

REFERENCE TITLE: certificate; residential lease community; water

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

HB 2569

Introduced by
Representative Griffin

AN ACT

AMENDING SECTIONS 32-2101, 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 32-2101, Arizona Revised Statutes, is amended to
3 read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acting in concert" means evidence of collaborating to pursue a
7 concerted plan.

8 2. "Address of record" means any of the following:

9 (a) The address where a licensee practices or is otherwise
10 employed.

11 (b) A licensee's residential address.

12 (c) The address of a licensee's statutory agent who is registered
13 as the licensee's statutory agent with the corporation commission. This
14 subdivision applies only if notice of the statutory agent is given to the
15 department pursuant to section 32-2126.

16 3. "Advertising" means attempting by publication, dissemination,
17 exhibition, solicitation or circulation, oral or written, or for broadcast
18 on radio or television to induce directly or indirectly any person to
19 enter into any obligation or acquire any title or interest in lands
20 subject to this chapter, including the land sales contract to be used and
21 any photographs, drawings or artist's presentations of physical conditions
22 or facilities existing or to exist on the property. Advertising does not
23 include:

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

28 (b) Communications to stockholders as follows:

29 (i) Annual reports and interim financial reports.

30 (ii) Proxy materials.

31 (iii) Registration statements.

32 (iv) Securities prospectuses.

33 (v) Applications for listing of securities on stock exchanges.

34 (vi) Prospectuses.

35 (vii) Property reports.

36 (viii) Offering statements.

37 4. "Affiliate" means a person who, directly or indirectly through
38 one or more intermediaries, controls, is controlled by or is under common
39 control with the person specified.

40 5. "Associate broker" means a licensed broker who is employed by
41 another broker. Unless otherwise specifically provided, an associate
42 broker has the same license privileges as a salesperson.

1 6. "Barrier" means a natural or man-made geographic feature that
2 prevents parcels of land from being practicably, reasonably and
3 economically united or reunited and that was not caused or created by the
4 owner of the parcels.

5 7. "Blanket encumbrance":

6 (a) Means either:

7 (i) Any mortgage, any deed of trust or any other encumbrance or
8 lien that secures or evidences the payment of monies and that affects more
9 than one lot or parcel of subdivided land.

10 (ii) An agreement that affects more than one lot or parcel by which
11 the subdivider holds the subdivision under an option, contract to sell or
12 trust agreement.

13 (b) Does not include taxes and assessments that are levied by
14 public authority.

15 8. "Board" means the real estate advisory board.

16 9. "Broker", when used without modification, means a person who is
17 licensed as a broker under this chapter or who is required to be licensed
18 as a broker under this chapter.

19 10. "Business broker" means a real estate broker who acts as an
20 intermediary or agent between sellers or buyers, or both, in the sale or
21 purchase, or both, of businesses or business opportunities where a lease
22 or sale of real property is either a direct or incidental part of the
23 transaction.

24 11. "Camping site" means a space that is designed and promoted for
25 the purpose of locating any trailer, tent, tent trailer, pickup camper or
26 other similar device used for camping.

27 12. "Cemetery" or "cemetery property" means any one, or a
28 combination of more than one, of the following in a place that is used, or
29 intended to be used, and dedicated for cemetery purposes:

30 (a) A burial park, for earth interments.

31 (b) A mausoleum, for crypt or vault entombments.

32 (c) A crematory, or a crematory and columbarium, for cinerary
33 interments.

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

36 13. "Cemetery broker" means a person other than a real estate
37 broker or real estate salesperson who, for another, for compensation:

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

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

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

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

4 14. "Cemetery salesperson" means a natural person who acts on the
5 person's own behalf or through and on behalf of a professional limited
6 liability company or a professional corporation engaged by or on behalf of
7 a licensed cemetery or real estate broker, or through and on behalf of a
8 corporation, partnership or limited liability company that is licensed as
9 a cemetery or real estate broker, to perform any act or transaction
10 included in the definition of cemetery broker.

11 15. "Commissioner" means the state real estate commissioner.

12 16. "Common promotional plan" means a plan, undertaken by a person
13 or a group of persons acting in concert, to offer lots for sale or lease.
14 If the land is offered for sale by a person or group of persons acting in
15 concert, and the land is contiguous or is known, designated or advertised
16 as a common unit or by a common name, the land is presumed, without regard
17 to the number of lots covered by each individual offering, as being
18 offered for sale or lease as part of a common promotional plan. Separate
19 subdividers selling lots or parcels in separately platted subdivisions
20 within a master planned community shall not be deemed to be offering their
21 combined lots for sale or lease as part of a common promotional plan.

22 17. "Compensation" means any fee, commission, salary, monies or
23 other valuable consideration for services rendered or to be rendered as
24 well as the promise of consideration whether contingent or not.

25 18. "Contiguous":

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

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

30 (i) A barrier.

31 (ii) A road, street or highway that has been established by this
32 state or by any agency or political subdivision of this state, that has
33 been designated by the federal government as an interstate highway or that
34 has been regularly maintained by this state or by any agency or political
35 subdivision of this state and has been used continuously by the public for
36 at least the last five years.

37 19. "Control" or "controlled" means a person who, through
38 ownership, voting rights, power of attorney, proxy, management rights,
39 operational rights or other rights, has the right to make decisions
40 binding on an entity, whether a corporation, a partnership or any other
41 entity.

42 20. "Corporation licensee" means a lawfully organized corporation
43 that is registered with the corporation commission and that has an officer
44 licensed as the designated broker pursuant to section 32-2125.

45 21. "Department" means the state real estate department.

1 22. "Designated broker" means a natural person who is licensed as a
2 broker under this chapter and who is either:

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

5 (b) Doing business as a sole proprietor.

6 23. "Developer":

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

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

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

17 25. "Distance learning" means continuing education or prelicensure
18 education that is an online, planned learning experience with a geographic
19 separation that may be synchronous or asynchronous, that does not require
20 real-time interaction between a student and an instructor and that uses a
21 platform with self-paced or prerecorded lessons and materials that a
22 student can access via the internet to proceed at the student's own pace.

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

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

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

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

37 28. "Improved lot or parcel" means a lot or parcel of a subdivision
38 on which there is a residential, commercial or industrial building or
39 concerning which a contract has been entered into between a subdivider and
40 a purchaser that obligates the subdivider directly, or indirectly through
41 a building contractor, to completely construct a residential, commercial
42 or industrial building on the lot or parcel within two years after the
43 date on which the contract of sale for the lot is entered into, or for a
44 condominium as defined in section 33-1202, within four years after the
45 date on which the contract for sale is entered into.

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

5 30. "Lease" or "leasing" includes any lease, whether it is the
6 sole, the principal or any incidental part of a transaction.

7 31. "License" means the whole or part of any agency permit,
8 certificate, approval, registration, public report, charter or similar
9 form of permission required by this chapter.

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

14 33. "License period" means the two-year period beginning with the
15 date of original issue or renewal of a particular license and ending on
16 the expiration date, if any.

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

21 35. "Live classroom course" means a course or instructional segment
22 delivered in either an in-person classroom instructional format or a
23 synchronous remote instructional format that allows students to observe
24 and participate remotely in an instructional segment via livestreaming.

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

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

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

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

39 (a) Sells, purchases, lists, exchanges or leases membership camping
40 contracts.

41 (b) Offers to sell, purchase, exchange or lease membership camping
42 contracts.

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

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

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

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

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

14 41. "Membership camping operator":

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

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

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

31 43. "Partnership licensee" means a partnership with a managing
32 general partner who is licensed as the designated broker pursuant to
33 section 32-2125.

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

37 45. "Perpetual care" or "endowed care":

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

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

1 46. "Perpetual or endowed-care cemetery" means a cemetery in which
2 lots or other burial spaces are sold or transferred under the
3 representation that the cemetery will receive perpetual care or endowed
4 care free of further cost to the purchaser after payment of the original
5 purchase price for the lot, burial space or interment right.

6 47. "Person" means any individual, corporation, partnership or
7 company and any other form of multiple organization for carrying on
8 business, foreign or domestic.

9 48. "Private cemetery" means a cemetery or place that is not
10 licensed under article 6 of this chapter, where burials or interments of
11 human remains are made, in which sales or transfers of interment rights or
12 burial plots are not made to the public and in which not more than ten
13 interments or burials occur annually.

14 49. "Promotion" or "promotional practice" means advertising and any
15 other act, practice, device or scheme to induce directly or indirectly any
16 person to enter into any obligation or acquire any title or interest in or
17 use of real property subject to this chapter, including meetings with
18 prospective purchasers, arrangements for prospective purchasers to visit
19 real property, travel allowances and discount, exchange, refund and
20 cancellation privileges.

21 50. "Real estate" includes leasehold-interests and any estates in
22 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
23 whether located in this state.

24 51. "Real estate broker" means a person, other than a salesperson,
25 who, for another and for compensation:

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

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

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

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

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

38 (f) Buys, sells, offers to buy or sell or otherwise deals in
39 options on real estate, businesses and business opportunities or timeshare
40 interests or improvements to real estate, businesses and business
41 opportunities or timeshare interests.

42 (g) Collects or offers, attempts or agrees to collect rent for the
43 use of real estate, businesses and business opportunities or timeshare
44 interests. This subdivision does not apply to a person who is not a
45 licensee, who works for a real estate broker or a real estate salesperson,

1 who collects in-person rent and related fees on behalf of the real estate
2 broker or real estate salesperson for the use of real estate as part of
3 the person's clerical duties and who provides a receipt when rent is paid.

4 (h) Advertises or holds himself out as being engaged in the
5 business of buying, selling, exchanging, renting or leasing real estate,
6 businesses and business opportunities or timeshare interests or counseling
7 or advising regarding real estate, businesses and business opportunities
8 or timeshare interests.

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

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

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

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

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

36 (n) Engages in any of the acts listed in subdivisions (a) through
37 (m) of this paragraph for the sale or lease of other than real property if
38 a real property sale or lease is a part of, contingent on or ancillary to
39 the transaction.

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

44 (p) Acts as a business broker.

1 52. "Real estate sales contract" means an agreement in which one
2 party agrees to convey title to real estate to another party on the
3 satisfaction of specified conditions set forth in the contract.

4 53. "Real estate salesperson" means a natural person who acts on
5 the person's own behalf or through and on behalf of a professional limited
6 liability company or a professional corporation engaged by or on behalf of
7 a licensed real estate broker, or by or on behalf of a limited liability
8 company, partnership or corporation that is licensed as a real estate
9 broker, to perform any act or participate in any transaction in a manner
10 included in the definition of real estate broker subject to section
11 32-2155.

12 54. "Sale" or "lease" includes every disposition, transfer, option
13 or offer or attempt to dispose of or transfer real property, or an
14 interest, use or estate in the real property, including offering the
15 property as a prize or gift if a monetary charge or consideration for
16 whatever purpose is required.

17 55. "Salesperson", when used without modification, means a natural
18 person who acts on the person's own behalf or through and on behalf of a
19 professional limited liability company or a professional corporation
20 licensed under this chapter or any person required to be licensed as a
21 salesperson under this chapter.

22 56. "School" means a person or entity that offers a course of study
23 toward completion of the education requirements leading to licensure or
24 renewal of licensure under this chapter.

25 57. "Stock cooperative" means a corporation to which all of the
26 following apply:

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

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

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

35 58. "Subdivider":

36 (a) Means any person who offers for sale or lease six or more lots,
37 parcels or fractional interests in a subdivision or who causes land to be
38 subdivided into a subdivision for the subdivider or for others, or who
39 undertakes to develop a subdivision.

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

42 59. "Subdivision" or "subdivided lands":

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

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

4 (c) Does not include:

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

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

10 (iii) The leasing of agricultural lands or apartments, offices,
11 stores, hotels, motels, pads or similar space within an apartment
12 building, industrial building, rental recreational vehicle community,
13 rental manufactured home community, rental mobile home park or commercial
14 building OR THE CONSTRUCTION, PROVISION OR LEASING OF RESIDENTIAL
15 STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM
16 TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION 11-865, SUBSECTION
17 A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF HOUSING PERSONS WHO
18 ARE AGRICULTURAL WORKERS.

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

22 (v) A sale or lease of a lot, parcel or fractional interest that
23 occurs ten or more years after the sale or lease of another lot, parcel or
24 fractional interest if the other lot, parcel or fractional interest is not
25 subject to this article and is treated as an independent parcel unless, on
26 investigation by the commissioner, there is evidence of intent to
27 subdivide.

28 60. "Timeshare" or "timeshare property" means real property
29 ownership or right of occupancy in real property pursuant to article 9 of
30 this chapter. For the purposes of this chapter, a timeshare is not a
31 security unless it meets the definition of a security under section
32 44-1801.

33 61. "Trustee":

34 (a) Means a person who either:

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

37 (ii) Holds bare legal title to real property under a subdivision
38 trust.

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

41 62. "Unimproved lot or parcel" means a lot or parcel of a
42 subdivision that is not an improved lot or parcel.

1 63. "Unsubdivided lands":

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

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

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

17 45-576. Certificate of assured water supply; designated
18 cities, towns and private water companies;
19 exemptions; definitions

20 A. Except as provided in subsections G and J of this section, a
21 person who proposes to offer subdivided lands, as defined in section
22 32-2101, for sale or lease in an active management area shall apply for
23 and obtain a certificate of assured water supply from the director before
24 presenting the plat for approval to the city, town or county in which the
25 land is located, where such is required, and before filing with the state
26 real estate commissioner a notice of intention to offer such lands for
27 sale or lease, pursuant to section 32-2181, unless the subdivider has
28 obtained a written commitment of water service for the subdivision from a
29 city, town or private water company designated as having an assured water
30 supply pursuant to this section.

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

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

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

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

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

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

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

1 private water company. Persons proposing to offer subdivided lands served
2 by those designated cities, towns and private water companies for sale or
3 lease are exempt from applying for and obtaining a certificate of assured
4 water supply.

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

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

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

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

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

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

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

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

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

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

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

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

41 M. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
42 2025, BEFORE A PERSON PRESENTS AN APPLICATION FOR THE APPROVAL OF A
43 BUILDING PERMIT OR BUILDING PLAN TO THE CITY, TOWN OR COUNTY IN WHICH THE
44 LAND IS LOCATED, A PERSON THAT SEEKS A BUILDING PERMIT OR APPROVED
45 BUILDING PLAN FOR ONE OR MORE RESIDENTIAL DWELLING UNITS THAT ARE LOCATED

1 IN A RESIDENTIAL LEASE COMMUNITY OR MULTIFAMILY RESIDENTIAL PROPERTY IN A
2 QUALIFYING ACTIVE MANAGEMENT AREA, WITHOUT REGARD TO ANY PROPOSED LEASE
3 TERM FOR THOSE RESIDENTIAL DWELLING UNITS, SHALL:

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

9 2. PAY ALL APPLICABLE FEES PURSUANT TO SECTIONS 48-3772 AND
10 48-3774.01 AND ACCOMPANY THE PERMIT APPLICATION WITH PROOF THAT THE
11 APPLICABLE FEES HAVE BEEN PAID.

12 N. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
13 2025, A CITY, TOWN OR COUNTY MAY APPROVE A BUILDING PERMIT OR BUILDING
14 PLAN FOR AN APPLICATION THAT INCLUDES ONE OR MORE RESIDENTIAL DWELLING
15 UNITS THAT ARE LOCATED IN A RESIDENTIAL LEASE COMMUNITY OR MULTIFAMILY
16 RESIDENTIAL PROPERTY IN A QUALIFYING ACTIVE MANAGEMENT AREA, WITHOUT
17 REGARD TO ANY PROPOSED LEASE TERM FOR THOSE RESIDENTIAL DWELLING UNITS,
18 ONLY IF THE RESIDENTIAL DWELLING UNITS INCLUDED IN THE BUILDING PERMIT OR
19 BUILDING PLAN HAVE OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE
20 DIRECTOR OR A WRITTEN COMMITMENT OF WATER SERVICE FOR THE RESIDENCES FROM
21 A CITY, TOWN OR PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN
22 ASSURED WATER SUPPLY PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

2. "MULTIFAMILY RESIDENTIAL PROPERTY" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-746.

3. "QUALIFYING ACTIVE MANAGEMENT AREA" MEANS AN ACTIVE MANAGEMENT AREA WHERE THE LEGISLATURE HAS SPECIFICALLY AUTHORIZED THE ESTABLISHMENT OF AN ALTERNATIVE PATH TO DESIGNATION OF ASSURED WATER SUPPLY AND AN AGRICULTURAL TO MUNICIPAL USE PROGRAM.

4. "RESIDENTIAL LEASE COMMUNITY":

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

(b) DOES NOT INCLUDE THE CONSTRUCTION, PROVISION OR LEASING OF RESIDENTIAL STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION 11-865, SUBSECTION A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

Sec. 3. Section 48-3701, Arizona Revised Statutes, is amended to read:

48-3701. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

10. "Member land" means any real property that meets the requirements of section 48-3774.

11. "Member service area" means the service area of a municipal provider that qualifies as a member service area under section 48-3780, including any additions to or extensions of the service area.

12. "Multi-county water conservation district" means a district composed of three or more counties that have joined together for the creation of a district.

13. "MULTIFAMILY RESIDENTIAL PROPERTY" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-746.

~~13.~~ 14. "Municipal provider" means a city, town or private water company or an irrigation district that supplies water for non-irrigation use.

~~14.~~ 15. "Parcel of member land" means any portion of member land for which the tax assessor for the county in which the member land is located has issued a separate county parcel number.

~~15.~~ 16. "Parcel replenishment obligation" means, with respect to any particular parcel of member land, an amount of groundwater that is equal to the amount of groundwater delivered to the parcel of member land

in a calendar year multiplied by the percentage that the excess groundwater of the applicable member land for that year bears to the total amount of groundwater delivered to the applicable member land during that year.

~~16.~~ 17. "Population" means the population determined in the most recent United States decennial census.

~~17.~~ 18. "Private water company" has the same meaning prescribed in section 45-402.

~~18.~~ 19. "Projected replenishment obligation" means for each active management area, the district's total projected annual groundwater replenishment obligation for each of the one hundred years following submission of the district plan of operation.

~~19.~~ 20. "Replenish" means to increase the amount of groundwater in an aquifer through water storage pursuant to title 45, chapter 3.1 for the purpose of meeting the obligations of article 4 of this chapter.

~~20.~~ 21. "Reserve target" means the volume calculated for each active management area as prescribed by section 48-3772, subsection E.

22. "RESIDENTIAL LEASE COMMUNITY":

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

(b) DOES NOT INCLUDE THE CONSTRUCTION, PROVISION OR LEASING OF RESIDENTIAL STRUCTURES THAT ARE LOCATED ON AGRICULTURAL PROPERTY, THAT ARE EXEMPT FROM TITLE 11, CHAPTER 6, ARTICLE 5 AS PRESCRIBED BY SECTION 11-865, SUBSECTION A, PARAGRAPH 1 AND THAT ARE OFFERED FOR THE PURPOSE OF HOUSING PERSONS WHO ARE AGRICULTURAL WORKERS.

~~21.~~ 23. "Resolution" means a resolution adopted by the governing body of a city or town, by the board of directors of a private water company that is a corporation, by the general partners of a private water company that is a partnership or by the individual owners of a private water company that is individually owned.

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

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

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

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

1 Sec. 4. Section 48-3772, Arizona Revised Statutes, is amended to
2 read:

3 48-3772. Duties and powers of district regarding
4 replenishment

5 A. The district shall:

6 1. Establish annually the costs and expenses to replenish
7 groundwater pursuant to this article with respect to all parcels of member
8 lands and all member service areas located in each active management area,
9 including capital expenses, debt service expenses, the operation,
10 maintenance, replacement and administrative costs and expenses of the
11 district, replenishment reserve costs and expenses as provided in
12 subsection E of this section and reasonable reserves. Separate
13 calculations of costs and expenses shall be made for each active
14 management area in which member lands or member service areas are located
15 and for each membership category. Costs and expenses attributed by the
16 district to contract replenishment obligations shall not be included in
17 these calculations.

18 2. Provide for the payment of all costs and expenses to replenish
19 groundwater pursuant to this chapter and the payment of operation,
20 maintenance, replacement and administrative costs and expenses and debt
21 service expenses of the district.

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

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

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

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

35 7. Levy an activation fee as follows:

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

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

(c) FOR RESIDENTIAL LEASE COMMUNITIES WITHIN MEMBER LANDS AND MEMBER SERVICE AREAS THAT ARE ENROLLED ON OR AFTER JANUARY 1, 2025, THE DISTRICT SHALL LEVY A ONETIME ACTIVATION FEE AGAINST EACH HOUSING UNIT TO BE CONSTRUCTED WITHIN THE RESIDENTIAL LEASE COMMUNITY.

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

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

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

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

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

(f) FOR MULTIFAMILY RESIDENTIAL PROPERTY WITHIN MEMBER LANDS AND MEMBER SERVICE AREAS THAT ARE ENROLLED ON OR AFTER SEPTEMBER 30, 2025, THE DISTRICT SHALL LEVY A ONETIME ACTIVATION FEE AGAINST EACH RESIDENTIAL DWELLING UNIT TO BE CONSTRUCTED WITHIN THE MULTIFAMILY RESIDENTIAL PROPERTY.

8. For any year, set all of its rates and charges associated with the acquisition, lease or exchange of water or water rights and development of infrastructure necessary for the district to perform its replenishment obligations, other than the annual membership dues established pursuant to section 48-3779, so that the total projected revenues from revenue sources other than the annual membership dues, that are legally available to the district in that year to pay costs associated with the acquisition, lease or exchange of water or water rights and development of infrastructure necessary for the district to perform its

replenishment obligations, shall be at least three times the total projected revenues from the annual membership dues in that year. For the purposes of this paragraph, costs associated with the acquisition, lease or exchange of water or water rights do not include the annual costs associated with delivery of water for replenishment purposes.

B. The district may:

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

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

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

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

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

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

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

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

9. Subject to subsection G of this section, contract with any municipal provider having a member service area to replenish groundwater on behalf of the municipal provider and with respect to the member service area in an amount in excess of the sum of the service area replenishment obligations applicable to the member service area for all years in which the district has not completed the replenishment of the groundwater replenishment obligation for the member service area.

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

(a) The district has reviewed its requirements for transportation of central Arizona project water, its contracts, subcontracts, letter agreements, excess water contracts and other contractual obligations and its member service area and member land requirements and has determined

1 that the district can meet those obligations and that capacity remains in
2 the central Arizona project to meet the obligations undertaken through the
3 resolution.

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

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

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

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

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

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

32 (f) The director of water resources has found, pursuant to section
33 45-576.07, subsection H, that the district has the capability to grant
34 water availability status to member service areas.

35 11. Provide in resolutions adopted pursuant to paragraph 10 of this
36 subsection that the district may fulfill its obligations under the
37 resolution in any year by directly delivering to the city, town or private
38 water company the water that otherwise would have been replenished
39 pursuant to the resolution, if all of the following apply:

40 (a) The district has reviewed its requirements for transportation
41 of central Arizona project water, its contracts, subcontracts, letter
42 agreements, excess water contracts and other contractual obligations and
43 its member service area and member land requirements and has determined
44 that the district can meet those obligations and that capacity remains in

1 the central Arizona project to make direct deliveries pursuant to this
2 paragraph.

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

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

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

17 (a) The principal of, interest and premiums, if any, on revenue
18 bonds issued pursuant to article 3 of this chapter to acquire, lease or
19 exchange water or water rights and develop infrastructure necessary for
20 the district to perform its replenishment obligations are not payable from
21 any revenues of the district other than revenues generated or collected
22 pursuant to this article that are legally available to the district for
23 those purposes and revenues from the investment of the proceeds of the
24 bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. The district shall use replenishment reserve charges and replenishment reserve fees collected within each active management area together with all interest earned on the charges and fees to store water in that active management area in advance of groundwater replenishment obligations for the purpose of developing long-term storage credits as defined in section 45-802.01 that shall be credited to the replenishment reserve subaccount for that active management area as provided in section 45-859.01.

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

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

15 8. For the purposes of establishing and maintaining the
16 replenishment reserve, the district shall have access to excess central
17 Arizona project water equivalent to but not more than the access the
18 Arizona water banking authority has for the purposes specified in section
19 45-2401, subsection H, paragraph 2.

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

24 G. The district shall not enter into a contract authorized under
25 subsection B, paragraph 9 of this section unless the district has
26 determined that the contract will not adversely affect the district's
27 ability to fulfill its obligations under this chapter. For each contract
28 entered into under subsection B, paragraph 9 of this section, the district
29 shall perform its contract replenishment obligations in the active
30 management area in which the service area of the municipal provider that
31 is the party to the contract is located.

32 H. If the district replenishes groundwater on behalf of a municipal
33 provider pursuant to a contract to replenish groundwater under subsection
34 B, paragraph 9 of this section, the amount of groundwater so replenished
35 shall be a replenishment credit to the municipal provider that may be
36 applied by the municipal provider on notice to the district to reduce the
37 service area replenishment obligations applicable to the municipal
38 provider.

39 I. In the Phoenix active management area, the district, to the
40 extent reasonably feasible, shall replenish groundwater in the east
41 portion of the active management area and in the west portion of the
42 active management area in the approximate proportion that the groundwater
43 replenishment obligation attributable in a particular year to member lands
44 and member service areas located in the east portion of the active
45 management area bears to the groundwater replenishment obligation

1 attributable in that year to member lands and member service areas located
2 in the west portion of the active management area. For the purposes of
3 this subsection, the boundary between the east Salt river valley subbasin
4 and the west Salt river valley subbasin is the boundary between the east
5 and west portions of the active management area.

6 J. The costs and expenses charged by the district to an active
7 management area water district established under chapter 28 of this title
8 for delivery of surplus central Arizona project water to such active
9 management area water district for replenishment purposes shall not exceed
10 the costs and expenses for delivery of such water that are or would be
11 included by the district in the costs and expenses of replenishment for
12 member lands and member service areas within the active management area in
13 which such active management area water district is situated.

14 Sec. 5. Section 48-3774.01, Arizona Revised Statutes, is amended to
15 read:

16 48-3774.01. Category 1 member lands; category 2 member lands;
17 fees

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

23 1. For category 1 member lands that qualified before January 1,
24 2004, the district shall levy annual replenishment reserve charges for
25 twenty-five years beginning in 2004.

26 2. For category 1 member land that qualifies on or after January 1,
27 2004, a replenishment reserve fee shall be paid before issuance of a
28 public report for each final plat within the member land as provided in
29 section 45-576, subsection C OR PAID IN FULL PURSUANT TO SECTION 45-576,
30 SUBSECTION M and the district shall levy annual replenishment reserve
31 charges against the land included within the final plat for twenty-three
32 years beginning in the year after payment of the corresponding
33 replenishment reserve fee.

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

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

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

40 3. The owner of the parcel notifies the district in writing at the
41 time of qualification that the parcel is to be category 2 member land.
42 For member land that qualified under section 48-3774 before January 1,
43 2004, ~~such~~ THE notification must be made ~~no~~ NOT later than January 30,
44 2004.

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

4 D. The district shall not use credits from a replenishment reserve
5 subaccount established under section 45-859.01 to satisfy its groundwater
6 replenishment obligations for category 2 member lands. If as a result the
7 district incurs additional costs and expenses in meeting its replenishment
8 obligations for category 2 member lands, those additional costs and
9 expenses are attributed solely to category 2 member lands for THE purposes
10 of section 48-3772, subsection A, paragraph 1.

11 Sec. 6. Section 48-3779, Arizona Revised Statutes, is amended to
12 read:

13 48-3779. Annual membership dues

14 A. On or before the third Monday of August of each year ~~beginning~~
15 ~~in 2011~~, the district may charge annual membership dues on all parcels of
16 member lands, ON EACH DETACHED SINGLE-FAMILY RESIDENCE WITHIN A
17 RESIDENTIAL LEASE COMMUNITY, ON EACH RESIDENTIAL DWELLING UNIT WITHIN
18 MULTIFAMILY RESIDENTIAL PROPERTIES and on all municipal providers having a
19 member service area.

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

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

38 D. When the district has determined the amount of revenues to be
39 raised through the annual membership dues, the district shall allocate the
40 amount to be raised between member lands, DETACHED SINGLE-FAMILY
41 RESIDENCES WITHIN RESIDENTIAL LEASE COMMUNITIES, ALL RESIDENTIAL DWELLING
42 UNITS WITHIN MULTIFAMILY RESIDENTIAL PROPERTIES and member service areas
43 prorated on the basis of the following two volumes:

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

6 2. Total planned annual service area replenishment obligations for
7 all member service areas. The planned annual service area replenishment
8 obligation for a member service area is the lesser of:

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

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

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

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

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

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

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

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

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

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

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

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

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