

House Engrossed

residential lease community; water; certificate

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

# HOUSE BILL 2026

AN ACT

AMENDING SECTIONS 32-2101, 45-576, 48-3701, 48-3772, 48-3774.01 AND  
48-3779, 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. Section 32-2101, Arizona Revised Statutes, is amended to  
3 read:  
4 32-2101. Definitions  
5 In this chapter, unless the context otherwise requires:  
6 1. "Acting in concert" means evidence of collaborating to pursue a  
7 concerted plan.  
8 2. "Advertising" means attempting by publication, dissemination,  
9 exhibition, solicitation or circulation, oral or written, or for broadcast  
10 on radio or television to induce directly or indirectly any person to  
11 enter into any obligation or acquire any title or interest in lands  
12 subject to this chapter, including the land sales contract to be used and  
13 any photographs, drawings or artist's presentations of physical conditions  
14 or facilities existing or to exist on the property. Advertising does not  
15 include:  
16 (a) Press releases or other communications delivered to newspapers,  
17 periodicals or other news media for general information or public  
18 relations purposes if no charge is made by the newspapers, periodicals or  
19 other news media to publish or use any part of these communications.  
20 (b) Communications to stockholders as follows:  
21 (i) Annual reports and interim financial reports.  
22 (ii) Proxy materials.  
23 (iii) Registration statements.  
24 (iv) Securities prospectuses.  
25 (v) Applications for listing of securities on stock exchanges.  
26 (vi) Prospectuses.  
27 (vii) Property reports.  
28 (viii) Offering statements.  
29 3. "Affiliate" means a person who, directly or indirectly through  
30 one or more intermediaries, controls, is controlled by or is under common  
31 control with the person specified.  
32 4. "Associate broker" means a licensed broker who is employed by  
33 another broker. Unless otherwise specifically provided, an associate  
34 broker has the same license privileges as a salesperson.  
35 5. "Barrier" means a natural or man-made geographic feature that  
36 prevents parcels of land from being practicably, reasonably and  
37 economically united or reunited and that was not caused or created by the  
38 owner of the parcels.  
39 6. "Blanket encumbrance":  
40 (a) Means either:  
41 (i) Any mortgage, any deed of trust or any other encumbrance or  
42 lien that secures or evidences the payment of monies and that affects more  
43 than one lot or parcel of subdivided land.

1 (ii) An agreement that affects more than one lot or parcel by which  
2 the subdivider holds the subdivision under an option, contract to sell or  
3 trust agreement.

4 (b) Does not include taxes and assessments that are levied by  
5 public authority.

6 7. "Board" means the real estate advisory board.

7 8. "Broker", when used without modification, means a person who is  
8 licensed as a broker under this chapter or who is required to be licensed  
9 as a broker under this chapter.

10 9. "Business broker" means a real estate broker who acts as an  
11 intermediary or agent between sellers or buyers, or both, in the sale or  
12 purchase, or both, of businesses or business opportunities where a lease  
13 or sale of real property is either a direct or incidental part of the  
14 transaction.

15 10. "Camping site" means a space that is designed and promoted for  
16 the purpose of locating any trailer, tent, tent trailer, pickup camper or  
17 other similar device used for camping.

18 11. "Cemetery" or "cemetery property" means any one, or a  
19 combination of more than one, of the following in a place that is used, or  
20 intended to be used, and dedicated for cemetery purposes:

21 (a) A burial park, for earth interments.

22 (b) A mausoleum, for crypt or vault entombments.

23 (c) A crematory, or a crematory and columbarium, for cinerary  
24 interments.

25 (d) A cemetery plot, including interment rights, mausoleum crypts,  
26 niches and burial spaces.

27 12. "Cemetery broker" means a person other than a real estate  
28 broker or real estate salesperson who, for another, for compensation:

29 (a) Sells, leases or exchanges cemetery property or interment  
30 services of or for another, or on the person's own account.

31 (b) Offers for another or for the person's own account to buy,  
32 sell, lease or exchange cemetery property or interment services.

33 (c) Negotiates the purchase and sale, lease or exchange of cemetery  
34 property or interment services.

35 (d) Negotiates the purchase or sale, lease or exchange, or lists or  
36 solicits, or negotiates a loan on or leasing of cemetery property or  
37 interment services.

38 13. "Cemetery salesperson" means a natural person who acts on the  
39 person's own behalf or through and on behalf of a professional limited  
40 liability company or a professional corporation engaged by or on behalf of  
41 a licensed cemetery or real estate broker, or through and on behalf of a  
42 corporation, partnership or limited liability company that is licensed as  
43 a cemetery or real estate broker, to perform any act or transaction  
44 included in the definition of cemetery broker.

45 14. "Commissioner" means the state real estate commissioner.

1           15. "Common promotional plan" means a plan, undertaken by a person  
2 or a group of persons acting in concert, to offer lots for sale or lease.  
3 If the land is offered for sale by a person or group of persons acting in  
4 concert, and the land is contiguous or is known, designated or advertised  
5 as a common unit or by a common name, the land is presumed, without regard  
6 to the number of lots covered by each individual offering, as being  
7 offered for sale or lease as part of a common promotional plan. Separate  
8 subdividers selling lots or parcels in separately platted subdivisions  
9 within a master planned community shall not be deemed to be offering their  
10 combined lots for sale or lease as part of a common promotional plan.

11           16. "Compensation" means any fee, commission, salary, monies or  
12 other valuable consideration for services rendered or to be rendered as  
13 well as the promise of consideration whether contingent or not.

14           17. "Contiguous":

15           (a) Means lots, parcels or fractional interests that share a common  
16 boundary or point.

17           (b) Does not include lots, parcels or fractional interests that are  
18 separated by either of the following:

19           (i) A barrier.

20           (ii) A road, street or highway that has been established by this  
21 state or by any agency or political subdivision of this state, that has  
22 been designated by the federal government as an interstate highway or that  
23 has been regularly maintained by this state or by any agency or political  
24 subdivision of this state and has been used continuously by the public for  
25 at least the last five years.

26           18. "Control" or "controlled" means a person who, through  
27 ownership, voting rights, power of attorney, proxy, management rights,  
28 operational rights or other rights, has the right to make decisions  
29 binding on an entity, whether a corporation, a partnership or any other  
30 entity.

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

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

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

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

39           (b) Doing business as a sole proprietor.

40           22. "Developer":

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

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

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

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

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

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

13 25. "Fractional interest" means an undivided interest in improved  
14 or unimproved land, lots or parcels of any size created for the purpose of  
15 sale or lease and evidenced by any receipt, certificate, deed or other  
16 document conveying the interest. Undivided interests in land, lots or  
17 parcels created in the names of a husband and wife as community property,  
18 joint tenants or tenants in common, or in the names of other persons who,  
19 acting together as part of a single transaction, acquire the interests  
20 without a purpose to divide the interests for present or future sale or  
21 lease shall be deemed to constitute only one fractional interest.

22 26. "Improved lot or parcel" means a lot or parcel of a subdivision  
23 on which there is a residential, commercial or industrial building or  
24 concerning which a contract has been entered into between a subdivider and  
25 a purchaser that obligates the subdivider directly, or indirectly through  
26 a building contractor, to completely construct a residential, commercial  
27 or industrial building on the lot or parcel within two years after the  
28 date on which the contract of sale for the lot is entered into, **EXCEPT FOR**  
29 **A CONDOMINIUM AS DEFINED IN SECTION 33-1202, WITHIN FOUR YEARS AFTER THE**  
30 **DATE ON WHICH THE CONTRACT FOR SALE IS ENTERED INTO.**

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

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

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

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

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

4           32. "Limited liability company licensee" means a lawfully organized  
5 limited liability company that has a member or manager who is a natural  
6 person and who is licensed as the designated broker pursuant to section  
7 32-2125.

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

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

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

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

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

26           (a) Sells, purchases, lists, exchanges or leases membership camping  
27 contracts.

28           (b) Offers to sell, purchase, exchange or lease membership camping  
29 contracts.

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

32           (d) Advertises or holds himself out as being engaged in the  
33 business of selling, buying, exchanging or leasing membership camping  
34 contracts or counseling or advising regarding membership camping  
35 contracts.

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

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

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

1           39. "Membership camping operator":

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

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

10          40. "Membership camping salesperson" means a natural person who  
11 acts on the person's own behalf or through and on behalf of a professional  
12 limited liability company or a professional corporation engaged by or on  
13 behalf of a licensed membership camping or real estate broker, or by or on  
14 behalf of a corporation, partnership or limited liability company that is  
15 licensed as a membership camping or real estate broker, to perform any act  
16 or participate in any transaction in a manner included in the definition  
17 of membership camping broker.

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

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

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

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

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

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

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

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

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

6           48. "Promotion" or "promotional practice" means advertising and any  
7 other act, practice, device or scheme to induce directly or indirectly any  
8 person to enter into any obligation or acquire any title or interest in or  
9 use of real property subject to this chapter, including meetings with  
10 prospective purchasers, arrangements for prospective purchasers to visit  
11 real property, travel allowances and discount, exchange, refund and  
12 cancellation privileges.

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

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

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

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

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

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

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

30           (f) Buys, sells, offers to buy or sell or otherwise deals in  
31 options on real estate, businesses and business opportunities or timeshare  
32 interests or improvements to real estate, businesses and business  
33 opportunities or timeshare interests.

34           (g) Collects or offers, attempts or agrees to collect rent for the  
35 use of real estate, businesses and business opportunities or timeshare  
36 interests. This subdivision does not apply to a person who is not a  
37 licensee, who works for a real estate broker or a real estate salesperson,  
38 who collects in-person rent and related fees on behalf of the real estate  
39 broker or real estate salesperson for the use of real estate as part of  
40 the person's clerical duties and who provides a receipt when rent is paid.

41           (h) Advertises or holds himself out as being engaged in the  
42 business of buying, selling, exchanging, renting or leasing real estate,  
43 businesses and business opportunities or timeshare interests or counseling  
44 or advising regarding real estate, businesses and business opportunities  
45 or timeshare interests.



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

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

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

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

17 (m) Claims, demands, charges, receives, collects or contracts to  
18 collect an advance fee in connection with any employment enumerated in  
19 this section, including employment undertaken to promote the sale or lease  
20 of real property by advance fee listing, by furnishing rental information  
21 to a prospective tenant for a fee paid by the prospective tenant, by  
22 advertising or by any other offering to sell, lease, exchange or rent real  
23 property or selling kits connected therewith. This does not include the  
24 activities of any communications media of general circulation or coverage  
25 not primarily engaged in advertising real estate or any communications  
26 media activities that are specifically exempt from applicability of this  
27 article under section 32-2121.

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

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

36 (p) Acts as a business broker.

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

40 52. "Real estate salesperson" means a natural person who acts on  
41 the person's own behalf or through and on behalf of a professional limited  
42 liability company or a professional corporation engaged by or on behalf of  
43 a licensed real estate broker, or by or on behalf of a limited liability  
44 company, partnership or corporation that is licensed as a real estate  
45 broker, to perform any act or participate in any transaction in a manner

1 included in the definition of real estate broker subject to section  
2 32-2155.

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

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

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

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

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

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

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

26 57. "Subdivider":

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

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

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

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

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

40 (c) Does not include:

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

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

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

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

13 (v) A sale or lease of a lot, parcel or fractional interest that  
14 occurs ten or more years after the sale or lease of another lot, parcel or  
15 fractional interest if the other lot, parcel or fractional interest is not  
16 subject to this article and is treated as an independent parcel unless, on  
17 investigation by the commissioner, there is evidence of intent to  
18 subdivide.

19 59. "Timeshare" or "timeshare property" means real property  
20 ownership or right of occupancy in real property pursuant to article 9 of  
21 this chapter. For the purposes of this chapter, a timeshare is not a  
22 security unless it meets the definition of a security under section  
23 44-1801.

24 60. "Trustee":

25 (a) Means a person who either:

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

28 (ii) Holds bare legal title to real property under a subdivision  
29 trust.

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

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

34 62. "Unsubdivided lands":

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

42 (b) Includes any land that is sold and that would otherwise  
43 constitute the sixth lot, parcel or fractional interest if the sale occurs  
44 ten or more years after the earliest of the previous five sales and if all  
45 of the sales consist of property that was originally contained within the

1 same parcel that is thirty-six acres or more and less than one hundred  
2 sixty acres.

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

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

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

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

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

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

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

1 D. The director shall designate private water companies in active  
2 management areas that have an assured water supply. If a city or town  
3 acquires a private water company that has contracted for central Arizona  
4 project water, the city or town shall assume the private water company's  
5 contract for central Arizona project water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34          M. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,  
35 2023, BEFORE PRESENTING A PERMIT APPLICATION FOR APPROVAL TO THE CITY,  
36 TOWN OR COUNTY IN WHICH THE LAND IS LOCATED, A PERSON THAT SEEKS A  
37 BUILDING PERMIT FOR SIX OR MORE DETACHED SINGLE-FAMILY RESIDENCES WITHIN  
38 AN ACTIVE MANAGEMENT AREA IN WHICH ANY PORTION OF THE CENTRAL ARIZONA  
39 PROJECT AQUEDUCT IS LOCATED, WITHOUT REGARD TO ANY PROPOSED LEASE TERM FOR  
40 THOSE DETACHED SINGLE-FAMILY RESIDENCES, SHALL:

41           1. APPLY FOR AND OBTAIN A CERTIFICATE OF ASSURED WATER SUPPLY FROM  
42 THE DIRECTOR UNLESS THE APPLICANT HAS OBTAINED A WRITTEN COMMITMENT OF  
43 WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR PRIVATE WATER  
44 COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO  
45 THIS SECTION.

1           2. PAY ALL APPLICABLE FEES PURSUANT TO SECTIONS 48-3772 AND  
2 48-3774.01 AND ACCOMPANY THE PERMIT APPLICATION WITH PROOF THAT THE  
3 APPLICABLE FEES HAVE BEEN PAID.

4           N. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,  
5 2023, A CITY, TOWN OR COUNTY MAY APPROVE A BUILDING PERMIT FOR A BUILDING  
6 PERMIT APPLICATION THAT INCLUDES SIX OR MORE DETACHED SINGLE-FAMILY  
7 RESIDENCES WITHIN AN ACTIVE MANAGEMENT AREA IN WHICH ANY PORTION OF THE  
8 CENTRAL ARIZONA PROJECT AQUEDUCT IS LOCATED, WITHOUT REGARD TO ANY  
9 PROPOSED LEASE TERM FOR THOSE DETACHED SINGLE-FAMILY RESIDENCES, ONLY IF  
10 THE DETACHED SINGLE-FAMILY RESIDENCES INCLUDED IN THE BUILDING PERMIT HAVE  
11 OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE DIRECTOR OR A  
12 WRITTEN COMMITMENT OF WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN  
13 OR PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER  
14 SUPPLY PURSUANT TO THIS SECTION.

15           ~~M.~~ 0. For the purposes of this section, "assured water supply"  
16 means all of the following:

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

31           (a) The existing rate of decline.

32           (b) The proposed withdrawals.

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

36           2. The projected groundwater use is consistent with the management  
37 plan and achievement of the management goal for the active management  
38 area.

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



1           Sec. 3. Section 48-3701, Arizona Revised Statutes, is amended to  
2 read:

3           48-3701. Definitions

4           In this chapter, unless the context otherwise requires:

5           1. "Active management area" means an active management area  
6 established under title 45, chapter 2, article 2.

7           2. "Board" means the board of directors of a multi-county water  
8 conservation district.

9           3. "Contract replenishment obligation" means an amount of  
10 groundwater that the district contracts to replenish in a year on behalf  
11 of a municipal provider pursuant to a contract authorized under section  
12 48-3772, subsection B, paragraph 9.

13           4. "Credits" means any groundwater in addition to the amount of  
14 groundwater that may be used at a member land or delivered within a member  
15 service area for use within the member service area pursuant to the  
16 applicable assured water supply rules adopted by the department of water  
17 resources.

18           5. "Declaration" means an instrument recorded against real property  
19 and conforming to the requirements prescribed by section 48-3774,  
20 subsection A, paragraph 5.

21           6. "District" means a multi-county water conservation district  
22 organized under the authority of this chapter.

23           7. "Excess groundwater" means an amount of groundwater equal to  
24 that amount of groundwater delivered to a member land in a calendar year  
25 or delivered within a member service area by the municipal provider for  
26 that member service area in a calendar year in excess of the amount of  
27 groundwater that may be used at the member land in that calendar year or  
28 that may be delivered by the municipal provider for use within the member  
29 service area in that calendar year and consistent with the applicable  
30 assured water supply rules adopted by the department of water resources  
31 for the active management area where the member land or the member service  
32 area is located.

33           8. "Excess groundwater increment" means the amount by which excess  
34 groundwater reported for a member service area under section 48-3775,  
35 subsection B in any year exceeds the maximum amount of excess groundwater  
36 reported for that member service area in any prior year.

37           9. "Groundwater replenishment obligation" means, for each active  
38 management area in which member lands or member service areas are or may  
39 be located, the total of the cumulative parcel replenishment obligation of  
40 all parcels of member land in that active management area for a particular  
41 calendar year plus the cumulative service area replenishment obligation of  
42 all member service areas in that active management area for a particular  
43 calendar year.

44           10. "Member land" means any real property that meets the  
45 requirements of section 48-3774.

1           11. "Member service area" means the service area of a municipal  
2 provider that qualifies as a member service area under section 48-3780,  
3 including any additions to or extensions of the service area.

4           12. "Multi-county water conservation district" means a district  
5 composed of three or more counties that have joined together for the  
6 creation of a district.

7           13. "Municipal provider" means a city, town or private water  
8 company or an irrigation district that supplies water for non-irrigation  
9 use.

10          14. "Parcel of member land" means any portion of member land for  
11 which the tax assessor for the county in which the member land is located  
12 has issued a separate county parcel number.

13          15. "Parcel replenishment obligation" means, with respect to any  
14 particular parcel of member land, an amount of groundwater that is equal  
15 to the amount of groundwater delivered to the parcel of member land in a  
16 calendar year multiplied by the percentage that the excess groundwater of  
17 the applicable member land for that year bears to the total amount of  
18 groundwater delivered to the applicable member land during that year.

19          16. "Population" means the population determined in the most recent  
20 United States decennial census.

21          17. "Private water company" has the same meaning prescribed in  
22 section 45-402.

23          18. "Projected replenishment obligation" means for each active  
24 management area, the district's total projected annual groundwater  
25 replenishment obligation for each of the one hundred years following  
26 submission of the district plan of operation.

27          19. "Replenish" means to increase the amount of groundwater in an  
28 aquifer through water storage pursuant to title 45, chapter 3.1 for the  
29 purpose of meeting the obligations of article 4 of this chapter.

30          20. "Reserve target" means the volume calculated for each active  
31 management area as prescribed by section 48-3772, subsection E.

32          21. "RESIDENTIAL LEASE COMMUNITY":

33           (a) MEANS SIX OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE  
34 ON ONE OR MORE LOTS, PARCELS OR FRACTIONAL INTERESTS, WITHOUT REGARD TO  
35 THE ZONING CLASSIFICATION OF THE LOTS, PARCELS OR FRACTIONAL INTERESTS,  
36 AND THAT ARE INTENDED TO BE OFFERED FOR THE PURPOSE OF LEASE, WHETHER  
37 IMMEDIATE OR FUTURE, WITHOUT REGARD TO THE LEASE TERM, UNDER A COMMON  
38 PROMOTIONAL PLAN AS DEFINED IN SECTION 32-2101.

39           (b) DOES NOT INCLUDE THE CONSTRUCTION, PROVISION OR LEASING OF  
40 RESIDENTIAL STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE  
41 EXEMPT FROM TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION  
42 11-865, SUBSECTION A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF  
43 HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

44          ~~21.~~ 22. "Resolution" means a resolution adopted by the governing  
45 body of a city or town, by the board of directors of a private water

1 company that is a corporation, by the general partners of a private water  
2 company that is a partnership or by the individual owners of a private  
3 water company that is individually owned.

4 ~~22.~~ 23. "Secretary" means the secretary of the interior of the  
5 United States of America.

6 ~~23.~~ 24. "Service area" has the same meaning prescribed in section  
7 45-402.

8 ~~24.~~ 25. "Service area replenishment obligation" means, with  
9 respect to any particular member service area, the excess groundwater of  
10 that member service area in a particular calendar year reduced by the  
11 replenishment credits, if any, applied by the municipal provider with  
12 respect to the member service area under section 48-3772, subsection H.

13 ~~25.~~ 26. "Water storage" has the same meaning prescribed in section  
14 45-802.01.

15 Sec. 4. 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, 2025, THE  
17 DISTRICT SHALL LEVY A ONETIME ACTIVATION FEE AGAINST EACH HOUSING UNIT TO  
18 BE CONSTRUCTED WITHIN THE RESIDENTIAL LEASE COMMUNITY.

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

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

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

36           (iii) PAID IN FULL PURSUANT TO SECTION 45-576, SUBSECTION M.

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

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

15           B. The district may:

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

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

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

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

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

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

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

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

39           9. Subject to subsection G of this section, contract with any  
40 municipal provider having a member service area to replenish groundwater  
41 on behalf of the municipal provider and with respect to the member service  
42 area in an amount in excess of the sum of the service area replenishment  
43 obligations applicable to the member service area for all years in which  
44 the district has not completed the replenishment of the groundwater  
45 replenishment obligation for the member service area.

1           10. Adopt resolutions granting water availability status to a member  
2 service area of a city, town or private water company and committing to  
3 replenish a specified average annual volume of water in a location where  
4 the city, town or private water company may physically access the water  
5 for service to its customers, 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 meet the obligations undertaken through the  
12 resolution.

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

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

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

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

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

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

41           (f) The director of water resources has found, pursuant to section  
42 45-576.07, subsection H, that the district has the capability to grant  
43 water availability status to member service areas.

44           11. Provide in resolutions adopted pursuant to paragraph 10 of this  
45 subsection that the district may fulfill its obligations under the

1 resolution in any year by directly delivering to the city, town or private  
2 water company the water that otherwise would have been replenished  
3 pursuant to the resolution, if all of the following apply:

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

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

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

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

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

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

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

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

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

43 14. Except as provided in section 48-3780.01, subsection B, in  
44 addition to any other assessments, fees, charges or taxes levied and  
45 collected under this chapter, or under any declaration, contract or

1 agreement entered into under this chapter, charge annual dues for  
2 membership pursuant to section 48-3779 against each parcel of member land  
3 and each municipal provider that has a member service area.

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

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

12 E. The district shall establish and maintain a replenishment  
13 reserve as follows:

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

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

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

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

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

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



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

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

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

12 (a) The active management area's projected replenishment  
13 obligation.

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

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

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

37 5. The district shall use replenishment reserve charges and  
38 replenishment reserve fees collected within each active management area  
39 together with all interest earned on the charges and fees to store water  
40 in that active management area in advance of groundwater replenishment  
41 obligations for the purpose of developing long-term storage credits as  
42 defined in section 45-802.01 that shall be credited to the replenishment  
43 reserve subaccount for that active management area as provided in section  
44 45-859.01.

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

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

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

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

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

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

44           I. In the Phoenix active management area, the district, to the  
45 extent reasonably feasible, shall replenish groundwater in the east

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

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

19 Sec. 5. Section 48-3774.01, Arizona Revised Statutes, is amended to  
20 read:

21 48-3774.01. Category 1 member lands; category 2 member lands;  
22 fees

23 A. Except as provided in subsection B of this section, all real  
24 property that qualifies under section 48-3774 shall be category 1 member  
25 land. The district shall levy annual replenishment reserve charges and  
26 ~~one-time~~ ONETIME replenishment reserve fees for category 1 member lands as  
27 provided in section 48-3772, subsection E and as follows:

28 1. For category 1 member lands that qualified before January 1,  
29 2004, the district shall levy annual replenishment reserve charges for  
30 twenty-five years beginning in 2004.

31 2. For category 1 member land that qualifies on or after January 1,  
32 2004, a replenishment reserve fee shall be paid before issuance of a  
33 public report for each final plat within the member land as provided in  
34 section 45-576, subsection C OR PAID IN FULL PURSUANT TO SECTION 45-576,  
35 SUBSECTION M and the district shall levy annual replenishment reserve  
36 charges against the land included within the final plat for twenty-three  
37 years beginning in the year after payment of the corresponding  
38 replenishment reserve fee.

39 B. A parcel of member land shall be a category 2 member land if all  
40 of the following apply:

41 1. The parcel of member land is or will be used as a golf course.

42 2. The parcel of member land is not served by a water provider that  
43 has been designated by the director of water resources as having an  
44 assured water supply pursuant to section 45-576.

1           3. The owner of the parcel notifies the district in writing at the  
2 time of qualification that the parcel is to be category 2 member land.  
3 For member land that qualified under section 48-3774 before January 1,  
4 2004, ~~such~~ THE notification must be made ~~no~~ NOT later than January 30,  
5 2004.

6           C. The district shall not levy replenishment reserve fees,  
7 replenishment reserve charges or a reserve replacement component against  
8 category 2 member lands.

9           D. The district shall not use credits from a replenishment reserve  
10 subaccount established under section 45-859.01 to satisfy its groundwater  
11 replenishment obligations for category 2 member lands. If as a result the  
12 district incurs additional costs and expenses in meeting its replenishment  
13 obligations for category 2 member lands, those additional costs and  
14 expenses are attributed solely to category 2 member lands for THE purposes  
15 of section 48-3772, subsection A, paragraph 1.

16           Sec. 6. Section 48-3779, Arizona Revised Statutes, is amended to  
17 read:

18           48-3779. Annual membership dues

19           A. On or before the third Monday of August of each year ~~beginning~~  
20 ~~in 2011~~, the district may charge annual membership dues on all parcels of  
21 member lands, ON EACH DETACHED SINGLE-FAMILY RESIDENCE WITHIN A  
22 RESIDENTIAL LEASE COMMUNITY and on all municipal providers having a member  
23 service area.

24           B. The annual membership dues shall be established annually by the  
25 district. The district shall use revenues from the annual membership  
26 dues, together with revenues from other revenue sources that are legally  
27 available to the district for those uses, solely to pay costs associated  
28 with the acquisition, lease or exchange of water or water rights and  
29 development of infrastructure necessary for the district to perform its  
30 replenishment obligations, including the payment of debt service expenses,  
31 and necessary reserves and coverage requirements, on bonds issued for  
32 replenishment purposes.

33           C. For any year in which the district has, or expects to have, any  
34 revenue bonds outstanding that were issued for replenishment purposes  
35 pursuant to section 48-3772, subsection B, paragraph 13, the annual  
36 membership dues shall be established in an amount determined by the  
37 district to be sufficient to provide, with other revenues legally  
38 available to the district for those purposes, and taking into account the  
39 requirements of section 48-3772, subsection A, paragraph 8, for the  
40 payment of all debt service expenses, including necessary reserves and  
41 coverage requirements with respect to the bonds.

42           D. When the district has determined the amount of revenues to be  
43 raised through the annual membership dues, the district shall allocate the  
44 amount to be raised between member lands, DETACHED SINGLE-FAMILY

1 RESIDENCES WITHIN RESIDENTIAL LEASE COMMUNITIES and member service areas  
2 prorated on the basis of the following two volumes:

3 1. Total current and projected annual replenishment obligation of  
4 all member lands as identified in the most recent plan of operation  
5 determined by the director of water resources to be consistent with  
6 achieving the management goal for the active management areas pursuant to  
7 section 45-576.03, subsection M, O or R.

8 2. Total planned annual service area replenishment obligations for  
9 all member service areas. The planned annual service area replenishment  
10 obligation for a member service area is the lesser of:

11 (a) The annual service area replenishment obligation, as determined  
12 by the district, associated with the current and committed water demands  
13 projected within the member service area as of December 31 of the year  
14 following the year in which the district is required to submit its next  
15 plan under section 45-576.02, subsection C.

16 (b) The maximum amount of excess groundwater that may be reported  
17 to the district as delivered by the municipal provider within the member  
18 service area in any year as established in an agreement executed between  
19 the municipal provider and the district.

20 E. The total amount allocated to member lands in any year, as  
21 calculated pursuant to subsection D of this section, shall be prorated  
22 among the Phoenix, Pinal and Tucson active management areas based on the  
23 current and projected annual replenishment obligation of all member lands  
24 in that active management area as identified in the most recent plan of  
25 operation determined by the director of water resources to be consistent  
26 with achieving the management goal for the active management area pursuant  
27 to section 45-576.03, subsection M, O or R. The prorated amount within  
28 each active management area shall be further prorated among all parcels of  
29 member land AND ALL DETACHED SINGLE-FAMILY RESIDENCES WITHIN RESIDENTIAL  
30 LEASE COMMUNITIES located within that active management area based on a  
31 uniform fee ~~per lot~~ levied against the total number of residential,  
32 commercial and common area lots AND ALL DETACHED SINGLE-FAMILY RESIDENCES  
33 WITHIN RESIDENTIAL LEASE COMMUNITIES included, or intended to be included,  
34 in each parcel of member land. These dues are a lien on each parcel of  
35 member land and shall be certified, collected and enforced with respect to  
36 member land in the same manner as the annual assessment pursuant to  
37 section 48-3778. However, any parcel of member land that is included in  
38 the service area of a municipal provider that has been designated as  
39 having an assured water supply under section 45-576 is not subject to the  
40 annual membership dues.

41 F. The total amount allocated to member service areas in any year,  
42 as calculated pursuant to subsection D of this section, shall be prorated  
43 among all member service areas based on a uniform fee per acre-foot levied  
44 against the member service area's dues volume. The dues volume for a  
45 member service area is the greater of:

1           1. The planned annual service area replenishment obligation as  
2 established pursuant to subsection D, paragraph 2 of this section for the  
3 member service area.

4           2. Five ~~per cent~~ PERCENT of the service area's annual estimated  
5 water demand to be satisfied with excess groundwater as identified in the  
6 service area's most recent designation order issued by the director of  
7 water resources. If the service area's most recent designation order  
8 issued by the director of water resources does not identify the annual  
9 estimated water demand to be satisfied with excess groundwater, the  
10 service area's annual estimated water demand to be satisfied with excess  
11 groundwater shall be calculated consistent with the rules adopted by the  
12 director pursuant to section 45-576, subsection H.

13           G. Except in the first full year following the year in which the  
14 director makes a determination that the district's most recent plan of  
15 operation is consistent with achieving the management goals of the active  
16 management areas pursuant to section 45-576.03, subsection M, for any year  
17 in which the dues volume for a member service area, as determined pursuant  
18 to subsection F of this section, exceeds the previous year's dues volume  
19 for the member service area, a makeup charge shall be added to the annual  
20 membership dues allocated under subsection F of this section to the member  
21 service area. The makeup charge shall become part of the member service  
22 area's annual membership dues for that year and is the sum of:

23           1. The difference between the current year's dues volume and the  
24 previous year's dues volume, in acre-feet, multiplied by the sum of the  
25 uniform fees per acre-foot established pursuant to subsection F of this  
26 section for each year since the later of:

27           (a) The first full year following the year of the director's  
28 determination that the district's most recent plan of operation is  
29 consistent with achieving the management goals of the active management  
30 areas pursuant to section 45-576.03, subsection M.

31           (b) The year in which the service area qualified as a member  
32 service area pursuant to section 48-3780.

33           2. Interest on the amount established in paragraph 1 of this  
34 subsection calculated at an interest rate determined by the district.

35           3. The amounts established in paragraphs 1 and 2 of this subsection  
36 multiplied by ten ~~per cent~~ PERCENT.

37           H. The annual membership dues become an obligation of each  
38 municipal provider that has a member service area and shall be stated,  
39 collected and enforced with respect to the municipal provider in the same  
40 manner as the annual replenishment tax pursuant to sections 48-3781 and  
41 48-3782.

42           I. Annual membership dues collected by the district shall be  
43 deposited in a special fund established by the state to be spent by the  
44 district only for the purposes authorized by this article, including:

1           1. The payment of debt service expenses and funding reserves for  
2 bonds issued for replenishment purposes.

3           2. The payment of the costs of acquiring, leasing or exchanging  
4 water or water rights and development of infrastructure necessary for the  
5 district to perform its replenishment obligations.

6           J. Amounts collected may be transferred to a bank or trust company  
7 to be held in trust and spent with respect to bonds issued for  
8 replenishment purposes.