

REFERENCE TITLE: multifamily property; water; certificate

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2487

Introduced by
Representative Mathis

AN ACT

AMENDING SECTIONS 45-576, 48-3701, 48-3772, 48-3774.01 AND 48-3779,
ARIZONA REVISED STATUTES; RELATING TO REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-576, Arizona Revised Statutes, is amended to
3 read:

4 45-576. Certificate of assured water supply; designated
5 cities, towns and private water companies;
6 exemptions; definitions

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

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

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

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

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

43 D. The director shall designate private water companies in active
44 management areas that have an assured water supply. If a city or town
45 acquires a private water company that has contracted for central Arizona

1 project water, the city or town shall assume the private water company's
2 contract for central Arizona project water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 M. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
29 2024, BEFORE PRESENTING A PERMIT APPLICATION FOR APPROVAL TO THE CITY,
30 TOWN OR COUNTY IN WHICH THE LAND IS LOCATED, A PERSON THAT SEEKS A
31 BUILDING PERMIT OR BUILDING PLAN FOR SIX OR MORE DETACHED SINGLE-FAMILY
32 RESIDENCES, A MULTIFAMILY RESIDENTIAL PROPERTY OR A CONDOMINIUM WITHIN ANY
33 ACTIVE MANAGEMENT AREA, WITHOUT REGARD TO ANY PROPOSED LEASE TERM FOR
34 THOSE DETACHED SINGLE-FAMILY OR MULTIFAMILY RESIDENCES, SHALL:

35 1. APPLY FOR AND OBTAIN A CERTIFICATE OF ASSURED WATER SUPPLY FROM
36 THE DIRECTOR UNLESS THE APPLICANT HAS OBTAINED A WRITTEN COMMITMENT OF
37 WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR PRIVATE WATER
38 COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO
39 THIS SECTION.

40 2. PAY ALL APPLICABLE FEES PURSUANT TO SECTIONS 48-3772 AND
41 48-3774.01 AND ACCOMPANY THE PERMIT APPLICATION WITH PROOF THAT THE
42 APPLICABLE FEES HAVE BEEN PAID.

43 N. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
44 2024, A CITY, TOWN OR COUNTY MAY APPROVE A BUILDING PERMIT OR BUILDING
45 PLAN APPLICATION THAT INCLUDES SIX OR MORE DETACHED SINGLE-FAMILY

1 RESIDENCES, A MULTIFAMILY RESIDENTIAL PROPERTY OR A CONDOMINIUM WITHIN ANY
2 ACTIVE MANAGEMENT AREA, WITHOUT REGARD TO ANY PROPOSED LEASE TERM FOR
3 THOSE DETACHED SINGLE-FAMILY OR MULTIFAMILY RESIDENCES, ONLY IF THE
4 RESIDENCES INCLUDED IN THE BUILDING PERMIT OR BUILDING PLAN HAVE OBTAINED
5 A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE DIRECTOR OR A WRITTEN
6 COMMITMENT OF WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR
7 PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY
8 PURSUANT TO THIS SECTION.

9 ~~M.~~ 0. For the purposes of this section: ~~;~~

10 1. "Assured water supply" means all of the following:

11 ~~1.~~ (a) Sufficient groundwater, surface water or effluent of
12 adequate quality will be continuously available to satisfy the water needs
13 of the proposed use for at least one hundred years. Beginning January 1
14 of the calendar year following the year in which a groundwater
15 replenishment district is required to submit its preliminary plan pursuant
16 to section 45-576.02, subsection A, paragraph 1, with respect to an
17 applicant that is a member of the district, "sufficient groundwater" for
18 the purposes of this paragraph means that the proposed groundwater
19 withdrawals that the applicant will cause over a period of one hundred
20 years will be of adequate quality and will not exceed, in combination with
21 other withdrawals from land in the replenishment district, a depth to
22 water of one thousand feet or the depth of the bottom of the aquifer,
23 whichever is less. In determining depth to water for the purposes of this
24 paragraph, the director shall consider the combination of:

25 ~~(a)~~ (i) The existing rate of decline.

26 ~~(b)~~ (ii) The proposed withdrawals.

27 ~~(c)~~ (iii) The expected water requirements of all recorded lots
28 that are not yet served water and that are located in the service area of
29 a municipal provider.

30 ~~2.~~ (b) The projected groundwater use is consistent with the
31 management plan and achievement of the management goal for the active
32 management area.

33 ~~3.~~ (c) The financial capability has been demonstrated to construct
34 the water facilities necessary to make the supply of water available for
35 the proposed use, including a delivery system and any storage facilities
36 or treatment works. The director may accept evidence of the construction
37 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
38 satisfy this requirement.

39 2. "CONDOMINIUM" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 33-1202.

41 3. "MULTIFAMILY RESIDENTIAL PROPERTY" HAS THE SAME MEANING
42 PRESCRIBED IN SECTION 49-746.

1 Sec. 2. Section 48-3701, Arizona Revised Statutes, is amended to
2 read:

3 48-3701. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Active management area" means an active management area
6 established under title 45, chapter 2, article 2.

7 2. "Board" means the board of directors of a multi-county water
8 conservation district.

9 3. "CONDOMINIUM" HAS THE SAME MEANING PRESCRIBED IN SECTION
10 33-1202.

11 ~~3.~~ 4. "Contract replenishment obligation" means an amount of
12 groundwater that the district contracts to replenish in a year on behalf
13 of a municipal provider pursuant to a contract authorized under section
14 48-3772, subsection B, paragraph 9.

15 ~~4.~~ 5. "Credits" means any groundwater in addition to the amount of
16 groundwater that may be used at a member land or delivered within a member
17 service area for use within the member service area pursuant to the
18 applicable assured water supply rules adopted by the department of water
19 resources.

20 ~~5.~~ 6. "Declaration" means an instrument recorded against real
21 property and conforming to the requirements prescribed by section 48-3774,
22 subsection A, paragraph 5.

23 ~~6.~~ 7. "District" means a multi-county water conservation district
24 organized under the authority of this chapter.

25 ~~7.~~ 8. "Excess groundwater" means an amount of groundwater equal to
26 that amount of groundwater delivered to a member land in a calendar year
27 or delivered within a member service area by the municipal provider for
28 that member service area in a calendar year in excess of the amount of
29 groundwater that may be used at the member land in that calendar year or
30 that may be delivered by the municipal provider for use within the member
31 service area in that calendar year and consistent with the applicable
32 assured water supply rules adopted by the department of water resources
33 for the active management area where the member land or the member service
34 area is located.

35 ~~8.~~ 9. "Excess groundwater increment" means the amount by which
36 excess groundwater reported for a member service area under section
37 48-3775, subsection B in any year exceeds the maximum amount of excess
38 groundwater reported for that member service area in any prior year.

39 ~~9.~~ 10. "Groundwater replenishment obligation" means, for each
40 active management area in which member lands or member service areas are
41 or may be located, the total of the cumulative parcel replenishment
42 obligation of all parcels of member land in that active management area
43 for a particular calendar year plus the cumulative service area
44 replenishment obligation of all member service areas in that active
45 management area for a particular calendar year.

1 ~~10.~~ 11. "Member land" means any real property that meets the
2 requirements of section 48-3774.
3 ~~11.~~ 12. "Member service area" means the service area of a
4 municipal provider that qualifies as a member service area under section
5 48-3780, including any additions to or extensions of the service area.
6 ~~12.~~ 13. "Multi-county water conservation district" means a
7 district composed of three or more counties that have joined together for
8 the creation of a district.
9 ~~13.~~ 14. "Municipal provider" means a city, town or private water
10 company or an irrigation district that supplies water for non-irrigation
11 use.
12 ~~14.~~ 15. "Parcel of member land" means any portion of member land
13 for which the tax assessor for the county in which the member land is
14 located has issued a separate county parcel number.
15 ~~15.~~ 16. "Parcel replenishment obligation" means, with respect to
16 any particular parcel of member land, an amount of groundwater that is
17 equal to the amount of groundwater delivered to the parcel of member land
18 in a calendar year multiplied by the percentage that the excess
19 groundwater of the applicable member land for that year bears to the total
20 amount of groundwater delivered to the applicable member land during that
21 year.
22 ~~16.~~ 17. "Population" means the population determined in the most
23 recent United States decennial census.
24 ~~17.~~ 18. "Private water company" has the same meaning prescribed in
25 section 45-402.
26 ~~18.~~ 19. "Projected replenishment obligation" means for each active
27 management area, the district's total projected annual groundwater
28 replenishment obligation for each of the one hundred years following
29 submission of the district plan of operation.
30 ~~19.~~ 20. "Replenish" means to increase the amount of groundwater in
31 an aquifer through water storage pursuant to title 45, chapter 3.1 for the
32 purpose of meeting the obligations of article 4 of this chapter.
33 ~~20.~~ 21. "Reserve target" means the volume calculated for each
34 active management area as prescribed by section 48-3772, subsection E.
35 22. "RESIDENTIAL LEASE COMMUNITY":
36 (a) MEANS SIX OR MORE DETACHED RESIDENTIAL DWELLING UNITS THAT ARE
37 ON ONE OR MORE LOTS, PARCELS OR FRACTIONAL INTERESTS, WITHOUT REGARD TO
38 THE ZONING CLASSIFICATION OF THE LOTS, PARCELS OR FRACTIONAL INTERESTS,
39 AND THAT ARE INTENDED TO BE OFFERED FOR THE PURPOSE OF LEASE, WHETHER
40 IMMEDIATE OR FUTURE, WITHOUT REGARD TO THE LEASE TERM, UNDER A COMMON
41 PROMOTIONAL PLAN AS DEFINED IN SECTION 32-2101.
42 (b) INCLUDES MULTIFAMILY RESIDENTIAL PROPERTIES AS DEFINED IN
43 SECTION 49-746.
44 ~~21.~~ 23. "Resolution" means a resolution adopted by the governing
45 body of a city or town, by the board of directors of a private water

1 company that is a corporation, by the general partners of a private water
2 company that is a partnership or by the individual owners of a private
3 water company that is individually owned.

4 ~~22.~~ 24. "Secretary" means the secretary of the interior of the
5 United States of America.

6 ~~23.~~ 25. "Service area" has the same meaning prescribed in section
7 45-402.

8 ~~24.~~ 26. "Service area replenishment obligation" means, with
9 respect to any particular member service area, the excess groundwater of
10 that member service area in a particular calendar year reduced by the
11 replenishment credits, if any, applied by the municipal provider with
12 respect to the member service area under section 48-3772, subsection H.

13 ~~25.~~ 27. "Water storage" has the same meaning prescribed in section
14 45-802.01.

15 Sec. 3. Section 48-3772, Arizona Revised Statutes, is amended to
16 read:

17 48-3772. Duties and powers of district regarding
18 replenishment

19 A. The district shall:

20 1. Establish annually the costs and expenses to replenish
21 groundwater pursuant to this article with respect to all parcels of member
22 lands and all member service areas located in each active management area,
23 including capital expenses, debt service expenses, the operation,
24 maintenance, replacement and administrative costs and expenses of the
25 district, replenishment reserve costs and expenses as provided in
26 subsection E of this section and reasonable reserves. Separate
27 calculations of costs and expenses shall be made for each active
28 management area in which member lands or member service areas are located
29 and for each membership category. Costs and expenses attributed by the
30 district to contract replenishment obligations shall not be included in
31 these calculations.

32 2. Provide for the payment of all costs and expenses to replenish
33 groundwater pursuant to this chapter and the payment of operation,
34 maintenance, replacement and administrative costs and expenses and debt
35 service expenses of the district.

36 3. Levy an annual replenishment assessment against each parcel of
37 member land pursuant to section 48-3778 and an annual replenishment tax
38 against each municipal provider that has a member service area pursuant to
39 section 48-3781 to pay the district's costs and expenses as established
40 pursuant to paragraph 1 of this subsection.

41 4. Levy a contract replenishment tax against municipal providers
42 that are parties to contracts authorized under subsection B, paragraph 9
43 of this section to pay the district's costs and expenses to replenish
44 groundwater based on contract replenishment obligations.

1 5. Establish and maintain reserve accounts in amounts as may be
2 deemed necessary to perform the district's obligations under this article.

3 6. Fulfill all obligations under resolutions adopted pursuant to
4 subsection B, paragraph 10 of this section.

5 7. Levy an activation fee as follows:

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

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

15 (c) FOR RESIDENTIAL LEASE COMMUNITIES AND CONDOMINIUMS WITHIN
16 MEMBER LANDS AND MEMBER SERVICE AREAS THAT ARE ENROLLED ON OR AFTER
17 JANUARY 1, 2026, THE DISTRICT SHALL LEVY A ONETIME ACTIVATION FEE AGAINST
18 EACH HOUSING UNIT TO BE CONSTRUCTED WITHIN THE RESIDENTIAL LEASE COMMUNITY
19 OR CONDOMINIUM.

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

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

25 (ii) One-half paid before issuance of a public report for each real
26 estate subdivision identified in subdivision (a) or (b) of this paragraph
27 and the remaining amount paid no later than one year after the issuance of
28 the public report. The total amount of the activation fee must be the
29 amount of the activation fee in effect at the time of the initial payment.
30 Payment of the initial one-half of the activation fee pursuant to this
31 item constitutes sufficient payment of applicable fees for notice of
32 intent to subdivide as prescribed in section 32-2181, subsection C and for
33 issuance of a public report as prescribed in section 32-2183, subsection G
34 and section 45-576, subsection C, except that on failure to pay the
35 remaining amount, the commissioner shall suspend the public report for
36 that subdivision pursuant to section 32-2183.

37 (iii) PAID IN FULL PURSUANT TO SECTION 45-576, SUBSECTION M.

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

1 infrastructure necessary for the district to perform its replenishment
2 obligations.

3 8. For any year, set all of its rates and charges associated with
4 the acquisition, lease or exchange of water or water rights and
5 development of infrastructure necessary for the district to perform its
6 replenishment obligations, other than the annual membership dues
7 established pursuant to section 48-3779, so that the total projected
8 revenues from revenue sources other than the annual membership dues, that
9 are legally available to the district in that year to pay costs associated
10 with the acquisition, lease or exchange of water or water rights and
11 development of infrastructure necessary for the district to perform its
12 replenishment obligations, shall be at least three times the total
13 projected revenues from the annual membership dues in that year. For the
14 purposes of this paragraph, costs associated with the acquisition, lease
15 or exchange of water or water rights do not include the annual costs
16 associated with delivery of water for replenishment purposes.

17 B. The district may:

18 1. Acquire, develop, construct, operate, maintain, replace and
19 acquire permits for water storage, storage facilities and recovery wells
20 for replenishment purposes.

21 2. Acquire, transport, hold, exchange, own, lease, store or
22 replenish water, except groundwater withdrawn from an active management
23 area, subject to the provisions of title 45, for the benefit of member
24 lands and member service areas.

25 3. Acquire, hold, exchange, own, lease, retire or dispose of water
26 rights for the benefit of member lands and member service areas.

27 4. Require municipal providers to provide such information, in such
28 form and within the time limits prescribed by the district, as may be
29 necessary to carry out the purpose of this chapter.

30 5. Levy and collect assessments, fees, charges, taxes and other
31 revenues as are provided in this chapter for the financing of
32 replenishment activities.

33 6. Contract for or perform feasibility studies of water storage,
34 storage facilities and recovery wells for replenishment purposes.

35 7. Acquire real and personal property for water storage, storage
36 facilities and recovery wells for replenishment purposes by purchase,
37 lease, donation, dedication, exchange or other lawful means.

38 8. Use any facilities and any excess storage capacity of any state
39 demonstration projects undertaken pursuant to title 45, chapter 3.1 for
40 water storage for replenishment purposes.

41 9. Subject to subsection G of this section, contract with any
42 municipal provider having a member service area to replenish groundwater
43 on behalf of the municipal provider and with respect to the member service
44 area in an amount in excess of the sum of the service area replenishment
45 obligations applicable to the member service area for all years in which

1 the district has not completed the replenishment of the groundwater
2 replenishment obligation for the member service area.

3 10. Adopt resolutions granting water availability status to a member
4 service area of a city, town or private water company and committing to
5 replenish a specified average annual volume of water in a location where
6 the city, town or private water company may physically access the water
7 for service to its customers, if all of the following apply:

8 (a) The district has reviewed its requirements for transportation
9 of central Arizona project water, its contracts, subcontracts, letter
10 agreements, excess water contracts and other contractual obligations and
11 its member service area and member land requirements and has determined
12 that the district can meet those obligations and that capacity remains in
13 the central Arizona project to meet the obligations undertaken through the
14 resolution.

15 (b) The resolution acknowledges that the commitment to replenish
16 the specified average annual volume of water in the location cited in the
17 resolution shall be a permanent obligation of the district, unless one of
18 the following applies:

19 (i) A permanent substitute supply of water is found for the city,
20 town or private water company and the substitution is approved by the
21 director of water resources, thus terminating the water availability
22 status of the member service area.

23 (ii) The requirements of section 45-576.07, subsection A are not
24 met, and thus the director of water resources does not issue an order
25 granting or maintaining the city, town or private water company as having
26 an assured water supply based in whole or in part on section 45-576.07.
27 If no order is issued within two years of the district adopting the
28 resolution, the resolution may be repealed, and the district shall be
29 relieved of all obligations under the resolution.

30 (c) The average annual volume of water specified in the resolution,
31 when added to the average annual volume of water specified in all other
32 resolutions adopted pursuant to this paragraph, does not exceed twenty
33 thousand acre-feet.

34 (d) The district has entered into an agreement with the city, town
35 or private water company under which the city, town or private water
36 company will hold for the district's future use, and provide to the
37 district when needed, sufficient water to meet the obligations undertaken
38 by the district through the resolution.

39 (e) The district determines that the obligations undertaken by the
40 district through the resolution will not increase annual replenishment
41 assessment rates or costs to central Arizona project contract and
42 subcontract holders and its member service areas and member lands.

43 (f) The director of water resources has found, pursuant to section
44 45-576.07, subsection H, that the district has the capability to grant
45 water availability status to member service areas.

1 11. Provide in resolutions adopted pursuant to paragraph 10 of this
2 subsection that the district may fulfill its obligations under the
3 resolution in any year by directly delivering to the city, town or private
4 water company the water that otherwise would have been replenished
5 pursuant to the resolution, 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 make direct deliveries pursuant to this
12 paragraph.

13 (b) The district determines that the delivery will not increase
14 annual replenishment assessment rates or costs to central Arizona project
15 contract and subcontract holders, its member service area and member
16 lands.

17 12. Enter into agreements with a city, town or private water company
18 that will have water made available to it through a resolution adopted
19 pursuant to paragraph 10 of this subsection and under which the city, town
20 or private water company compensates the district for the costs and fair
21 value of the water supply provided by the district.

22 13. Issue revenue bonds pursuant to article 3 of this chapter to
23 fund the costs and expenses of the district for the acquisition, lease or
24 exchange of water or water rights and the development of infrastructure
25 necessary for the district to perform its replenishment obligations
26 subject to the following:

27 (a) The principal of, interest and premiums, if any, on revenue
28 bonds issued pursuant to article 3 of this chapter to acquire, lease or
29 exchange water or water rights and develop infrastructure necessary for
30 the district to perform its replenishment obligations are not payable from
31 any revenues of the district other than revenues generated or collected
32 pursuant to this article that are legally available to the district for
33 those purposes and revenues from the investment of the proceeds of the
34 bonds.

35 (b) The district may not use the proceeds of the bonds to acquire
36 or lease:

37 (i) Groundwater, as defined in section 45-101, except as expressly
38 authorized in sections 45-547, 45-553 and 45-554.

39 (ii) Surface water, as defined in section 45-101, that is the
40 subject of a general adjudication pursuant to title 45, chapter 1,
41 article 9.

42 (c) ~~Nothing in~~ Subdivision (b) of this paragraph ~~prohibits~~ DOES NOT
43 PROHIBIT the district from acquiring or leasing central Arizona project
44 water.

1 14. Except as provided in section 48-3780.01, subsection B, in
2 addition to any other assessments, fees, charges or taxes levied and
3 collected under this chapter, or under any declaration, contract or
4 agreement entered into under this chapter, charge annual dues for
5 membership pursuant to section 48-3779 against each parcel of member land
6 and each municipal provider that has a member service area.

7 C. The functions of the district under subsection B, paragraph 1 of
8 this section may be performed on behalf of the district by other persons
9 under contract with the district.

10 D. The capital costs of the facilities of any state demonstration
11 projects used by the district pursuant to subsection B, paragraph 8 of
12 this section shall not be included in the capital costs and expenses
13 established by the district under subsection A, paragraph 1 of this
14 section.

15 E. The district shall establish and maintain a replenishment
16 reserve as follows:

17 1. The district shall calculate a reserve target for each of the
18 three active management areas within the district and shall identify the
19 reserve target in the plan of operation prepared pursuant to section
20 45-576.02. The reserve target for each active management area shall be
21 calculated as follows:

22 (a) For each active management area, add together the projected
23 replenishment obligation for each of the one hundred years following
24 submission of the plan of operation. For the purposes of this
25 subdivision, each active management area's projected replenishment
26 obligation does not include replenishment obligations under resolutions
27 adopted pursuant to subsection B, paragraph 10 of this section or
28 replenishment obligations for category 2 member lands.

29 (b) Subtract from the sum of the active management area's projected
30 replenishment obligation over the one hundred-year period the sum of the
31 following volumes of water derived from sources identified in the plan as
32 water that the district plans to use to meet its replenishment obligations
33 for that active management area:

34 (i) The annual volume of each nondeclining, long-term municipal and
35 industrial subcontract for central Arizona project water multiplied by one
36 hundred.

37 (ii) The annual volume of water under leases or contracts that can
38 be made physically and legally available to the district consistent with
39 the rules adopted pursuant to section 45-576, subsection H, multiplied by
40 the number of years, not to exceed one hundred, in which the water is to
41 be made available to the district. The water need not be continuously
42 available to be included in this item. A lease or contract shall not be
43 considered under this item if the water to be made available under the
44 lease or contract is for a term of less than twenty years.

1 (iii) The total volume of groundwater that the district plans to
2 transport to the active management area during the next one hundred years
3 as allowed by title 45, chapter 2, article 8.1.

4 (iv) The total volume of all sources of water not identified in
5 items (i), (ii) or (iii) of this subdivision that will not be held by the
6 district under a lease or contract. Volumes to be included under this
7 item must be consistent with the rules adopted by the director pursuant to
8 section 45-576, subsection H.

9 (c) Multiply the result from subdivision (b) of this paragraph by
10 twenty percent. The result is the reserve target for the active
11 management area.

12 2. The reserve target for an active management area may be adjusted
13 by the district, subject to the approval of the director of water
14 resources, based on changes in either of the following:

15 (a) The active management area's projected replenishment
16 obligation.

17 (b) The volumes of water identified in the plan of operation
18 prepared pursuant to section 45-576.02 as water that the district plans to
19 use to meet its replenishment obligations for that active management area.

20 3. The district shall include a replenishment reserve charge in the
21 annual replenishment assessment levied against all parcels of category 1
22 member land as provided in section 48-3774.01 and in the annual
23 replenishment tax levied against all municipal providers that have member
24 service areas as provided in section 48-3780.01. The replenishment
25 reserve charge for each active management area is established annually by
26 the district based on the reserve target for that active management area.

27 4. The district shall levy a replenishment reserve fee against
28 category 1 member lands pursuant to section 48-3774.01 and against member
29 service areas pursuant to section 48-3780.01. For category 1 member lands
30 the fee is equal to twice the applicable replenishment reserve charge
31 multiplied by the total projected average annual replenishment obligation
32 for the member lands as reported by the director of water resources
33 pursuant to section 45-578, subsection F. For member service areas the
34 fee is equal to twice the applicable replenishment reserve charge
35 multiplied by the excess groundwater increment. With the approval of the
36 district and the director of water resources, long-term storage credits as
37 defined in section 45-802.01 may be assigned to the district's
38 replenishment reserve subaccount in lieu of paying the replenishment
39 reserve fee.

40 5. The district shall use replenishment reserve charges and
41 replenishment reserve fees collected within each active management area
42 together with all interest earned on the charges and fees to store water
43 in that active management area in advance of groundwater replenishment
44 obligations for the purpose of developing long-term storage credits as
45 defined in section 45-802.01 that shall be credited to the replenishment

1 reserve subaccount for that active management area as provided in section
2 45-859.01.

3 6. Beginning on January 1, 2030 or earlier, on approval of the
4 director of water resources pursuant to section 45-859.01, subsection K,
5 the district may transfer credits from a replenishment reserve subaccount
6 to a conservation district account as provided in section 45-859.01 to
7 satisfy its groundwater replenishment obligations.

8 7. If the district transfers credits from the replenishment reserve
9 subaccount for an active management area pursuant to section 45-859.01,
10 subsection E, the district shall include in the annual replenishment
11 assessment levied against all parcels of category 1 member land in that
12 active management area and, except as provided in section 48-3780.01,
13 subsection B, in the annual replenishment tax levied against all municipal
14 providers that have member service areas in that active management area a
15 reserve replacement component to fund the replacement of the transferred
16 credits. The district shall use all monies from the reserve replacement
17 component collected within an active management area together with all
18 interest earned on the monies to develop long-term storage credits as
19 defined in section 45-802.01 within that active management area to be
20 credited to the replenishment reserve subaccount for that active
21 management area as provided in section 45-859.01.

22 8. For the purposes of establishing and maintaining the
23 replenishment reserve, the district shall have access to excess central
24 Arizona project water equivalent to but not more than the access the
25 Arizona water banking authority has for the purposes specified in section
26 45-2401, subsection H, paragraph 2.

27 F. Groundwater replenished by the district pursuant to a contract
28 to replenish groundwater under subsection B, paragraph 9 of this section
29 shall not be credited to a replenishment reserve subaccount established
30 under section 45-859.01.

31 G. The district shall not enter into a contract authorized under
32 subsection B, paragraph 9 of this section unless the district has
33 determined that the contract will not adversely affect the district's
34 ability to fulfill its obligations under this chapter. For each contract
35 entered into under subsection B, paragraph 9 of this section, the district
36 shall perform its contract replenishment obligations in the active
37 management area in which the service area of the municipal provider that
38 is the party to the contract is located.

39 H. If the district replenishes groundwater on behalf of a municipal
40 provider pursuant to a contract to replenish groundwater under subsection
41 B, paragraph 9 of this section, the amount of groundwater so replenished
42 shall be a replenishment credit to the municipal provider that may be
43 applied by the municipal provider on notice to the district to reduce the
44 service area replenishment obligations applicable to the municipal
45 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. 4. Section 48-3774.01, Arizona Revised Statutes, is amended to
22 read:

23 48-3774.01. Category 1 member lands; category 2 member lands;
24 fees

25 A. Except as provided in subsection B of this section, all real
26 property that qualifies under section 48-3774 shall be category 1 member
27 land. The district shall levy annual replenishment reserve charges and
28 ~~one-time~~ ONETIME replenishment reserve fees for category 1 member lands as
29 provided in section 48-3772, subsection E and as follows:

30 1. For category 1 member lands that qualified before January 1,
31 2004, the district shall levy annual replenishment reserve charges for
32 twenty-five years beginning in 2004.

33 2. For category 1 member land that qualifies on or after January 1,
34 2004, a replenishment reserve fee shall be paid before issuance of a
35 public report for each final plat within the member land as provided in
36 section 45-576, subsection C **OR PAID IN FULL PURSUANT TO SECTION 45-576,**
37 **SUBSECTION M** and the district shall levy annual replenishment reserve
38 charges against the land included within the final plat for twenty-three
39 years beginning in the year after payment of the corresponding
40 replenishment reserve fee.

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

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

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

4 3. The owner of the parcel notifies the district in writing at the
5 time of qualification that the parcel is to be category 2 member land.
6 For member land that qualified under section 48-3774 before January 1,
7 2004, ~~such~~ THE notification must be made ~~no~~ NOT later than January 30,
8 2004.

9 C. The district shall not levy replenishment reserve fees,
10 replenishment reserve charges or a reserve replacement component against
11 category 2 member lands.

12 D. The district shall not use credits from a replenishment reserve
13 subaccount established under section 45-859.01 to satisfy its groundwater
14 replenishment obligations for category 2 member lands. If as a result the
15 district incurs additional costs and expenses in meeting its replenishment
16 obligations for category 2 member lands, those additional costs and
17 expenses are attributed solely to category 2 member lands for THE purposes
18 of section 48-3772, subsection A, paragraph 1.

19 Sec. 5. Section 48-3779, Arizona Revised Statutes, is amended to
20 read:

21 48-3779. Annual membership dues

22 A. On or before the third Monday of August of each year ~~beginning~~
23 ~~in 2011~~, the district may charge annual membership dues on all parcels of
24 member lands, ON EACH RESIDENCE WITHIN A RESIDENTIAL LEASE COMMUNITY OR
25 UNIT WITHIN A CONDOMINIUM and on all municipal providers having a member
26 service area.

27 B. The annual membership dues shall be established annually by the
28 district. The district shall use revenues from the annual membership
29 dues, together with revenues from other revenue sources that are legally
30 available to the district for those uses, solely to pay costs associated
31 with the acquisition, lease or exchange of water or water rights and
32 development of infrastructure necessary for the district to perform its
33 replenishment obligations, including the payment of debt service expenses,
34 and necessary reserves and coverage requirements, on bonds issued for
35 replenishment purposes.

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

1 D. When the district has determined the amount of revenues to be
2 raised through the annual membership dues, the district shall allocate the
3 amount to be raised between member lands, RESIDENCES WITHIN RESIDENTIAL
4 LEASE COMMUNITIES, UNITS WITHIN CONDOMINIUMS and member service areas
5 prorated on the basis of the following two volumes:

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

11 2. Total planned annual service area replenishment obligations for
12 all member service areas. The planned annual service area replenishment
13 obligation for a member service area is the lesser of:

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

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

23 E. The total amount allocated to member lands in any year, as
24 calculated pursuant to subsection D of this section, shall be prorated
25 among the Phoenix, Pinal and Tucson active management areas based on the
26 current and projected annual replenishment obligation of all member lands
27 in that active management area as identified in the most recent plan of
28 operation determined by the director of water resources to be consistent
29 with achieving the management goal for the active management area pursuant
30 to section 45-576.03, subsection M, O or R. The prorated amount within
31 each active management area shall be further prorated among all parcels of
32 member land, ALL RESIDENCES WITHIN RESIDENTIAL LEASE COMMUNITIES AND ALL
33 UNITS WITHIN CONDOMINIUMS located within that active management area based
34 on a uniform fee ~~per lot~~ levied against the total number of residential,
35 commercial and common area lots, ALL RESIDENCES WITHIN RESIDENTIAL LEASE
36 COMMUNITIES AND ALL UNITS WITHIN CONDOMINIUMS included, or intended to be
37 included, in each parcel of member land. These dues are a lien on each
38 parcel of member land and shall be certified, collected and enforced with
39 respect to member land in the same manner as the annual assessment
40 pursuant to section 48-3778. However, any parcel of member land that is
41 included in the service area of a municipal provider that has been
42 designated as having an assured water supply under section 45-576 is not
43 subject to the annual membership dues.

44 F. The total amount allocated to member service areas in any year,
45 as calculated pursuant to subsection D of this section, shall be prorated

1 among all member service areas based on a uniform fee per acre-foot levied
2 against the member service area's dues volume. The dues volume for a
3 member service area is the greater of:

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

7 2. Five ~~per cent~~ PERCENT of the service area's annual estimated
8 water demand to be satisfied with excess groundwater as identified in the
9 service area's most recent designation order issued by the director of
10 water resources. If the service area's most recent designation order
11 issued by the director of water resources does not identify the annual
12 estimated water demand to be satisfied with excess groundwater, the
13 service area's annual estimated water demand to be satisfied with excess
14 groundwater shall be calculated consistent with the rules adopted by the
15 director pursuant to section 45-576, subsection H.

16 G. Except in the first full year following the year in which the
17 director makes a determination that the district's most recent plan of
18 operation is consistent with achieving the management goals of the active
19 management areas pursuant to section 45-576.03, subsection M, for any year
20 in which the dues volume for a member service area, as determined pursuant
21 to subsection F of this section, exceeds the previous year's dues volume
22 for the member service area, a makeup charge shall be added to the annual
23 membership dues allocated under subsection F of this section to the member
24 service area. The makeup charge shall become part of the member service
25 area's annual membership dues for that year and is the sum of:

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

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

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

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

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

40 H. The annual membership dues become an obligation of each
41 municipal provider that has a member service area and shall be stated,
42 collected and enforced with respect to the municipal provider in the same
43 manner as the annual replenishment tax pursuant to sections 48-3781 and
44 48-3782.

1 I. Annual membership dues collected by the district shall be
2 deposited in a special fund established by the state to be spent by the
3 district only for the purposes authorized by this article, including:
4 1. The payment of debt service expenses and funding reserves for
5 bonds issued for replenishment purposes.
6 2. The payment of the costs of acquiring, leasing or exchanging
7 water or water rights and development of infrastructure necessary for the
8 district to perform its replenishment obligations.
9 J. Amounts collected may be transferred to a bank or trust company
10 to be held in trust and spent with respect to bonds issued for
11 replenishment purposes.