

~~physical availability credits; water supply~~
(now: land division; water; transportation; turf)

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1172

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 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; RELATING TO GROUNDWATER.

(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 jurisdiction.
12 The building permit shall be filed with the board of supervisors or its
13 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 AS DEFINED IN SECTION 44-1522 WITH RESPECT
22 TO 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. WITHIN A REASONABLE TIME BEFORE OR AFTER THE LAND IS RETIRED,
13 THE PERSON APPLIES TO THE DIRECTOR TO PERMANENTLY RELINQUISH ALL OR A
14 PORTION OF THE IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL
15 AVAILABILITY EXEMPTION CREDIT.

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

18 B. IN AN INITIAL ACTIVE MANAGEMENT AREA WITH A MANAGEMENT GOAL OF
19 SAFE-YIELD, THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED
20 ANNUALLY PER ACRE PURSUANT TO THIS SECTION SHALL BE THE LESSER OF EITHER
21 OF THE FOLLOWING:

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

25 2. EITHER:

26 (a) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED ON OR
27 BEFORE DECEMBER 31, 2035, TWO ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
28 PORTION OF THE FARM.

29 (b) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED ON OR
30 AFTER JANUARY 1, 2036, ONE AND FIVE-TENTHS OF AN ACRE-FOOT PER IRRIGATION
31 ACRE IN THE FARM OR PORTION OF THE FARM.

32 C. IN AN INITIAL ACTIVE MANAGEMENT AREA THAT DOES NOT HAVE A
33 MANAGEMENT GOAL OF SAFE-YIELD OR A SUBSEQUENT ACTIVE MANAGEMENT AREA, THE
34 VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED ANNUALLY PER ACRE
35 PURSUANT TO THIS SECTION SHALL BE THE LESSER OF ANY OF THE FOLLOWING:

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

39 2. FIFTY PERCENT OF THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN
40 ANNUALLY PER ACRE PURSUANT TO THE HOLDER'S IRRIGATION GRANDFATHERED RIGHT.

41 3. EITHER:

42 (a) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED ON OR
43 BEFORE DECEMBER 31, 2035, TWO ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
44 PORTION OF THE FARM.

1 (b) IF THE IRRIGATION GRANDFATHERED RIGHT IS RELINQUISHED ON OR
2 AFTER JANUARY 1, 2036, ONE AND FIVE-TENTHS OF AN ACRE-FOOT PER IRRIGATION
3 ACRE IN THE FARM OR PORTION OF THE FARM.

4 D. THE DIRECTOR SHALL IDENTIFY ALL OF THE FOLLOWING WHEN ISSUING A
5 PHYSICAL AVAILABILITY EXEMPTION CREDIT:

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

8 2. THE NUMBER AND LOCATION OF THE ACRES THAT ARE ASSOCIATED WITH
9 THE RELINQUISHMENT.

10 3. THE WELLS THAT HAVE BEEN USED TO SERVE THE IRRIGATION
11 GRANDFATHERED RIGHT.

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

14 5. THE DIRECTOR'S DETERMINATION WHETHER THE CRITERIA PRESCRIBED IN
15 SUBSECTION E, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
16 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
17 PROJECTION. THIS DETERMINATION SHALL BE APPLIED TO AN ASSURED WATER
18 SUPPLY APPLICATION THAT IS SUBMITTED TO THE DEPARTMENT WITHIN TWO YEARS
19 AFTER THE DATE THE PHYSICAL AVAILABILITY EXEMPTION CREDIT IS ISSUED AND
20 SHALL REMAIN VALID UNTIL THE DIRECTOR MAKES A FINAL DECISION ON THE
21 ASSURED WATER SUPPLY APPLICATION.

22 E. ON REQUEST OF THE HOLDER OF A PHYSICAL AVAILABILITY EXEMPTION
23 CREDIT FOR PURPOSES OF AN APPLICATION FOR AN ASSURED WATER SUPPLY, THE
24 VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SUBSECTION B OR C OF THIS
25 SECTION SHALL BE EXEMPT FROM THE REQUIREMENT TO DEMONSTRATE THAT THE
26 GROUNDWATER SUPPLY IS PHYSICALLY AVAILABLE IN ACCORDANCE WITH
27 SECTION 45-576 IF ALL OF THE FOLLOWING APPLY:

28 1. THE PROPOSED GROUNDWATER USE ASSOCIATED WITH AN APPLICATION FOR
29 AN ASSURED WATER SUPPLY IS ON ONE OR MORE OF THE FOLLOWING LOCATIONS:

30 (a) THE RETIRED IRRIGATION ACRES.

31 (b) LAND WITHIN ONE MILE OF THE EXTERIOR BOUNDARY OF THE RETIRED
32 IRRIGATION ACRES. FOR THE PURPOSES OF THIS SUBDIVISION, IF A PORTION OF A
33 PARCEL OF LAND IS WITHIN ONE MILE OF THE EXTERIOR BOUNDARY, THE ENTIRE
34 PARCEL SHALL BE INCLUDED.

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

37 (a) WELLS THAT WERE USED TO SERVE THE IRRIGATION GRANDFATHERED
38 RIGHT.

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

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

42 (d) WELLS LOCATED WITHIN ONE MILE OF THE ACRES ASSOCIATED WITH THE
43 RELINQUISHMENT.

44 3. THE APPLICANT DEMONSTRATES, USING A METHOD OF ANALYSIS APPROVED
45 BY THE DIRECTOR, THAT GROUNDWATER CAN BE WITHDRAWN TO SERVE THE PROPOSED

1 USE FOR ONE HUNDRED YEARS WITHOUT EXCEEDING THE DEPTH OF THE AQUIFER OR
2 THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL AS PRESCRIBED BY SUBSECTION L
3 OF THIS SECTION, WHICHEVER IS LESS. FOR THE PURPOSES OF THIS
4 DEMONSTRATION:

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

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

13 F. ON REQUEST FROM THE HOLDER OF AN IRRIGATION GRANDFATHERED RIGHT,
14 THE DIRECTOR SHALL MAKE A DETERMINATION TO GRANT A PHYSICAL AVAILABILITY
15 EXEMPTION CREDIT WITHIN AN OVERALL TIME FRAME OF NINETY DAYS PURSUANT TO
16 THE LICENSING TIME FRAMES PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1.
17 THE OVERALL TIME FRAME SHALL INCLUDE THIRTY DAYS FOR AN ADMINISTRATIVE
18 COMPLETENESS REVIEW AND SIXTY DAYS FOR A SUBSTANTIVE REVIEW. THE TIME
19 FRAME MAY BE EXTENDED BY MUTUAL AGREEMENT AS PRESCRIBED BY SECTION
20 41-1075.

21 G. BEFORE THE DIRECTOR ISSUES A PHYSICAL AVAILABILITY EXEMPTION
22 CREDIT, THE DIRECTOR SHALL NOTIFY THE HOLDER OF THE IRRIGATION
23 GRANDFATHERED RIGHT IN WRITING WHETHER THE CRITERION PRESCRIBED IN
24 SUBSECTION E, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
25 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
26 PROJECTION AND REQUEST WRITTEN CONFIRMATION THAT THE HOLDER OF THE
27 IRRIGATION GRANDFATHERED RIGHT WOULD LIKE TO PROCEED WITH THE
28 RELINQUISHMENT.

29 H. ON NOTICE TO THE DIRECTOR BY THE HOLDER OF A PHYSICAL
30 AVAILABILITY EXEMPTION CREDIT, SOME OR ALL OF THE CREDIT MAY BE ASSIGNED
31 TO A MUNICIPAL PROVIDER OR TO A SUBSEQUENT OWNER OF THE LAND ASSOCIATED
32 WITH THE RELINQUISHMENT.

33 I. IF ONLY A PORTION OF A PHYSICAL AVAILABILITY EXEMPTION CREDIT IS
34 APPLIED TO A CERTIFICATE OF ASSURED WATER SUPPLY OR A DESIGNATION OF
35 ASSURED WATER SUPPLY ISSUED PURSUANT TO SECTION 45-576, THE DIRECTOR SHALL
36 IDENTIFY THE VOLUMES REMAINING FOR THE PHYSICAL AVAILABILITY EXEMPTION
37 CREDIT.

38 J. AFTER THE ISSUANCE OF A CERTIFICATE OF ASSURED WATER SUPPLY
39 BASED ON A PHYSICAL AVAILABILITY EXEMPTION CREDIT, IF A MUNICIPAL PROVIDER
40 THAT SERVES LAND ASSOCIATED WITH THE RELINQUISHMENT BECOMES A DESIGNATED
41 PROVIDER, THE PHYSICAL AVAILABILITY EXEMPTION CREDIT ASSOCIATED WITH THE
42 CERTIFICATE SHALL BE USED TO SUPPORT THE DESIGNATION.

43 K. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
44 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
45 THE DIRECTOR PURSUANT TO THIS SECTION.

1 L. FOR THE PURPOSES OF SEEKING AN EXEMPTION FROM THE PHYSICAL
2 AVAILABILITY REQUIREMENT FOR AN ASSURED WATER SUPPLY AS PRESCRIBED BY
3 SUBSECTION E OF THIS SECTION, THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL
4 FOR EACH ACTIVE MANAGEMENT AREA SHALL BE:

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

7 2. IN ALL OTHER ACTIVE MANAGEMENT AREAS, ONE THOUSAND FEET BELOW
8 LAND SURFACE.

9 M. FOR THE PURPOSES OF THIS SECTION:

10 1. "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION
11 45-561.

12 2. "WELL" INCLUDES A REPLACEMENT WELL AS PRESCRIBED IN SECTIONS
13 45-597 AND 45-598.

14 Sec. 8. Title 45, chapter 2, article 9, Arizona Revised Statutes,
15 is amended by adding section 45-563.03, to read:

16 45-563.03. Turf and plant installation; prohibition;
17 exception; definitions

18 A. ON OR AFTER JANUARY 1, 2026, A MUNICIPAL PROVIDER MAY NOT APPLY
19 POTABLE WATER ON NONFUNCTIONAL TURF THAT IS INSTALLED AS PART OF A NEW
20 DEVELOPMENT PROJECT OR REDEVELOPMENT PROJECT ON ANY PORTION OF APPLICABLE
21 PROPERTY WITHIN AN INITIAL ACTIVE MANAGEMENT AREA.

22 B. THIS SECTION DOES NOT:

23 1. PRECLUDE A MUNICIPALITY FROM ADOPTING REQUIREMENTS THAT ARE MORE
24 RESTRICTIVE THAN THE REQUIREMENTS REGARDING APPLYING POTABLE WATER ON
25 NONFUNCTIONAL TURF.

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

27 C. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY LOCATED IN AN
28 INITIAL ACTIVE MANAGEMENT AREA MAY NOT ADOPT OR ENFORCE ANY REQUIREMENT
29 THAT ESTABLISHES, DIRECTLY OR INDIRECTLY, ANY OF THE FOLLOWING:

30 1. MINIMUM TURF REQUIREMENTS, EXCEPT FOR FUNCTIONAL TURF
31 REQUIREMENTS THAT ARE ASSOCIATED WITH PUBLIC RECREATIONAL USE AREAS OR
32 OTHER PUBLIC SPACE THAT IS REGULARLY USED FOR CIVIC, COMMUNITY OR
33 RECREATIONAL PURPOSES, INCLUDING PLAYGROUNDS, SPORTS FIELDS, CEMETERIES,
34 SCHOOLYARDS AND STORMWATER MANAGEMENT.

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

39 D. FOR THE PURPOSES OF THIS SECTION:

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

41 (a) COMMERCIAL PROPERTY, INSTITUTIONAL PROPERTY OR INDUSTRIAL
42 PROPERTY.

- 1 (b) HOMEOWNERS' ASSOCIATION PROPERTY.
2 (c) A STREET RIGHT-OF-WAY, PARKING LOT, MEDIAN OR TRANSPORTATION
3 CORRIDOR.
- 4 2. "COMMERCIAL PROPERTY" MEANS PROPERTY THAT IS USED TO PROVIDE OR
5 DISTRIBUTE GOODS OR SERVICES.
- 6 3. "FUNCTIONAL TURF" MEANS TURF THAT IS IN A RECREATIONAL USE AREA
7 OR OTHER SPACE THAT IS REGULARLY USED FOR CIVIC, COMMUNITY OR RECREATIONAL
8 PURPOSES, INCLUDING PLAYGROUNDS, SPORTS FIELDS, CEMETERIES AND
9 SCHOOLYARDS.
- 10 4. "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION AS DEFINED IN
11 SECTION 33-1202 OR 33-1802.
- 12 5. "INDUSTRIAL PROPERTY":
13 (a) MEANS PROPERTY THAT IS PRIMARILY USED FOR MANUFACTURING OR
14 PROCESSING MATERIALS.
15 (b) INCLUDES PROPERTY THAT IS PRIMARILY USED FOR RESEARCH AND
16 DEVELOPMENT.
- 17 6. "INSTITUTIONAL PROPERTY" MEANS PROPERTY THAT IS DEDICATED TO
18 PUBLIC SERVICE, INCLUDING HIGHER EDUCATION INSTITUTIONS, SCHOOLS, COURTS,
19 CHURCHES, HOSPITALS, GOVERNMENT FACILITIES AND NONPROFIT RESEARCH
20 INSTITUTIONS.
- 21 7. "NEW DEVELOPMENT PROJECT":
22 (a) MEANS A NEW CONSTRUCTION PROJECT THAT REQUIRES A BUILDING OR
23 LANDSCAPING PERMIT, PLAN CHECK OR DESIGN REVIEW.
24 (b) INCLUDES NEW CONSTRUCTION PROJECTS AT INSTITUTIONAL PROPERTIES
25 THAT ARE NOT SUBJECT TO LOCAL PERMITTING REQUIREMENTS.
- 26 8. "NONFUNCTIONAL TURF":
27 (a) MEANS ALL TURF THAT IS NOT FUNCTIONAL TURF.
28 (b) INCLUDES:
29 (i) TURF THAT IS LOCATED IN A STREET RIGHT-OF-WAY, PARKING LOT OR
30 MEDIAN.
31 (ii) TURF THAT IS ENCLOSED BY FENCING OR OTHER BARRIERS TO
32 PERMANENTLY PRECLUDE HUMAN ACCESS FOR RECREATION OR ASSEMBLY.
33 (c) DOES NOT INCLUDE TURF THAT IS USED FOR STORMWATER MANAGEMENT.
- 34 9. "REDEVELOPMENT PROJECT":
35 (a) MEANS A CONSTRUCTION PROJECT THAT REQUIRES A BUILDING OR
36 LANDSCAPING PERMIT, PLAN CHECK OR DESIGN REVIEW AND THAT RESULTS IN A
37 DISTURBANCE OF MORE THAN FIFTY PERCENT OF THE PARCEL OR PARCELS ON WHICH
38 THE CONSTRUCTION PROJECT OCCURS.
39 (b) INCLUDES CONSTRUCTION PROJECTS AT INSTITUTIONAL PROPERTIES THAT
40 ARE NOT SUBJECT TO LOCAL PERMITTING REQUIREMENTS AND THAT RESULT IN A
41 DISTURBANCE OF MORE THAN FIFTY PERCENT OF THE PARCEL OR PARCELS ON WHICH
42 THE CONSTRUCTION PROJECT OCCURS.

1 Sec. 9. Section 45-576, Arizona Revised Statutes, is amended to
2 read:

3 45-576. Certificate of assured water supply; designated
4 cities, towns and private water companies;
5 exemptions; definition

6 A. Except as provided in subsections G and J of this section, a
7 person who proposes to offer subdivided lands, as defined in section
8 32-2101, for sale or lease in an active management area shall apply for
9 and obtain a certificate of assured water supply from the director before
10 presenting the plat for approval to the city, town or county in which the
11 land is located, where such is required, and before filing with the state
12 real estate commissioner a notice of intention to offer such lands for
13 sale or lease, pursuant to section 32-2181, unless the subdivider has
14 obtained a written commitment of water service for the subdivision from a
15 city, town or private water company designated as having an assured water
16 supply pursuant to this section.

17 B. Except as provided in subsections G and J of this section, a
18 city, town or county may approve a subdivision plat only if the subdivider
19 has obtained a certificate of assured water supply from the director or
20 the subdivider has obtained a written commitment of water service for the
21 subdivision from a city, town or private water company designated as
22 having an assured water supply pursuant to this section. The city, town
23 or county shall note on the face of the approved plat that a certificate
24 of assured water supply has been submitted with the plat or that the
25 subdivider has obtained a written commitment of water service for the
26 proposed subdivision from a city, town or private water company designated
27 as having an assured water supply pursuant to this section.

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

32 1. The subdivider, owner or agent has paid any activation fee
33 required under section 48-3772, subsection A, paragraph 7 and any
34 replenishment reserve fee required under section 48-3774.01, subsection A,
35 paragraph 2 and has obtained a certificate of assured water supply from
36 the director.

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

42 D. The director shall designate private water companies in active
43 management areas that have an assured water supply. If a city or town
44 acquires a private water company that has contracted for central Arizona

1 project water, the city or town shall assume the private water company's
2 contract for central Arizona project water.

3 E. The director shall designate cities and towns in active
4 management areas where an assured water supply exists. If a city or town
5 has entered into a contract for central Arizona project water, the city or
6 town is deemed to continue to have an assured water supply until December
7 31, 1997. Commencing on January 1, 1998, the determination that the city
8 or town has an assured water supply is subject to review by the director
9 and the director may determine that a city or town does not have an
10 assured water supply.

11 F. The director shall notify the mayors of all cities and towns in
12 active management areas and the chairmen of the boards of supervisors of
13 counties in which active management areas are located of the cities, towns
14 and private water companies designated as having an assured water supply
15 and any modification of that designation within thirty days ~~of~~ AFTER the
16 designation or modification. If the service area of the city, town or
17 private water company has qualified as a member service area pursuant to
18 title 48, chapter 22, article 4, the director shall also notify the
19 conservation district of the designation or modification and shall report
20 the projected average annual replenishment obligation for the member
21 service area based on the projected and committed average annual demand
22 for water within the service area during the effective term of the
23 designation or modification subject to any limitation in an agreement
24 between the conservation district and the city, town or private water
25 company. For each city, town or private water company that qualified as a
26 member service area under title 48, chapter 22 and THAT was designated as
27 having an assured water supply before January 1, 2004, the director shall
28 report to the conservation district on or before January 1, 2005 the
29 projected average annual replenishment obligation based on the projected
30 and committed average annual demand for water within the service area
31 during the effective term of the designation subject to any limitation in
32 an agreement between the conservation district and the city, town or
33 private water company. Persons proposing to offer subdivided lands served
34 by those designated cities, towns and private water companies for sale or
35 lease are exempt from applying for and obtaining a certificate of assured
36 water supply.

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

41 H. The director shall adopt rules to carry out the purposes of this
42 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
43 reduction in water demand for an application for a designation of assured
44 water supply or a certificate of assured water supply if a gray water
45 reuse system will be installed that meets the requirements of the rules

1 adopted by the department of environmental quality for gray water systems
2 and if the application is for a certificate of assured water supply, the
3 land for which the certificate is sought must qualify as a member land in
4 a conservation district pursuant to title 48, chapter 22, article 4. For
5 the purposes of this subsection, "gray water" has the same meaning
6 prescribed in section 49-201.

7 I. If the director designates a municipal provider as having an
8 assured water supply under this section and the designation lapses or
9 otherwise terminates while the municipal provider's service area is a
10 member service area of a conservation district, the municipal provider or
11 its successor shall continue to comply with the consistency with
12 management goal requirements in the rules adopted by the director under
13 subsection H of this section as if the designation was still in effect
14 with respect to the municipal provider's designation uses. When
15 determining compliance by the municipal provider or its successor with the
16 consistency with management goal requirements in the rules, the director
17 shall consider only water delivered by the municipal provider or its
18 successor to the municipal provider's designation uses. A person is the
19 successor of a municipal provider if the person commences water service to
20 uses that were previously designation uses of the municipal provider. Any
21 groundwater delivered by the municipal provider or its successor to the
22 municipal provider's designation uses in excess of the amount allowed
23 under the consistency with management goal requirements in the rules shall
24 be considered excess groundwater for purposes of title 48, chapter 22.
25 For the purposes of this subsection, "designation uses" means all water
26 uses served by a municipal provider on the date the municipal provider's
27 designation of assured water supply lapses or otherwise terminates and all
28 recorded lots within the municipal provider's service area that were not
29 being served by the municipal provider on that date but that received
30 final plat approval from a city, town or county on or before that date.
31 Designation uses do not include industrial uses served by an irrigation
32 district under section 45-497.

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

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

40 2. The director has not revoked the certificate of assured water
41 supply described in paragraph 1 of this subsection, and proceedings to
42 revoke the certificate are not pending before the department or a court.
43 The department shall post on its website a list of all certificates of
44 assured water supply that have been revoked or for which proceedings are
45 pending before the department or a court.

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

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

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

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

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

17 L. On or before December 31, 2023, the director shall study and
18 submit to the governor, president of the senate and speaker of the house
19 of representatives a report on whether and how a person that seeks a
20 building permit for six or more residences within an active management
21 area, without regard to any proposed lease term for those residences,
22 should apply for and obtain a certificate of assured water supply from the
23 director before presenting the permit application for approval to the
24 county in which the land is located, unless the applicant has obtained a
25 written commitment of water service for the residences from a city, town
26 or private water company designated as having an assured water supply
27 pursuant to this section.

28 M. FOR THE PURPOSES OF THIS SECTION, THE DIRECTOR SHALL FIND THAT
29 THE VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SECTION 45-465.05,
30 SUBSECTION B OR C IS EXEMPT FROM THE PHYSICAL AVAILABILITY REQUIREMENT FOR
31 AN ASSURED WATER SUPPLY IF THE VOLUME OF GROUNDWATER CALCULATED PURSUANT
32 TO SECTION 45-465.05, SUBSECTION B OR C MEETS THE REQUIREMENTS PRESCRIBED
33 BY SECTION 45-465.05, SUBSECTION E.

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

36 1. Sufficient groundwater, surface water or effluent of adequate
37 quality will be continuously available to satisfy the water needs of the
38 proposed use for at least one hundred years. Beginning January 1 of the
39 calendar year following the year in which a groundwater replenishment
40 district is required to submit its preliminary plan pursuant to section
41 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
42 a member of the district, "sufficient groundwater" for the purposes of
43 this paragraph means that the proposed groundwater withdrawals that the
44 applicant will cause over a period of one hundred years will be of
45 adequate quality and will not exceed, in combination with other

1 withdrawals from land in the replenishment district, a depth to water of
2 one thousand feet or the depth of the bottom of the aquifer, whichever is
3 less. In determining depth to water for the purposes of this paragraph,
4 the director shall consider the combination of:

5 (a) The existing rate of decline.

6 (b) The proposed withdrawals.

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

10 2. The projected groundwater use is consistent with the management
11 plan and achievement of the management goal for the active management
12 area.

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

19 Sec. 10. Section 45-576.08, Arizona Revised Statutes, is amended to
20 read:

21 45-576.08. Pinal active management area; assured water
22 supply; physical availability; exemption;
23 definitions

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

26 1. **EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION**, if the total
27 volume of groundwater and stored water to be recovered outside the area of
28 impact of storage sought to be included in the designation does not exceed
29 the total volume of those sources of water included in the previous
30 designation minus the sum of the volume of groundwater actually withdrawn
31 and the volume of stored water recovered outside the area of impact of
32 storage by the applicant since issuance of the previous designation order:

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

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

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

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

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

4 (b) Stored water that is to be recovered by the applicant within
5 the area of impact of storage either on an annual basis pursuant to
6 section 45-851.01 or as long-term storage credits to be earned in the
7 future if the water to be stored meets the physical availability
8 requirements for the water supply under rules adopted pursuant to section
9 45-576, subsection H.

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

13 ~~B.~~ C. For the purposes of this section:

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

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

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

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

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

26 3. "Stored water" has the same meaning prescribed in section
27 45-802.01.