is included
12 in the service area of a municipal provider that is a member service area
13 that has been designated as having an assured water supply under section
14 45-576 UNLESS THE PARCEL OF MEMBER LAND IS SUBJECT TO A MEMBER SERVICE
15 AREA AGREEMENT AS PRESCRIBED IN SECTION 48-3771, SUBSECTIONS H AND I.

16 Sec. 15. Section 48-3778, Arizona Revised Statutes, is amended to
17 read:

18 48-3778. Annual assessment; general revenue law

19 A. On or before the third Monday of August of each year after the
20 qualification of any real property as member land, the district shall
21 charge an annual replenishment assessment against each parcel of member
22 land that is subject to a parcel replenishment obligation. This charge
23 becomes a lien on the parcel and shall be collected in the same manner as
24 an ad valorem tax. The assessments shall be calculated by the district
25 pursuant to this article and shall be sufficient to produce the amount of
26 money estimated as needed to pay the costs and expenses to replenish
27 groundwater established under section 48-3772, subsection A and taking
28 into account any annual replenishment tax levied against municipal
29 providers under section 48-3781 AND ANY MEMBER SERVICE AREA AGREEMENT
30 ENTERED PURSUANT TO SECTION 48-3771, SUBSECTIONS H AND I.

31 B. The district shall promptly certify the assessments to the board
32 of supervisors of each county in which member lands are located, and these
33 boards of supervisors at the time of levying general county taxes shall
34 take the necessary steps for collection of replenishment assessments
35 against the parcels of member land within such county.

36 C. The assessment when collected shall be deposited, pursuant to
37 sections 35-146 and 35-147, in the special fund established under section
38 48-3773, subsection A, paragraph 3 to be spent by the district only for
39 the purposes authorized by this article.

40 D. All provisions of the general revenue laws for the collection of
41 taxes on real estate for county purposes apply to the collection of the
42 replenishment assessment imposed by this article, including all remedies
43 of the revenue laws for collecting delinquent taxes and provisions
44 relating to sales of real property for delinquent taxes. The exemptions

1 applicable to ad valorem taxes do not apply to assessments charged
2 pursuant to this section.

3 Sec. 16. Section 48-3780, Arizona Revised Statutes, is amended to
4 read:

5 48-3780. Qualification as a member service area; termination

6 A. The service area of a municipal provider qualifies as a member
7 service area only if all of the following apply:

8 1. The service area is located in an active management area in
9 which a part of the central Arizona project aqueduct is located.

10 2. The municipal provider is not a member of a groundwater
11 replenishment district established pursuant to chapter 27 of this title.

12 3. The service area of the municipal provider is not a water
13 district member service area under chapter 28 of this title.

14 4. If the municipal provider or its predecessor previously
15 terminated member service area status pursuant to subsection B of this
16 section, the service area or any portion of the service area has not been
17 a member service area for at least ten years. The district may waive this
18 requirement if the district and the director of water resources determine
19 that previously unforeseen circumstances necessitate requalification of
20 the service area.

21 5. If the municipal provider or its predecessor previously
22 terminated member service area status pursuant to subsection B of this
23 section, the municipal provider agrees to pay to the district all charges
24 that would have otherwise been imposed by the district had the member
25 service area status remained in effect during the period since termination
26 became effective.

27 6. If all or a portion of the service area has previously qualified
28 as a member service area, the municipal provider agrees to pay an amount
29 equal to the amount of the replenishment taxes assessed against its
30 predecessor that were not paid, plus interest calculated in accordance
31 with section 48-3782, subsection A.

32 7. The conditions stated in section 45-576.01, subsection B,
33 paragraphs 2 and 3 are satisfied with respect to the district at the time
34 of the qualification.

35 8. The municipal provider publishes a resolution once each week for
36 two consecutive weeks in a newspaper of general circulation in the county
37 or counties where the service area is located that:

38 (a) Has attached to it a current map of the municipal provider's
39 service area.

40 (b) Declares the intent of the municipal provider that the service
41 area qualify as a member service area under this chapter.

42 (c) Declares that, for the privilege of withdrawing and delivering
43 excess groundwater within its service area and to ensure the continued
44 exercise of that privilege, the municipal provider shall pay an annual
45 replenishment tax to be determined by the district.

1 (d) Contains a covenant, binding against the municipal provider, to
2 pay to the district an annual replenishment tax based on the service area
3 replenishment obligation in an amount determined by the district as
4 necessary to allow the district to perform the groundwater replenishment
5 obligations.

6 (e) Authorizes the municipal provider to enter into a written
7 commitment with the district in the form and substance satisfactory to the
8 district regarding payment of the annual replenishment tax.

9 (f) Declares that the resolution applies to the service area of the
10 municipal provider as it currently exists and to all additions to and
11 extensions of the service area.

12 (g) Declares that the resolution is irrevocable for as long as the
13 district is obligated to perform the groundwater replenishment
14 obligations.

15 (h) IF APPLICABLE, DECLARES THAT THE MUNICIPAL PROVIDER HAS ELECTED
16 TO HAVE PARCELS OF MEMBER LAND WITHIN THE MEMBER SERVICE AREA OF THE
17 MUNICIPAL PROVIDER RETAIN THE PARCEL REPLENISHMENT OBLIGATIONS AS
18 AUTHORIZED PURSUANT TO SECTION 48-3771, SUBSECTIONS H AND I.

19 B. A service area previously accepted as a member service area
20 pursuant to subsection A of this section terminates its member service
21 area status only if all of the following apply:

22 1. The municipal provider for the member service area has submitted
23 an application to the district requesting termination of member service
24 area status.

25 2. The municipal provider for the member service area has submitted
26 an application to the director of water resources requesting modification
27 of the municipal provider's assured water supply designation under section
28 45-576 that eliminates the municipal provider's reliance on member service
29 area status.

30 3. The applications provide evidence satisfactory to the director
31 of water resources that the municipal provider has obtained a substitute
32 supply of water, other than groundwater, that is determined by the
33 director of water resources to be consistent with assured water supply
34 requirements pursuant to section 45-576 and that is sufficient to
35 eliminate the municipal provider's reliance on member service area status.

36 4. The director of water resources has approved the municipal
37 provider's application to modify its assured water supply designation
38 based on the addition of the substitute water supply.

39 5. The municipal provider publishes a resolution once each week for
40 two consecutive weeks in a newspaper of general circulation in the county
41 or counties where the service area is located that:

42 (a) Has attached to it a current map of the municipal provider's
43 service area.

1 (b) Declares the intent of the municipal provider to terminate the
2 service area's member service area status.

3 (c) Declares that the district is no longer obligated to perform
4 the groundwater replenishment obligations on behalf of the service area.

5 (d) Revokes the resolution for the member service area provided for
6 in subsection A, paragraph 7 of this section.

7 6. All amounts owed by the water provider on behalf of the member
8 service area to the district have been paid.

9 7. The municipal provider has paid or made arrangements suitable to
10 the district for repayment of any capital costs incurred by the district
11 specifically on behalf of the member service area.

12 Sec. 17. Section 48-3781, Arizona Revised Statutes, is amended to
13 read:

14 48-3781. Annual replenishment tax; contract replenishment tax

15 A. On or before the third Monday of August of each year after the
16 qualification of the member service area of any municipal provider, the
17 district shall levy a replenishment tax against each municipal provider
18 having a qualified member service area for the privilege of withdrawing
19 and delivering excess groundwater within the member service area. The
20 replenishment tax shall be calculated by the district in accordance with
21 this article and shall be sufficient to produce the amount of money
22 estimated as needed to pay the costs and expenses to replenish groundwater
23 established under section 48-3772, subsection A, and taking into account
24 any annual replenishment assessment levied under section 48-3778 **AND ANY**
25 **MEMBER SERVICE AREA AGREEMENT ENTERED PURSUANT TO SECTION 48-3771,**
26 **SUBSECTIONS H AND I.**

27 B. The district shall promptly transmit a statement to each
28 municipal provider having a member service area stating the amount of the
29 annual replenishment tax and any replenishment reserve fee due under
30 section 48-3780.01.

31 C. On or before the third Monday of August of each year after the
32 district enters into any contract to replenish water pursuant to section
33 48-3772, subsection B, paragraph 9, the district shall levy a tax against
34 each municipal provider that is a party to a contract to replenish
35 groundwater at the assessment rate provided in the applicable contract.
36 The district shall promptly transmit a statement to each municipal
37 provider that is a party to a contract to replenish groundwater stating
38 the amount of the replenishment tax due under the contract.

39 D. On or before October 15 of each year, each municipal provider
40 that has a member service area shall pay to the district an amount equal
41 to the annual replenishment tax levied by the district and any
42 replenishment reserve fee due under section 48-3780.01.

1 E. On or before October 15 of each year, each municipal provider
2 that is a party to a contract to replenish groundwater under section
3 48-3772, subsection B, paragraph 9 shall pay to the district the contract
4 replenishment tax levied by the district pursuant to the contract.

5 F. Annual replenishment taxes and contract replenishment taxes
6 collected by the district shall be deposited, pursuant to sections 35-146
7 and 35-147, in the special fund established pursuant to section 48-3773,
8 subsection A, paragraph 3 and shall be expended by the district only for
9 the purposes authorized by this article.

10 G. If a municipal provider is delinquent for more than ninety days
11 in the payment of its replenishment tax, the district shall promptly
12 notify the director of water resources of the delinquency. Except as
13 provided in subsection H of this section, for any municipal provider that
14 is delinquent for more than ninety days in the payment of its
15 replenishment tax, the district shall complete the replenishment of the
16 service area replenishment obligation. The district shall complete that
17 obligation within three full calendar years after the year that the
18 district is paid an amount equal to the delinquent replenishment tax, plus
19 interest calculated in accordance with section 48-3782, subsection A, or
20 within ten full calendar years after the year that the district incurs the
21 service area replenishment obligation, whichever is sooner.

22 H. The district is not required to complete the replenishment of
23 the service area obligation of a municipal provider that is delinquent for
24 more than ninety days in the payment of its replenishment tax if both of
25 the following apply:

26 1. The district is not paid an amount equal to the delinquent
27 replenishment tax, plus interest calculated in accordance with section
28 48-3782, subsection A, within ten full calendar years after the year that
29 the district incurs the service area replenishment obligation.

30 2. The municipal provider or its successor has violated section
31 45-492, subsection D or section 45-493, subsection D and the director of
32 water resources has not commenced an enforcement action against the
33 municipal provider or its successor for the violation within ten full
34 calendar years after the year that the district incurs the service area
35 replenishment obligation.

36 Sec. 18. Rules; department of water resources; extinguishment
37 credits; groundwater allowance; member land

38 On or before January 1, 2025, the department of water resources
39 shall amend rules adopted pursuant to section 45-576, Arizona Revised
40 Statutes, as amended by this act, for the incorporation of extinguishment
41 credits and groundwater allowance associated with member lands in a
42 designation of assured water supply consistent with section 48-3771,
43 Arizona Revised Statutes, as amended by this act.

1 Sec. 19. Exemption from rulemaking

2 Notwithstanding any other law, for the purposes of section 45-554,
3 Arizona Revised Statutes, as amended by this act, the department of water
4 resources is exempt from the rulemaking requirements of title 41, chapter
5 6, Arizona Revised Statutes, for one year after the effective date of this
6 act.

7 (ENACTED WITHOUT THE EMERGENCY)

8 Sec. 20. Emergency

9 This act is an emergency measure that is necessary to preserve the
10 public peace, health or safety and is operative immediately as provided by
11 law.