

REFERENCE TITLE: physical availability exemption credit; groundwater

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1611

Introduced by
Senators Shope: Petersen

AN ACT

AMENDING TITLE 45, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY
ADDING SECTION 45-465.05; AMENDING SECTIONS 45-576 AND 45-576.08, ARIZONA
REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 45, chapter 2, article 5, Arizona Revised
3 Statutes, is amended by adding section 45-465.05, to read:

4 45-465.05. Permanent relinquishment of irrigation
5 grandfathered rights; physical availability
6 exemption credits; assured water supply;
7 definitions

8 A. A PERSON WHO OWNS LAND WITHIN AN ACTIVE MANAGEMENT AREA THAT MAY
9 BE LEGALLY IRRIGATED WITH GROUNDWATER PURSUANT TO AN IRRIGATION
10 GRANDFATHERED RIGHT MAY PERMANENTLY RELINQUISH ALL OR A PORTION OF THE
11 IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL AVAILABILITY
12 EXEMPTION CREDIT IF BOTH OF THE FOLLOWING APPLY:

13 1. WITHIN A REASONABLE TIME BEFORE OR AFTER THE LAND IS RETIRED,
14 THE PERSON APPLIES TO THE DIRECTOR TO PERMANENTLY RELINQUISH ALL OR A
15 PORTION OF THE IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL
16 AVAILABILITY EXEMPTION CREDIT.

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

19 B. A PERSON WHO RECEIVES A PHYSICAL AVAILABILITY EXEMPTION CREDIT
20 MAY CHOOSE TO ANNUALLY WITHDRAW AND USE THE FOLLOWING VOLUME OF
21 GROUNDWATER PURSUANT TO THIS SECTION AS FOLLOWS:

22 1. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS:

23 (a) TWO ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
24 FARM. IF THE VOLUME OF THE CREDIT IS TWO ACRE-FEET PER IRRIGATION ACRE,
25 SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST BE
26 REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY RULES
27 ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE LAND IS
28 LOCATED, AND THIRTY-THREE PERCENT OF THE GROUNDWATER USED IS DEEMED
29 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
30 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

31 (b) ONE AND ONE-HALF ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
32 PORTION OF THE FARM. IF THE VOLUME OF THE CREDIT IS ONE AND ONE-HALF
33 ACRE-FEET PER IRRIGATION ACRE, FIFTY PERCENT OF THE GROUNDWATER USED ON
34 THAT PARCEL OF LAND MUST BE REPLENISHED IN ACCORDANCE WITH THE APPLICABLE
35 ASSURED WATER SUPPLY RULES ADOPTED BY THE DEPARTMENT FOR THE ACTIVE
36 MANAGEMENT AREA WHERE THE LAND IS LOCATED, AND FIFTY PERCENT OF THE
37 GROUNDWATER USED IS DEEMED CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT
38 GOAL PURSUANT TO SECTION 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION
39 45-576.01.

40 (c) ONE ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
41 FARM. IF THE VOLUME OF THE CREDIT IS ONE-ACRE FOOT PER IRRIGATION ACRE,
42 THIRTY-THREE PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST
43 BE REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY
44 RULES ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE
45 LAND IS LOCATED, AND SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED IS DEEMED

1 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
2 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

3 2. IN THE PINAL ACTIVE MANAGEMENT AREA:

4 (a) ONE AND ONE-HALF ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
5 PORTION OF THE FARM. IF THE VOLUME OF THE CREDIT IS ONE AND ONE-HALF
6 ACRE-FEET PER IRRIGATION ACRE, ONE HUNDRED PERCENT OF THE GROUNDWATER USED
7 ON THAT PARCEL OF LAND MUST BE REPLENISHED IN ACCORDANCE WITH THE
8 APPLICABLE ASSURED WATER SUPPLY RULES ADOPTED BY THE DEPARTMENT FOR THE
9 ACTIVE MANAGEMENT AREA WHERE THE LAND IS LOCATED, AND NONE OF THE
10 GROUNDWATER USED IS DEEMED CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT
11 GOAL PURSUANT TO SECTION 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION
12 45-576.01.

13 (b) ONE ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
14 FARM. IF THE VOLUME OF THE CREDIT IS ONE ACRE-FOOT PER IRRIGATION ACRE,
15 SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST BE
16 REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY RULES
17 ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE LAND IS
18 LOCATED, AND THIRTY-THREE PERCENT OF THE GROUNDWATER USED IS DEEMED
19 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
20 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

21 (c) ONE-HALF ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION
22 OF THE FARM. IF THE VOLUME OF THE CREDIT IS ONE-HALF ACRE-FOOT PER
23 IRRIGATION ACRE, THIRTY-THREE PERCENT OF THE GROUNDWATER USED ON THAT
24 PARCEL OF LAND MUST BE REPLENISHED IN ACCORDANCE WITH THE APPLICABLE
25 ASSURED WATER SUPPLY RULES ADOPTED BY THE DEPARTMENT FOR THE ACTIVE
26 MANAGEMENT AREA WHERE THE LAND IS LOCATED, AND SIXTY-SEVEN PERCENT OF THE
27 GROUNDWATER USED IS DEEMED CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT
28 GOAL PURSUANT TO SECTION 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION
29 45-576.01.

30 C. THE DIRECTOR SHALL IDENTIFY ALL OF THE FOLLOWING WHEN ISSUING A
31 PHYSICAL AVAILABILITY EXEMPTION CREDIT:

32 1. THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED AND THE
33 CORRESPONDING REPLENISHMENT OBLIGATION AS CALCULATED PURSUANT TO
34 SUBSECTION B OF THIS SECTION.

35 2. THE NUMBER AND LOCATION OF THE ACRES THAT ARE ASSOCIATED WITH
36 THE RELINQUISHMENT.

37 3. THE WELLS THAT HAVE BEEN USED TO SERVE THE IRRIGATION
38 GRANDFATHERED RIGHT.

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

41 5. THE DIRECTOR'S DETERMINATION WHETHER THE CRITERIA PRESCRIBED IN
42 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
43 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
44 PROJECTION. THIS DETERMINATION SHALL BE APPLIED TO AN ASSURED WATER
45 SUPPLY APPLICATION THAT IS SUBMITTED TO THE DEPARTMENT WITHIN TWO YEARS

1 AFTER THE DATE THE PHYSICAL AVAILABILITY EXEMPTION CREDIT IS ISSUED AND
2 SHALL REMAIN VALID UNTIL THE DIRECTOR MAKES A FINAL DECISION ON THE
3 ASSURED WATER SUPPLY APPLICATION.

4 D. ON REQUEST OF THE HOLDER OF A PHYSICAL AVAILABILITY EXEMPTION
5 CREDIT FOR PURPOSES OF AN APPLICATION FOR AN ASSURED WATER SUPPLY, THE
6 VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SUBSECTION B OF THIS SECTION
7 SHALL BE EXEMPT FROM THE REQUIREMENT TO DEMONSTRATE THAT THE GROUNDWATER
8 SUPPLY IS PHYSICALLY AVAILABLE IN ACCORDANCE WITH SECTION 45-576 IF ALL OF
9 THE FOLLOWING APPLY:

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

12 (a) THE RETIRED IRRIGATION ACRES.

13 (b) LAND WITHIN ONE MILE OF THE EXTERIOR BOUNDARY OF THE RETIRED
14 IRRIGATION ACRES. FOR THE PURPOSES OF THIS SUBDIVISION, IF A PORTION OF A
15 PARCEL OF LAND IS WITHIN ONE MILE OF THE EXTERIOR BOUNDARY, THE ENTIRE
16 PARCEL SHALL BE INCLUDED.

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

19 (a) WELLS THAT WERE USED TO SERVE THE IRRIGATION GRANDFATHERED
20 RIGHT.

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

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

24 (d) WELLS LOCATED WITHIN ONE MILE OF THE ACRES ASSOCIATED WITH THE
25 RELINQUISHMENT.

26 3. THE APPLICANT DEMONSTRATES, USING A METHOD OF ANALYSIS APPROVED
27 BY THE DIRECTOR, THAT GROUNDWATER CAN BE WITHDRAWN TO SERVE THE PROPOSED
28 USE FOR ONE HUNDRED YEARS WITHOUT EXCEEDING THE DEPTH OF THE AQUIFER OR
29 THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL AS PRESCRIBED BY SUBSECTION K
30 OF THIS SECTION, WHICHEVER IS LESS. FOR THE PURPOSES OF THIS
31 DEMONSTRATION:

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

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

40 E. ON REQUEST FROM THE HOLDER OF AN IRRIGATION GRANDFATHERED RIGHT,
41 THE DIRECTOR SHALL MAKE A DETERMINATION TO GRANT A PHYSICAL AVAILABILITY
42 EXEMPTION CREDIT WITHIN AN OVERALL TIME FRAME OF NINETY DAYS PURSUANT TO
43 THE LICENSING TIME FRAMES PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1.
44 THE OVERALL TIME FRAME SHALL INCLUDE THIRTY DAYS FOR AN ADMINISTRATIVE
45 COMPLETENESS REVIEW AND SIXTY DAYS FOR A SUBSTANTIVE REVIEW. THE TIME

1 FRAME MAY BE EXTENDED BY MUTUAL AGREEMENT AS PRESCRIBED BY SECTION
2 41-1075.

3 F. BEFORE THE DIRECTOR ISSUES A PHYSICAL AVAILABILITY EXEMPTION
4 CREDIT, THE DIRECTOR SHALL NOTIFY THE HOLDER OF THE IRRIGATION
5 GRANDFATHERED RIGHT IN WRITING WHETHER THE CRITERION PRESCRIBED IN
6 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
7 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
8 PROJECTION AND REQUEST WRITTEN CONFIRMATION THAT THE HOLDER OF THE
9 IRRIGATION GRANDFATHERED RIGHT WOULD LIKE TO PROCEED WITH THE
10 RELINQUISHMENT. A PERSON MAY NOT RECEIVE A PHYSICAL AVAILABILITY
11 EXEMPTION CREDIT FOR A VOLUME OF WATER THAT EXCEEDS THE PERSON'S
12 IRRIGATION GRANDFATHERED RIGHT.

13 G. ON NOTICE TO THE DIRECTOR BY THE HOLDER OF A PHYSICAL
14 AVAILABILITY EXEMPTION CREDIT, SOME OR ALL OF THE CREDIT MAY BE ASSIGNED
15 TO A MUNICIPAL PROVIDER OR TO A SUBSEQUENT OWNER OF THE LAND ASSOCIATED
16 WITH THE RELINQUISHMENT.

17 H. IF ONLY A PORTION OF A PHYSICAL AVAILABILITY EXEMPTION CREDIT IS
18 APPLIED TO A CERTIFICATE OF ASSURED WATER SUPPLY OR A DESIGNATION OF
19 ASSURED WATER SUPPLY ISSUED PURSUANT TO SECTION 45-576, THE DIRECTOR SHALL
20 IDENTIFY THE VOLUMES AND CORRESPONDING REPLENISHMENT OBLIGATION REMAINING
21 FOR THE PHYSICAL AVAILABILITY EXEMPTION CREDIT.

22 I. AFTER THE ISSUANCE OF A CERTIFICATE OF ASSURED WATER SUPPLY
23 BASED ON A PHYSICAL AVAILABILITY EXEMPTION CREDIT, IF A MUNICIPAL PROVIDER
24 THAT SERVES LAND ASSOCIATED WITH THE RELINQUISHMENT BECOMES A DESIGNATED
25 PROVIDER, THE PHYSICAL AVAILABILITY EXEMPTION CREDIT ASSOCIATED WITH THE
26 CERTIFICATE SHALL BE USED TO SUPPORT THE DESIGNATION.

27 J. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
28 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
29 THE DIRECTOR PURSUANT TO THIS SECTION.

30 K. FOR THE PURPOSES OF SEEKING AN EXEMPTION FROM THE PHYSICAL
31 AVAILABILITY REQUIREMENT FOR AN ASSURED WATER SUPPLY AS PRESCRIBED BY
32 SUBSECTION D OF THIS SECTION, THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL
33 FOR EACH ACTIVE MANAGEMENT AREA SHALL BE:

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

36 2. IN ALL OTHER ACTIVE MANAGEMENT AREAS, ONE THOUSAND FEET BELOW
37 LAND SURFACE.

38 L. A PERSON THAT REPLENISHES GROUNDWATER PURSUANT TO SUBSECTION B
39 OF THIS SECTION MAY REPLENISH WITH EFFLUENT. A PERSON THAT RECEIVES A
40 PHYSICAL AVAILABILITY EXEMPTION CREDIT IN THE AREA DELINEATED FOR
41 EXEMPTION UNDER SECTION 45-411.01 IS NOT SUBJECT TO ANY REPLENISHMENT
42 OBLIGATION OTHERWISE IMPOSED BY THIS SECTION.

43 M. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

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

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

44 D. The director shall designate private water companies in active
45 management areas that have an assured water supply. If a city or town

1 acquires a private water company that has contracted for central Arizona
2 project water, the city or town shall assume the private water company's
3 contract for central Arizona project water.

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

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

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

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

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

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

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

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

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

1 assured water supply that have been revoked or for which proceedings are
2 pending before the department or a court.

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

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

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

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

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

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

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

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

38 1. Sufficient groundwater, surface water or effluent of adequate
39 quality will be continuously available to satisfy the water needs of the
40 proposed use for at least one hundred years. Beginning January 1 of the
41 calendar year following the year in which a groundwater replenishment
42 district is required to submit its preliminary plan pursuant to section
43 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
44 a member of the district, "sufficient groundwater" for the purposes of
45 this paragraph means that the proposed groundwater withdrawals that the

1 applicant will cause over a period of one hundred years will be of
2 adequate quality and will not exceed, in combination with other
3 withdrawals from land in the replenishment district, a depth to water of
4 one thousand feet or the depth of the bottom of the aquifer, whichever is
5 less. In determining depth to water for the purposes of this paragraph,
6 the director shall consider the combination of:

7 (a) The existing rate of decline.

8 (b) The proposed withdrawals.

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

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

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

21 Sec. 3. Section 45-576.08, Arizona Revised Statutes, is amended to
22 read:

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

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

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

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

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

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

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

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

6 (b) Stored water that is to be recovered by the applicant within
7 the area of impact of storage either on an annual basis pursuant to
8 section 45-851.01 or as long-term storage credits to be earned in the
9 future if the water to be stored meets the physical availability
10 requirements for the water supply under rules adopted pursuant to section
11 45-576, subsection H.

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

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

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

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

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

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

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

28 3. "Stored water" has the same meaning prescribed in section
29 45-802.01.