

REFERENCE TITLE: online exchange; groundwater sales

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

HB 2729

Introduced by
Representatives Kolodin: Fink, Heap, Hendrix, Keshel, Marshall, Olson,
Pingerelli; Senator Hoffman

AN ACT

AMENDING SECTION 45-558, ARIZONA REVISED STATUTES; AMENDING TITLE 45,
CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13; RELATING TO THE
GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-558, Arizona Revised Statutes, is amended to
3 read:

4 45-558. Weeds and dust

5 A person shall maintain property owned by the person and from which
6 groundwater is or will be transported pursuant to this article ~~OR FROM~~
7 ~~WHICH GROUNDWATER MAY BE SOLD, LEASED OR OTHERWISE CONVEYED PURSUANT TO~~
8 ~~ARTICLE 13 OF THIS CHAPTER~~ free of noxious weeds as defined in section
9 3-201, Russian thistles (*salsola kali*) and blowing dust that creates a
10 threat to health or safety.

11 Sec. 2. Title 45, chapter 2, Arizona Revised Statutes, is amended
12 by adding article 13, to read:

13 ARTICLE 13. WATER MARKETPLACE

14 45-651. Right to buy and sell groundwater; notice; exemption;
15 disclosure

16 A. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH A GRANDFATHERED
17 RIGHT TO GROUNDWATER AS PRESCRIBED IN SECTION 45-462 IN THE PHOENIX,
18 TUCSON OR PINAL ACTIVE MANAGEMENT AREA MAY SELL, LEASE OR OTHERWISE CONVEY
19 ANY PORTION OF THE RIGHT TO PUMP GROUNDWATER OR THE RIGHT TO GROUNDWATER
20 ITSELF TO ANY OTHER PERSON IN THE PHOENIX, TUCSON OR PINAL ACTIVE
21 MANAGEMENT AREA. THIS ARTICLE DOES NOT AUTHORIZE A PERSON TO SELL, LEASE
22 OR OTHERWISE CONVEY THE RIGHT TO PUMP GROUNDWATER OR THE RIGHT TO
23 GROUNDWATER ITSELF IN ONE SUBBASIN FOR USE OR WITHDRAWAL IN ANOTHER
24 SUBBASIN BUT GROUNDWATER MAY BE TRANSPORTED BETWEEN SUBBASINS BY OTHER
25 MEANS. ANY GROUNDWATER WITHDRAWN PURSUANT TO THIS SECTION SHALL BE
26 WITHDRAWN AT EITHER OF THE FOLLOWING:

27 1. THE SAME LOCATION AUTHORIZED IN THE ORIGINAL GRANDFATHERED
28 RIGHT.

29 2. ANY OTHER LOCATION IN THE SAME SUBBASIN IF THE PROPOSED LOCATION
30 OF WITHDRAWAL COMPLIES WITH RULES ADOPTED PURSUANT TO SECTION 45-598,
31 SUBSECTION A.

32 B. A PERSON WHO SELLS, LEASES OR OTHERWISE CONVEYS THE RIGHT TO
33 PUMP GROUNDWATER OR THE RIGHT TO GROUNDWATER ITSELF AS PRESCRIBED BY
34 SUBSECTION A OF THIS SECTION SHALL NOTIFY THE DEPARTMENT OF THE FOLLOWING:

35 1. IF THE TRANSACTION IS A SALE, THE NAME AND ADDRESS OF THE BUYER
36 AND SELLER.

37 2. IF THE TRANSACTION IS FOR A LEASE, THE NAME AND ADDRESS OF THE
38 LESSOR AND LESSEE AND THE DURATION OF THE LEASE.

39 3. IF THE TRANSACTION IS A LEASE OR SALE.

40 4. IF KNOWN, IF THE TRANSACTION IS FOR THE RIGHT TO PUMP
41 GROUNDWATER OR THE RIGHT TO GROUNDWATER ITSELF.

42 5. IF KNOWN AND IF THE TRANSACTION IS ONLY FOR A SALE OF THE RIGHT
43 TO PUMP GROUNDWATER, THE ANTICIPATED POINT OF REDUCTION AND WITHDRAWAL.

44 6. IF KNOWN, THE ANTICIPATED METHOD OF CONVEYANCE OR TRANSPORT.

45 7. THE AMOUNT OF GROUNDWATER TO BE FORGONE BY THE SELLER OR LESSOR.

1 8. THE AMOUNT OF GROUNDWATER TO BE RECEIVED OR WITHDRAWN BY THE
2 BUYER OR LESSEE.

3 9. THE AMOUNT OF ANY TRANSACTION COSTS INCURRED FROM THE
4 TRANSACTION.

5 10. THE PRICE PER ACRE-FOOT TO BE PAID FOR ANY GROUNDWATER RECEIVED
6 OR WITHDRAWN BY THE BUYER OR LESSEE.

7 11. ANY OTHER RELEVANT INFORMATION PRESCRIBED BY THE DEPARTMENT.

8 C. THE DEPARTMENT MAY PRESCRIBE A FORM FOR THE NOTICE REQUIRED
9 UNDER SUBSECTION B OF THIS SECTION. THE PARTIES TO A TRANSACTION
10 AUTHORIZED BY THIS SECTION MAY UPDATE THE INFORMATION PROVIDED TO THE
11 DEPARTMENT AT ANY TIME.

12 D. FOR ANY SALE, LEASE OR CONVEYANCE PRESCRIBED BY SUBSECTION A OF
13 THIS SECTION, THE BUYER OR LESSEE SHALL RECEIVE THE RIGHT TO RECEIVE OR
14 WITHDRAW SIXTY-FIVE PERCENT OF THE TOTAL AMOUNT OF GROUNDWATER FORGONE BY
15 A SELLER OR LESSOR RESULTING FROM THE TRANSACTION.

16 E. FOR ANY SALE AUTHORIZED BY THIS SECTION, THIRTY-FIVE PERCENT OF
17 THE ORIGINAL GRANDFATHERED RIGHT CONVEYED TO A SELLER MAY NOT BE PUMPED,
18 OTHERWISE USED OR FURTHER CONVEYED.

19 F. FOR ANY LEASE AUTHORIZED BY THIS SECTION, THIRTY-FIVE PERCENT OF
20 THE ORIGINAL GRANDFATHERED RIGHT CONVEYED TO A SELLER MAY NOT BE PUMPED,
21 OTHERWISE USED OR FURTHER CONVEYED DURING THE DURATION OF THE LEASE.

22 G. IN CALCULATING THE AMOUNT OF GROUNDWATER ITSELF OR RIGHT TO PUMP
23 GROUNDWATER THAT A SELLER OR LESSOR MAY FORGO PURSUANT TO THIS SECTION,
24 THE DEPARTMENT SHALL USE THE AVERAGE AMOUNT OF WATER PUMPED PURSUANT TO
25 THE GRANDFATHERED RIGHT OVER THE PRECEDING FIVE YEARS.

26 H. ANY GROUNDWATER OR RIGHT TO GROUNDWATER ITSELF CONVEYED PURSUANT
27 TO SUBSECTION A OF THIS SECTION AND THE USE OF SUCH GROUNDWATER SHALL BE:

28 1. EXEMPT FROM ANY REPLENISHMENT OBLIGATION ON THE PART OF THE
29 BUYER OR LESSEE, INCLUDING A REPLENISHMENT TAX.

30 2. EXCLUDED FROM A CITY'S OR TOWN'S GROUNDWATER USE FOR THE
31 PURPOSES OF DETERMINING THE CITY'S OR TOWN'S GROUNDWATER ALLOWANCE.

32 3. DEEMED CONSISTENT WITH THE MANAGEMENT GOAL FOR THE ACTIVE
33 MANAGEMENT AREA.

34 4. FOR THE PURPOSE OF OBTAINING A CERTIFICATE OF ASSURED WATER
35 SUPPLY, DEEMED PHYSICALLY AVAILABLE TO THE BUYER OR TO THE LESSEE FOR THE
36 NUMBER OF YEARS THE DEPARTMENT DETERMINES THE CONVEYED GROUNDWATER OR
37 RIGHT TO GROUNDWATER, WHETHER SOLD OR LEASED, CAN BE PUMPED OR USED AT ITS
38 FULL AMOUNT ANNUALLY UNTIL IT IS NO LONGER PHYSICALLY AVAILABLE.

39 I. GROUNDWATER THAT IS RECEIVED OR WITHDRAWN PURSUANT TO SUBSECTION
40 A OF THIS SECTION MAY BE APPLIED TOWARD OBTAINING A CERTIFICATE OF ASSURED
41 WATER SUPPLY.

42 J. GROUNDWATER THAT IS FORGONE BY A SELLER AS PRESCRIBED BY
43 SUBSECTION G OF THIS SECTION SHALL BE TREATED BY THE DEPARTMENT AS
44 FOLLOWS:

1 1. FIFTY PERCENT SHALL BE ALLOCATED TO THE COMMON AQUIFER AND
2 TREATED AS INFLOW FOR THE PURPOSES OF ANY WATER MODELING COMPLETED BY THE
3 DEPARTMENT.

4 2. FIFTY PERCENT SHALL BE TREATED AS INFLOW FOR THE PURPOSES OF ANY
5 WATER MODELING COMPLETED BY THE DEPARTMENT, SEPARATELY ACCOUNTED FOR AND
6 RESERVED FOR THE EXCLUSIVE BENEFIT OF AN APPLICATION FOR A CERTIFICATE OF
7 ASSURED WATER SUPPLY.

8 3. FOR THE PURPOSES OF ANY WATER OR POTENTIAL WATER USE FOR THE
9 SELLER, ALL GROUNDWATER SHALL BE DEEMED PERMANENTLY RETIRED, RELINQUISHED
10 OR EXTINGUISHED FOR THE PURPOSES OF THE SELLER.

11 K. GROUNDWATER THAT IS FORGONE BY A SELLOR OR LESSOR AS PRESCRIBED
12 BY SUBSECTION G OF THIS SECTION SHALL:

13 1. BE EXCLUDED FROM ANY WATER MODELING USED TO EVALUATE AN
14 APPLICATION FOR A CERTIFICATE OR DESIGNATION OF ASSURED WATER SUPPLY,
15 UNLESS THE LEASE IS FOR A PERIOD OF ONE HUNDRED YEARS OR LONGER IN WHICH
16 CASE FIFTY PERCENT SHALL BE TREATED AS INFLOW FOR THE PURPOSES OF ANY
17 WATER MODELING COMPLETED BY THE DEPARTMENT, SEPARATELY ACCOUNTED FOR AND
18 RESERVED FOR THE EXCLUSIVE BENEFIT OF AN APPLICATION FOR A CERTIFICATE OF
19 ASSURED WATER SUPPLY.

20 2. REVERT BACK TO THE LESSOR AT THE END OF THE LEASE TERM.

21 L. THIS SECTION DOES NOT APPLY TO WATER IN THE SUBFLOW ZONE OF A
22 RIVER OR STREAM OR WATER IN THE CONE OF DEPRESSION OF A WELL THAT MAY BE
23 PUMPING SURFACE WATER AND SHALL NOT BE CONSTRUED TO MODIFY EXISTING LAW IN
24 ANY WAY WITH RESPECT TO DETERMINING WHICH WATER IS SURFACE WATER AND WHICH
25 WATER IS GROUNDWATER.

26 M. THIS SECTION DOES NOT AUTHORIZE THE DEPARTMENT OR ANY POLITICAL
27 SUBDIVISION OF THIS STATE TO:

28 1. CURTAIL THE SCOPE OF EXISTING GRANDFATHERED RIGHTS UNLESS THE
29 RIGHTS ARE SOLD, LEASED OR OTHERWISE CONVEYED PURSUANT TO THIS SECTION.

30 2. IMPOSE ADDITIONAL REQUIREMENTS OR RESTRICTIONS ON THE USE OR
31 EXERCISE OF TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHTS.

32 N. A SELLOR OR LESSOR THAT SELLS, LEASES OR OTHERWISE CONVEYS THE
33 RIGHT TO PUMP GROUNDWATER OR GROUNDWATER ITSELF PURSUANT TO THIS SECTION
34 SHALL DISCLOSE ANY TRANSACTION COSTS RELATED TO THE SALE, LEASE OR
35 CONVEYANCE IN THE CONTRACT FOR ANY SUCH SALE, LEASE OR CONVEYANCE.

36 45-652. Department of water resources; online water exchange

37 THE DEPARTMENT SHALL ESTABLISH, MAINTAIN AND HOST ON ITS WEBSITE AN
38 ONLINE WATER EXCHANGE FOR GROUNDWATER AND GROUNDWATER RIGHTS THAT ARE
39 TRANSFERRED, SOLD, LEASED OR OTHERWISE CONVEYED AS PRESCRIBED BY SECTION
40 45-651. THE ONLINE WATER EXCHANGE SHALL BE PUBLICLY ACCESSIBLE AND SHALL
41 INCLUDE FOR EACH TRANSACTION THE INFORMATION SUBMITTED IN THE NOTICES
42 PRESCRIBED BY SECTION 45-651.