PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2325

(Reference to House engrossed bill)

Strike everything after the enacting clause and insert:

“Section 1. Section 48-3774, Arizona Revised Statutes, is amended to read:

48-3774. Qualification as member land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The legal description of the real property and the tax parcel numbers for the real property.
2. An agreement by the municipal provider to submit to the district by March 31 of each year after the recordation of the instrument the information prescribed by section 48-3775, subsection A and such other information as the district may reasonably request.

D. REAL PROPERTY PREVIOUSLY ACCEPTED AS MEMBER LAND PURSUANT TO SUBSECTION A OF THIS SECTION TERMINATES ITS MEMBER LAND STATUS ONLY IF ALL OF THE FOLLOWING APPLY:

1. NO LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS BEEN SOLD OR LEASED TO A RETAIL PURCHASER OR LESSEE.

2. THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT FOR THE REAL PROPERTY.

3. IF LOT OR PARCEL BOUNDARIES WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY, THE PLANNING AGENCY HAVING PLANNING AUTHORITY OVER THE REAL PROPERTY HAS APPROVED A PLAT VACATING THE LOT OR PARCEL BOUNDARIES THAT WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY.

4. THE OWNER OR OWNERS OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY, SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN EXECUTED BY THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED THAT:
   (a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY, WHICH SHALL BE SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.
   (b) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS PREVIOUSLY RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION ARE REVOKED.

5. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE MUNICIPAL PROVIDER HAS RECORDED NOTICE OF SUCH REVOCATION IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.
6. IF THE DEPARTMENT OF WATER RESOURCES HAS ISSUED A CERTIFICATE OF
ASSURED WATER SUPPLY FOR THE REAL PROPERTY, THE DIRECTOR OF WATER RESOURCES
HAS REVOKED THE CERTIFICATE PURSUANT TO A WRITTEN AGREEMENT FOR REVOCATION
ENTERED INTO BETWEEN THE HOLDER OF THE CERTIFICATE AND THE DIRECTOR.

E. FOR THE PURPOSES OF SUBSECTION D, A RETAIL PURCHASER OR LESSEE
MEANS A PURCHASER OR LESSEE OF A LOT OR PARCEL OF SUBDIVIDED LANDS THAT IS
ENTITLED TO RECEIVE A PUBLIC REPORT FROM THE SELLER OR LESSOR PURSUANT TO
SECTION 32-2183, SUBSECTION I.”

Amend title to conform

DEBBIE LESKO

3/16/15
8:14 AM
S: BR/1s