

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

# HOUSE BILL 2674

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARTICLE 6, ARIZONA REVISED STATUTES, BY  
ADDING SECTIONS 45-172.01 AND 45-172.02; RELATING TO WATERS.

(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 1, article 6, Arizona Revised  
3 Statutes, is amended by adding sections 45-172.01 and 45-172.02, to read:

4 45-172.01. Flood damaged acres; substitution of acres;  
5 definitions

6 A. NOTWITHSTANDING SECTION 45-172, A PERSON WHO OWNS ACRES OF LAND  
7 THAT MAY BE IRRIGATED MAY PERMANENTLY RETIRE THOSE ACRES FROM IRRIGATION  
8 AND SUBSTITUTE FOR THOSE ACRES THE SAME NUMBER OF ACRES IN THE SAME  
9 CONTIGUOUS FARM UNIT IF THE OWNER NOTIFIES THE DIRECTOR THAT BOTH OF THE  
10 FOLLOWING APPLY:

11 1. THE IRRIGATED ACRES WERE DAMAGED BY FLOODWATERS AFTER BEING  
12 IRRIGATED.

13 2. IT IS NOT ECONOMICALLY FEASIBLE TO RESTORE THE FLOOD DAMAGED  
14 ACRES TO IRRIGATION USE.

15 B. THE SUBSTITUTION OF ACRES AS PRESCRIBED IN THIS SECTION DOES NOT  
16 AFFECT THE PERSON'S EXISTING OR VESTED RIGHTS TO THE USE OF WATER, EXCEPT  
17 AS TO PLACE OF USE, AND ANY WATER DIVERTED OR USED AFTER THE SUBSTITUTION  
18 OF ACRES SHALL NOT EXCEED THE VESTED RIGHTS TO WATER THAT EXIST AT THE  
19 TIME OF SUBSTITUTION.

20 C. THE NOTICE PRESCRIBED BY THIS SECTION SHALL BE POSTED ON THE  
21 DEPARTMENT'S WEBSITE.

22 D. FOR THE PURPOSES OF THIS SECTION:

23 1. "FARM UNIT" MEANS ONE OR MORE FARMS THAT ARE CONTIGUOUS OR IN  
24 CLOSE PROXIMITY TO EACH OTHER AND THAT ARE SERVED WATER FROM THE SAME  
25 WATER SOURCE BY A WATER DISTRIBUTION SYSTEM COMMON TO THE IRRIGATED LAND.

26 2. "FLOODWATERS" MEANS A TEMPORARY AND EROSION OVERFLOW OF WATERS  
27 ON LANDS THAT ARE NOT NORMALLY COVERED BY WATER.

28 45-172.02. Impediments to efficient irrigation; substitution  
29 of acres; definitions

30 A. NOTWITHSTANDING SECTION 45-172, A PERSON WHO OWNS ACRES OF LAND  
31 THAT ARE CONTIGUOUS AND THAT MAY BE IRRIGATED MAY NOTIFY THE DIRECTOR TO  
32 PERMANENTLY RETIRE A PORTION OF THOSE ACRES FROM IRRIGATION AND SUBSTITUTE  
33 FOR THE RETIRED ACRES THE SAME NUMBER OF ACRES IF THE OWNER NOTIFIES THE  
34 DIRECTOR THAT ALL OF THE FOLLOWING APPLY:

35 1. A LIMITING CONDITION ASSOCIATED WITH THE ACRES TO BE RETIRED  
36 FROM IRRIGATION SUBSTANTIALLY IMPEDES THE IMPLEMENTATION OF EFFICIENT  
37 IRRIGATION PRACTICES ON THE IRRIGATED ACRES.

38 2. THE SUBSTITUTION OF ACRES WILL SUBSTANTIALLY REDUCE THE LIMITING  
39 CONDITION AND WILL SUBSTANTIALLY FACILITATE THE IMPLEMENTATION OF  
40 EFFICIENT IRRIGATION PRACTICES.

41 3. THE SUBSTITUTE ACRES ARE WITHIN THE SAME FARM UNIT AS THE  
42 IRRIGATED ACRES THAT WILL NOT BE RETIRED.

43 4. IF THE ACRES TO BE RETIRED ARE LOCATED WITHIN THE EXTERIOR  
44 BOUNDARIES OF AN IRRIGATION DISTRICT, THE SUBSTITUTE ACRES MUST BE LOCATED  
45 WITHIN THE EXTERIOR BOUNDARIES OF THE SAME IRRIGATION DISTRICT.

1           5. THE AREA OF LAND WITHIN THE SUBSTITUTE ACRES THAT IS PHYSICALLY  
2 CAPABLE OF BEING IRRIGATED AT THE TIME THE NOTICE OF SUBSTITUTION OF ACRES  
3 IS FILED DOES NOT EXCEED THE AREA OF LAND WITHIN THE ACRES TO BE RETIRED  
4 THAT IS PHYSICALLY CAPABLE OF BEING IRRIGATED AT THE TIME THE NOTICE OF  
5 SUBSTITUTION OF ACRES IS FILED.

6           B. THE SUBSTITUTION OF ACRES AS PRESCRIBED IN THIS SECTION DOES NOT  
7 AFFECT THE PERSON'S EXISTING OR VESTED RIGHTS TO THE USE OF WATER, EXCEPT  
8 AS TO PLACE OF USE, AND ANY WATER DIVERTED OR USED AFTER THE SUBSTITUTION  
9 OF ACRES SHALL NOT EXCEED THE VESTED RIGHTS TO WATER THAT EXIST AT THE  
10 TIME OF SUBSTITUTION.

11           C. THE NOTICE PRESCRIBED BY THIS SECTION SHALL BE POSTED ON THE  
12 DEPARTMENT'S WEBSITE.

13           D. FOR THE PURPOSES OF THIS SECTION:

14           1. "FARM UNIT" MEANS ONE OR MORE FARMS THAT ARE CONTIGUOUS OR IN  
15 CLOSE PROXIMITY TO EACH OTHER AND THAT ARE SERVED WATER FROM THE SAME  
16 WATER SOURCE BY A WATER DISTRIBUTION SYSTEM COMMON TO THE IRRIGATED LAND.

17           2. "LIMITING CONDITION" MEANS ANY CONDITION THAT LIMITS THE  
18 ACHIEVEMENT OF EFFICIENT IRRIGATION ON THE IRRIGATED ACRES, INCLUDING  
19 IRREGULARLY SHAPED IRRIGATED ACRES AND POOR QUALITY SOILS.