

House Engrossed

subsequent AMAs; assured water supply

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

HOUSE BILL 2027

AN ACT

AMENDING SECTIONS 9-463.01, 11-823 AND 45-576, ARIZONA REVISED STATUTES;
RELATING TO ACTIVE MANAGEMENT AREAS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended
3 to read:
4 9-463.01. Authority
5 A. Pursuant to this article, the legislative body of every
6 municipality shall regulate the subdivision of all lands within its
7 corporate limits.
8 B. The legislative body of a municipality shall exercise the
9 authority granted in subsection A of this section by ordinance
10 prescribing:
11 1. Procedures to be followed in the preparation, submission, review
12 and approval or rejection of all final plats.
13 2. Standards governing the design of subdivision plats.
14 3. Minimum requirements and standards for the installation of
15 subdivision streets, sewer and water utilities and improvements as a
16 condition of final plat approval.
17 C. By ordinance, the legislative body of any municipality shall:
18 1. Require the preparation, submission and approval of a
19 preliminary plat as a condition precedent to submission of a final plat.
20 2. Establish the procedures to be followed in the preparation,
21 submission, review and approval of preliminary plats.
22 3. Make requirements as to the form and content of preliminary
23 plats.
24 4. Either determine that certain lands may not be subdivided, by
25 reason of adverse topography, periodic inundation, adverse soils,
26 subsidence of the earth's surface, high water table, lack of water or
27 other natural or man-made hazard to life or property, or control the lot
28 size, establish special grading and drainage requirements and impose other
29 regulations deemed reasonable and necessary for the public health, safety
30 or general welfare on any lands to be subdivided affected by such
31 characteristics.
32 5. Require payment of a proper and reasonable fee by the subdivider
33 based ~~upon~~ ON the number of lots or parcels on the surface of the land to
34 defray municipal costs of plat review and site inspection.
35 6. Require the dedication of public streets, sewer and water
36 utility easements or rights-of-way, within the proposed subdivision.
37 7. Require the preparation and submission of acceptable engineering
38 plans and specifications for the installation of required street, sewer,
39 electric and water utilities, drainage, flood control, adequacy of water
40 and improvements as a condition precedent to recordation of an approved
41 final plat.
42 8. Require the posting of performance bonds, assurances or such
43 other security as may be appropriate and necessary to assure the
44 installation of required street, sewer, electric and water utilities,

1 drainage, flood control and improvements meeting established minimum
2 standards of design and construction.

3 D. The legislative body of any municipality may require by
4 ordinance that land areas within a subdivision be reserved for parks,
5 recreational facilities, school sites and fire stations subject to the
6 following conditions:

7 1. The requirement may only be made ~~upon~~ ON preliminary plats filed
8 at least thirty days after the adoption of a general or specific plan
9 affecting the land area to be reserved.

10 2. The required reservations are in accordance with definite
11 principles and standards adopted by the legislative body.

12 3. The land area reserved shall be of such a size and shape as to
13 permit the remainder of the land area of the subdivision within which the
14 reservation is located to develop in an orderly and efficient manner.

15 4. The land area reserved shall be in such multiples of streets and
16 parcels as to permit an efficient division of the reserved area in the
17 event that it is not acquired within the prescribed period.

18 E. The public agency for whose benefit an area has been reserved
19 shall have a period of one year after recording the final subdivision plat
20 to enter into an agreement to acquire such reserved land area. The
21 purchase price shall be the fair market value of the reserved land area at
22 the time of the filing of the preliminary subdivision plat plus the taxes
23 against such reserved area from the date of the reservation and any other
24 costs incurred by the subdivider in the maintenance of such reserved area,
25 including the interest cost incurred on any loan covering such reserved
26 area.

27 F. If the public agency for whose benefit an area has been reserved
28 does not exercise the reservation agreement set forth in subsection E of
29 this section within such one year period or such extended period as may be
30 mutually agreed ~~upon~~ ON by such public agency and the subdivider, the
31 reservation of such area shall terminate.

32 G. The legislative body of every municipality shall comply with
33 this article and applicable state statutes pertaining to the hearing,
34 approval or rejection, and recordation of:

35 1. Final subdivision plats.

36 2. Plats filed for the purpose of reverting to acreage of land
37 previously subdivided.

38 3. Plats filed for the purpose of vacating streets or easements
39 previously dedicated to the public.

40 4. Plats filed for the purpose of vacating or redescribing lot or
41 parcel boundaries previously recorded.

42 H. Approval of every preliminary and final plat by a legislative
43 body is conditioned ~~upon~~ ON compliance by the subdivider with:

1 1. Rules as may be established by the department of transportation
2 relating to provisions for the safety of entrance ~~ଅପଟା~~ ON and departure
3 from abutting state primary highways.

4 2. Rules as may be established by a county flood control district
5 relating to the construction or prevention of construction of streets in
6 land established as being subject to periodic inundation.

7 3. Rules as may be established by the department of health services
8 or a county health department relating to the provision of domestic water
9 supply and sanitary sewage disposal.

10 I. If the subdivision is ~~comprised~~ COMPOSED of subdivided lands, as
11 defined in section 32-2101, and is within an active management area, as
12 defined in section 45-402, the final plat shall not be approved unless it
13 is accompanied by a certificate of assured water supply issued by the
14 director of water resources, or unless the subdivider has obtained a
15 written commitment of water service for the subdivision from a city, town
16 or private water company designated as having an assured water supply by
17 the director of water resources pursuant to section 45-576 or is exempt
18 from the requirement pursuant to section 45-576. The legislative body of
19 the municipality shall note on the face of the final plat that a
20 certificate of assured water supply has been submitted with the plat or
21 that the subdivider has obtained a written commitment of water service for
22 the proposed subdivision from a city, town or private water company
23 designated as having an assured water supply, pursuant to section 45-576,
24 or is exempt from the requirement pursuant to section 45-576.

25 J. Except as provided in subsections K and P of this section, if
26 the subdivision is composed of subdivided lands as defined in section
27 32-2101 outside of an active management area and the director of water
28 resources has given written notice to the municipality pursuant to section
29 45-108, subsection H, the final plat shall not be approved unless one of
30 the following applies:

31 1. The director of water resources has determined that there is an
32 adequate water supply for the subdivision pursuant to section 45-108 and
33 the subdivider has included the report with the plat.

34 2. The subdivider has obtained a written commitment of water
35 service for the subdivision from a city, town or private water company
36 designated as having an adequate water supply by the director of water
37 resources pursuant to section 45-108.

38 K. The legislative body of a municipality that has received written
39 notice from the director of water resources pursuant to section 45-108,
40 subsection H or that has adopted an ordinance pursuant to subsection O of
41 this section may provide by ordinance an exemption from the requirement in
42 subsection J or O of this section for a subdivision that the director of
43 water resources has determined will have an inadequate water supply
44 because the water supply will be transported to the subdivision by motor
45 vehicle or train if all of the following apply:

1 1. The legislative body determines that there is no feasible
2 alternative water supply for the subdivision and that the transportation
3 of water to the subdivision will not constitute a significant risk to the
4 health and safety of the residents of the subdivision.

5 2. If the water to be transported to the subdivision will be
6 withdrawn or diverted in the service area of a municipal provider as
7 defined in section 45-561, the municipal provider has consented to the
8 withdrawal or diversion.

9 3. If the water to be transported is groundwater, the
10 transportation complies with the provisions governing the transportation
11 of groundwater in title 45, chapter 2, article 8.

12 4. The transportation of water to the subdivision meets any
13 additional conditions imposed by the legislative body.

14 L. A municipality that adopts the exemption authorized by
15 subsection K of this section shall give written notice of the adoption of
16 the exemption, including a certified copy of the ordinance containing the
17 exemption, to the director of water resources, the director of
18 environmental quality and the state real estate commissioner. If the
19 municipality later rescinds the exemption, the municipality shall give
20 written notice of the rescission to the director of water resources, the
21 director of environmental quality and the state real estate
22 commissioner. A municipality that rescinds an exemption adopted pursuant
23 to subsection K of this section shall not readopt the exemption for at
24 least five years after the rescission becomes effective.

25 M. If the legislative body of a municipality approves a subdivision
26 plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this
27 section, the legislative body shall note on the face of the plat that the
28 director of water resources has reported that the subdivision has an
29 adequate water supply or that the subdivider has obtained a commitment of
30 water service for the proposed subdivision from a city, town or private
31 water company designated as having an adequate water supply pursuant to
32 section 45-108.

33 N. If the legislative body of a municipality approves a subdivision
34 plat pursuant to an exemption authorized by subsection K of this section
35 or granted by the director of water resources pursuant to section
36 45-108.02 or 45-108.03:

37 1. The legislative body shall give written notice of the approval
38 to the director of water resources and the director of environmental
39 quality.

40 2. The legislative body shall include on the face of the plat a
41 statement that the director of water resources has determined that the
42 water supply for the subdivision is inadequate and a statement describing
43 the exemption under which the plat was approved, including a statement
44 that the legislative body or the director of water resources, whichever
45 applies, has determined that the specific conditions of the exemption were

1 met. If the director subsequently informs the legislative body that the
2 subdivision is being served by a water provider that has been designated
3 by the director as having an adequate water supply pursuant to section
4 45-108, the legislative body shall record in the county recorder's office
5 a statement disclosing that fact.

6 0. If a municipality has not been given written notice by the
7 director of water resources pursuant to section 45-108, subsection H, the
8 legislative body of the municipality, to protect the public health and
9 safety, may provide by ordinance that, except as provided in subsections K
10 and P of this section, the final plat of a subdivision located in the
11 municipality and outside of an active management area will not be approved
12 by the legislative body unless the director of water resources has
13 determined that there is an adequate water supply for the subdivision
14 pursuant to section 45-108 or the subdivider has obtained a written
15 commitment of water service for the subdivision from a city, town or
16 private water company designated as having an adequate water supply by the
17 director of water resources pursuant to section 45-108. Before holding a
18 public hearing to consider whether to enact an ordinance pursuant to this
19 subsection, a municipality shall provide written notice of the hearing to
20 the board of supervisors of the county in which the municipality is
21 located. A municipality that enacts an ordinance pursuant to this
22 subsection shall give written notice of the enactment of the ordinance,
23 including a certified copy of the ordinance, to the director of water
24 resources, the director of environmental quality, the state real estate
25 commissioner and the board of supervisors of the county in which the
26 municipality is located. If a municipality enacts an ordinance pursuant
27 to this subsection, water providers may be eligible to receive monies in a
28 water supply development fund, as otherwise provided by law.

29 P. Subsections J and O of this section do not apply to:

30 1. A proposed subdivision that the director of water resources has
31 determined will have an inadequate water supply pursuant to section 45-108
32 if the director grants an exemption for the subdivision pursuant to
33 section 45-108.02 and the exemption has not expired or if the director
34 grants an exemption pursuant to section 45-108.03.

35 2. A proposed subdivision that received final plat approval from
36 the municipality before the requirement for an adequate water supply
37 became effective in the municipality if the plat has not been materially
38 changed since it received the final plat approval. If changes were made
39 to the plat after the plat received the final plat approval, the director
40 of water resources shall determine whether the changes are material
41 pursuant to the rules adopted by the director to implement section
42 45-108. If the municipality approves a plat pursuant to this paragraph
43 and the director of water resources has determined that there is an
44 inadequate water supply for the subdivision pursuant to section 45-108,
45 the municipality shall note this on the face of the plat.

1 3. ANY PORTION OF A PROPOSED SUBDIVISION THAT IS LOCATED IN A
2 MUNICIPALITY THAT ADOPTS AN ADEQUATE WATER SUPPLY ORDINANCE AND THAT IS
3 INCLUDED IN A SUBSEQUENT ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-412
4 OR 45-415. ON THE EFFECTIVE DATE OF THE ACTIVE MANAGEMENT AREA, ANY
5 ORDINANCES THAT WERE ADOPTED PURSUANT TO SUBSECTION J OR O OF THIS SECTION
6 DO NOT APPLY TO THAT PORTION OF THE PROPOSED SUBDIVISION THAT IS LOCATED
7 IN THE SUBSEQUENT ACTIVE MANAGEMENT AREA.

8 4. ANY PORTION OF A PROPOSED SUBDIVISION THAT IS LOCATED IN A
9 COUNTY THAT ADOPTS AN ADEQUATE WATER SUPPLY ORDINANCE AND THAT IS INCLUDED
10 IN A SUBSEQUENT ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-412 OR
11 45-415. ON THE EFFECTIVE DATE OF THE ACTIVE MANAGEMENT AREA, ANY
12 ORDINANCES THAT WERE ADOPTED PURSUANT TO SUBSECTION J OR O OF THIS SECTION
13 DO NOT APPLY TO THAT PORTION OF THE PROPOSED SUBDIVISION THAT IS LOCATED
14 IN THE SUBSEQUENT ACTIVE MANAGEMENT AREA.

15 5. ANY SUBDIVISION THAT IS LOCATED IN A SUBSEQUENT ACTIVE
16 MANAGEMENT AREA PURSUANT TO SECTION 45-412 OR 45-415 AND THAT HAS BEEN
17 ISSUED AN ADEQUATE WATER REPORT BY THE DIRECTOR BEFORE THE EFFECTIVE DATE
18 OF A SUBSEQUENT ACTIVE MANAGEMENT AREA. SUCH A SUBDIVISION IS EXEMPT FROM
19 THE REQUIREMENT TO OBTAIN A CERTIFICATE OF ASSURED WATER SUPPLY.

20 Q. If the subdivision is composed of subdivided lands as defined in
21 section 32-2101 outside of an active management area and the municipality
22 has not received written notice pursuant to section 45-108, subsection H
23 and has not adopted an ordinance pursuant to subsection O of this section:

24 1. If the director of water resources has determined that there is
25 an adequate water supply for the subdivision pursuant to section 45-108 or
26 if the subdivider has obtained a written commitment of water service for
27 the subdivision from a city, town or private water company designated as
28 having an adequate water supply by the director of water resources
29 pursuant to section 45-108, the municipality shall note this on the face
30 of the plat if the plat is approved.

31 2. If the director of water resources has determined that there is
32 an inadequate water supply for the subdivision pursuant to section 45-108,
33 the municipality shall note this on the face of the plat if the plat is
34 approved.

35 R. Every municipality is responsible for the recordation of all
36 final plats approved by the legislative body and shall receive from the
37 subdivider and transmit to the county recorder the recordation fee
38 established by the county recorder.

39 S. Pursuant to provisions of applicable state statutes, the
40 legislative body of any municipality may itself prepare or have prepared a
41 plat for the subdivision of land under municipal ownership.

42 T. The legislative bodies of cities and towns may regulate by
43 ordinance land splits within their corporate limits. Authority granted
44 under this section refers to the determination of division lines, area and
45 shape of the tracts or parcels and does not include authority to regulate

1 the terms or condition of the sale or lease nor does it include the
2 authority to regulate the sale or lease of tracts or parcels that are not
3 the result of land splits as defined in section 9-463.

4 U. For any subdivision that consists of ten or fewer lots, tracts
5 or parcels, each of which is of a size as prescribed by the legislative
6 body, the legislative body of each municipality may expedite the
7 processing of or waive the requirement to prepare, submit and receive
8 approval of a preliminary plat as a condition precedent to submitting a
9 final plat and may waive or reduce infrastructure standards or
10 requirements proportional to the impact of the subdivision. Requirements
11 for dust-controlled access and drainage improvements shall not be waived.

12 Sec. 2. Section 11-823, Arizona Revised Statutes, is amended to
13 read:

14 11-823. Water supply; adequacy; exemptions

15 A. To protect the public health and safety, the general regulations
16 adopted by the board pursuant to section 11-821, subsection B, if approved
17 by unanimous vote of the board of supervisors, may provide that, except as
18 provided in subsection C and subsection D, paragraph 1 of this section,
19 the board shall not approve a final plat for a subdivision composed of
20 subdivided lands, as defined in section 32-2101, located outside of an
21 active management area, as defined in section 45-402, unless one of the
22 following applies:

23 1. The director of water resources has determined that there is an
24 adequate water supply for the subdivision pursuant to section 45-108 and
25 the subdivider has included the report with the plat.

26 2. The subdivider has obtained a written commitment of water
27 service for the subdivision from a city, town or private water company
28 designated as having an adequate water supply by the director of water
29 resources pursuant to section 45-108.

30 B. If the board unanimously adopts the provision authorized by
31 subsection A of this section:

32 1. The board may include in the general regulations an exemption
33 from the provision for a subdivision that the director of water resources
34 has determined will have an inadequate water supply because the water
35 supply will be transported to the subdivision by motor vehicle or train if
36 all of the following apply:

37 (a) The board determines that there is no feasible alternative
38 water supply for the subdivision and that the transportation of water to
39 the subdivision will not constitute a significant risk to the health and
40 safety of the residents of the subdivision.

41 (b) If the water to be transported to the subdivision will be
42 withdrawn or diverted in the service area of a municipal provider as
43 defined in section 45-561, the municipal provider has consented to the
44 withdrawal or diversion.

1 (c) If the water to be transported is groundwater, the
2 transportation complies with the provisions governing the transportation
3 of groundwater in title 45, chapter 2, article 8.

4 (d) The transportation of water to the subdivision meets any
5 additional conditions imposed by the county.

6 2. The board shall promptly give written notice of the adoption of
7 the provision to the director of water resources, the director of
8 environmental quality and the state real estate commissioner. The notice
9 shall include a certified copy of the provision and any exemptions adopted
10 pursuant to paragraph 1 of this subsection. Water providers may be
11 eligible to receive monies in a water supply development fund, as
12 otherwise provided by law.

13 3. The board shall not rescind the provision or amend it in a
14 manner that is inconsistent with subsection A of this section. If the
15 board amends the provision, it shall give written notice of the amendment
16 to the director of water resources, the director of environmental quality
17 and the state real estate commissioner. The board may rescind an
18 exemption adopted pursuant to paragraph 1 of this subsection. If the
19 board rescinds the exemption, it shall give written notice of the
20 rescission to the director of water resources, the director of
21 environmental quality and the state real estate commissioner, and the
22 board shall not readopt the exemption for at least five years after the
23 rescission becomes effective.

24 4. If the board approves a subdivision plat pursuant to subsection
25 A, paragraph 1 or 2 of this section, the board shall note on the face of
26 the plat that the director of water resources has reported that the
27 subdivision has an adequate water supply or that the subdivider has
28 obtained a commitment of water service for the proposed subdivision from a
29 city, town or private water company designated as having an adequate water
30 supply pursuant to section 45-108.

31 5. If the board approves a subdivision plat pursuant to an
32 exemption authorized by paragraph 1 of this subsection or granted by the
33 director of water resources pursuant to section 45-108.02 or 45-108.03:

34 (a) The board shall give written notice of the approval to the
35 director of water resources and the director of environmental quality.

36 (b) The board shall include on the face of the plat a statement
37 that the director of water resources has determined that the water supply
38 for the subdivision is inadequate and a statement describing the exemption
39 under which the plat was approved, including a statement that the board or
40 the director of water resources, whichever applies, has determined that
41 the specific conditions of the exemption were met. If the director of
42 water resources subsequently informs the board that the subdivision is
43 being served by a water provider that has been designated by the director
44 as having an adequate water supply pursuant to section 45-108, the board

1 shall record in the county recorder's office a statement disclosing that
2 fact.

3 C. Subsection A of this section does not apply to:

4 1. A proposed subdivision that the director of water resources has
5 determined will have an inadequate water supply pursuant to section 45-108
6 if the director grants an exemption for the subdivision pursuant to
7 section 45-108.02 and the exemption has not expired or the director grants
8 an exemption pursuant to section 45-108.03.

9 2. A proposed subdivision that received final plat approval from
10 the county before the requirement for an adequate water supply became
11 effective in the county if the plat has not been materially changed since
12 it received the final plat approval. If changes were made to the plat
13 after the plat received the final plat approval, the director of water
14 resources shall determine whether the changes are material pursuant to the
15 rules adopted by the director to implement section 45-108. If the county
16 approves a plat pursuant to this paragraph and the director of water
17 resources has determined that there is an inadequate water supply for the
18 subdivision pursuant to section 45-108, the county shall note this on the
19 face of the plat.

20 3. ANY PORTION OF A PROPOSED SUBDIVISION THAT IS LOCATED IN A
21 COUNTY THAT ADOPTS AN ADEQUATE WATER SUPPLY ORDINANCE AND THAT IS INCLUDED
22 IN A SUBSEQUENT ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-412 OR
23 45-415. ON THE EFFECTIVE DATE OF THE ACTIVE MANAGEMENT AREA, ANY
24 ORDINANCES THAT WERE ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION DO
25 NOT APPLY TO THAT PORTION OF THE PROPOSED SUBDIVISION THAT IS LOCATED IN
26 THE SUBSEQUENT ACTIVE MANAGEMENT AREA. IN ANY COUNTY THAT HAS ADOPTED AN
27 ADEQUATE WATER SUPPLY ORDINANCE PURSUANT TO SUBSECTION A OF THIS SECTION
28 THAT BECOMES AN ACTIVE MANAGEMENT AREA, ANY ORDINANCE THAT REFERENCES AN
29 ADEQUATE WATER SUPPLY SHALL BE TREATED AS AN ASSURED WATER SUPPLY AS
30 DEFINED IN SECTION 45-576 AND ANY SUBDIVISION FOR WHICH THE DIRECTOR HAS
31 ISSUED AN ADEQUATE WATER REPORT BEFORE THE EFFECTIVE DATE OF A SUBSEQUENT
32 MANAGEMENT AREA IS EXEMPT FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF
33 ASSURED WATER SUPPLY.

34 D. If the subdivision is composed of subdivided lands as defined in
35 section 32-2101 outside of an active management area and the board has not
36 adopted a provision pursuant to subsection A of this section:

37 1. If the director of water resources has determined that there is
38 an adequate water supply for the subdivision pursuant to section 45-108 or
39 if the subdivider has obtained a written commitment of water service for
40 the subdivision from a city, town or private water company designated as
41 having an adequate water supply by the director of water resources
42 pursuant to section 45-108, the board shall note this on the face of the
43 plat if the plat is approved.

1 2. If the director of water resources has determined that there is
2 an inadequate water supply for the subdivision pursuant to section 45-108,
3 the board shall note this on the face of the plat if the plat is approved.

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

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

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

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

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

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

40 2. The subdivider has obtained a written commitment of water
41 service for the lands from a city, town or private water company
42 designated as having an assured water supply pursuant to this section and
43 the subdivider, owner or agent has paid any activation fee required under
44 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. SUBSECTIONS A, B AND C OF THIS SECTION DO NOT APPLY TO A PERSON
35 WHO PROPOSES TO OFFER SUBDIVIDED LANDS FOR SALE OR LEASE IN A SUBSEQUENT
36 ACTIVE MANAGEMENT AREA IF THE PERSON HAS RECEIVED AN ADEQUATE WATER REPORT
37 FROM THE DIRECTOR ON OR BEFORE THE EFFECTIVE DATE OF THE SUBSEQUENT ACTIVE
38 MANAGEMENT AREA.

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

41 1. Sufficient groundwater, surface water or effluent of adequate
42 quality will be continuously available to satisfy the water needs of the
43 proposed use for at least one hundred years. Beginning January 1 of the
44 calendar year following the year in which a groundwater replenishment
45 district is required to submit its preliminary plan pursuant to section

1 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
2 a member of the district, "sufficient groundwater" for the purposes of
3 this paragraph means that the proposed groundwater withdrawals that the
4 applicant will cause over a period of one hundred years will be of
5 adequate quality and will not exceed, in combination with other
6 withdrawals from land in the replenishment district, a depth to water of
7 one thousand feet or the depth of the bottom of the aquifer, whichever is
8 less. In determining depth to water for the purposes of this paragraph,
9 the director shall consider the combination of:

- 10 (a) The existing rate of decline.
11 (b) The proposed withdrawals.
12 (c) The expected water requirements of all recorded lots that are
13 not yet served water and that are located in the service area of a
14 municipal provider.

15 2. The projected groundwater use is consistent with the management
16 plan and achievement of the management goal for the active management
17 area.

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

24 (EMERGENCY NOT ENACTED)

25 Sec. 4. Emergency

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