

REFERENCE TITLE: residential lease community; water; requirements

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

HB 2025

Introduced by
Representative Griffin

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-469; AMENDING TITLE 11, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-324; AMENDING SECTIONS 32-2101, 45-576, 48-3772 AND 48-3774, ARIZONA REVISED STATUTES; RELATING TO REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6.4, Arizona Revised
3 Statutes, is amended by adding section 9-469, to read:

4 9-469. Residential lease communities; building permits; water
5 supply; applicability; definition

6 A. THE LEGISLATIVE BODY OF A MUNICIPALITY MAY NOT APPROVE A
7 BUILDING PERMIT FOR ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT
8 ARE LOCATED IN A RESIDENTIAL LEASE COMMUNITY WITHIN AN INITIAL ACTIVE
9 MANAGEMENT AREA UNLESS BOTH OF THE FOLLOWING APPLY:

10 1. THE RESIDENTIAL DWELLING UNITS HAVE OBTAINED A WRITTEN
11 COMMITMENT OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY
12 THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY OR ARE LOCATED ON A
13 PARCEL OF LAND THAT HAS QUALIFIED AS MEMBER LAND PURSUANT TO SECTION
14 48-3774.

15 2. THE APPLICANT HAS PAID ALL APPLICABLE FEES PURSUANT TO SECTIONS
16 48-3772 AND 48-3774.01 AND HAS ATTACHED TO THE BUILDING PERMIT APPLICATION
17 PROOF THAT THE APPLICABLE FEES HAVE BEEN PAID.

18 B. THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL NOTE ON THE FACE
19 OF THE BUILDING PERMIT THAT THE APPLICANT HAS COMPLIED WITH SUBSECTION A
20 OF THIS SECTION OR IS EXEMPT FROM THIS SECTION PURSUANT TO SUBSECTION C OF
21 THIS SECTION.

22 C. THIS SECTION DOES NOT APPLY TO AN EXISTING RESIDENTIAL LEASE
23 COMMUNITY OR PLANNED RESIDENTIAL LEASE COMMUNITY THAT APPLIED FOR OR THAT
24 RECEIVED ZONING ENTITLEMENTS ON OR BEFORE SEPTEMBER 30, 2024.

25 D. FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL LEASE COMMUNITY":

26 1. MEANS SIX OR MORE DETACHED RESIDENTIAL DWELLING UNITS ON ONE OR
27 MORE LOTS, PARCELS OR FRACTIONAL INTERESTS, WITHOUT REGARD TO THE ZONING
28 CLASSIFICATION OF THE LOTS, PARCELS OR FRACTIONAL INTERESTS, THAT ARE
29 INTENDED TO BE OFFERED FOR THE PURPOSE OF LEASE, WHETHER IMMEDIATE OR
30 FUTURE, WITHOUT REGARD TO THE LEASE TERM, UNDER A COMMON PROMOTIONAL PLAN
31 AS DEFINED IN SECTION 32-2101.

32 2. DOES NOT INCLUDE THE CONSTRUCTION, PROVISION OR LEASING OF
33 RESIDENTIAL STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE
34 EXEMPT FROM TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION
35 11-865, SUBSECTION A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF
36 HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

37 Sec. 2. Title 11, chapter 2, article 9, Arizona Revised Statutes,
38 is amended by adding section 11-324, to read:

39 11-324. Residential lease communities; building permits;
40 water supply; applicability; definition

41 A. THE BOARD OF SUPERVISORS MAY NOT APPROVE A BUILDING PERMIT FOR
42 ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE LOCATED IN A
43 RESIDENTIAL LEASE COMMUNITY WITHIN AN INITIAL ACTIVE MANAGEMENT AREA
44 UNLESS BOTH OF THE FOLLOWING APPLY:

1 1. THE RESIDENTIAL DWELLING UNITS HAVE OBTAINED A WRITTEN
2 COMMITMENT OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY
3 THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY OR ARE LOCATED ON A
4 PARCEL OF LAND THAT HAS QUALIFIED AS MEMBER LAND PURSUANT TO SECTION
5 48-3774.

6 2. THE APPLICANT HAS PAID ALL APPLICABLE FEES PURSUANT TO SECTIONS
7 48-3772 AND 48-3774.01 AND HAS ATTACHED TO THE BUILDING PERMIT APPLICATION
8 PROOF THAT THE APPLICABLE FEES HAVE BEEN PAID.

9 B. THE BOARD OF SUPERVISORS SHALL NOTE ON THE FACE OF THE BUILDING
10 PERMIT THAT THE APPLICANT HAS COMPLIED WITH SUBSECTION A OF THIS SECTION
11 OR IS EXEMPT FROM THIS SECTION PURSUANT TO SUBSECTION C OF THIS SECTION.

12 C. THIS SECTION DOES NOT APPLY TO AN EXISTING RESIDENTIAL LEASE
13 COMMUNITY OR PLANNED RESIDENTIAL LEASE COMMUNITY THAT APPLIED FOR OR THAT
14 RECEIVED ZONING ENTITLEMENTS ON OR BEFORE SEPTEMBER 30, 2024.

15 D. FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL LEASE COMMUNITY":

16 1. MEANS SIX OR MORE DETACHED RESIDENTIAL DWELLING UNITS ON ONE OR
17 MORE LOTS, PARCELS OR FRACTIONAL INTERESTS, WITHOUT REGARD TO THE ZONING
18 CLASSIFICATION OF THE LOTS, PARCELS OR FRACTIONAL INTERESTS, THAT ARE
19 INTENDED TO BE OFFERED FOR THE PURPOSE OF LEASE, WHETHER IMMEDIATE OR
20 FUTURE, WITHOUT REGARD TO THE LEASE TERM, UNDER A COMMON PROMOTIONAL PLAN
21 AS DEFINED IN SECTION 32-2101.

22 2. DOES NOT INCLUDE THE CONSTRUCTION, PROVISION OR LEASING OF
23 RESIDENTIAL STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE
24 EXEMPT FROM CHAPTER 6, ARTICLE 5 OF THIS TITLE AS PRESCRIBED BY SECTION
25 11-865, SUBSECTION A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF
26 HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

27 Sec. 3. Section 32-2101, Arizona Revised Statutes, is amended to
28 read:

29 32-2101. Definitions

30 In this chapter, unless the context otherwise requires:

31 1. "Acting in concert" means evidence of collaborating to pursue a
32 concerted plan.

33 2. "Advertising" means attempting by publication, dissemination,
34 exhibition, solicitation or circulation, oral or written, or for broadcast
35 on radio or television to induce directly or indirectly any person to
36 enter into any obligation or acquire any title or interest in lands
37 subject to this chapter, including the land sales contract to be used and
38 any photographs, drawings or artist's presentations of physical conditions
39 or facilities existing or to exist on the property. Advertising does not
40 include:

41 (a) Press releases or other communications delivered to newspapers,
42 periodicals or other news media for general information or public
43 relations purposes if no charge is made by the newspapers, periodicals or
44 other news media to publish or use any part of these communications.

- 1 (b) Communications to stockholders as follows:
2 (i) Annual reports and interim financial reports.
3 (ii) Proxy materials.
4 (iii) Registration statements.
5 (iv) Securities prospectuses.
6 (v) Applications for listing of securities on stock exchanges.
7 (vi) Prospectuses.
8 (vii) Property reports.
9 (viii) Offering statements.
- 10 3. "Affiliate" means a person who, directly or indirectly through
11 one or more intermediaries, controls, is controlled by or is under common
12 control with the person specified.
- 13 4. "Associate broker" means a licensed broker who is employed by
14 another broker. Unless otherwise specifically provided, an associate
15 broker has the same license privileges as a salesperson.
- 16 5. "Barrier" means a natural or man-made geographic feature that
17 prevents parcels of land from being practicably, reasonably and
18 economically united or reunited and that was not caused or created by the
19 owner of the parcels.
- 20 6. "Blanket encumbrance":
21 (a) Means either:
22 (i) Any mortgage, any deed of trust or any other encumbrance or
23 lien that secures or evidences the payment of monies and that affects more
24 than one lot or parcel of subdivided land.
25 (ii) An agreement that affects more than one lot or parcel by which
26 the subdivider holds the subdivision under an option, contract to sell or
27 trust agreement.
- 28 (b) Does not include taxes and assessments that are levied by
29 public authority.
- 30 7. "Board" means the real estate advisory board.
- 31 8. "Broker", when used without modification, means a person who is
32 licensed as a broker under this chapter or who is required to be licensed
33 as a broker under this chapter.
- 34 9. "Business broker" means a real estate broker who acts as an
35 intermediary or agent between sellers or buyers, or both, in the sale or
36 purchase, or both, of businesses or business opportunities where a lease
37 or sale of real property is either a direct or incidental part of the
38 transaction.
- 39 10. "Camping site" means a space that is designed and promoted for
40 the purpose of locating any trailer, tent, tent trailer, pickup camper or
41 other similar device used for camping.
- 42 11. "Cemetery" or "cemetery property" means any one, or a
43 combination of more than one, of the following in a place that is used, or
44 intended to be used, and dedicated for cemetery purposes:

- 1 (a) A burial park, for earth interments.
2 (b) A mausoleum, for crypt or vault entombments.
3 (c) A crematory, or a crematory and columbarium, for cinerary
4 interments.
5 (d) A cemetery plot, including interment rights, mausoleum crypts,
6 niches and burial spaces.
- 7 12. "Cemetery broker" means a person other than a real estate
8 broker or real estate salesperson who, for another, for compensation:
9 (a) Sells, leases or exchanges cemetery property or interment
10 services of or for another, or on the person's own account.
11 (b) Offers for another or for the person's own account to buy,
12 sell, lease or exchange cemetery property or interment services.
13 (c) Negotiates the purchase and sale, lease or exchange of cemetery
14 property or interment services.
15 (d) Negotiates the purchase or sale, lease or exchange, or lists or
16 solicits, or negotiates a loan on or leasing of cemetery property or
17 interment services.
- 18 13. "Cemetery salesperson" means a natural person who acts on the
19 person's own behalf or through and on behalf of a professional limited
20 liability company or a professional corporation engaged by or on behalf of
21 a licensed cemetery or real estate broker, or through and on behalf of a
22 corporation, partnership or limited liability company that is licensed as
23 a cemetery or real estate broker, to perform any act or transaction
24 included in the definition of cemetery broker.
- 25 14. "Commissioner" means the state real estate commissioner.
- 26 15. "Common promotional plan" means a plan, undertaken by a person
27 or a group of persons acting in concert, to offer lots for sale or lease.
28 If the land is offered for sale by a person or group of persons acting in
29 concert, and the land is contiguous or is known, designated or advertised
30 as a common unit or by a common name, the land is presumed, without regard
31 to the number of lots covered by each individual offering, as being
32 offered for sale or lease as part of a common promotional plan. Separate
33 subdividers selling lots or parcels in separately platted subdivisions
34 within a master planned community shall not be deemed to be offering their
35 combined lots for sale or lease as part of a common promotional plan.
- 36 16. "Compensation" means any fee, commission, salary, monies or
37 other valuable consideration for services rendered or to be rendered as
38 well as the promise of consideration whether contingent or not.
- 39 17. "Contiguous":
40 (a) Means lots, parcels or fractional interests that share a common
41 boundary or point.
42 (b) Does not include lots, parcels or fractional interests that are
43 separated by either of the following:
44 (i) A barrier.

1 (ii) A road, street or highway that has been established by this
2 state or by any agency or political subdivision of this state, that has
3 been designated by the federal government as an interstate highway or that
4 has been regularly maintained by this state or by any agency or political
5 subdivision of this state and has been used continuously by the public for
6 at least the last five years.

7 18. "Control" or "controlled" means a person who, through
8 ownership, voting rights, power of attorney, proxy, management rights,
9 operational rights or other rights, has the right to make decisions
10 binding on an entity, whether a corporation, a partnership or any other
11 entity.

12 19. "Corporation licensee" means a lawfully organized corporation
13 that is registered with the Arizona corporation commission and that has an
14 officer licensed as the designated broker pursuant to section 32-2125.

15 20. "Department" means the state real estate department.

16 21. "Designated broker" means a natural person who is licensed as a
17 broker under this chapter and who is either:

18 (a) Designated to act on behalf of an employing real estate,
19 cemetery or membership camping entity.

20 (b) Doing business as a sole proprietor.

21 22. "Developer":

22 (a) Means a person who offers real property in a development for
23 sale, lease or use, either immediately or in the future, on the person's
24 own behalf or on behalf of another person, under this chapter.

25 (b) Does not include a person whose involvement with a development
26 is limited to listing property within the development for sale, lease or
27 use.

28 23. "Development" means any division, proposed division or use of
29 real property that the department has authority to regulate, including
30 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
31 membership campgrounds and stock cooperatives.

32 24. "Employing broker" means a person who is licensed or is
33 required to be licensed as a:

34 (a) Broker entity pursuant to section 32-2125, subsection A.

35 (b) Sole proprietorship if the sole proprietor is a broker licensed
36 pursuant to this chapter.

37 25. "Fractional interest" means an undivided interest in improved
38 or unimproved land, lots or parcels of any size created for the purpose of
39 sale or lease and evidenced by any receipt, certificate, deed or other
40 document conveying the interest. Undivided interests in land, lots or
41 parcels created in the names of a husband and wife as community property,
42 joint tenants or tenants in common, or in the names of other persons who,
43 acting together as part of a single transaction, acquire the interests
44 without a purpose to divide the interests for present or future sale or
45 lease shall be deemed to constitute only one fractional interest.

1 26. "Improved lot or parcel" means a lot or parcel of a subdivision
2 on which there is a residential, commercial or industrial building or
3 concerning which a contract has been entered into between a subdivider and
4 a purchaser that obligates the subdivider directly, or indirectly through
5 a building contractor, to completely construct a residential, commercial
6 or industrial building on the lot or parcel within two years after the
7 date on which the contract of sale for the lot is entered into, EXCEPT FOR
8 A CONDOMINIUM AS DEFINED IN SECTION 33-1202, WITHIN FOUR YEARS AFTER THE
9 DATE ON WHICH THE CONTRACT FOR SALE IS ENTERED INTO.

10 27. "Inactive license" means a license that is issued pursuant to
11 article 2 of this chapter to a licensee who is on inactive status during
12 the current license period and who is not engaged by or on behalf of a
13 broker.

14 28. "Lease" or "leasing" includes any lease, whether it is the
15 sole, the principal or any incidental part of a transaction.

16 29. "License" means the whole or part of any agency permit,
17 certificate, approval, registration, public report, charter or similar
18 form of permission required by this chapter.

19 30. "Licensee" means a person to whom a license for the current
20 license period has been granted under any provision of this chapter, and,
21 for the purposes of section 32-2153, subsection A, includes original
22 license applicants.

23 31. "License period" means the two-year period beginning with the
24 date of original issue or renewal of a particular license and ending on
25 the expiration date, if any.

26 32. "Limited liability company licensee" means a lawfully organized
27 limited liability company that has a member or manager who is a natural
28 person and who is licensed as the designated broker pursuant to section
29 32-2125.

30 33. "Live classroom course" means a course or instructional segment
31 delivered in either an in-person classroom instructional format or a
32 synchronous remote instructional format that allows students to observe
33 and participate remotely in an instructional segment via livestreaming.

34 34. "Lot reservation" means an expression of interest by a
35 prospective purchaser in buying at some time in the future a subdivided or
36 unsubdivided lot, unit or parcel in this state. In all cases, a
37 subsequent affirmative action by the prospective purchaser must be taken
38 to create a contractual obligation to purchase.

39 35. "Master planned community" means a development that consists of
40 two or more separately platted subdivisions and that is either subject to
41 a master declaration of covenants, conditions or restrictions, is subject
42 to restrictive covenants sufficiently uniform in character to clearly
43 indicate a general scheme for improving or developing real property or is
44 governed or administered by a master owner's association.

45 36. "Member" means a member of the real estate advisory board.

1 37. "Membership camping broker" means a person, other than a
2 salesperson, who, for compensation:

3 (a) Sells, purchases, lists, exchanges or leases membership camping
4 contracts.

5 (b) Offers to sell, purchase, exchange or lease membership camping
6 contracts.

7 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
8 purchase, exchange or lease of membership camping contracts.

9 (d) Advertises or holds himself out as being engaged in the
10 business of selling, buying, exchanging or leasing membership camping
11 contracts or counseling or advising regarding membership camping
12 contracts.

13 (e) Assists or directs in procuring prospects calculated or
14 intended to result in the sale, purchase, listing, exchange or lease of
15 membership camping contracts.

16 (f) Performs any of the foregoing acts as an employee or on behalf
17 of a membership camping operator or membership contract owner.

18 38. "Membership camping contract" means an agreement that is
19 offered or sold in this state evidencing a purchaser's right or license to
20 use the camping or outdoor recreation facilities of a membership camping
21 operator and includes a membership that provides for this use.

22 39. "Membership camping operator":

23 (a) Means an enterprise, other than one that is tax exempt under
24 section 501(c)(3) of the internal revenue code of 1986, as amended, that
25 solicits membership paid for by a fee or periodic payments and has as one
26 of its purposes camping or outdoor recreation, including the use of
27 camping sites primarily by members.

28 (b) Does not include camping or recreational trailer parks that are
29 open to the general public and that contain camping sites rented for a per
30 use fee or a mobile home park.

31 40. "Membership camping salesperson" means a natural person who
32 acts on the person's own behalf or through and on behalf of a professional
33 limited liability company or a professional corporation engaged by or on
34 behalf of a licensed membership camping or real estate broker, or by or on
35 behalf of a corporation, partnership or limited liability company that is
36 licensed as a membership camping or real estate broker, to perform any act
37 or participate in any transaction in a manner included in the definition
38 of membership camping broker.

39 41. "Online course" means prelicensure education that is a planned
40 learning experience with a geographic separation that may be synchronous
41 or asynchronous, that does not require real-time interaction between a
42 student and an instructor and that uses a platform with self-paced or
43 prerecorded lessons and materials that a student can access via the
44 internet to proceed at the student's own pace.

1 42. "Partnership licensee" means a partnership with a managing
2 general partner who is licensed as the designated broker pursuant to
3 section 32-2125.

4 43. "Permanent access", as required under article 4 of this
5 chapter, means permanent access from the subdivision to any federal, state
6 or county highway.

7 44. "Perpetual care" or "endowed care":

8 (a) Means maintaining and caring, in all places where interments
9 have been made, for the trees, shrubs, roads, streets and other
10 improvements and embellishments contained within or forming a part of the
11 cemetery.

12 (b) Does not include maintaining or repairing monuments, tombs,
13 copings or other man-made ornaments as associated with individual burial
14 spaces.

15 45. "Perpetual or endowed-care cemetery" means a cemetery in which
16 lots or other burial spaces are sold or transferred under the
17 representation that the cemetery will receive perpetual care or endowed
18 care free of further cost to the purchaser after payment of the original
19 purchase price for the lot, burial space or interment right.

20 46. "Person" means any individual, corporation, partnership or
21 company and any other form of multiple organization for carrying on
22 business, foreign or domestic.

23 47. "Private cemetery" means a cemetery or place that is not
24 licensed under article 6 of this chapter, where burials or interments of
25 human remains are made, in which sales or transfers of interment rights or
26 burial plots are not made to the public and in which not more than ten
27 interments or burials occur annually.

28 48. "Promotion" or "promotional practice" means advertising and any
29 other act, practice, device or scheme to induce directly or indirectly any
30 person to enter into any obligation or acquire any title or interest in or
31 use of real property subject to this chapter, including meetings with
32 prospective purchasers, arrangements for prospective purchasers to visit
33 real property, travel allowances and discount, exchange, refund and
34 cancellation privileges.

35 49. "Real estate" includes leasehold-interests and any estates in
36 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
37 whether located in this state.

38 50. "Real estate broker" means a person, other than a salesperson,
39 who, for another and for compensation:

40 (a) Sells, exchanges, purchases, rents or leases real estate,
41 businesses and business opportunities or timeshare interests.

42 (b) Offers to sell, exchange, purchase, rent or lease real estate,
43 businesses and business opportunities or timeshare interests.

1 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
2 exchange, purchase, rental or leasing of real estate, businesses and
3 business opportunities or timeshare interests.

4 (d) Lists or offers, attempts or agrees to list real estate,
5 businesses and business opportunities or timeshare interests for sale,
6 lease or exchange.

7 (e) Auctions or offers, attempts or agrees to auction real estate,
8 businesses and business opportunities or timeshare interests.

9 (f) Buys, sells, offers to buy or sell or otherwise deals in
10 options on real estate, businesses and business opportunities or timeshare
11 interests or improvements to real estate, businesses and business
12 opportunities or timeshare interests.

13 (g) Collects or offers, attempts or agrees to collect rent for the
14 use of real estate, businesses and business opportunities or timeshare
15 interests. This subdivision does not apply to a person who is not a
16 licensee, who works for a real estate broker or a real estate salesperson,
17 who collects in-person rent and related fees on behalf of the real estate
18 broker or real estate salesperson for the use of real estate as part of
19 the person's clerical duties and who provides a receipt when rent is paid.

20 (h) Advertises or holds himself out as being engaged in the
21 business of buying, selling, exchanging, renting or leasing real estate,
22 businesses and business opportunities or timeshare interests or counseling
23 or advising regarding real estate, businesses and business opportunities
24 or timeshare interests.

25 (i) Assists or directs in procuring prospects that are calculated
26 to result in the sale, exchange, leasing or rental of real estate,
27 businesses and business opportunities or timeshare interests.

28 (j) Assists or directs in negotiating any transaction calculated or
29 intended to result in the sale, exchange, leasing or rental of real
30 estate, businesses and business opportunities or timeshare interests.

31 (k) Incident to the sale of real estate, businesses and business
32 opportunities negotiates or offers, attempts or agrees to negotiate a loan
33 secured or to be secured by any mortgage or other encumbrance on or
34 transfer of real estate, businesses and business opportunities or
35 timeshare interests subject to section 32-2155, subsection D. This
36 subdivision does not apply to mortgage brokers as defined in and subject
37 to title 6, chapter 9, article 1.

38 (l) Engages in the business of assisting or offering to assist
39 another in filing an application for the purchase or lease of, or in
40 locating or entering on, lands owned by the state or federal government.

41 (m) Claims, demands, charges, receives, collects or contracts to
42 collect an advance fee in connection with any employment enumerated in
43 this section, including employment undertaken to promote the sale or lease
44 of real property by advance fee listing, by furnishing rental information
45 to a prospective tenant for a fee paid by the prospective tenant, by

1 advertising or by any other offering to sell, lease, exchange or rent real
2 property or selling kits connected therewith. This does not include the
3 activities of any communications media of general circulation or coverage
4 not primarily engaged in advertising real estate or any communications
5 media activities that are specifically exempt from applicability of this
6 article under section 32-2121.

7 (n) Engages in any of the acts listed in subdivisions (a) through
8 (m) of this paragraph for the sale or lease of other than real property if
9 a real property sale or lease is a part of, contingent on or ancillary to
10 the transaction.

11 (o) Performs any of the acts listed in subdivisions (a) through (m)
12 of this paragraph as an employee of, or in behalf of, the owner of real
13 estate, or interest in the real estate, or improvements affixed on the
14 real estate, for compensation.

15 (p) Acts as a business broker.

16 51. "Real estate sales contract" means an agreement in which one
17 party agrees to convey title to real estate to another party on the
18 satisfaction of specified conditions set forth in the contract.

19 52. "Real estate salesperson" means a natural person who acts on
20 the person's own behalf or through and on behalf of a professional limited
21 liability company or a professional corporation engaged by or on behalf of
22 a licensed real estate broker, or by or on behalf of a limited liability
23 company, partnership or corporation that is licensed as a real estate
24 broker, to perform any act or participate in any transaction in a manner
25 included in the definition of real estate broker subject to section
26 32-2155.

27 53. "Sale" or "lease" includes every disposition, transfer, option
28 or offer or attempt to dispose of or transfer real property, or an
29 interest, use or estate in the real property, including offering the
30 property as a prize or gift if a monetary charge or consideration for
31 whatever purpose is required.

32 54. "Salesperson", when used without modification, means a natural
33 person who acts on the person's own behalf or through and on behalf of a
34 professional limited liability company or a professional corporation
35 licensed under this chapter or any person required to be licensed as a
36 salesperson under this chapter.

37 55. "School" means a person or entity that offers a course of study
38 toward completion of the education requirements leading to licensure or
39 renewal of licensure under this chapter.

40 56. "Stock cooperative" means a corporation to which all of the
41 following apply:

42 (a) The corporation is formed or used to hold title to improved
43 real property in fee simple or for a term of years.

1 (b) All or substantially all of the shareholders of the corporation
2 each receive a right of exclusive occupancy in a portion of the real
3 property to which the corporation holds title.

4 (c) The right of occupancy may only be transferred with the
5 concurrent transfer of the shares of stock in the corporation held by the
6 person having the right of occupancy.

7 57. "Subdivider":

8 (a) Means any person who offers for sale or lease six or more lots,
9 parcels or fractional interests in a subdivision or who causes land to be
10 subdivided into a subdivision for the subdivider or for others, or who
11 undertakes to develop a subdivision.

12 (b) Does not include a public agency or officer authorized by law
13 to create subdivisions.

14 58. "Subdivision" or "subdivided lands":

15 (a) Means improved or unimproved land or lands divided or proposed
16 to be divided for the purpose of sale or lease, whether immediate or
17 future, into six or more lots, parcels or fractional interests.

18 (b) Includes a stock cooperative, lands divided or proposed to be
19 divided as part of a common promotional plan and residential condominiums
20 as defined in title 33, chapter 9.

21 (c) Does not include:

22 (i) Leasehold offerings of one year or less.

23 (ii) The division or proposed division of land located in this
24 state into lots or parcels each of which is or will be thirty-six acres or
25 more in area including to the centerline of dedicated roads or easements,
26 if any, contiguous to the lot or parcel.

27 (iii) The leasing of agricultural lands or apartments, offices,
28 stores, hotels, motels, pads or similar space within an apartment
29 building, industrial building, rental recreational vehicle community,
30 rental manufactured home community, rental mobile home park or commercial
31 building OR THE CONSTRUCTION, PROVISION OR LEASING OF RESIDENTIAL
32 STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM
33 TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION 11-865, SUBSECTION
34 A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF HOUSING PERSONS WHO
35 ARE AGRICULTURAL WORKERS.

36 (iv) The subdivision into or development of parcels, plots or
37 fractional portions within the boundaries of a cemetery that has been
38 formed and approved pursuant to this chapter.

39 (v) A sale or lease of a lot, parcel or fractional interest that
40 occurs ten or more years after the sale or lease of another lot, parcel or
41 fractional interest if the other lot, parcel or fractional interest is not
42 subject to this article and is treated as an independent parcel unless, on
43 investigation by the commissioner, there is evidence of intent to
44 subdivide.

1 59. "Timeshare" or "timeshare property" means real property
2 ownership or right of occupancy in real property pursuant to article 9 of
3 this chapter. For the purposes of this chapter, a timeshare is not a
4 security unless it meets the definition of a security under section
5 44-1801.

6 60. "Trustee":

7 (a) Means a person who either:

8 (i) Is designated under section 32-2194.27 to act as a trustee for
9 an endowment-care cemetery fund.

10 (ii) Holds bare legal title to real property under a subdivision
11 trust.

12 (b) Does not include a developer, subdivider, broker or salesperson
13 within this chapter.

14 61. "Unimproved lot or parcel" means a lot or parcel of a
15 subdivision that is not an improved lot or parcel.

16 62. "Unsubdivided lands":

17 (a) Means land or lands divided or proposed to be divided for the
18 purpose of sale or lease, whether immediate or future, into six or more
19 lots, parcels or fractional interests and the lots or parcels are
20 thirty-six acres or more each but less than one hundred sixty acres each,
21 or that are offered, known or advertised under a common promotional plan
22 for sale or lease, except that agricultural leases shall not be included
23 in this definition.

24 (b) Includes any land that is sold and that would otherwise
25 constitute the sixth lot, parcel or fractional interest if the sale occurs
26 ten or more years after the earliest of the previous five sales and if all
27 of the sales consist of property that was originally contained within the
28 same parcel that is thirty-six acres or more and less than one hundred
29 sixty acres.

30 Sec. 4. Section 45-576, Arizona Revised Statutes, is amended to
31 read:

32 45-576. Certificate of assured water supply; designated
33 cities, towns and private water companies;
34 exemptions; definition

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

1 B. Except as provided in subsections G and J of this section, a
2 city, town or county may approve a subdivision plat only if the subdivider
3 has obtained a certificate of assured water supply from the director or
4 the subdivider has obtained a written commitment of water service for the
5 subdivision from a city, town or private water company designated as
6 having an assured water supply pursuant to this section. The city, town
7 or county shall note on the face of the approved plat that a certificate
8 of assured water supply has been submitted with the plat or that the
9 subdivider has obtained a written commitment of water service for the
10 proposed subdivision from a city, town or private water company designated
11 as having an assured water supply pursuant to this section.

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

16 1. The subdivider, owner or agent has paid any activation fee
17 required under section 48-3772, subsection A, paragraph 7 and any
18 replenishment reserve fee required under section 48-3774.01, subsection A,
19 paragraph 2 and has obtained a certificate of assured water supply from
20 the director.

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

26 D. The director shall designate private water companies in active
27 management areas that have an assured water supply. If a city or town
28 acquires a private water company that has contracted for central Arizona
29 project water, the city or town shall assume the private water company's
30 contract for central Arizona project water.

31 E. The director shall designate cities and towns in active
32 management areas where an assured water supply exists. If a city or town
33 has entered into a contract for central Arizona project water, the city or
34 town is deemed to continue to have an assured water supply until December
35 31, 1997. Commencing on January 1, 1998, the determination that the city
36 or town has an assured water supply is subject to review by the director
37 and the director may determine that a city or town does not have an
38 assured water supply.

39 F. The director shall notify the mayors of all cities and towns in
40 active management areas and the chairmen of the boards of supervisors of
41 counties in which active management areas are located of the cities, towns
42 and private water companies designated as having an assured water supply
43 and any modification of that designation within thirty days of the
44 designation or modification. If the service area of the city, town or
45 private water company has qualified as a member service area pursuant to

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

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

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

34 I. If the director designates a municipal provider as having an
35 assured water supply under this section and the designation lapses or
36 otherwise terminates while the municipal provider's service area is a
37 member service area of a conservation district, the municipal provider or
38 its successor shall continue to comply with the consistency with
39 management goal requirements in the rules adopted by the director under
40 subsection H of this section as if the designation was still in effect
41 with respect to the municipal provider's designation uses. When
42 determining compliance by the municipal provider or its successor with the
43 consistency with management goal requirements in the rules, the director
44 shall consider only water delivered by the municipal provider or its
45 successor to the municipal provider's designation uses. A person is the

1 successor of a municipal provider if the person commences water service to
2 uses that were previously designation uses of the municipal provider. Any
3 groundwater delivered by the municipal provider or its successor to the
4 municipal provider's designation uses in excess of the amount allowed
5 under the consistency with management goal requirements in the rules shall
6 be considered excess groundwater for purposes of title 48, chapter 22.
7 For the purposes of this subsection, "designation uses" means all water
8 uses served by a municipal provider on the date the municipal provider's
9 designation of assured water supply lapses or otherwise terminates and all
10 recorded lots within the municipal provider's service area that were not
11 being served by the municipal provider on that date but that received
12 final plat approval from a city, town or county on or before that date.
13 Designation uses do not include industrial uses served by an irrigation
14 district under section 45-497.

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

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

22 2. The director has not revoked the certificate of assured water
23 supply described in paragraph 1 of this subsection, and proceedings to
24 revoke the certificate are not pending before the department or a court.
25 The department shall post on its website a list of all certificates of
26 assured water supply that have been revoked or for which proceedings are
27 pending before the department or a court.

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

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

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

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

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

1 L. On or before December 31, 2023, the director shall study and
2 submit to the governor, president of the senate and speaker of the house
3 of representatives a report on whether and how a person that seeks a
4 building permit for six or more residences within an active management
5 area, without regard to any proposed lease term for those residences,
6 should apply for and obtain a certificate of assured water supply from the
7 director before presenting the permit application for approval to the
8 county in which the land is located, unless the applicant has obtained a
9 written commitment of water service for the residences from a city, town
10 or private water company designated as having an assured water supply
11 pursuant to this section.

12 M. BEFORE PRESENTING A PERMIT APPLICATION FOR APPROVAL TO THE
13 LEGISLATIVE BODY OF THE MUNICIPALITY OR THE BOARD OF SUPERVISORS OF THE
14 COUNTY IN WHICH THE LAND IS LOCATED, A PERSON THAT SEEKS A BUILDING PERMIT
15 FOR ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE LOCATED IN A
16 RESIDENTIAL LEASE COMMUNITY AS DEFINED IN SECTION 9-469 OR 11-324, AS
17 APPLICABLE, WITHIN AN ACTIVE MANAGEMENT AREA SHALL APPLY FOR AND OBTAIN
18 PURSUANT TO SECTION 9-469 OR 11-324 A WRITTEN COMMITMENT OF WATER SERVICE
19 FROM A CITY, TOWN OR PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN
20 ASSURED WATER SUPPLY, PAY ALL APPLICABLE FEES PURSUANT TO SECTION 48-3772
21 AND ATTACH TO THE BUILDING PERMIT APPLICATION PROOF THAT THE APPLICABLE
22 FEES HAVE BEEN PAID, UNLESS ALL OF THE FOLLOWING APPLY:

23 1. THE RESIDENTIAL DWELLING UNITS ARE LOCATED ON A PARCEL OF LAND
24 THAT HAS QUALIFIED AS MEMBER LAND PURSUANT TO SECTION 48-3774.

25 2. THE APPLICANT HAS PAID ALL APPLICABLE FEES PURSUANT TO SECTIONS
26 48-3772 AND 48-3774.01.

27 3. THE APPLICANT HAS ATTACHED TO THE BUILDING PERMIT APPLICATION
28 PROOF THAT THE APPLICABLE FEES HAVE BEEN PAID.

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

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

- 1 (a) The existing rate of decline.
- 2 (b) The proposed withdrawals.
- 3 (c) The expected water requirements of all recorded lots that are
- 4 not yet served water and that are located in the service area of a
- 5 municipal provider.

6 2. The projected groundwater use is consistent with the management

7 plan and achievement of the management goal for the active management

8 area.

9 3. The financial capability has been demonstrated to construct the

10 water facilities necessary to make the supply of water available for the

11 proposed use, including a delivery system and any storage facilities or

12 treatment works. The director may accept evidence of the construction

13 assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this

14 requirement.

15 Sec. 5. Section 48-3772, Arizona Revised Statutes, is amended to

16 read:

17 48-3772. Duties and powers of district regarding

18 replenishment

19 A. The district shall:

20 1. Establish annually the costs and expenses to replenish

21 groundwater pursuant to this article with respect to all parcels of member

22 lands and all member service areas located in each active management area,

23 including capital expenses, debt service expenses, the operation,

24 maintenance, replacement and administrative costs and expenses of the

25 district, replenishment reserve costs and expenses as provided in

26 subsection E of this section and reasonable reserves. Separate

27 calculations of costs and expenses shall be made for each active

28 management area in which member lands or member service areas are located

29 and for each membership category. Costs and expenses attributed by the

30 district to contract replenishment obligations shall not be included in

31 these calculations.

32 2. Provide for the payment of all costs and expenses to replenish

33 groundwater pursuant to this chapter and the payment of operation,

34 maintenance, replacement and administrative costs and expenses and debt

35 service expenses of the district.

36 3. Levy an annual replenishment assessment against each parcel of

37 member land pursuant to section 48-3778 and an annual replenishment tax

38 against each municipal provider that has a member service area pursuant to

39 section 48-3781 to pay the district's costs and expenses as established

40 pursuant to paragraph 1 of this subsection.

41 4. Levy a contract replenishment tax against municipal providers

42 that are parties to contracts authorized under subsection B, paragraph 9

43 of this section to pay the district's costs and expenses to replenish

44 groundwater based on contract replenishment obligations.

1 5. Establish and maintain reserve accounts in amounts as may be
2 deemed necessary to perform the district's obligations under this article.

3 6. Fulfill all obligations under resolutions adopted pursuant to
4 subsection B, paragraph 10 of this section.

5 7. Levy an activation fee as follows:

6 (a) For subdivisions within member lands and member service areas
7 that are enrolled before May 6, 2004 and that had not been issued a public
8 report before August 12, 2005, the district shall levy a onetime
9 activation fee against each housing unit to be constructed within the
10 subdivision.

11 (b) For subdivisions within member lands and member service areas
12 that are enrolled on or after May 6, 2004, the district shall levy a
13 onetime activation fee against each housing unit to be constructed within
14 the subdivision.

15 (c) FOR RESIDENTIAL LEASE COMMUNITIES WITHIN MEMBER LANDS AND
16 MEMBER SERVICE AREAS THAT ARE ENROLLED ON OR AFTER JANUARY 1, 2024, THE
17 DISTRICT SHALL LEVY A ONETIME ACTIVATION FEE AGAINST EACH DETACHED
18 RESIDENTIAL DWELLING UNIT TO BE CONSTRUCTED WITHIN THE RESIDENTIAL LEASE
19 COMMUNITY.

20 ~~(c)~~ (d) The activation fee shall be paid to the district according
21 to ~~either~~ ONE of the following schedules, whichever the ~~subdivider~~ PAYOR
22 elects:

23 (i) Paid in full before issuance of a public report for each real
24 estate subdivision identified in subdivision (a) or (b) of this paragraph.

25 (ii) One-half paid before issuance of a public report for each real
26 estate subdivision identified in subdivision (a) or (b) of this paragraph
27 and the remaining amount paid no later than one year after the issuance of
28 the public report. The total amount of the activation fee must be the
29 amount of the activation fee in effect at the time of the initial payment.
30 Payment of the initial one-half of the activation fee pursuant to this
31 item constitutes sufficient payment of applicable fees for notice of
32 intent to subdivide as prescribed in section 32-2181, subsection C and for
33 issuance of a public report as prescribed in section 32-2183, subsection G
34 and section 45-576, subsection C, except that on failure to pay the
35 remaining amount, the commissioner shall suspend the public report for
36 that subdivision pursuant to section 32-2183.

37 (iii) PAID IN FULL FOR A RESIDENTIAL LEASE COMMUNITY AT THE TIME OF
38 ENROLLMENT TO SHOW COMPLIANCE WITH SECTION 9-469 OR 11-324, AS APPLICABLE.

39 ~~(d)~~ (e) The activation fee shall be established annually by the
40 district. The amount of the activation fee to be paid to the district
41 under subdivision ~~(c)~~ (d) of this paragraph must be the amount of the
42 activation fee in effect at the time of payment. Revenues from the
43 activation fee together with revenues from other sources that are legally
44 available to the district for those uses shall be used by the district to
45 acquire, lease or exchange water or water rights and develop

1 infrastructure necessary for the district to perform its replenishment
2 obligations.

3 8. For any year, set all of its rates and charges associated with
4 the acquisition, lease or exchange of water or water rights and
5 development of infrastructure necessary for the district to perform its
6 replenishment obligations, other than the annual membership dues
7 established pursuant to section 48-3779, so that the total projected
8 revenues from revenue sources other than the annual membership dues, that
9 are legally available to the district in that year to pay costs associated
10 with the acquisition, lease or exchange of water or water rights and
11 development of infrastructure necessary for the district to perform its
12 replenishment obligations, shall be at least three times the total
13 projected revenues from the annual membership dues in that year. For the
14 purposes of this paragraph, costs associated with the acquisition, lease
15 or exchange of water or water rights do not include the annual costs
16 associated with delivery of water for replenishment purposes.

17 B. The district may:

18 1. Acquire, develop, construct, operate, maintain, replace and
19 acquire permits for water storage, storage facilities and recovery wells
20 for replenishment purposes.

21 2. Acquire, transport, hold, exchange, own, lease, store or
22 replenish water, except groundwater withdrawn from an active management
23 area, subject to the provisions of title 45, for the benefit of member
24 lands and member service areas.

25 3. Acquire, hold, exchange, own, lease, retire or dispose of water
26 rights for the benefit of member lands and member service areas.

27 4. Require municipal providers to provide such information, in such
28 form and within the time limits prescribed by the district, as may be
29 necessary to carry out the purpose of this chapter.

30 5. Levy and collect assessments, fees, charges, taxes and other
31 revenues as are provided in this chapter for the financing of
32 replenishment activities.

33 6. Contract for or perform feasibility studies of water storage,
34 storage facilities and recovery wells for replenishment purposes.

35 7. Acquire real and personal property for water storage, storage
36 facilities and recovery wells for replenishment purposes by purchase,
37 lease, donation, dedication, exchange or other lawful means.

38 8. Use any facilities and any excess storage capacity of any state
39 demonstration projects undertaken pursuant to title 45, chapter 3.1 for
40 water storage for replenishment purposes.

41 9. Subject to subsection G of this section, contract with any
42 municipal provider having a member service area to replenish groundwater
43 on behalf of the municipal provider and with respect to the member service
44 area in an amount in excess of the sum of the service area replenishment
45 obligations applicable to the member service area for all years in which

1 the district has not completed the replenishment of the groundwater
2 replenishment obligation for the member service area.

3 10. Adopt resolutions granting water availability status to a member
4 service area of a city, town or private water company and committing to
5 replenish a specified average annual volume of water in a location where
6 the city, town or private water company may physically access the water
7 for service to its customers, if all of the following apply:

8 (a) The district has reviewed its requirements for transportation
9 of central Arizona project water, its contracts, subcontracts, letter
10 agreements, excess water contracts and other contractual obligations and
11 its member service area and member land requirements and has determined
12 that the district can meet those obligations and that capacity remains in
13 the central Arizona project to meet the obligations undertaken through the
14 resolution.

15 (b) The resolution acknowledges that the commitment to replenish
16 the specified average annual volume of water in the location cited in the
17 resolution shall be a permanent obligation of the district, unless one of
18 the following applies:

19 (i) A permanent substitute supply of water is found for the city,
20 town or private water company and the substitution is approved by the
21 director of water resources, thus terminating the water availability
22 status of the member service area.

23 (ii) The requirements of section 45-576.07, subsection A are not
24 met, and thus the director of water resources does not issue an order
25 granting or maintaining the city, town or private water company as having
26 an assured water supply based in whole or in part on section 45-576.07.
27 If no order is issued within two years of the district adopting the
28 resolution, the resolution may be repealed, and the district shall be
29 relieved of all obligations under the resolution.

30 (c) The average annual volume of water specified in the resolution,
31 when added to the average annual volume of water specified in all other
32 resolutions adopted pursuant to this paragraph, does not exceed twenty
33 thousand acre-feet.

34 (d) The district has entered into an agreement with the city, town
35 or private water company under which the city, town or private water
36 company will hold for the district's future use, and provide to the
37 district when needed, sufficient water to meet the obligations undertaken
38 by the district through the resolution.

39 (e) The district determines that the obligations undertaken by the
40 district through the resolution will not increase annual replenishment
41 assessment rates or costs to central Arizona project contract and
42 subcontract holders and its member service areas and member lands.

43 (f) The director of water resources has found, pursuant to section
44 45-576.07, subsection H, that the district has the capability to grant
45 water availability status to member service areas.

1 11. Provide in resolutions adopted pursuant to paragraph 10 of this
2 subsection that the district may fulfill its obligations under the
3 resolution in any year by directly delivering to the city, town or private
4 water company the water that otherwise would have been replenished
5 pursuant to the resolution, if all of the following apply:

6 (a) The district has reviewed its requirements for transportation
7 of central Arizona project water, its contracts, subcontracts, letter
8 agreements, excess water contracts and other contractual obligations and
9 its member service area and member land requirements and has determined
10 that the district can meet those obligations and that capacity remains in
11 the central Arizona project to make direct deliveries pursuant to this
12 paragraph.

13 (b) The district determines that the delivery will not increase
14 annual replenishment assessment rates or costs to central Arizona project
15 contract and subcontract holders, its member service area and member
16 lands.

17 12. Enter into agreements with a city, town or private water company
18 that will have water made available to it through a resolution adopted
19 pursuant to paragraph 10 of this subsection and under which the city, town
20 or private water company compensates the district for the costs and fair
21 value of the water supply provided by the district.

22 13. Issue revenue bonds pursuant to article 3 of this chapter to
23 fund the costs and expenses of the district for the acquisition, lease or
24 exchange of water or water rights and the development of infrastructure
25 necessary for the district to perform its replenishment obligations
26 subject to the following:

27 (a) The principal of, interest and premiums, if any, on revenue
28 bonds issued pursuant to article 3 of this chapter to acquire, lease or
29 exchange water or water rights and develop infrastructure necessary for
30 the district to perform its replenishment obligations are not payable from
31 any revenues of the district other than revenues generated or collected
32 pursuant to this article that are legally available to the district for
33 those purposes and revenues from the investment of the proceeds of the
34 bonds.

35 (b) The district may not use the proceeds of the bonds to acquire
36 or lease:

37 (i) Groundwater, as defined in section 45-101, except as expressly
38 authorized in sections 45-547, 45-553 and 45-554.

39 (ii) Surface water, as defined in section 45-101, that is the
40 subject of a general adjudication pursuant to title 45, chapter 1,
41 article 9.

42 (c) ~~Nothing in~~ Subdivision (b) of this paragraph ~~prohibits~~ DOES NOT
43 PROHIBIT the district from acquiring or leasing central Arizona project
44 water.

1 14. Except as provided in section 48-3780.01, subsection B, in
2 addition to any other assessments, fees, charges or taxes levied and
3 collected under this chapter, or under any declaration, contract or
4 agreement entered into under this chapter, charge annual dues for
5 membership pursuant to section 48-3779 against each parcel of member land
6 and each municipal provider that has a member service area.

7 C. The functions of the district under subsection B, paragraph 1 of
8 this section may be performed on behalf of the district by other persons
9 under contract with the district.

10 D. The capital costs of the facilities of any state demonstration
11 projects used by the district pursuant to subsection B, paragraph 8 of
12 this section shall not be included in the capital costs and expenses
13 established by the district under subsection A, paragraph 1 of this
14 section.

15 E. The district shall establish and maintain a replenishment
16 reserve as follows:

17 1. The district shall calculate a reserve target for each of the
18 three active management areas within the district and shall identify the
19 reserve target in the plan of operation prepared pursuant to section
20 45-576.02. The reserve target for each active management area shall be
21 calculated as follows:

22 (a) For each active management area, add together the projected
23 replenishment obligation for each of the one hundred years following
24 submission of the plan of operation. For the purposes of this
25 subdivision, each active management area's projected replenishment
26 obligation does not include replenishment obligations under resolutions
27 adopted pursuant to subsection B, paragraph 10 of this section or
28 replenishment obligations for category 2 member lands.

29 (b) Subtract from the sum of the active management area's projected
30 replenishment obligation over the one hundred-year period the sum of the
31 following volumes of water derived from sources identified in the plan as
32 water that the district plans to use to meet its replenishment obligations
33 for that active management area:

34 (i) The annual volume of each nondeclining, long-term municipal and
35 industrial subcontract for central Arizona project water multiplied by one
36 hundred.

37 (ii) The annual volume of water under leases or contracts that can
38 be made physically and legally available to the district consistent with
39 the rules adopted pursuant to section 45-576, subsection H, multiplied by
40 the number of years, not to exceed one hundred, in which the water is to
41 be made available to the district. The water need not be continuously
42 available to be included in this item. A lease or contract shall not be
43 considered under this item if the water to be made available under the
44 lease or contract is for a term of less than twenty years.

1 (iii) The total volume of groundwater that the district plans to
2 transport to the active management area during the next one hundred years
3 as allowed by title 45, chapter 2, article 8.1.

4 (iv) The total volume of all sources of water not identified in
5 items (i), (ii) or (iii) of this subdivision that will not be held by the
6 district under a lease or contract. Volumes to be included under this
7 item must be consistent with the rules adopted by the director pursuant to
8 section 45-576, subsection H.

9 (c) Multiply the result from subdivision (b) of this paragraph by
10 twenty percent. The result is the reserve target for the active
11 management area.

12 2. The reserve target for an active management area may be adjusted
13 by the district, subject to the approval of the director of water
14 resources, based on changes in either of the following:

15 (a) The active management area's projected replenishment
16 obligation.

17 (b) The volumes of water identified in the plan of operation
18 prepared pursuant to section 45-576.02 as water that the district plans to
19 use to meet its replenishment obligations for that active management area.

20 3. The district shall include a replenishment reserve charge in the
21 annual replenishment assessment levied against all parcels of category 1
22 member land as provided in section 48-3774.01 and in the annual
23 replenishment tax levied against all municipal providers that have member
24 service areas as provided in section 48-3780.01. The replenishment
25 reserve charge for each active management area is established annually by
26 the district based on the reserve target for that active management area.

27 4. The district shall levy a replenishment reserve fee against
28 category 1 member lands pursuant to section 48-3774.01 and against member
29 service areas pursuant to section 48-3780.01. For category 1 member lands
30 the fee is equal to twice the applicable replenishment reserve charge
31 multiplied by the total projected average annual replenishment obligation
32 for the member lands as reported by the director of water resources
33 pursuant to section 45-578, subsection F. For member service areas the
34 fee is equal to twice the applicable replenishment reserve charge
35 multiplied by the excess groundwater increment. With the approval of the
36 district and the director of water resources, long-term storage credits as
37 defined in section 45-802.01 may be assigned to the district's
38 replenishment reserve subaccount in lieu of paying the replenishment
39 reserve fee.

40 5. The district shall use replenishment reserve charges and
41 replenishment reserve fees collected within each active management area
42 together with all interest earned on the charges and fees to store water
43 in that active management area in advance of groundwater replenishment
44 obligations for the purpose of developing long-term storage credits as
45 defined in section 45-802.01 that shall be credited to the replenishment

1 reserve subaccount for that active management area as provided in section
2 45-859.01.

3 6. Beginning on January 1, 2030 or earlier, on approval of the
4 director of water resources pursuant to section 45-859.01, subsection K,
5 the district may transfer credits from a replenishment reserve subaccount
6 to a conservation district account as provided in section 45-859.01 to
7 satisfy its groundwater replenishment obligations.

8 7. If the district transfers credits from the replenishment reserve
9 subaccount for an active management area pursuant to section 45-859.01,
10 subsection E, the district shall include in the annual replenishment
11 assessment levied against all parcels of category 1 member land in that
12 active management area and, except as provided in section 48-3780.01,
13 subsection B, in the annual replenishment tax levied against all municipal
14 providers that have member service areas in that active management area a
15 reserve replacement component to fund the replacement of the transferred
16 credits. The district shall use all monies from the reserve replacement
17 component collected within an active management area together with all
18 interest earned on the monies to develop long-term storage credits as
19 defined in section 45-802.01 within that active management area to be
20 credited to the replenishment reserve subaccount for that active
21 management area as provided in section 45-859.01.

22 8. For the purposes of establishing and maintaining the
23 replenishment reserve, the district shall have access to excess central
24 Arizona project water equivalent to but not more than the access the
25 Arizona water banking authority has for the purposes specified in section
26 45-2401, subsection H, paragraph 2.

27 F. Groundwater replenished by the district pursuant to a contract
28 to replenish groundwater under subsection B, paragraph 9 of this section
29 shall not be credited to a replenishment reserve subaccount established
30 under section 45-859.01.

31 G. The district shall not enter into a contract authorized under
32 subsection B, paragraph 9 of this section unless the district has
33 determined that the contract will not adversely affect the district's
34 ability to fulfill its obligations under this chapter. For each contract
35 entered into under subsection B, paragraph 9 of this section, the district
36 shall perform its contract replenishment obligations in the active
37 management area in which the service area of the municipal provider that
38 is the party to the contract is located.

39 H. If the district replenishes groundwater on behalf of a municipal
40 provider pursuant to a contract to replenish groundwater under subsection
41 B, paragraph 9 of this section, the amount of groundwater so replenished
42 shall be a replenishment credit to the municipal provider that may be
43 applied by the municipal provider on notice to the district to reduce the
44 service area replenishment obligations applicable to the municipal
45 provider.

1 I. In the Phoenix active management area, the district, to the
2 extent reasonably feasible, shall replenish groundwater in the east
3 portion of the active management area and in the west portion of the
4 active management area in the approximate proportion that the groundwater
5 replenishment obligation attributable in a particular year to member lands
6 and member service areas located in the east portion of the active
7 management area bears to the groundwater replenishment obligation
8 attributable in that year to member lands and member service areas located
9 in the west portion of the active management area. For the purposes of
10 this subsection, the boundary between the east Salt river valley subbasin
11 and the west Salt river valley subbasin is the boundary between the east
12 and west portions of the active management area.

13 J. The costs and expenses charged by the district to an active
14 management area water district established under chapter 28 of this title
15 for delivery of surplus central Arizona project water to such active
16 management area water district for replenishment purposes shall not exceed
17 the costs and expenses for delivery of such water that are or would be
18 included by the district in the costs and expenses of replenishment for
19 member lands and member service areas within the active management area in
20 which such active management area water district is situated.

21 Sec. 6. Section 48-3774, Arizona Revised Statutes, is amended to
22 read:

23 48-3774. Qualification as member land

24 A. Real property qualifies as member land only if all of the
25 following apply:

26 1. The real property is located in an active management area in
27 which a part of the central Arizona project aqueduct is located.

28 2. The real property is not in a member service area or in a
29 groundwater replenishment district under chapter 27 of this title.

30 3. The real property is not a water district member land or a
31 parcel of water district member land, or in a water district member
32 service area established under chapter 28 of this title.

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

36 5. The owner of the real property, or other person or entity, such
37 as a property owners' or homeowners' association, if the person or entity
38 has proper authority, records a declaration that has been approved by the
39 district against the real property in the official records of the county
40 where the real property is located that:

41 (a) Contains the legal description of the real property.

42 (b) Declares the intent of the owner that the real property qualify
43 as member land under this chapter.

1 (c) Declares that, in order to ~~permit~~ ALLOW the delivery of excess
2 groundwater to the real property, each parcel of member land thereafter
3 established at the real property is subject to a parcel replenishment
4 obligation and to a replenishment assessment to be determined by the
5 district.

6 (d) Declares that qualifying as member land and subjecting the real
7 property to the parcel replenishment obligation and the replenishment
8 assessment directly benefits the real property by increasing the potential
9 of the property to qualify for a BUILDING PERMIT AS A RESIDENTIAL LEASE
10 COMMUNITY PURSUANT TO SECTION 9-469 OR 11-324 OR A certificate of assured
11 water supply issued by the department of water resources pursuant to title
12 45, chapter 2, article 9, thereby allowing the development, use and
13 enjoyment of the real property.

14 (e) Contains a covenant that is binding against the real property
15 and each parcel of member land thereafter established at the real property
16 to pay to the district a replenishment assessment based on the parcel
17 replenishment obligation in an amount determined by the district pursuant
18 to section 48-3772, subsection A.

19 (f) Declares that the district may impose a lien on the real
20 property and each parcel of member land thereafter established at the real
21 property to secure payment of the replenishment assessment and any
22 applicable replenishment reserve fee.

23 (g) Declares that the covenants, conditions and restrictions
24 contained in the declaration run with the land and bind all successors and
25 assigns of the owner.

26 B. The declaration may contain covenants, conditions and
27 restrictions in addition to those prescribed by this section. The
28 declaration may be an amendment or supplement to covenants, conditions and
29 restrictions recorded against developed or undeveloped land.

30 C. Notwithstanding subsection A of this section, no real property
31 qualifies as member land unless the municipal provider that will provide
32 water to the real property that is subject to the declaration records in
33 the official records of the county where the real property is located an
34 agreement between the district and the municipal provider that contains
35 both of the following:

36 1. The legal description of the real property and the tax parcel
37 numbers for the real property.

38 2. An agreement by the municipal provider to submit to the district
39 by March 31 of each year after the recordation of the instrument the
40 information prescribed by section 48-3775, subsection A and such other
41 information as the district may reasonably request.

42 D. Real property previously accepted as member land pursuant to
43 subsection A of this section terminates its member land status only if all
44 of the following apply:

- 1 1. No lot or parcel of subdivided land within the real property has
2 been sold or leased to a retail purchaser or lessee.
- 3 2. The state real estate commissioner has not issued a public
4 report for the real property.
- 5 3. If lot or parcel boundaries were previously recorded for the
6 real property, the planning agency having planning authority over the real
7 property has approved a plat vacating the lot or parcel boundaries that
8 were previously recorded for the real property.
- 9 4. The owner or owners of the real property or other person or
10 entity, such as a property owners' or homeowners' association, if the
11 person or entity has proper authority, records a declaration that has been
12 executed by the district and the director of water resources against the
13 real property in the official records of the county where the real
14 property is located AND that:
- 15 (a) Contains the legal description of the real property that is
16 substantially similar to the legal description of the real property
17 included in the declaration recorded pursuant to subsection A, paragraph 5
18 of this section.
- 19 (b) Declares that the covenants, conditions and restrictions
20 previously recorded pursuant to subsection A, paragraph 5 of this section
21 are revoked.
- 22 5. The agreement recorded pursuant to subsection C of this section
23 has been revoked by mutual agreement of the parties to that agreement and
24 the municipal provider has recorded notice of the revocation in the
25 official records of the county where the real property is located.
- 26 6. If the department of water resources has issued a certificate of
27 assured water supply for the real property, the director of water
28 resources has revoked the certificate pursuant to a written agreement for
29 revocation entered into between the holder of the certificate and the
30 director.
- 31 E. For the purposes of subsection D of this section, ~~a~~ "retail
32 purchaser or lessee" means a purchaser or lessee of a lot or parcel of
33 subdivided lands that is entitled to receive a public report from the
34 seller or lessor pursuant to section 32-2183, subsection I.