

REFERENCE TITLE: residential lease communities; building permits

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

SB 1606

Introduced by
Senator Wadsack

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-469; AMENDING TITLE 11, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-324; AMENDING SECTIONS 32-2101, 45-576, 48-3772, 48-3774, 48-3774.01 AND 48-3779, ARIZONA REVISED STATUTES; RELATING TO RESIDENTIAL LEASE COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

6 A. THE LEGISLATIVE BODY OF A MUNICIPALITY MAY NOT APPROVE A
7 BUILDING PERMIT FOR ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT
8 ARE LOCATED IN A RESIDENTIAL LEASE COMMUNITY WITHIN AN ACTIVE MANAGEMENT
9 AREA AS DEFINED IN SECTION 45-402 UNLESS BOTH OF THE FOLLOWING APPLY:

10 1. THE APPLICANT HAS OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY
11 FROM THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES OR A WRITTEN
12 COMMITMENT OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY
13 THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO SECTION
14 45-576.

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

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

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

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

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

32 2. DOES NOT INCLUDE CONSTRUCTING, PROVIDING OR LEASING RESIDENTIAL
33 STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM
34 TITLE 11, CHAPTER 6, ARTICLE 5 AND THAT ARE OFFERED FOR THE PURPOSE OF
35 HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

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

38 11-324. Residential lease communities; building permits;
39 water supply; applicability; definition

40 A. THE BOARD OF SUPERVISORS MAY NOT APPROVE A BUILDING PERMIT FOR
41 ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE LOCATED IN A
42 RESIDENTIAL LEASE COMMUNITY WITHIN AN ACTIVE MANAGEMENT AREA AS DEFINED IN
43 SECTION 45-402 UNLESS BOTH OF THE FOLLOWING APPLY:

44 1. THE APPLICANT HAS OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY
45 FROM THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES OR A WRITTEN

1 COMMITMENT OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY
2 THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO SECTION
3 45-576.

4 2. THE APPLICANT HAS PAID ALL APPLICABLE FEES PURSUANT TO SECTIONS
5 48-3772 AND 48-3774.01 AND HAS ATTACHED TO THE BUILDING PERMIT APPLICATION
6 PROOF THAT THE APPLICABLE FEES HAVE BEEN PAID.

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

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

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

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

20 2. DOES NOT INCLUDE CONSTRUCTING, PROVIDING OR LEASING RESIDENTIAL
21 STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM
22 TITLE 11, CHAPTER 6, ARTICLE 5 AND THAT ARE OFFERED FOR THE PURPOSE OF
23 HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

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

26 32-2101. Definitions

27 In this chapter, unless the context otherwise requires:

28 1. "Acting in concert" means evidence of collaborating to pursue a
29 concerted plan.

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

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

42 (b) Communications to stockholders as follows:

43 (i) Annual reports and interim financial reports.

44 (ii) Proxy materials.

45 (iii) Registration statements.

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

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

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

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

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

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

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

14 13. "Cemetery salesperson" means a natural person who acts on the
15 person's own behalf or through and on behalf of a professional limited
16 liability company or a professional corporation engaged by or on behalf of
17 a licensed cemetery or real estate broker, or through and on behalf of a
18 corporation, partnership or limited liability company that is licensed as
19 a cemetery or real estate broker, to perform any act or transaction
20 included in the definition of cemetery broker.

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

22 15. "Common promotional plan" means a plan, undertaken by a person
23 or a group of persons acting in concert, to offer lots for sale or lease.
24 If the land is offered for sale by a person or group of persons acting in
25 concert, and the land is contiguous or is known, designated or advertised
26 as a common unit or by a common name, the land is presumed, without regard
27 to the number of lots covered by each individual offering, as being
28 offered for sale or lease as part of a common promotional plan. Separate
29 subdividers selling lots or parcels in separately platted subdivisions
30 within a master planned community shall not be deemed to be offering their
31 combined lots for sale or lease as part of a common promotional plan.

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

35 17. "Contiguous":

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

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

40 (i) A barrier.

41 (ii) A road, street or highway that has been established by this
42 state or by any agency or political subdivision of this state, that has
43 been designated by the federal government as an interstate highway or that
44 has been regularly maintained by this state or by any agency or political

1 subdivision of this state and has been used continuously by the public for
2 at least the last five years.

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

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

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

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

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

16 (b) Doing business as a sole proprietor.

17 22. "Developer":

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

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

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

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

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

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

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

42 26. "Improved lot or parcel" means a lot or parcel of a subdivision
43 on which there is a residential, commercial or industrial building or
44 concerning which a contract has been entered into between a subdivider and
45 a purchaser that obligates the subdivider directly, or indirectly through

1 a building contractor, to completely construct a residential, commercial
2 or industrial building on the lot or parcel within two years after the
3 date on which the contract of sale for the lot is entered into.

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

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

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

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

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

20 32. "Limited liability company licensee" means a lawfully organized
21 limited liability company that has a member or manager who is a natural
22 person and who is licensed as the designated broker pursuant to section
23 32-2125.

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

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

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

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

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

42 (a) Sells, purchases, lists, exchanges or leases membership camping
43 contracts.

44 (b) Offers to sell, purchase, exchange or lease membership camping
45 contracts.

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

3 (d) Advertises or holds himself out as being engaged in the
4 business of selling, buying, exchanging or leasing membership camping
5 contracts or counseling or advising regarding membership camping
6 contracts.

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

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

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

16 39. "Membership camping operator":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (f) Buys, sells, offers to buy or sell or otherwise deals in
2 options on real estate, businesses and business opportunities or timeshare
3 interests or improvements to real estate, businesses and business
4 opportunities or timeshare interests.

5 (g) Collects or offers, attempts or agrees to collect rent for the
6 use of real estate, businesses and business opportunities or timeshare
7 interests. This subdivision does not apply to a person who is not a
8 licensee, who works for a real estate broker or a real estate salesperson,
9 who collects in-person rent and related fees on behalf of the real estate
10 broker or real estate salesperson for the use of real estate as part of
11 the person's clerical duties and who provides a receipt when rent is paid.

12 (h) Advertises or holds himself out as being engaged in the
13 business of buying, selling, exchanging, renting or leasing real estate,
14 businesses and business opportunities or timeshare interests or counseling
15 or advising regarding real estate, businesses and business opportunities
16 or timeshare interests.

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

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

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

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

33 (m) Claims, demands, charges, receives, collects or contracts to
34 collect an advance fee in connection with any employment enumerated in
35 this section, including employment undertaken to promote the sale or lease
36 of real property by advance fee listing, by furnishing rental information
37 to a prospective tenant for a fee paid by the prospective tenant, by
38 advertising or by any other offering to sell, lease, exchange or rent real
39 property or selling kits connected therewith. This does not include the
40 activities of any communications media of general circulation or coverage
41 not primarily engaged in advertising real estate or any communications
42 media activities that are specifically exempt from applicability of this
43 article under section 32-2121.

44 (n) Engages in any of the acts listed in subdivisions (a) through
45 (m) of this paragraph for the sale or lease of other than real property if

1 a real property sale or lease is a part of, contingent on or ancillary to
2 the transaction.

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

7 (p) Acts as a business broker.

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

11 52. "Real estate salesperson" means a natural person who acts on
12 the person's own behalf or through and on behalf of a professional limited
13 liability company or a professional corporation engaged by or on behalf of
14 a licensed real estate broker, or by or on behalf of a limited liability
15 company, partnership or corporation that is licensed as a real estate
16 broker, to perform any act or participate in any transaction in a manner
17 included in the definition of real estate broker subject to section
18 32-2155.

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

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

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

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

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

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

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

42 57. "Subdivider":

43 (a) Means any person who offers for sale or lease six or more lots,
44 parcels or fractional interests in a subdivision or who causes land to be

1 subdivided into a subdivision for the subdivider or for others, or who
2 undertakes to develop a subdivision.

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

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

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

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

12 (c) Does not include:

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

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

18 (iii) The leasing of agricultural lands or apartments, offices,
19 stores, hotels, motels, pads or similar space within an apartment
20 building, industrial building, rental recreational vehicle community,
21 rental manufactured home community, rental mobile home park or commercial
22 building OR CONSTRUCTING, PROVIDING OR LEASING RESIDENTIAL STRUCTURES THAT
23 ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM TITLE 11,
24 CHAPTER 6, ARTICLE 5 AND THAT ARE OFFERED FOR THE PURPOSE OF HOUSING
25 PERSONS WHO ARE AGRICULTURAL WORKERS.

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

29 (v) A sale or lease of a lot, parcel or fractional interest that
30 occurs ten or more years after the sale or lease of another lot, parcel or
31 fractional interest if the other lot, parcel or fractional interest is not
32 subject to this article and is treated as an independent parcel unless, on
33 investigation by the commissioner, there is evidence of intent to
34 subdivide.

35 59. "Timeshare" or "timeshare property" means real property
36 ownership or right of occupancy in real property pursuant to article 9 of
37 this chapter. For the purposes of this chapter, a timeshare is not a
38 security unless it meets the definition of a security under section
39 44-1801.

40 60. "Trustee":

41 (a) Means a person who either:

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

44 (ii) Holds bare legal title to real property under a subdivision
45 trust.

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

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

5 62. "Unsubdivided lands":

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

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

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

21 45-576. Certificate of assured water supply; designated
22 cities, towns and private water companies;
23 exemptions; definition

24 A. Except as provided in subsections G and J of this section, a
25 person who proposes to offer subdivided lands, as defined in section
26 32-2101, for sale or lease in an active management area shall apply for
27 and obtain a certificate of assured water supply from the director before
28 presenting the plat for approval to the city, town or county in which the
29 land is located, where such is required, and before filing with the state
30 real estate commissioner a notice of intention to offer such lands for
31 sale or lease, pursuant to section 32-2181, unless the subdivider has
32 obtained a written commitment of water service for the subdivision from a
33 city, town or private water company designated as having an assured water
34 supply pursuant to this section.

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

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

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

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

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

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

28 F. The director shall notify the mayors of all cities and towns in
29 active management areas and the chairmen of the boards of supervisors of
30 counties in which active management areas are located of the cities, towns
31 and private water companies designated as having an assured water supply
32 and any modification of that designation within thirty days of the
33 designation or modification. If the service area of the city, town or
34 private water company has qualified as a member service area pursuant to
35 title 48, chapter 22, article 4, the director shall also notify the
36 conservation district of the designation or modification and shall report
37 the projected average annual replenishment obligation for the member
38 service area based on the projected and committed average annual demand
39 for water within the service area during the effective term of the
40 designation or modification subject to any limitation in an agreement
41 between the conservation district and the city, town or private water
42 company. For each city, town or private water company that qualified as a
43 member service area under title 48, chapter 22 and was designated as
44 having an assured water supply before January 1, 2004, the director shall
45 report to the conservation district on or before January 1, 2005 the

1 projected average annual replenishment obligation based on the projected
2 and committed average annual demand for water within the service area
3 during the effective term of the designation subject to any limitation in
4 an agreement between the conservation district and the city, town or
5 private water company. Persons proposing to offer subdivided lands served
6 by those designated cities, towns and private water companies for sale or
7 lease are exempt from applying for and obtaining a certificate of assured
8 water supply.

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

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

23 I. If the director designates a municipal provider as having an
24 assured water supply under this section and the designation lapses or
25 otherwise terminates while the municipal provider's service area is a
26 member service area of a conservation district, the municipal provider or
27 its successor shall continue to comply with the consistency with
28 management goal requirements in the rules adopted by the director under
29 subsection H of this section as if the designation was still in effect
30 with respect to the municipal provider's designation uses. When
31 determining compliance by the municipal provider or its successor with the
32 consistency with management goal requirements in the rules, the director
33 shall consider only water delivered by the municipal provider or its
34 successor to the municipal provider's designation uses. A person is the
35 successor of a municipal provider if the person commences water service to
36 uses that were previously designation uses of the municipal provider. Any
37 groundwater delivered by the municipal provider or its successor to the
38 municipal provider's designation uses in excess of the amount allowed
39 under the consistency with management goal requirements in the rules shall
40 be considered excess groundwater for purposes of title 48, chapter 22.
41 For the purposes of this subsection, "designation uses" means all water
42 uses served by a municipal provider on the date the municipal provider's
43 designation of assured water supply lapses or otherwise terminates and all
44 recorded lots within the municipal provider's service area that were not
45 being served by the municipal provider on that date but that received

1 final plat approval from a city, town or county on or before that date.
2 Designation uses do not include industrial uses served by an irrigation
3 district under section 45-497.

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

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

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

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

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

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

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

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

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

1 M. BEFORE PRESENTING A PERMIT APPLICATION FOR APPROVAL TO THE
2 LEGISLATIVE BODY OF A MUNICIPALITY OR THE BOARD OF SUPERVISORS OF A COUNTY
3 IN WHICH THE LAND IS LOCATED, A PERSON THAT SEEKS A BUILDING PERMIT FOR
4 ONE OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE LOCATED IN A
5 RESIDENTIAL LEASE COMMUNITY AS DEFINED IN SECTION 9-469 OR 11-324, AS
6 APPLICABLE, WITHIN AN ACTIVE MANAGEMENT AREA SHALL:

7 1. APPLY FOR AND OBTAIN A CERTIFICATE OF ASSURED WATER SUPPLY FROM
8 THE DIRECTOR UNLESS THE APPLICANT HAS OBTAINED A WRITTEN COMMITMENT OF
9 WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR PRIVATE WATER
10 COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO
11 THIS SECTION.

12 2. PAY ALL APPLICABLE FEES PURSUANT TO SECTIONS 48-3772 AND
13 48-3774.01 AND ACCOMPANY THE BUILDING PERMIT APPLICATION WITH PROOF THAT
14 THE APPLICABLE FEES HAVE BEEN PAID.

15 N. A CITY, TOWN OR COUNTY MAY APPROVE A BUILDING PERMIT FOR ONE OR
16 MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE LOCATED IN A RESIDENTIAL
17 LEASE COMMUNITY AS DEFINED IN SECTION 9-469 OR 11-324, AS APPLICABLE,
18 WITHIN AN ACTIVE MANAGEMENT AREA ONLY IF THE DETACHED RESIDENTIAL DWELLING
19 UNITS HAVE OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE
20 DIRECTOR OR A WRITTEN COMMITMENT OF WATER SERVICE FOR THE RESIDENCES FROM
21 A CITY, TOWN OR PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN
22 ASSURED WATER SUPPLY PURSUANT TO THIS SECTION.

23 ~~M.~~ O. For the purposes of this section, "assured water supply"
24 means all of the following:

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

39 (a) The existing rate of decline.

40 (b) The proposed withdrawals.

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

1 7. Levy an activation fee as follows:

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

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

11 (c) FOR RESIDENTIAL LEASE COMMUNITIES AS DEFINED IN SECTION 9-469
12 OR 11-324, AS APPLICABLE, WITHIN MEMBER LANDS AND MEMBER SERVICE AREAS
13 THAT ARE ENROLLED ON OR AFTER JANUARY 1, 2024, THE DISTRICT SHALL LEVY A
14 ONETIME ACTIVATION FEE AGAINST EACH DETACHED RESIDENTIAL DWELLING UNIT TO
15 BE CONSTRUCTED WITHIN THE RESIDENTIAL LEASE COMMUNITY.

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

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

21 (ii) One-half paid before issuance of a public report for each real
22 estate subdivision identified in subdivision (a) or (b) of this paragraph
23 and the remaining amount paid ~~no~~ NOT later than one year after the
24 issuance of the public report. The total amount of the activation fee
25 must be the amount of the activation fee in effect at the time of the
26 initial payment. Payment of the initial one-half of the activation fee
27 pursuant to this item constitutes sufficient payment of applicable fees
28 for notice of intent to subdivide as prescribed in section 32-2181,
29 subsection C and for issuance of a public report as prescribed in section
30 32-2183, subsection G and section 45-576, subsection C, except that on
31 failure to pay the remaining amount, the commissioner shall suspend the
32 public report for that subdivision pursuant to section 32-2183.

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

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

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

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

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

23 48-3774. Qualification as member land

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

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

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

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

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

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

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

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

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

6 (d) Declares that qualifying as member land and subjecting the real
7 property to the parcel replenishment obligation and the replenishment
8 assessment directly benefits the real property by increasing the potential
9 of the property to qualify for a certificate of assured water supply
10 issued by the department of water resources pursuant to title 45, chapter
11 2, article 9, thereby allowing the development, use and enjoyment of the
12 real property.

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

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

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

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

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

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

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

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

44 1. No lot or parcel of ~~subdivided~~ land within the real property has
45 been sold or leased to a retail purchaser or lessee.

1 1. For category 1 member lands that qualified before January 1,
2 2004, the district shall levy annual replenishment reserve charges for
3 twenty-five years beginning in 2004.

4 2. For category 1 member land that qualifies on or after January 1,
5 2004, a replenishment reserve fee shall be paid before issuance of a
6 public report for each final plat within the member land as provided in
7 section 45-576, subsection C **OR PAID IN FULL PURSUANT TO SECTION 45-576,**
8 **SUBSECTION M** and the district shall levy annual replenishment reserve
9 charges against the land included within the final plat for twenty-three
10 years beginning in the year after payment of the corresponding
11 replenishment reserve fee.

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

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

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

18 3. The owner of the parcel notifies the district in writing at the
19 time of qualification that the parcel is to be category 2 member land.
20 For member land that qualified under section 48-3774 before January 1,
21 2004, such notification must be made ~~no~~ **NOT** later than January 30, 2004.

22 C. The district shall not levy replenishment reserve fees,
23 replenishment reserve charges or a reserve replacement component against
24 category 2 member lands.

25 D. The district shall not use credits from a replenishment reserve
26 subaccount established under section 45-859.01 to satisfy its groundwater
27 replenishment obligations for category 2 member lands. If as a result the
28 district incurs additional costs and expenses in meeting its replenishment
29 obligations for category 2 member lands, those additional costs and
30 expenses are attributed solely to category 2 member lands for purposes of
31 section 48-3772, subsection A, paragraph 1.

32 Sec. 8. Section 48-3779, Arizona Revised Statutes, is amended to
33 read:

34 **48-3779. Annual membership dues**

35 A. On or before the third Monday of August of each year **beginning**
36 ~~in 2011~~, the district may charge annual membership dues on all parcels of
37 member lands, **ON EACH DWELLING WITHIN A RESIDENTIAL LEASE COMMUNITY AS**
38 **DEFINED IN SECTION 9-469 OR 11-324, AS APPLICABLE**, and on all municipal
39 providers having a member service area.

40 B. The annual membership dues shall be established annually by the
41 district. The district shall use revenues from the annual membership
42 dues, together with revenues from other revenue sources that are legally
43 available to the district for those uses, solely to pay costs associated
44 with the acquisition, lease or exchange of water or water rights and
45 development of infrastructure necessary for the district to perform its

1 replenishment obligations, including the payment of debt service expenses,
2 and necessary reserves and coverage requirements, on bonds issued for
3 replenishment purposes.

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

13 D. When the district has determined the amount of revenues to be
14 raised through the annual membership dues, the district shall allocate the
15 amount to be raised between member lands and member service areas prorated
16 on the basis of the following two volumes:

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

22 2. Total planned annual service area replenishment obligations for
23 all member service areas. The planned annual service area replenishment
24 obligation for a member service area is the lesser of:

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

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

34 E. The total amount allocated to member lands in any year, as
35 calculated pursuant to subsection D of this section, shall be prorated
36 among the Phoenix, Pinal and Tucson active management areas based on the
37 current and projected annual replenishment obligation of all member lands
38 in that active management area as identified in the most recent plan of
39 operation determined by the director of water resources to be consistent
40 with achieving the management goal for the active management area pursuant
41 to section 45-576.03, subsection M, O or R. The prorated amount within
42 each active management area shall be further prorated among all parcels of
43 member land, AND AMONG ALL DWELLINGS WITHIN A RESIDENTIAL LEASE COMMUNITY
44 AS DEFINED IN SECTION 9-469 OR 11-324, AS APPLICABLE, located within that
45 active management area based on a uniform fee ~~per lot~~ levied against the

1 total number of residential, commercial and common area lots, AND ALL
2 DWELLINGS WITHIN A RESIDENTIAL LEASE COMMUNITY AS DEFINED IN SECTION 9-469
3 OR 11-324, AS APPLICABLE, included, or intended to be included, in each
4 parcel of member land. These dues are a lien on each parcel of member
5 land and shall be certified, collected and enforced with respect to member
6 land in the same manner as the annual assessment pursuant to section
7 48-3778. However, any parcel of member land that is included in the
8 service area of a municipal provider that has been designated as having an
9 assured water supply under section 45-576 is not subject to the annual
10 membership dues.

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

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

19 2. Five ~~per cent~~ PERCENT of the service area's annual estimated
20 water demand to be satisfied with excess groundwater as identified in the
21 service area's most recent designation order issued by the director of
22 water resources. If the service area's most recent designation order
23 issued by the director of water resources does not identify the annual
24 estimated water demand to be satisfied with excess groundwater, the
25 service area's annual estimated water demand to be satisfied with excess
26 groundwater shall be calculated consistent with the rules adopted by the
27 director pursuant to section 45-576, subsection H.

28 G. Except in the first full year following the year in which the
29 director makes a determination that the district's most recent plan of
30 operation is consistent with achieving the management goals of the active
31 management areas pursuant to section 45-576.03, subsection M, for any year
32 in which the dues volume for a member service area, as determined pursuant
33 to subsection F of this section, exceeds the previous year's dues volume
34 for the member service area, a makeup charge shall be added to the annual
35 membership dues allocated under subsection F of this section to the member
36 service area. The makeup charge shall become part of the member service
37 area's annual membership dues for that year and is the sum of:

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

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

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

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

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

7 H. The annual membership dues become an obligation of each
8 municipal provider that has a member service area and shall be stated,
9 collected and enforced with respect to the municipal provider in the same
10 manner as the annual replenishment tax pursuant to sections 48-3781 and
11 48-3782.

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

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

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

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