Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 318

HOUSE BILL 2277

AN ACT

AMENDING SECTIONS 32-2181, 32-2183, 32-2197.08, 45-576, 45-576.02, 45-576.03, 45-578, 45-852.01, 45-859.01, 45-802.01, 45-2242, 45-2245 AND 48-3701, ARIZONA REVISED STATUTES; AMENDING SECTION 48-3713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 155, SECTION 12; REPEALING SECTION 48-3713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 155, SECTION 13; REPEALING SECTION 48-3719, ARIZONA REVISED STATUTES; AMENDING SECTIONS 48-3772, 48-3774, 48-3775 AND 48-3780, ARIZONA REVISED STATUTES; RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2181, Arizona Revised Statutes, is amended to read:

32-2181. Notice to commissioner of intention to subdivide lands; unlawful acting in concert; exceptions; deed restrictions; definition

A. Before offering subdivided lands for sale or lease, the subdivider shall notify the commissioner in writing of the subdivider's intention. The notice shall contain:

1. The name and address of the owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of any interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. The name and address of the subdivider.

3. The legal description and area of the land.

4. A true statement of the condition of the title to the land, including all encumbrances on the land, and a statement of the provisions agreed to by the holder of any blanket encumbrance enabling a purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the department containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

5. The terms and conditions on which it is intended to dispose of the land, together with copies of any real estate sales contract, conveyance, lease, assignment or other instrument intended to be used, and any other information the owner or the owner's agent or subdivider desires to present.

6. A map of the subdivision which has been filed in the office of the county recorder in the county in which the subdivision is located.

7. A brief but comprehensive statement describing the land on and the locality in which the subdivision is located.

8. A statement of the provisions that have been made for permanent access and provisions, if any, for health department approved sewage and solid waste collection and disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities.

9. A statement as to the location of the nearest public common and high schools available for the attendance of school age pupils residing on the subdivision property.

10. A statement of the use or uses for which the proposed subdivision will be offered.

11. A statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision, together with copies of any restrictive covenants affecting all or part of the subdivision.

12. The name and business address of the principal broker selling or leasing, within this state, lots or parcels in the subdivision.

13. A true statement of the approximate amount of indebtedness which is a lien on the subdivision or any part of the subdivision and which was incurred to pay for the construction of any on-site or off-site improvement, or any community or recreational facility.

14. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which the subdivision, or any part of the subdivision, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to the subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision or any part of the subdivision.

15. A true statement as to the approximate amount of annual taxes, special assessments or fees to be paid by the buyer for the proposed annual maintenance of common facilities in the subdivision.

16. A statement of the provisions for easements for permanent access for irrigation water where applicable.

17. A true statement of assurances for the completion of off-site improvements, such as roads, utilities, community or recreational facilities and other improvements to be included in the offering or represented as being in the offering, and approval of the offering by the political subdivision with authority. This statement shall include a trust agreement or ANY other evidence of assurances for delivery of the improvements and a statement of the provisions, if any, for the continued maintenance of the improvements.

18. A true statement of the nature of any improvements to be installed by the subdivider, the estimated schedule for completion and the estimated costs related to the improvements which will be borne by purchasers of lots in the subdivision.

19. A true statement of the availability of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities in the subdivision, the estimated schedule for their installation, and the estimated costs related to the facilities and utilities which will be borne by purchasers of lots in the subdivision.

20. A true statement as to whether all or any portion of the subdivision is located in an open range or area in which livestock may roam at large under the laws of this state and what provisions, if any, have been

1 made for the fencing of the subdivision to preclude livestock from roaming
2 within the subdivided lands.
3 21. If the subdivider is a subsidiary corporation, a true statement
4 identifying the parent corporation and any of the following in which the
5 parent or any of its subsidiaries are or have been involved within the past
6 five years:
7 (a) Any subdivision in this state.
8 (b) Any subdivision, wherever located, for which registration is
9 required pursuant to the federal interstate land sales full disclosure act.
10 (c) Any subdivision, wherever located, for which registration would
11 have been required pursuant to the federal interstate land sales full
12 disclosure act but for the exemption for subdivisions whose lots are all
13 twenty acres or more in size.
14 22. A true statement identifying all other subdivisions, designated in
15 paragraph 21 OF THIS SUBSECTION, in which any of the following are or, within
16 the last five years, have been directly or indirectly involved:
17 (a) The holder of any ownership interest in the land.
18 (b) The subdivider.
19 (c) Any principal or officer in the holder or subdivider.
20 23. A true statement as to whether all or any portion of the
21 subdivision is located in territory in the vicinity of a military airport as
22 defined in section 28-8461, in territory in the vicinity of a public airport
23 as defined in section 28-8486 or, on or after July 1, 2001, in a high noise
24 or accident potential zone as defined in section 28-8461. The statement
25 required pursuant to this paragraph does not require the amendment or
26 refiling of any notice filed before July 1, 2001.
27 24. If the subdivision is a conversion from multifamily rental to
28 condominiums as defined in section 33-1202, a true statement as to the
29 following:
30 (a) That the property is a conversion from multifamily rental to
31 condominiums.
32 (b) The date original construction was completed.
33 25. Other information and documents and certifications as the
34 commissioner may reasonably require.
35 B. The commissioner, upon application, may grant a subdivider of lots
36 or parcels within a subdivision for which a public report was previously
37 issued by the commissioner an exemption from all or part of the notification
38 requirements of subsection A of this section. The subdivider shall file a
39 statement with the commissioner indicating the change of ownership in the
40 lots or parcels together with any material changes occurring subsequent to
41 the original approval of the subdivision within which the lots or parcels are
42 located. The statement shall further refer to the original approval by the
43 commissioner.
44 C. If the subdivision is within a groundwater active management area,
45 as defined in section 45-402, the subdivider shall accompany the notice with

a certificate of assured water supply issued by the director of water resources ALONG WITH PROOF THAT ALL APPLICABLE REPLENISHMENT RESERVE FEES HAVE BEEN PAID PURSUANT TO SECTION 48-3774.01, unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576. If the subdivider has submitted a certificate of assured water supply to a city, town or county prior to approval of the plat by the city, town or county and this has been noted on the face of the plat, the submission constitutes compliance with this subsection IF THE SUBDIVIDER PROVIDES PROOF TO THE COMMISSIONER THAT ALL APPLICABLE REPLENISHMENT RESERVE FEES HAVE BEEN PAID PURSUANT TO SECTION 48-3774.01.

D. It is unlawful for a person or group of persons acting in concert to attempt to avoid the provisions of this article by acting in concert to divide a parcel of land or sell subdivision lots by using a series of owners or conveyances or by any other method which ultimately results in the division of the lands into a subdivision or the sale of subdivided land. The plan or offering is subject to the provisions of this article. Unlawful acting in concert pursuant to this subsection with respect to the sale or lease of subdivision lots requires proof that the real estate licensee or other licensed professional knew or with the exercise of reasonable diligence should have known that property which the licensee listed or for which the licensee acted in any capacity as agent was subdivided land subject to the provisions of this article.

E. A creation of six or more lots, parcels or fractional interests in improved or unimproved land, lots or parcels of any size is subject to the provisions of this article except when:

1. Each of the lots, parcels or fractional interests represents, on a partition basis, thirty-six acres or more in area of land located in this state including to the ~~center line~~ CENTERLINE of dedicated roads or easements, if any, contiguous to the land in which the interests are held.

2. The lots, parcels or fractional interests are the result of a foreclosure sale, the exercise by a trustee under a deed of trust of a power of sale or the grant of a deed in lieu of foreclosure. This paragraph does not allow circumvention of the requirements of this article.

3. The lots, parcels or fractional interests are created by a valid order or decree of a court pursuant to and through compliance with title 12, chapter 8, article 7 or by operation of law. This paragraph does not allow circumvention of the requirements of this article.

4. The lots, parcels or fractional interests consist of interests in any oil, gas or mineral lease, permit, claim or right therein and such interests are regulated as securities by the United States or by this state.

5. The lots, parcels or fractional interests are registered as securities under the laws of the United States or the laws of this state or

1 are exempt transactions under the provisions of section 44-1844, 44-1845 or
2 44-1846.
3 6. The commissioner by special order exempts offerings or
4 dispositions of any lots, parcels or fractional interests from compliance
5 with the provisions of this article upon written petition and upon a showing
6 satisfactory to the commissioner that compliance is not essential to the
7 public interest or for the protection of buyers.
8 F. In areas outside of groundwater active management areas
9 established pursuant to title 45, chapter 2, article 2, if the director of
10 water resources, pursuant to section 45-108, reports an inadequate on-site
11 supply of water to meet the needs projected by the developer or if no water
12 is available, the state real estate commissioner shall require that all
13 promotional material and contracts for the sale of lots in subdivisions
14 approved by the commissioner adequately display the director of water
15 resources' report or the developer's brief summary of the report as approved
16 by the commissioner on the proposed water supply for the subdivision.
17 G. The commissioner may require the subdivider to supplement the
18 notice of intention to subdivide lands and may require the filing of periodic
19 reports to update the information contained in the original notice of
20 intention to subdivide lands.
21 H. The commissioner may authorize the subdivider to file as the
22 notice of intention to subdivide lands, in lieu of some or all of the
23 requirements of subsection A of this section, a copy of the statement of
24 record filed with respect to the subdivision pursuant to the federal
25 interstate land sales full disclosure act if the statement complies with the
26 requirements of the act and the regulations pertinent to the act.
27 I. Neither a real estate sales contract, conveyance, lease,
28 assignment or other instrument to transfer any interest in subdivided land
29 nor any covenant or restriction affecting real property shall contain any
30 provision limiting the right of any party to appear or testify in support of
31 or opposition to zoning changes, building permits or any other official acts
32 affecting real property before a governmental body or official considering
33 zoning changes, building permits or any other official acts affecting real
34 property, whether the property is located within or outside of the boundaries
35 of the subdivision. All contractual provisions which conflict with this
36 subsection are declared to be contrary to public policy. Nothing contained
37 in this subsection shall prohibit private restrictions on the use of any real
38 property.
39 J. Before offering subdivided lands for lease or sale the subdivider
40 who makes any promises through any form of advertising media that the
41 subdivided lands will be exclusively a retirement community or one which is
42 limited to the residency of adults or senior citizens shall include the
43 promises in the deed restrictions affecting any interest in real property
44 within the subdivided lands.

Sec. 2. Section 32-2183, Arizona Revised Statutes, is amended to read:

32-2183. Subdivision public reports; denial of issuance; unlawful sales; voidable sale or lease; order prohibiting sale or lease; investigations; hearings; summary orders

A. Upon examination of a subdivision, the commissioner ~~shall~~, unless there are grounds for denial, SHALL issue to the subdivider a public report authorizing the sale or lease in this state of the lots, parcels or fractional interests within the subdivision. The report shall contain the data obtained in accordance with section 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. If any of the lots, parcels or fractional interests within the subdivision are located within territory in the vicinity of a military airport as defined in section 28-8461, the report shall include, in bold twelve point font block letters on the first page of the report, the statements required pursuant to section 28-8484, subsection A and, if the department has been provided a map prepared pursuant to section 28-8484, subsection B, the report shall include a copy of the map. ~~These~~ THE MILITARY AIRPORT report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001. The commissioner shall require the subdivider to reproduce the report, make the report available to each prospective customer and furnish each buyer or lessee with a copy before the buyer or lessee signs any offer to purchase or lease, taking a receipt therefor.

B. Notwithstanding subsection A of this section, a subdivider may elect to prepare a final public report for use in the sale of improved lots as defined in section 32-2101, as follows:

1. The subdivider shall prepare the public report and provide a copy of the report to the commissioner with the submission of the notification required by sections 32-2181 and 32-2184 and shall comply with all other requirements of this article.

2. An initial filing fee of five hundred dollars or an amended filing fee of two hundred fifty dollars shall accompany the notification required by paragraph 1 of this subsection.

3. The department shall assign a registration number to each notification and public report submitted pursuant to this subsection and shall maintain a ~~data base~~ DATABASE of all of these submissions. The subdivider shall place the number on each public report.

4. The department shall determine within fifteen business days after the receipt of the notification and public report whether the notification and public report are administratively complete. The commissioner may either issue a certification that the notification and public report are administratively complete or may deny issuance of the certification if it appears that the application or project is not in compliance with all legal requirements, that the applicant has a background of violations of state or

1 federal law or that the applicant or project presents an unnecessary risk of
2 harm to the public.
3 5. A subdivider may commence sales or leasing activities as permitted
4 under this article after obtaining a certificate of administrative
5 completeness from the commissioner.
6 6. Before or after the commissioner issues a certificate of
7 administrative completeness, the department may examine any public report,
8 subdivision or applicant that has applied for or received the certificate.
9 If the commissioner determines that the subdivider or subdivision is not in
10 compliance with any requirement of state law or that grounds exist under this
11 chapter to suspend, deny or revoke a public report, the commissioner may
12 commence an administrative action under section 32-2154 or 32-2157. If the
13 subdivider immediately corrects the deficiency and comes into full compliance
14 with state law, the commissioner shall vacate any action that the
15 commissioner may have commenced pursuant to section 32-2154 or 32-2157.
16 7. The department shall provide forms and guidelines for the
17 submission of the notification and public report pursuant to this section.
18 C. The commissioner may suspend, revoke or deny issuance of a public
19 report on any of the following grounds:
20 1. Failure to comply with any of the provisions of this article or
21 the rules of the commissioner pertaining to this article.
22 2. The sale or lease would constitute misrepresentation to or deceit
23 or fraud of the purchasers or lessees.
24 3. Inability to deliver title or other interest contracted for.
25 4. Inability to demonstrate that adequate financial or other
26 arrangements acceptable to the commissioner have been made for completion of
27 all streets, sewers, electric, gas and water utilities, drainage and flood
28 control facilities, community and recreational facilities and other
29 improvements included in the offering.
30 5. Failure to make a showing that the lots, parcels or fractional
31 interests can be used for the purpose for which they are offered.
32 6. The owner, agent, subdivider, officer, director or partner,
33 subdivider trust beneficiary holding ten per cent or more direct or indirect
34 beneficial interest or, if a corporation, any stockholder owning ten per cent
35 or more of the stock in the corporation has:
36 (a) Been convicted of a felony or misdemeanor involving fraud or
37 dishonesty or involving conduct of any business or a transaction in real
38 estate, cemetery property, time-share intervals or membership camping
39 campgrounds or contracts.
40 (b) Been permanently or temporarily enjoined by order, judgment or
41 decree from engaging in or continuing any conduct or practice in connection
42 with the sale or purchase of real estate or cemetery property, time-share
43 intervals, membership camping contracts or campgrounds, or securities or
44 involving consumer fraud or the racketeering laws of this state.

(c) Had an administrative order entered against him by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against him involving fraud or dishonesty or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

(e) Disregarded or violated any of the provisions of this chapter or the rules of the commissioner pertaining to this chapter.

(f) Controlled an entity to which subdivision (b), (c), (d) or (e) applies.

7. Procurement or an attempt to procure a public report by fraud, misrepresentation or deceit or by filing an application for a public report which is materially false or misleading.

8. Failure of the declaration for a condominium created pursuant to title 33, chapter 9, article 2 to comply with the requirements of section 33-1215 or failure of the plat for the condominium to comply with the requirements of section 33-1219. The commissioner may require an applicant for a public report to submit a notarized statement signed by the subdivider or an engineer or attorney licensed to practice in this state certifying that the condominium plat and declaration of condominium are in compliance with the requirements of sections 33-1215 and 33-1219. If the notarized statement is provided, the commissioner is entitled to rely on this statement.

9. Failure of any blanket encumbrance or valid supplementary agreement executed by the holder of the blanket encumbrance to contain provisions that enable the purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance, on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the commissioner containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

10. Failure to demonstrate permanent access to the subdivision lots or parcels.

11. The use of the lots presents an unreasonable health risk.

D. It is unlawful for a subdivider to sell any lot in a subdivision unless one of the following occurs:

1. All proposed or promised subdivision improvements are completed.

2. The completion of all proposed or promised subdivision improvements is assured by financial arrangements acceptable to the commissioner. The financial arrangements may be made in phases for common community and recreation facilities required by a municipality or county as a stipulation for approval of a plan for a master planned community.

3. The municipal or county government agrees to prohibit occupancy and the subdivider agrees not to close escrow for lots in the subdivision until all proposed or promised subdivision improvements are completed.

4. The municipal or county government enters into an assurance agreement with any trustee not to convey lots until improvements are completed within the portion of the subdivision containing these lots, if the improvements can be used and maintained separately from the improvements required for the entire subdivision plat. The agreement shall be recorded in the county in which the subdivision is located.

E. If the subdivision is within a groundwater active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless the subdivider has been issued a certificate of assured water supply by the director of water resources AND HAS PAID ALL APPLICABLE REPLENISHMENT RESERVE FEES PURSUANT TO SECTION 48-3774.01, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576.

F. ~~No~~ A subdivider shall NOT sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

G. Any applicant objecting to the denial of a public report ~~may~~, within thirty days after receipt of the order of denial, MAY file a written request for a hearing. The commissioner shall hold the hearing within twenty days after receipt of the request for a hearing unless the party requesting the hearing has requested a postponement. If the hearing is not held within twenty days after a request for a hearing is received, plus the period of any postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

H. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that the subdivider or the subdivider's agent is violating any provision set forth in this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, THE COMMISSIONER may

1 investigate the subdivision project and examine the books and records of the
2 subdivider. For the purpose of examination, the subdivider shall keep and
3 maintain records of all sales transactions and funds received by the
4 subdivider pursuant to the sales transactions and shall make them accessible
5 to the commissioner upon reasonable notice and demand.
6 I. On the commissioner's own motion, or when the commissioner has
7 received a complaint and has satisfactory evidence that any person has
8 violated any of the provisions of this article or the rules of the
9 commissioner or has engaged in any unlawful practice as defined in section
10 44-1522 with respect to the sale of subdivided lands or deviated from the
11 provisions of the public report or special order of exemption, or has been
12 indicted for fraud or against whom an information for fraud has been filed
13 or has been convicted of a felony, before or after the commissioner issues
14 the public report as provided in subsection A of this section, THE
15 COMMISSIONER may conduct an investigation of the matter, issue a summary
16 order as provided in section 32-2157, or hold a public hearing and, after the
17 hearing, may issue the order or orders the commissioner deems necessary to
18 protect the public interest and ~~insure~~ ENSURE compliance with the law, rules
19 or public report or the commissioner may bring action in any court of
20 competent jurisdiction against the person to enjoin the person from
21 continuing the violation or engaging in or doing any act or acts in
22 furtherance of the violation. The court may make orders or judgments,
23 including the appointment of a receiver, necessary to prevent the use or
24 employment by a person of any unlawful practices, or which may be necessary
25 to restore to any person in interest any monies or property, real or
26 personal, that may have been acquired by means of any practice in this
27 article declared to be unlawful.
28 J. When it appears to the commissioner that a person has engaged in
29 or is engaging in a practice declared to be unlawful by this article and that
30 the person is concealing assets or self or has made arrangements to conceal
31 assets or is about to leave the state, the commissioner may apply to the
32 superior court, ex parte, for an order appointing a receiver of the assets
33 of the person or for a writ of ne exeat, or both.
34 K. The court upon receipt of an application for the appointment of a
35 receiver or for a writ of ne exeat, or both, shall examine the verified
36 application of the commissioner and other evidence that the commissioner may
37 present the court. If satisfied that the interests of the public require the
38 appointment of a receiver or the issuance of a writ of ne exeat without
39 notice, the court shall issue an order appointing the receiver or issue the
40 writ, or both. If the court determines that the interests of the public will
41 not be harmed by the giving of notice, the court shall set a time for a
42 hearing and require notice be given as the court deems satisfactory.
43 L. If the court appoints a receiver without notice, the court shall
44 further direct that a copy of the order appointing a receiver be served upon
45 the person engaged in or engaging in a practice declared to be unlawful under

this article by delivering the order to the last address of the person which is on file with the STATE real estate department. The order shall inform the person that the person has the right to request a hearing within ten days of the date of the order and, if requested, the hearing shall be held within thirty days from the date of the order.

Sec. 3. Section 32-2197.08, Arizona Revised Statutes, is amended to read:

32-2197.08. Issuance of public report by commissioner on timeshare plan; denial of issuance; additional information; use of another state's public report

A. ~~Upon~~ ON examination of a timeshare plan, the commissioner ~~shall~~, unless there are grounds for denial, SHALL approve for use by the developer a public report authorizing the sale or lease of the timeshare interests within the timeshare plan. For all timeshare interests sold in this state, the commissioner shall require the developer to reproduce the public report and furnish each prospective customer with a copy, taking a receipt for each copy. The public report shall be made available to each prospective purchaser in written format and may also be made available in CD-ROM or other electronic format as approved by the commissioner. The public report shall include the following:

1. The name and principal address of the owner and developer.

2. A description of the type of timeshare interests being offered.

3. A description of the existing and proposed accommodations and amenities of the timeshare plan, including type and number, any use restrictions and any required fees for use.

4. A description of any accommodations and amenities that are committed to be built, including:

(a) The developer's schedule of commencement and completion of all accommodations and amenities.

(b) The estimated number of accommodations per site that may become subject to the timeshare plan.

5. A brief description of the duration, phases and operation of the timeshare plan.

6. The current annual budget if available or the projected annual budget for the timeshare plan. The budget shall include:

(a) A statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement.

(b) The projected common expense liability, if any, by category of expenditures for the timeshare plan.

(c) A statement of any services or expenses THAT ARE not reflected in the budget AND that the developer provides or pays.

7. A description of any liens, defects or encumbrances on or affecting the title to the timeshare interests.

8. A statement that by midnight of the seventh calendar day after execution of the purchase agreement a purchaser may cancel any purchase

agreement for a timeshare interest from a developer together with a statement providing the name and street address where the purchaser should mail any notice of cancellation. However, if, by agreement of the parties through the purchase agreement, the purchase agreement allows for cancellation of the purchase agreement for a period of time exceeding seven calendar days, the public report shall include a statement that the cancellation of the purchase agreement is allowed for that period of time exceeding seven calendar days.

9. A description of any bankruptcies, pending suits, adjudications or disciplinary actions material to the timeshare interests of which the developer has knowledge.

10. Any restrictions on alienation of any number or portion of any timeshare interests.

11. Any current or expected fees or charges to be paid by timeshare purchasers for the use of any amenities related to the timeshare plan.

12. The extent to which financial arrangements have been provided for completion of all promised improvements.

13. If the timeshare plan provides purchasers with the opportunity to participate in any exchange programs, a description of the name and address of the exchange companies and the method by which a purchaser accesses the exchange programs.

14. Any other information that the developer, with the approval of the commissioner, desires to include in the public report.

15. If the developer is offering a multisite timeshare plan, ~~the public report shall also fully and accurately disclose~~ the following information, which may be disclosed in a written, graphic or tabular form:

(a) A description of each component site including the name and address of each component site.

(b) The number of accommodations and timeshare periods, expressed in periods of use availability, committed to the multisite timeshare plan and available for use by purchasers.

(c) Each type of accommodation in terms of the number of bedrooms, bathrooms and sleeping capacity and a statement of whether or not the accommodation contains a full kitchen. For THE purposes of this subdivision, "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven, sink and refrigerator.

(d) A description of amenities available for use by the purchaser at each component site.

(e) A description of the reservation system, including the following:

(i) The entity responsible for operating the reservation system.

(ii) A summary of the rules governing access to and use of the reservation system.

(iii) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first reserved, first served basis.

(f) A description of any right to make any additions, substitutions or deletions of accommodations or amenities and a description of the basis on which accommodations and amenities may be added to, substituted in or deleted from the multisite timeshare plan.

(g) A description of the purchaser's liability for any fees associated with the multisite timeshare plan.

(h) The location and the anticipated relative use demand of each component site in a multisite timeshare plan as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multisite timeshare plan.

(i) Any other information reasonably required by the commissioner or established by rule necessary for the protection of purchasers of timeshare interests in timeshare plans.

(j) Any other information that the developer, with the approval of the commissioner, desires to include in the public report.

16. If a developer offers a nonspecific timeshare interest in a multisite timeshare plan, ~~the developer shall disclose~~ the information set forth in ~~subsection A,~~ paragraphs 1 through 14 OF THIS SUBSECTION as to each component site.

17. Any other information that the commissioner determines or establishes by rule is necessary to implement the purpose of this article.

B. In the event of denial, suspension or revocation, grounds shall be set forth in writing at the time of denial, suspension or revocation. The commissioner may deny, suspend or revoke the public report on any of the following grounds:

1. Failure to comply with any of the provisions of this article or the rules of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for completion of the timeshare property, installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.

4. The developer, including if an entity, an officer, director, member, manager, partner, owner, trust beneficiary holding ten per cent or more beneficial interest, stockholder owning ten per cent or more of the stock or other person exercising control of the entity, has:

(a) Been convicted of a felony or misdemeanor involving theft, fraud or dishonesty or involving the conduct of any business or a transaction in real estate, cemetery property, timeshare interests or membership camping campgrounds or contracts.

1 (b) Been permanently or temporarily enjoined by order, judgment or
2 decree from engaging in or continuing any conduct or practice in connection
3 with the sale or purchase of real estate, cemetery property, timeshare
4 interests, membership camping campgrounds or contracts, or securities or
5 involving consumer fraud or the Arizona racketeering laws.
6 (c) Had an administrative order entered against him by a real estate
7 regulatory agency or securities regulatory agency.
8 (d) Had an adverse decision or judgment entered against him involving
9 fraud or dishonesty or involving the conduct of any business in or a
10 transaction in real estate, cemetery property, timeshare interests or
11 membership camping campgrounds or contracts.
12 (e) Disregarded or violated any of the provisions of this chapter or
13 the rules of the commissioner pertaining to this chapter.
14 (f) Participated in, operated or held an interest in any entity to
15 which subdivision (b), (c), (d), or (e) of this paragraph applies.
16 5. If within this state, the timeshare property is incompatible with
17 the existing neighborhood and would introduce into a neighborhood a character
18 of property or use which would clearly be detrimental to property values in
19 that neighborhood.
20 C. If the timeshare property is within a groundwater active management
21 area, as defined in section 45-402, the commissioner shall deny issuance of
22 a public report unless the developer has been issued a certificate of assured
23 water supply by the director of water resources AND HAS PAID ALL APPLICABLE
24 REPLENISHMENT RESERVE FEES PURSUANT TO SECTION 48-3774.01, or unless the
25 developer has obtained a written commitment of water service for the
26 timeshare property from a city, town or private water company designated as
27 having an assured water supply by the director of water resources pursuant
28 to section 45-576.
29 D. In addition to providing to each prospective customer a copy of the
30 public report as required in subsection A of this section, the developer
31 shall also provide to each customer before the close of any transaction
32 information and materials that identify any timeshare exchange companies
33 currently under contract and disclosure statements regarding the use of the
34 timeshare exchange companies, as well as any additional information the
35 commissioner deems appropriate.
36 E. The commissioner may authorize for use in this state by a developer
37 of a timeshare plan in which all accommodations are located outside of this
38 state a current public report that is issued by another jurisdiction or an
39 equivalent registration and disclosure document that is required before
40 offering a timeshare plan for sale, lease or use and that is issued by
41 another jurisdiction. This authorization does not constitute an exemption
42 from other applicable requirements of this article.

1 Sec. 4. Section 45-576, Arizona Revised Statutes, is amended to read:
2 45-576. Certificate of assured water supply; designated cities,
3 towns and private water companies; exemptions;
4 definition
5 A. A person who proposes to offer subdivided lands, as defined in
6 section 32-2101, for sale or lease in an active management area shall apply
7 for and obtain a certificate of assured water supply from the director prior
8 to presenting the plat for approval to the city, town or county in which the
9 land is located, where such is required, and prior to filing with the state
10 real estate commissioner a notice of intention to offer such lands for sale
11 or lease, pursuant to section 32-2181, unless the subdivider has obtained a
12 written commitment of water service for the subdivision from a city, town or
13 private water company designated as having an assured water supply pursuant
14 to this section.
15 B. A city, town or county may approve a subdivision plat only if the
16 subdivider has obtained a certificate of assured water supply from the
17 director or the subdivider has obtained a written commitment of water service
18 for the subdivision from a city, town or private water company designated as
19 having an assured water supply pursuant to this section. The city, town or
20 county shall note on the face of the approved plat that a certificate of
21 assured water supply has been submitted with the plat or that the subdivider
22 has obtained a written commitment of water service for the proposed
23 subdivision from a city, town or private water company designated as having
24 an assured water supply pursuant to this section.
25 C. The state real estate commissioner may issue a public report
26 authorizing the sale or lease of subdivided lands only if the subdivider,
27 owner or agent has obtained a certificate of assured water supply from the
28 director and has paid any replenishment reserve fee required under section
29 48-3774.01, subsection A, paragraph 2 or if the subdivider has obtained a
30 written commitment of water service for the lands from a city, town or
31 private water company designated as having an assured water supply pursuant
32 to this section.
33 D. The director shall designate private water companies in active
34 management areas that have an assured water supply. If a city or town
35 acquires a private water company that has contracted for central Arizona
36 project water, the city or town shall assume the private water company's
37 contract for central Arizona project water.
38 E. The director shall designate cities and towns in active management
39 areas where an assured water supply exists. If a city or town has entered
40 into a contract for central Arizona project water, the city or town is deemed
41 to continue to have an assured water supply until December 31,
42 1997. Commencing on January 1, 1998, the determination that the city or town
43 has an assured water supply is subject to review by the director and the
44 directo may determine that a city or town does not have an assured water
45 supply.

F. The director shall notify the mayors of all cities and towns in active management areas and the chairmen of the boards of supervisors of counties in which active management areas are located of the cities, towns and private water companies designated as having an assured water supply and any modification of that designation within thirty days of the designation or modification. If the service area of ~~that~~ THE city, town or private water company has qualified as a member service area ~~of a conservation district~~ pursuant to title 48, chapter 22, article 4, the director shall also notify the conservation district of the designation or modification and shall report the projected AVERAGE annual replenishment obligation for the member service area based on the projected and committed AVERAGE annual demand for water within the service area during the effective term of the designation or modification subject to any limitation in an agreement between the conservation district and the city, town or private water company. FOR EACH CITY, TOWN OR PRIVATE WATER COMPANY THAT QUALIFIED AS A MEMBER SERVICE AREA UNDER TITLE 48, CHAPTER 22 AND WAS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BEFORE JANUARY 1, 2004, THE DIRECTOR SHALL REPORT TO THE CONSERVATION DISTRICT ON OR BEFORE JANUARY 1, 2005 THE PROJECTED AVERAGE ANNUAL REPLENISHMENT OBLIGATION BASED ON THE PROJECTED AND COMMITTED AVERAGE ANNUAL DEMAND FOR WATER WITHIN THE SERVICE AREA DURING THE EFFECTIVE TERM OF THE DESIGNATION SUBJECT TO ANY LIMITATION IN AN AGREEMENT BETWEEN THE CONSERVATION DISTRICT AND THE CITY, TOWN OR PRIVATE WATER COMPANY. Persons proposing to offer subdivided lands served by those designated cities, towns and private water companies for sale or lease are exempt from applying for and obtaining a certificate of assured water supply.

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

H. The director shall adopt rules to carry out the purposes of this section no later than January 1, 1995.

I. For THE purposes of this section, "assured water supply" means all of the following:

1. Sufficient groundwater, surface water or effluent of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a member of the district, "sufficient groundwater" for purposes of this paragraph means that the proposed groundwater withdrawals that the applicant will cause over a period of one hundred years will be of adequate quality and will not exceed, in combination with other withdrawals from land in the replenishment district, a depth to water of one thousand feet or the depth of the bottom of the aquifer, whichever is less. In determining depth to

water for the purposes of this paragraph, the director shall consider the combination of:

(a) The existing rate of decline.

(b) The proposed withdrawals.

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

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

3. 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, 11-806.01 or 32-2181 to satisfy this requirement.

Sec. 5. Section 45-576.02, Arizona Revised Statutes, is amended to read:

45-576.02. Replenishment district plans, conservation district plans and water district plans

A. A groundwater replenishment district that is established pursuant to title 48, chapter 27 shall submit to the director:

1. On or before January 1 of the second calendar year following the year in which the district is established, a preliminary plan describing the activities that the district proposes to undertake during the seventeen calendar years following submittal of the preliminary plan.

2. On or before January 1 of the twelfth calendar year following the year in which the district is established, a long-range plan describing the district's proposed activities through the first calendar year in which achieving safe-yield is required.

B. The district's plan shall include:

1. An estimate of the district members' replenishment obligations that will arise during the planning period.

2. A description of water resources that are expected to be available to the district during the planning period.

3. A description of any facilities and projects to be used for replenishment during the planning period.

4. An analysis of potential groundwater replenishment sites in each groundwater ~~sub-basin~~ SUBBASIN in the district.

5. A description of the district's financial capabilities and financial requirements that are necessary to address the district members' replenishment obligations during the planning period.

6. A description of the district's current capability to meet the district members' replenishment obligations for the five calendar years following the calendar year in which the district submits its plan.

7. Any other information that the director may reasonably require.

C. A conservation district that is established pursuant to title 48, chapter 22 shall submit to the director the following:

1. On or before June 1, 1994, a plan describing the activities that the conservation district proposes to undertake during the twenty calendar years following submitting the plan. Except as provided in subsection D of this section, the plan shall include the following information for each active management area in which a member land or member service area is or may be located:

(a) An estimate of the conservation district's current and projected groundwater replenishment obligations, as that term is defined and used in title 48, chapter 22, for the twenty calendar years following the submission of the plan.

(b) A description of water resources that are expected to be available to the conservation district for replenishment purposes during the twenty calendar years following the submission of the plan.

(c) A description of any facilities and projects to be used for replenishment purposes during the twenty calendar years following the submission of the plan.

(d) An analysis of potential groundwater replenishment sites in each groundwater ~~sub-basin~~ SUBBASIN.

(e) A description of the conservation district's financial capabilities and financial requirements that are necessary to address the conservation district's groundwater replenishment obligations during the twenty calendar years following the submission of the plan.

(f) A description of the conservation district's current capability to meet the current and projected groundwater replenishment obligations for the five calendar years following the calendar year in which the conservation district submits the plan.

(g) If a water district has adopted an ordinance or resolution to undertake water district groundwater replenishment obligations pursuant to section 48-4971, subsection A, a description of central Arizona project water that may be available to the water district for replenishment purposes during the twenty calendar years following the submission of the plan.

(h) Any other information that the director may require.

2. On or before January 1, 2005 and within one year before January 1 of every tenth calendar year thereafter, a plan describing the activities for each active management area that the conservation district proposes to undertake during the one hundred calendar years following submitting the plan. Except as provided in subsection D of this section, the plan shall include the following information for each active management area in which a member land or member service area is or may be located:

(a) The conservation district's groundwater replenishment obligations and the extent to which those obligations have been met in the ten years preceding submittal of the plan.

(b) An estimate of the conservation district's current and projected groundwater replenishment obligations, as that term is defined and used in title 48, chapter 22, for current members for the twenty calendar years following the submission of the plan and an estimate of the district's projected groundwater replenishment obligations for the one hundred calendar years following the submission of the plan for current members and potential members based on reasonable projections of real property and service areas that could qualify for membership in the ten years following the submission of the plan.

(c) A description of the water resources that the conservation district plans to use for replenishment purposes during the twenty calendar years following submission of the plan and water resources potentially available to the conservation district for groundwater replenishment purposes during the subsequent eighty calendar years.

(d) A description of the district's current replenishment reserve activities in each active management area for the ten years preceding the current plan and planned replenishment reserve activities for the ensuing ten years to be undertaken pursuant to section 48-3772, subsection E.

(e) A description of any facilities and projects to be used for replenishment and the replenishment capacity available to the conservation district during the twenty calendar years following submission of the plan.

(f) An analysis of potential storage facilities that may be used by the conservation district for replenishment purposes.

(g) A description of the conservation district's capability to meet the current and projected groundwater replenishment obligations for the twenty calendar years following the calendar year in which the conservation district submits the plan.

(h) Any other information that the director may require.

D. The information required by subsection C, paragraph 1, subdivisions (b) and (f) and paragraph 2, subdivisions (c) and (g) of this section need not be included in a conservation district's plan if the conservation district demonstrates to the director that it has obtained an allocation of central Arizona project water or other water supplies determined by the director to be consistent with the assured water supply requirements pursuant to section 45-576 in an amount that equals or exceeds the projected groundwater replenishment obligation for the ~~twenty~~ ONE HUNDRED calendar years following the submission of the plan. If the conservation district demonstrates to the director that it has obtained an allocation of central Arizona project water or other water supplies determined by the director to be consistent with the assured water supply requirements pursuant to section 45-576 in an amount that is less than the projected groundwater replenishment obligation for the ~~twenty~~ ONE HUNDRED calendar years following the submission of the plan, the information required by subsection C, paragraph 1, subdivisions (b) and (f) and paragraph 2, subdivisions (c) and (g) of this section shall be submitted only for the amount of the obligation in excess

of the total amount of the central Arizona project water allocation and other supplies. The director shall quantify the amount of an allocation of central Arizona project water associated with a nondeclining municipal and industrial subcontract on the basis of the amount of the contract. The director shall quantify the amount of an allocation of central Arizona project water associated with a subcontract other than a nondeclining municipal and industrial subcontract on the basis of the reliability of the source.

E. A water district shall submit to the director on or before June 1 of the calendar year following the year in which the water district has adopted an ordinance or resolution to undertake the water district groundwater replenishment obligations under section 48-4971, and on or within one year before each date on which a plan is required to be submitted by the conservation district under subsection C of this section, a plan describing the replenishment activities that the water district proposes to undertake during the twenty calendar years following the submittal of the plan. The plan shall include the following information for the active management area in which the water district is located:

1. An estimate of the water district's current and projected water district groundwater replenishment obligation, as that term is defined and used in title 48, chapter 28, for the twenty calendar years following the submission of the plan.

2. A description of water resources that are expected to be available to the water district for replenishment purposes during the twenty calendar years following the submission of the plan.

3. A description of any facilities and projects to be used for replenishment purposes during the twenty calendar years following the submission of the plan.

4. An analysis of potential groundwater replenishment sites in each groundwater ~~sub-basin~~ SUBBASIN.

5. A description of the water district's financial capabilities and financial requirements that are necessary to address the water district groundwater replenishment obligation during the twenty calendar years following the submission of the plan.

6. A description of the water district's current capability to meet the current and projected water district groundwater replenishment obligation for the five calendar years following the calendar year in which the water district submits the plan.

7. Any other information that the director may require.

F. For each plan submitted by the water district, the water district may incorporate applicable portions of the conservation district's plan.

Sec. 6. Section 45-576.03, Arizona Revised Statutes, is amended to read:

45-576.03. <u>Director's review of plans</u>

A. Within sixty days after receiving a groundwater replenishment district's preliminary and long-range plans pursuant to section 45-576.02,

1 the director shall determine if the district has submitted sufficient
2 information to determine whether the district's plan for operation is
3 consistent with the management goal of the active management area. If the
4 director determines that the information is insufficient for such a
5 determination, the director shall notify the district of the insufficiency
6 in writing and shall specify what additional information is required. The
7 district shall provide the information to the director within thirty days
8 after receiving the notice.
9 B. On determining that the district's preliminary or long-range plan
10 is complete, the director shall publish notice in a newspaper of general
11 statewide circulation once each week for two consecutive weeks:
12 1. Requesting public comment concerning information supplied by the
13 district to meet the requirements of section 45-576.02.
14 2. Setting a date and location of a public hearing to be held pursuant
15 to subsection C of this section.
16 C. The director shall hold a public hearing within sixty days after
17 the last day of notice under subsection B of this section. The hearing shall
18 be conducted in an informal manner without adhering to the rules of evidence
19 required in judicial proceedings. Any person, including the department,
20 shall have an opportunity to comment on or to present evidence concerning the
21 submitted plan.
22 D. The district shall respond in writing to all public comments
23 whether received at the hearing or otherwise received by a date announced by
24 the director.
25 E. Within one hundred twenty days after the hearing on the preliminary
26 plan, the director shall issue a preliminary decision determining whether or
27 not the plan for district operation shall be designated as being consistent
28 with achieving the management goal. If the director determines that the
29 preliminary plan for district operation is consistent with achieving the
30 management goal, the designation expires on January 1 of the thirteenth
31 calendar year following the calendar year in which the district is
32 established. Within one hundred twenty days after the hearing on the
33 long-range plan, the director shall issue a final decision determining
34 whether or not the plan for district operation shall be designated as being
35 consistent with achieving the management goal. The director shall include
36 findings with the decision and a summary of all public comments received in
37 writing and public comments made at the public hearing.
38 F. The director shall issue a decision that the district's plan for
39 operation is consistent with achieving the management goal if the director
40 finds that the district has the current capability to meet the district
41 members' replenishment obligations for the five calendar years following the
42 calendar year in which the district submits its plan and, in addition, the
43 director makes either of the following findings, as applicable:
44 1. If the director is evaluating the preliminary plan, that the
45 district has established an adequate plan for obtaining financing and water

1 resources that are necessary to meet the district members' replenishment
2 obligations through the eighteenth calendar year following the year in which
3 the district is established.
4 2. If the director is evaluating the long-range plan, that the
5 district has established an adequate plan to meet the projected replenishment
6 obligations through the first calendar year in which achieving safe-yield is
7 required.
8 G. Unless the district successfully appeals the director's decision
9 pursuant to subsection H of this section, if the director has made a
10 determination that the district's plan for operation is not consistent with
11 achieving the management goal, the director shall notify the district of the
12 inconsistency in writing and shall specify how the district's plan for
13 operation is inconsistent with achieving the management goal. The district
14 shall modify its proposed plan and resubmit the plan, and the director shall
15 review the plan as provided by section 45-576.02 and this section, except
16 that the director shall only hold a hearing regarding those matters that the
17 district has modified in its resubmitted plan.
18 H. The director's determination under subsection E of this section is
19 subject to rehearing or review and to judicial review as provided in section
20 45-114, subsection C, but the court shall not issue a temporary restraining
21 order or preliminary injunction to prevent the director from acting under
22 this chapter while the action is pending.
23 I. Within sixty days after receiving a conservation district's plan
24 or a water district's plan pursuant to section 45-576.02, INCLUDING A REVISED
25 PLAN PURSUANT TO SUBSECTION R OF THIS SECTION, the director shall determine
26 if the conservation district or water district, as the case may be, has
27 submitted sufficient information to determine whether the conservation
28 district's plan for operation is consistent with the management goals of each
29 of the active management areas in which a member land or member service area
30 is or may be located or whether the water district's plan for operation is
31 consistent with the management goal of the active management area in which
32 a water district member land or a water district member service area is or
33 may be located. If the director determines that the information is
34 insufficient for such a determination, the director shall notify the
35 conservation district or water district, as the case may be, of the
36 insufficiency in writing and shall specify what additional information is
37 required. The conservation district or water district, as the case may be,
38 shall provide the information to the director within a reasonable time as
39 specified by the director.
40 J. On determining that the conservation district's plan or the water
41 district's plan, as the case may be, is complete, the director shall publish
42 notice in a newspaper of general statewide circulation once each week for two
43 consecutive weeks:

1. Requesting public comment concerning information supplied by the conservation district or water district, as the case may be, to meet the requirements of section 45-576.02.

2. Setting a date and location of a public hearing to be held pursuant to subsection K of this section.

K. The director shall hold a public hearing within sixty days after the last day of the notice under subsection J of this section. The hearing shall be conducted in an informal manner without adhering to the rules of evidence required in judicial proceedings. Any person, including the department, shall have an opportunity to comment on or to present evidence concerning the submitted plan.

L. The conservation district or the water district, as the case may be, shall respond in writing to all public comments whether received at the hearing or otherwise received by a date announced by the director.

M. Within sixty days after the hearing on the first plan required under section 45-576.02, subsection C or the first plan required under section 45-576.02, subsection E and within one hundred twenty days after the hearing on any subsequent plan required under section 45-576.02, subsection C or E, INCLUDING A REVISED PLAN PURSUANT TO SUBSECTION R OF THIS SECTION, the director shall issue a decision for each of the active management areas in which a member land or member service area is or may be located, and the active management area in which a water district member land or water district member service area is or may be located, determining whether or not the plan submitted with respect to an active management area shall be designated as being consistent with achieving the management goal of the active management area. If the director determines that the plan submitted for an active management area is consistent with achieving the management goal of that active management area, the designation expires on January 1 of the year following the year in which the conservation district or the water district, as the case may be, is required to submit its next plan under section 45-576.02, subsections C and E. The director shall include findings with the decision and a summary of all public comments received in writing and public comments made at the public hearing.

N. The director shall make a determination that the conservation district's plan is consistent with achieving the management goal for each active management area if all of the following have been demonstrated:

1. The conservation district has identified sufficient water supplies to meet its replenishment obligations for current members during the twenty calendar years following the submission of the plan and has identified additional water supplies potentially available for the district's projected groundwater replenishment obligations for the one hundred calendar years following the submission of the plan for current members and potential members based on reasonable projections of real property and service areas that could qualify for membership in the ten years following the submission of the plan.

2. The district is developing a replenishment reserve in each active management area pursuant to section 48-3772, subsection E.

3. The conservation district has identified sufficient capacity at storage facilities and projects to be used for replenishment purposes during the twenty calendar years following the submission of the plan.

O. The director shall issue a decision that the water district's plan is consistent with achieving the management goal of the active management area in which the water district is located if the director finds that the water district has the current capability to meet the current and projected water district groundwater replenishment obligation, as that term is defined and used in title 48, chapter 28, for the five calendar years following the calendar year in which the water district submits its plan and, in addition, the director finds the water district has established an adequate plan to meet the projected water district groundwater replenishment obligation for the twenty calendar years following the calendar year in which the plan was submitted.

P. Unless the conservation district or water district successfully appeals the director's decision pursuant to subsection Q of this section, if the director has made a determination for one or more active management areas that the conservation district's plan for operation or the water district's plan is not consistent with achieving the management goal of an active management area, the director shall notify the conservation district or water district, as the case may be, of the inconsistency in writing and shall specify how the conservation district's plan for operation or the water district's plan is inconsistent with achieving the management goal. The conservation district or water district, as the case may be, shall modify its proposed plan and resubmit the plan within sixty days after it has been notified in writing of the director's decision, and the director shall review the plan as provided by section 45-576.02 and this section, except that the director shall only hold a hearing regarding those matters that the conservation district or water district, as the case may be, has modified in its resubmitted plan.

Q. The director's determination under subsection M OR R of this section is subject to rehearing or review and to judicial review as provided in section 45-114, subsection C, but the court shall not issue a temporary restraining order or preliminary injunction to prevent the director from acting under this chapter while the action is pending.

R. If, at any time between the second anniversary and the sixth anniversary of the director's determination of consistency with the management goal, the director determines that there has been either an unexpected increase in the conservation district's projected groundwater replenishment obligations or an unexpected reduction in water supplies available to meet the conservation district's current obligations such that the conservation district's plan no longer demonstrates consistency with the management goal for one or more active management areas, the director may

1 require the conservation district to submit a revised plan for
2 operation. The revised plan for operation shall be submitted within two
3 calendar years of the date that the director notifies the conservation
4 district of such a determination. The director shall review, HOLD A HEARING
5 ON AND MAKE A DETERMINATION ON the revised plan as provided by ~~section~~
6 ~~45-576.02 and~~ this section, except that the director shall only hold a
7 hearing regarding those conditions that have changed.
8 S. Unless the conservation district successfully appeals the
9 director's determination pursuant to subsection ~~R~~ Q of this section, if the
10 director has made a determination for one or more active management areas
11 that the conservation district's revised plan for operation is not consistent
12 with achieving the management goal of that active management area pursuant
13 to this section and the conservation district is unable to satisfy the
14 director's concerns within sixty days after the director has notified the
15 conservation district of the determination, the district's plan shall expire.
16 Sec. 7. Section 45-578, Arizona Revised Statutes, is amended to read:
17 45-578. Notice; objections; hearing; issuance of certificate;
18 appeals
19 A. The director shall give notice of the application for a certificate
20 of assured water supply once each week for two consecutive weeks in a
21 newspaper of general circulation in the active management area in which the
22 applicant proposes to use water. The first publication shall occur within
23 fifteen days after the application is determined complete and correct or at
24 any earlier time as the applicant may request after the application is
25 determined complete. If the application is substantially modified after
26 notice of the application is given pursuant to this subsection, the director
27 shall give notice of the application as modified in the manner prescribed by
28 this subsection. The first publication of any subsequent notice shall occur
29 within fifteen days after the modified application is determined complete and
30 correct or at any earlier time as the applicant may request after the
31 modified application is determined complete.
32 B. Notice pursuant to subsection A of this section shall state that
33 objections to the issuance of the certificate may be filed by residents of
34 the active management area, in writing, with the director within fifteen days
35 after the last publication of notice. An objection shall state the name and
36 mailing address of the objector, be signed by the objector, the objector's
37 agent or the objector's attorney and clearly set forth reasons why the
38 certificate should not be issued. The grounds for objection are limited to
39 whether the certificate application meets the criteria for determining an
40 assured water supply set forth in section 45-576, subsection I.
41 C. In appropriate cases, including cases where a proper written
42 objection to the certificate application has been filed, an administrative
43 hearing may be held before the director's decision on the application if the
44 director deems a hearing necessary. The director ~~shall~~, thirty days prior
45 to the date of the hearing, SHALL give notice of the hearing to the applicant

and to any person who filed a proper written objection to the issuance of the certificate. The hearing shall be scheduled for not less than sixty days nor more than ninety days after the expiration of the time in which to file objections.

D. Upon finding that an assured water supply exists for the proposed use, the director shall issue a certificate of assured water supply to the applicant. Upon finding that an assured water supply does not exist, the director shall deny the application and return it to the applicant.

E. An aggrieved party or a person who contested a certificate by filing a proper objection pursuant to subsection B of this section may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in the superior court.

F. If the application for a certificate of assured water supply is for land that has qualified as a member land under title 48, chapter 22, ~~when the application is determined to be complete and correct,~~ the director shall notify the conservation district WHEN A CERTIFICATE OF ASSURED WATER SUPPLY IS ISSUED and shall report the total projected AVERAGE annual replenishment obligation AT BUILD-OUT for each plat under the certificate. ON OR BEFORE JANUARY 1, 2005, THE DIRECTOR SHALL PROVIDE A WRITTEN REPORT TO THE CONSERVATION DISTRICT INDICATING THE TOTAL PROJECTED AVERAGE ANNUAL REPLENISHMENT OBLIGATION AT BUILD-OUT FOR EACH PLAT UNDER CERTIFICATES OF ASSURED WATER SUPPLY ISSUED FOR LAND THAT QUALIFIED AS MEMBER LAND UNDER TITLE 48, CHAPTER 22 BEFORE JANUARY 1, 2004.

G. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area in which the use is located.

Sec. 8. Section 45-802.01, Arizona Revised Statutes, is amended to read:

45-802.01. Definitions

Unless the context otherwise requires, the terms defined in section 45-402 have the same meanings in this chapter and:

1. "Aquifer" means a geologic formation that contains sufficient saturated material to be capable of storing water and transmitting water in usable quantities to a well.

2. "Area of impact" means, as projected on the land surface, the area where the stored water has migrated or is located.

3. "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".

4. "Constructed underground storage facility" means a facility that meets the requirements of section 45-811.01 and that is designed and constructed to store water underground pursuant to permits issued under this chapter.

5. "District" means a groundwater replenishment district established under title 48, chapter 27.

6. "District member" means a member of the groundwater replenishment district as provided by title 48, chapter 27.

7. "Electrical district" means a corporate body established pursuant to title 48, chapter 12.

8. "Groundwater savings facility" means a facility that meets the requirements of section 45-812.01 in an active management area or an irrigation non-expansion area at which groundwater withdrawals are eliminated or reduced by recipients who use in lieu water on a gallon-for-gallon substitute basis for groundwater that otherwise would have been pumped from within that active management area or irrigation non-expansion area.

9. "In lieu water" means water that is delivered by a storer to a groundwater savings facility pursuant to permits issued under this chapter and that is used in an active management area or an irrigation non-expansion area by the recipient on a gallon-for-gallon substitute basis for groundwater that otherwise would have been pumped from within that active management area or irrigation non-expansion area.

10. "Long-term storage account" means an account established pursuant to section 45-852.01.

11. "Long-term storage credit" means stored water that meets the requirements of section 45-852.01 and that has been credited to a long-term storage account.

12. "Managed underground storage facility" means a facility that meets the requirements of section 45-811.01 and that is designed and managed to utilize the natural channel of a stream to store water underground pursuant to permits issued under this chapter through artificial and controlled releases of water other than surface water naturally present in the stream. Surface water flowing in its natural channel is not a managed underground storage facility.

13. "Master replenishment account" means an account established pursuant to section 45-858.01 for a groundwater replenishment district.

14. "Recipient" means a person who receives in lieu water for use at a groundwater savings facility.

15. "Recoverable amount" means the amount of water, as determined by the director, that will reach the aquifer through water storage.

16. "Replenishment" means the storage of water or use of long-term storage credits by a groundwater replenishment district to fulfill its duties under title 48, chapter 27, article 3, by a multi-county water conservation district to fulfill its duties under title 48, chapter 22, article 4 or by an active management area water district to fulfill its duties under title 48, chapter 28, article 7.

17. "Reserve target" has the same meaning prescribed in section 48-3701.

1 18. "Storage facility" means a groundwater savings facility or an
2 underground storage facility.
3 19. "Stored water" means water that has been stored or saved
4 underground pursuant to a storage permit issued under this chapter.
5 20. "Storer" means the holder of a water storage permit issued pursuant
6 to section 45-831.01 or a person to whom a water storage permit has been
7 conveyed pursuant to section 45-831.01, subsection F.
8 21. "Underground storage facility" means a constructed underground
9 storage facility or a managed underground storage facility.
10 22. "Water that cannot reasonably be used directly" means water that
11 the storer cannot reasonably put to a direct use during the calendar year,
12 including:
13 (a) Except as provided in subdivision (b) OR EXCEPT FOR AN
14 AGRICULTURAL IMPROVEMENT DISTRICT AS PROVIDED IN SUBDIVISION (d), if the
15 storer is a municipal provider, the amount of central Arizona project water
16 that exceeds the amount of mined groundwater withdrawn during the calendar
17 year by the storer in the active management area in which the storer's
18 service area is located. If the storer withdrew mined groundwater during a
19 calendar year in which the storer stored central Arizona project water
20 underground pursuant to the storage permit, the amount of central Arizona
21 project water stored underground during that year equal to the amount of
22 mined groundwater withdrawn from the active management area in which the
23 storer's service area is located shall not be credited to the storer's
24 long-term storage account but may be considered as being available for
25 recovery by the storer on an annual basis under section 45-851.01. In
26 calculating the amount of mined groundwater withdrawn by the storer from the
27 active management area, the director, at the request of the storer, shall
28 exclude any groundwater withdrawn, treated and delivered for direct use as
29 part of a remedial action undertaken pursuant to CERCLA or title 49, chapter
30 2, article 5. For the purposes of this subdivision, "mined groundwater" and
31 "municipal provider" have the same meanings prescribed in section 45-561.
32 (b) If the storer is a municipal provider that has been designated as
33 having an assured water supply pursuant to section 45-576, the amount of
34 central Arizona project water that exceeds the amount of deficit groundwater
35 withdrawn during the calendar year by the storer in the active management
36 area in which the storer's service area is located. If the storer withdrew
37 deficit groundwater during a calendar year in which the storer stored central
38 Arizona project water underground pursuant to the storage permit, the amount
39 of the central Arizona project water stored underground during that year
40 equal to the amount of deficit groundwater withdrawn from the active
41 management area in which the storer's service area is located shall not be
42 credited to the storer's long-term storage account but may be considered as
43 being available for recovery by the storer on an annual basis pursuant to
44 section 45-851.01. In calculating the amount of deficit groundwater
45 withdrawn by the storer from the active management area, the director, at the

1 request of the storer, shall exclude any groundwater withdrawn, treated and
2 delivered for direct use as part of a remedial action undertaken pursuant to
3 CERCLA or title 49, chapter 2, article 5. For the purposes of this
4 subdivision, "municipal provider" has the same meaning prescribed in section
5 45-561 and "deficit groundwater" means that amount of groundwater withdrawn
6 within an active management area for delivery and use within a service area
7 by a municipal provider in excess of the amount of groundwater that may be
8 withdrawn by the municipal provider consistent with the achievement of the
9 active management area's management goals as prescribed by rules adopted by
10 the director pursuant to section 45-576.
11 (c) EXCEPT AS PROVIDED IN SUBDIVISION (d), if the storer is not a
12 municipal provider, the amount of central Arizona project water stored in an
13 active management area that exceeds the amount of groundwater withdrawn
14 during the calendar year by the storer in that active management area. If
15 the storer withdrew groundwater in an active management area during a
16 calendar year in which the storer stored central Arizona project water
17 underground in that active management area pursuant to the storage permit,
18 the amount of central Arizona project water stored underground during that
19 year equal to the amount of groundwater withdrawn from the active management
20 area shall not be credited to the storer's long-term storage account but may
21 be considered as being available for recovery by the storer on an annual
22 basis under section 45-851.01. In calculating the amount of groundwater
23 withdrawn by the storer from the active management area, the director, at the
24 request of the storer, shall exclude any groundwater withdrawn, treated and
25 delivered for direct use as part of a remedial action undertaken pursuant to
26 CERCLA or title 49, chapter 2, article 5. For the purposes of this
27 subdivision, "municipal provider" has the same meaning prescribed in section
28 45-561.
29 (d) THE AMOUNT OF CENTRAL ARIZONA PROJECT WATER STORED IN AN ACTIVE
30 MANAGEMENT AREA IN ANY YEAR AFTER 1994 BY AN AGRICULTURAL IMPROVEMENT
31 DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 17 FOR USE AT THOSE
32 PORTIONS OF ELECTRICAL GENERATING FACILITIES THAT ARE CONSTRUCTED OR EXPANDED
33 AFTER JUNE 12, 1980, SUBJECT TO BOTH OF THE FOLLOWING:
34 (i) IF GROUNDWATER WAS USED DURING A YEAR IN AN ACTIVE MANAGEMENT AREA
35 AT THOSE PORTIONS OF THE ELECTRICAL GENERATING FACILITIES THAT WERE OWNED AND
36 OPERATED BY THE AGRICULTURAL IMPROVEMENT DISTRICT AND THAT WERE CONSTRUCTED
37 OR EXPANDED AFTER JUNE 12, 1980, THE AMOUNT OF THE CENTRAL ARIZONA PROJECT
38 WATER STORED DURING THAT YEAR EQUAL TO THE AMOUNT OF THE GROUNDWATER
39 WITHDRAWN DURING THE YEAR FOR USE AT THOSE PORTIONS OF THE FACILITIES THAT
40 WERE OWNED AND OPERATED BY THE AGRICULTURAL IMPROVEMENT DISTRICT AND THAT
41 WERE CONSTRUCTED OR EXPANDED AFTER JUNE 12, 1980 SHALL NOT BE CREDITED TO THE
42 AGRICULTURAL IMPROVEMENT DISTRICT'S LONG-TERM STORAGE ACCOUNT BUT MAY BE
43 CONSIDERED AS BEING AVAILABLE FOR RECOVERY BY THE AGRICULTURAL IMPROVEMENT
44 DISTRICT ON AN ANNUAL BASIS UNDER SECTION 45-851.01.

(ii) LONG-TERM STORAGE CREDITS ACCRUED AS A RESULT OF THE STORAGE OF THE CENTRAL ARIZONA PROJECT WATER MAY BE RECOVERED WITHIN THE ACTIVE MANAGEMENT AREA BY THE AGRICULTURAL IMPROVEMENT DISTRICT ONLY FOR THE PURPOSE OF PROVIDING CENTRAL ARIZONA PROJECT WATER TO ELECTRICAL GENERATING FACILITIES THAT WERE OWNED AND OPERATED BY THE AGRICULTURAL IMPROVEMENT DISTRICT AND ONLY PURSUANT TO ANY WATER REQUIREMENT INCLUDED IN A FACILITY'S CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY. SUBJECT TO SECTION 45-854.01, THE LONG-TERM STORAGE CREDITS MAY BE ASSIGNED BY THE AGRICULTURAL IMPROVEMENT DISTRICT ONLY TO THE OWNER OF AN ELECTRICAL GENERATING FACILITY FOR USE PURSUANT TO ANY WATER REQUIREMENT INCLUDED IN THAT FACILITY'S CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY.

~~(d)~~ (e) Surface water made available by dams constructed or modified after August 13, 1986.

~~(e)~~ (f) Until the year 2025:

(i) Effluent.

(ii) If the storage facility is in an active management area, water from outside the active management area that would not have reached the active management area without the efforts of the storer.

(iii) If the storage facility is outside of an active management area, water from outside the groundwater basin in which the storage facility is located that would not have reached the groundwater basin without the efforts of the storer.

~~(f)~~ (g) Water that is delivered through the central Arizona project and that is acquired by the Arizona water banking authority.

23. "Water storage" means adding water to an aquifer or saving water in an aquifer pursuant to permits issued under this chapter.

24. "Water storage permit" means a permit issued pursuant to section 45-831.01 to store water at a storage facility.

Sec. 9. Section 45-859.01, Arizona Revised Statutes, is amended to read:

45-859.01. <u>Conservation district account; replenishment reserve subaccount; debits and credits</u>

A. The director shall establish a long-term storage account and a conservation district account for each active management area in which a member land or member service area is or may be located. The director shall establish a replenishment reserve subaccount within the long-term storage account for each active management area in which a member land or member service area is or may be located.

B. For each reporting year, the groundwater replenishment obligation as defined in section 48-3701 for each active management area shall be debited from the conservation district account for that active management area.

C. For each reporting year, the contract replenishment obligation as defined in section 48-3701 for each active management area shall be debited from the conservation district account for that active management area.

D. On application by a conservation district to the director, credits in the conservation district's long-term storage account for an active management area, including credits earned through the use of excess capacity of each project permitted under article 6 of this chapter, shall be transferred and credited to its conservation district account for the same active management area.

E. After January 1, 2030, on application by a conservation district to the director, credits in the conservation district's replenishment reserve subaccount for an active management area shall be transferred and credited to its conservation district account for the same active management area, except that any such transfer that would cause the balance in the replenishment reserve subaccount for an active management area to fall below twenty-five per cent of the reserve target for that active management area shall be subject to the approval of the director.

F. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, CREDITS IN A REPLENISHMENT RESERVE SUBACCOUNT MAY BE ASSIGNED OR TRANSFERRED OUT OF THE REPLENISHMENT RESERVE SUBACCOUNT ONLY ON APPLICATION BY THE CONSERVATION DISTRICT TO THE DIRECTOR AND ONLY IF THE DIRECTOR DETERMINES THAT THE ASSIGNMENT OR TRANSFER IS WARRANTED DUE TO A REDUCTION IN THE RESERVE TARGET AS DEFINED IN SECTION 48-3701. IF CREDITS IN A REPLENISHMENT RESERVE SUBACCOUNT ARE ASSIGNED OR TRANSFERRED TO ANY ACCOUNT OTHER THAN A CONSERVATION DISTRICT ACCOUNT, THEN FIVE PER CENT OF THE ASSIGNED OR TRANSFERRED CREDITS SHALL BE PERMANENTLY EXTINGUISHED.

~~F.~~ G. For each reporting year, the director shall credit the conservation district's conservation district account by the amount of water stored by the conservation district during the reporting year, if the conservation district has requested the director to credit the stored water directly to its conservation district account and the stored water would otherwise be eligible for credits in a long-term storage account.

~~G.~~ H. For each reporting year, the director shall credit the conservation district's replenishment reserve subaccount for each active management area by the amount of long-term storage credits developed by the conservation district in that active management area during the reporting year ~~using monies collected pursuant to section 48-3772, subsection E~~ FOR THAT PURPOSE.

~~H.~~ I. By October 31 of each year, the director shall determine whether the conservation district has completed the groundwater replenishment obligation for each active management area as prescribed by section 48-3771.

~~I.~~ J. Credits in a conservation district account may not be assigned or transferred out of the conservation district account.

Sec. 10. Section 45-2242, Arizona Revised Statutes, is amended to read:

45-2242. <u>Functional powers of the board</u>

A. The board, for and in the name of the authority, may:

1. Lawfully acquire, sell, lease, exchange, occupy, manage, possess or otherwise dispose of real and personal property, easements and rights-of-way that are necessary or required for the uses and purposes of the authority.

2. Construct, maintain and operate all works and other property acquired and used for any of the projects owned by the authority.

3. Acquire, EARN, hold, assign or otherwise dispose of LONG-TERM STORAGE credits ~~registered to storage accounts~~ TO THE EXTENT ALLOWED under any provision of chapter 3.1 of this title.

4. Accept appointment or other authorization and act as agent of any authority member to acquire, transport, deliver, treat or recharge water OR TO ENGAGE IN ANY ACTIVITIES PRESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION.

5. Acquire electricity or other forms of energy necessary to transport water or operate authority projects.

6. Subject to the requirements of section 45-2281, make grants to its members from the grant fund established in section 45-2281 to fund water acquisition, water reuse or water conservation programs proposed by authority members.

7. Plan, coordinate, construct, operate, maintain and dismantle water augmentation projects including treatment, recharge, underground storage and recovery and retention projects and, in conjunction with county flood control districts, flood control projects for water augmentation purposes.

8. Obtain grants and provide technical and financial assistance to authority members relating to the development of water supplies and water conservation plans.

9. With the permission of any affected authority member, negotiate with the United States in conjunction with the department regarding the administration, implementation or interpretation of:

(a) Colorado river water contracts of the authority.

(b) Subcontracts of the authority.

(c) Colorado river water contracts of authority members.

(d) Diversion of Colorado river water in the county in which the authority is formed.

10. Conduct any other activities that are reasonably necessary and related to the powers and duties described by this chapter.

B. The board may:

1. Apply for and hold, in its own name or on behalf of an authority member, any permits required by law to engage in the activities described in this chapter.

2. Take conveyances for all property acquired by the authority in the authority's name.

3. Sell, lease, exchange or otherwise dispose of any of the authority's property that is no longer necessary or suitable for the uses and purposes of the authority and execute, acknowledge and deliver all such

conveyances, leases, contracts or other instruments as the board deems necessary.

4. Institute and maintain actions and proceedings necessary to enforce, maintain, protect or preserve all contracts, subcontracts, rights, privileges and immunities created under or granted by this chapter.

Sec. 11. Section 45-2245, Arizona Revised Statutes, is amended to read:

45-2245. Acquisition and disposition of water in excess of initial quantity

A. The authority may contract with the United States for the delivery of Colorado river water in excess of the initial eighteen thousand five hundred acre-feet a year that the United States makes available to the authority.

B. The authority may apportion Colorado river water, water credits or effluent that it obtains in excess of the initial eighteen thousand five hundred acre-feet a year between municipal and industrial uses in the manner that the authority determines to be appropriate after considering the water needs of the county in which the authority is formed.

C. The authority may contract with a multi-county water conservation district or its successors~~,~~ OR with subcontractors of a multi-county water conservation district or their successors for the delivery to the authority of Colorado river water available to the central Arizona project.

D. The authority may purchase, lease, sever, transfer or retire water rights to the Colorado river in this state.

E. The authority may lease Colorado river water apportioned to this state from Indian tribes that are entitled by decree to that water and whose reservations are located in the lower basin of the Colorado river system in this state.

F. The authority may STORE, recharge and recover any water or effluent available to the authority ~~in the county in which the authority is formed~~ TO THE EXTENT ALLOWED UNDER ANY PROVISION OF CHAPTER 3.1 OF THIS TITLE and may enter into exchanges of water or of water credits within or outside the county in which the authority is formed TO THE EXTENT ALLOWED UNDER ANY PROVISION OF CHAPTER 4 OF THIS TITLE.

G. The authority may CONTRACT FOR THE STORAGE OR RECOVERY OF EFFLUENT TO THE EXTENT ALLOWED UNDER ANY PROVISION OF CHAPTER 3.1 OF THIS TITLE AND MAY contract for the delivery or purchase of effluent.

H. Under terms specified by the authority and subject to subsection B, the authority may enter into subcontracts with authority members and other water providers in the county where the authority is formed for the sale, exchange or other disposition of Colorado river water, water credits or effluent acquired by the authority pursuant to this section. In connection with those subcontracts, the authority may charge or impose standby or holding charges, development impact fees, connection fees, extraction fees, user fees, administrative fees or any other fees or charges that the

1 authority determines to be necessary to recover the authority's costs of
2 making the water, water credits or effluent available under the subcontract.
3 The authority may impose additional fees or charges as the authority
4 determines to be necessary or prudent to fund the acquisition of replacement
5 supplies of water for the authority.
6 I. Any subcontract under this section shall require Colorado river
7 water delivered pursuant to the subcontract to be used in the county in which
8 the authority is formed.
9 Sec. 12. Section 48-3701, Arizona Revised Statutes, is amended to
10 read:
11 48-3701. Definitions
12 In this chapter, unless the context otherwise requires:
13 1. "Active management area" means an active management area
14 established under title 45, chapter 2, article 2.
15 2. "Board" means the board of directors of a multi-county water
16 conservation district.
17 3. "Contract replenishment obligation" means an amount of groundwater
18 that the district contracts to replenish in a year on behalf of a municipal
19 provider pursuant to a contract authorized under section 48-3772, subsection
20 B, paragraph 9.
21 4. "Credits" means any groundwater in addition to the amount of
22 groundwater that may be used at a member land or delivered within a member
23 service area for use within the member service area pursuant to the
24 applicable assured water supply rules adopted by the department of water
25 resources.
26 5. "Declaration" means an instrument recorded against real property
27 and conforming to the requirements prescribed by section 48-3774, subsection
28 A, paragraph 5.
29 6. "District" means a multi-county water conservation district
30 organized under the authority of this chapter.
31 7. "Excess groundwater" means an amount of groundwater equal to that
32 amount of groundwater delivered to a member land in a calendar year or
33 delivered within a member service area by the municipal provider for that
34 member service area in a calendar year in excess of the amount of groundwater
35 that may be used at the member land in that calendar year or that may be
36 delivered by the municipal provider for use within the member service area
37 in that calendar year and consistent with the applicable assured water supply
38 rules adopted by the department of water resources for the active management
39 area where the member land or the member service area is located.
40 8. "Excess groundwater increment" means the amount by which excess
41 groundwater reported for a member service area under section 48-3775,
42 subsection B in any year exceeds the maximum amount of excess groundwater
43 reported for that member service area in any prior year.
44 9. "Groundwater replenishment obligation" means, for each active
45 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. "Municipal provider" means a city, town or private water company or an irrigation district that supplies water for non-irrigation use.

14. "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. "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. "Population" means the population determined in the most recent United States decennial census.

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

18. "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.

19. "Reserve target" means, for each active management area, twenty times the sum of the district's total projected AVERAGE annual replenishment obligations, as reported by the director of water resources pursuant to ~~sections~~ SECTION 45-576, subsection F and SECTION 45-578, subsection F, for all parcels of category 1 member land as prescribed in section 48-3774.01 and all member service areas in that active management area. Reserve target does not include replenishment obligations under resolutions adopted pursuant to section 48-3772, subsection B, paragraph 10 or replenishment obligations that will be met using water supplies that are currently held by the district and that are determined by the director of water resources to be consistent with assured water supply requirements pursuant to section 45-576.

20. "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

1 partnership or by the individual owners of a private water company that is
2 individually owned.
3 21. "Secretary" means the secretary of the interior of the United
4 States of America.
5 22. "Service area" has the same meaning prescribed in section 45-402.
6 23. "Service area replenishment obligation" means, with respect to any
7 particular member service area, the excess groundwater of that member service
8 area in a particular calendar year reduced by the replenishment credits, if
9 any, applied by the municipal provider with respect to the member service
10 area under section 48-3772, subsection H.
11 24. "Water storage" has the same meaning prescribed in section
12 45-802.01.
13 Sec. 13. Section 48-3713, Arizona Revised Statutes, as amended by Laws
14 2003, chapter 155, section 12, is amended to read:
15 48-3713. Powers of district
16 A. The district, acting through its board, shall:
17 1. Enter into a contract or contracts with the secretary to accomplish
18 the purposes of this chapter.
19 2. Provide for the repayment of construction costs, interest and
20 annual operation, maintenance and replacement costs allocated to the district
21 and payment of administrative costs and expenses of the district.
22 3. Levy an annual tax to defray district costs and expenses and to
23 effect repayment of a portion of the district's obligation to the United
24 States. Such tax levy shall not exceed ten cents per each one hundred
25 dollars of assessed valuation of the taxable property within the district.
26 4. Establish and cause to be collected charges for water consistent
27 with federal reclamation law and contracts entered into between the district
28 and the secretary pursuant to this chapter.
29 5. Cooperate and contract with the secretary to carry out the
30 provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts
31 amendatory thereof or supplementary thereto, including the Colorado river
32 basin project act (82 Stat. 885).
33 6. Establish and maintain reserve accounts in amounts which may be
34 required by any contract between the district and the secretary and in such
35 additional amounts as may be deemed necessary to accomplish the purposes of
36 this chapter.
37 7. Coordinate and cooperate with the Arizona water banking authority.
38 B. The district, acting through its board, may:
39 1. Contract with the United States to be the operating agent of the
40 central Arizona project and to maintain all or portions of the project and
41 subcontract with others for the operation or maintenance of portions of the
42 project.
43 2. Acquire in any lawful manner real and personal property of every
44 kind necessary or convenient for the uses and purposes of the district.

3. Acquire electricity or other forms of energy necessary for the operation of the central Arizona project. EFFECTIVE RETROACTIVELY TO TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 1984, THE ACQUISITION OF ELECTRICITY OR OTHER FORMS OF ENERGY BY THE DISTRICT FOR THE PURPOSES OF PUMPING CENTRAL ARIZONA PROJECT WATER SHALL NOT BE SUBJECT TO ANY STATE OR MUNICIPAL TRANSACTION PRIVILEGE OR USE TAX.

4. Contract for or perform feasibility studies of water storage, storage facilities and recovery wells.

5. Acquire, develop, construct, operate, maintain and acquire permits for water storage, storage facilities and recovery wells pursuant to title 45, chapter 3.1 using surplus central Arizona project water.

6. Enter into contracts to acquire, permit, develop, construct, operate and maintain water storage, storage facilities and recovery wells with any person pursuant to title 45, chapter 3.1. Such projects may utilize water, including central Arizona project water, which such persons have the right to store pursuant to title 45, chapter 3.1.

7. Plan, analyze, propose, apply for, construct, operate, maintain and dismantle state demonstration projects for water storage and recovery under title 45, chapter 3.1, article 6.

8. Acquire real property for state demonstration projects for water storage and recovery under title 45, chapter 3.1 by purchase, lease, donation, dedication, exchange~~, condemnation as prescribed by section 48-3719~~ or other lawful means in areas suitable for demonstration projects for water storage and recovery of state water in counties in which the district has water transportation facilities.

9. Advance monies necessary for the installation, construction, repair, maintenance or replacement of capital improvements related to any water storage, storage facilities and recovery wells or any other replenishment activities of the district undertaken pursuant to article 4 of this chapter. Monies advanced under this paragraph bear interest as determined by the board. Repayment of the advances shall be amortized over the useful life of the capital improvements, as determined by the board. Utilization of excess capacity in a state demonstration project for replenishment purposes pursuant to section 48-3772, subsection B, paragraph 8 does not constitute the advancement of monies under this paragraph.

10. Advance monies for the payment of the operation and administrative costs and expenses of the district relating to performance of the groundwater replenishment obligations under article 4 of this chapter, including replenishment reserve activities and reasonable reserves. Monies advanced under this paragraph shall bear interest as determined by the board. Repayment of the advances may be amortized over a reasonable period, as determined by the board.

11. Assign to the account of the district at fair value long-term storage credits, as defined in section 45-802.01, held by the district.

1 12. Provide technical and operational support to the Arizona water
2 banking authority and shall be reimbursed by the Arizona water banking
3 authority for providing that support.
4 13. Appoint certain employees of the district as peace officers only
5 for purposes of providing law enforcement on property which is under the
6 control of the district. The district shall not have any more than ten
7 employees designated as peace officers at any one time.
8 14. Except for electric capacity and energy allocated to the arizona
9 power authority under the Hoover power plant act of 1984 (P.L. 98-381; 98
10 Stat. 1333), sell, resell, deliver or distribute electricity or other forms
11 of energy acquired by the district for purposes of operating the central
12 Arizona project but not needed by the district for such purposes, except that
13 the district may not sell, resell, deliver or distribute electricity to a
14 retail electric customer as defined in section 30-801.
15 C. The authority granted under title 45, chapter 3.1, article 6 does
16 not authorize the district to withdraw and use groundwater that exists
17 naturally in the basin in which the stored water is located. The authority
18 provided in subsection B, paragraph 7 of this section is in addition to and
19 distinct from any authority granted to the district by subsection B,
20 paragraphs 5 and 6 of this section.
21 D. The functions of the district under subsection B, paragraph 5 of
22 this section may be performed on behalf of the district by other persons
23 under contract with the district.
24 E. The district may enter into and carry out subcontracts with water
25 users for the delivery of water through the facilities of the central Arizona
26 project. Such contracts as may be entered into between the district and the
27 secretary and between the district and water users shall be subject to the
28 provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat.
29 885). Before entering into such contracts the district shall determine that
30 the proposed contract or proposed amendment, and all related exhibits and
31 agreements, have been submitted to the director of water resources as
32 required by section 45-107, subsection D.
33 F. The district may in conjunction with any other marketing entity
34 or entities be a marketing entity under section 107 of the Hoover power plant
35 act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for the limited purposes of
36 establishing and collecting the additional rate components authorized by that
37 act and may enter into contracts for that purpose. This subsection does not
38 limit the authority of the district under subsection B, paragraph 3 of this
39 section and does not prohibit the United States western area power
40 administration or the Arizona power authority from making incidental
41 disposition of power acquired by the district for purposes of operating the
42 central Arizona project but not needed by the district for such purposes.
43 G. Persons who are appointed as peace officers by the district
44 pursuant to subsection B of this section shall provide law enforcement on the
45 property which is under the control of the district. District peace officers

shall not preempt the authority and jurisdiction of other police agencies of this state or its political subdivisions. A district peace officer shall notify appropriate agencies of this state and its political subdivisions after making a felony arrest or beginning a felony investigation within the jurisdiction of that agency. District peace officers shall have at least those qualifications prescribed by section 41-1822 and are not eligible to participate in the public safety personnel retirement system. The district is not eligible to receive funds from the peace officers' training fund specified in section 41-1825. The district shall reimburse the Arizona peace officer standards and training board for all training expenses incurred by the board for the district and all audit expenses incurred by the board in reviewing compliance by the district with peace officer standards and law enforcement standards established by the board.

Sec. 14. Repeal

A. Section 48-3713, Arizona Revised Statutes, as amended by Laws 2003, chapter 155, section 13, is repealed.

B. Section 48-3719, Arizona Revised Statutes, is repealed.

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

48-3772. Duties and powers of district regarding replenishment

A. The district shall:

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

2. Provide for the payment of all costs and expenses to replenish groundwater pursuant to this chapter and the payment of operation, maintenance, replacement and administrative costs and expenses of the district.

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

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

5. Establish and maintain reserve accounts in amounts as may be deemed necessary to perform the ~~groundwater replenishment obligation~~ DISTRICT'S OBLIGATIONS UNDER THIS ARTICLE.

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

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 that the

1 district can meet those obligations and that capacity remains in the central
2 Arizona project to meet the obligations undertaken through the resolution.
3 (b) The resolution acknowledges that the commitment to replenish the
4 specified average annual volume of water in the location cited in the
5 resolution shall be a permanent obligation of the district, unless one of the
6 following applies:
7 (i) A permanent substitute supply of water is found for the city, town
8 or private water company and the substitution is approved by the director of
9 water resources, thus terminating the water availability status of the member
10 service area.
11 (ii) The requirements of section 45-576.07, subsection A are not met,
12 and thus the director of water resources does not issue an order granting or
13 maintaining the city, town or private water company as having an assured
14 water supply based in whole or in part on section 45-576.07. If no order is
15 issued within two years of the district adopting the resolution, the
16 resolution may be repealed, and the district shall be relieved of all
17 obligations under the resolution.
18 (c) The average annual volume of water specified in the resolution,
19 when added to the average annual volume of water specified in all other
20 resolutions adopted pursuant to this paragraph, does not exceed twenty
21 thousand acre-feet.
22 (d) The district has entered into an agreement with the city, town or
23 private water company under which the city, town or private water company
24 will hold for the district's future use, and provide to the district when
25 needed, sufficient water to meet the obligations undertaken by the district
26 through the resolution.
27 (e) The district determines that the obligations undertaken by the
28 district through the resolution will not increase annual replenishment
29 assessment rates or costs to central Arizona project contract and subcontract
30 holders and its member service areas and member lands.
31 (f) The director of water resources has found, pursuant to section
32 45-576.07, subsection H, that the district has the capability to grant water
33 availability status to member service areas.
34 11. Provide in resolutions adopted pursuant to paragraph 10 of this
35 subsection that the district may fulfill its obligations under the resolution
36 in any year by directly delivering to the city, town or private water company
37 the water that otherwise would have been replenished pursuant to the
38 resolution, if all of the following apply:
39 (a) The district has reviewed its requirements for transportation of
40 central Arizona project water, its contracts, subcontracts, letter
41 agreements, excess water contracts, and other contractual obligations, its
42 member service area and member land requirements and has determined that the
43 district can meet those obligations and that capacity remains in the central
44 Arizona project to make direct deliveries pursuant to this paragraph.

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

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

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

D. For purposes of determining the annual costs and expenses of the district under subsection A, paragraph 1 of this ~~subsection~~ SECTION, the district shall amortize capital costs and expenses, including interest as determined by the district, over the useful life of the capital improvements, as determined by the district. 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 amortized by the district under this subsection.

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

1. 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.

2. 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 ~~groundwater demand~~ 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.

3. 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

1 defined in section 45-802.01 that shall be credited to the replenishment
2 reserve subaccount for that active management area as provided in section
3 45-859.01.
4 4. Beginning ON January 1, 2030, the district may transfer credits
5 from a replenishment reserve subaccount to a conservation district account
6 as provided in section 45-859.01 to satisfy its groundwater replenishment
7 obligations.
8 5. If the district transfers credits from the replenishment reserve
9 subaccount for an active management area pursuant to section 45-859.01,
10 subsection E, the district shall include in the annual replenishment
11 assessment levied against all parcels of category 1 member land in that
12 active management area and, except as provided in section 48-3780.01,
13 subsection B, in the annual replenishment tax levied against all municipal
14 providers that have member service areas in that active management area a
15 reserve replacement component to fund the replacement of the transferred
16 credits. The district shall use all monies from the reserve replacement
17 component collected within an active management area together with all
18 interest earned on the monies to develop long-term storage credits as defined
19 in section 45-802.01 within that active management area to be credited to the
20 replenishment reserve subaccount for that active management area as provided
21 in section 45-859.01.
22 6. For the purposes of establishing and maintaining the replenishment
23 reserve, the district shall have access to excess central Arizona project
24 water equivalent to but no more than the access the Arizona water banking
25 authority has for the purposes specified in section 45-2401, subsection H,
26 paragraph 2.
27 F. Groundwater replenished by the district pursuant to a contract to
28 replenish groundwater under subsection B, paragraph 9 of this section shall
29 not be credited to a replenishment reserve subaccount established under
30 section 45-859.01.
31 G. The district shall not enter into a contract authorized under
32 subsection B, paragraph 9 of this section unless the district has determined
33 that the contract will not adversely affect the district's ability to fulfill
34 its obligations under this chapter. For each contract entered into under
35 subsection B, paragraph 9 of this section, the district shall perform its
36 contract replenishment obligations in the active management area in which the
37 service area of the municipal provider that is the party to the contract is
38 located.
39 H. If the district replenishes groundwater on behalf of a municipal
40 provider pursuant to a contract to replenish groundwater under subsection B,
41 paragraph 9 of this section, the amount of groundwater so replenished shall
42 be a replenishment credit to the municipal provider that may be applied by
43 the municipal provider on notice to the district to reduce the service area
44 replenishment obligations applicable to the municipal provider.

I. In the Phoenix active management area, the district, to the extent reasonably feasible, shall replenish groundwater in the east portion of the active management area and in the west portion of the active management area in the approximate proportion that the groundwater replenishment obligation attributable in a particular year to member lands and member service areas located in the east portion of the active management area bears to the groundwater replenishment obligation attributable in that year to member lands and member service areas located in the west portion of the active management area. For purposes of this subsection, the boundary between the east Salt river valley ~~sub-basin~~ SUBBASIN and the west Salt river valley ~~sub-basin~~ SUBBASIN is the boundary between the east and west portions of the active management area.

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

Sec. 16. Section 48-3774, Arizona Revised Statutes, is amended to read:

48-3774. Qualification as member land

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

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

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

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

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

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

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

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

(c) Declares that, in order to permit the delivery of excess groundwater to the real property, each parcel of member land thereafter established at the real property is subject to a parcel replenishment

obligation and to a replenishment assessment to be determined by the district.

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

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

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

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

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

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

1. The legal description of the real property and the tax parcel numbers for the real property.

2. An agreement by the municipal provider to submit to the district by March 31 of each year after the recordation of the instrument the information prescribed by section 48-3775, subsection A and such other information as the district may reasonably request.

Sec. 17. Section 48-3775, Arizona Revised Statutes, is amended to read:

48-3775. Reports

A. Except as provided in subsection H of this section, on or before March 31 of each year after the recordation of the instrument described in section 48-3774, subsection C, each municipal provider delivering water to member land shall file a report with the district~~,~~ AND with the director of water resources ~~and with the assessor and treasurer of the county where the member lands are located~~ that contains the following information for the preceding calendar year, which is the reporting year:

1. The amount of groundwater delivered by the municipal provider to each parcel of member land, identified by the applicable tax parcel number, and the basis for the calculation of the amount of groundwater delivered.

2. The amount of groundwater delivered by the municipal provider to the member land and the basis for the calculation of the amount of groundwater delivered.

3. The amount of excess groundwater delivered by the municipal provider to the member land and the basis for the calculation of the amount of excess groundwater delivered.

4. The parcel replenishment obligation of each parcel of the member land, identified by the applicable tax parcel number.

5. Such other information as the district may reasonably require.

B. On or before March 31 of each year after the qualification of a municipal provider's service area as a member service area, the municipal provider shall file a report with the district and with the director of water resources that contains the following information for the preceding calendar year, which is the reporting year:

1. The amount of groundwater delivered by the municipal provider to all customers within the member service area and the basis for the calculation of the amount of groundwater delivered.

2. The amount of excess groundwater delivered by the municipal provider to all customers within the member service area and the basis for the calculation of the amount of excess groundwater delivered.

3. Such other information as the district may require.

C. The district shall confirm the calculation of the parcel replenishment obligation of each parcel of the member land and the service area replenishment obligation of each member service area, using the information provided in subsections A and B of this section.

D. To the extent allowed by the assured water supply rules adopted by the department of water resources pursuant to section 45-576, subsection H, in calculating the excess groundwater of a member land or a member service area, the municipal provider shall reduce the amount of groundwater that may be used, consistent with such rules, at a member land or delivered for use within the member service area and that is not derived from credits on a straight line basis over the applicable period of years prescribed in such rules. The municipal provider may apply any credits applicable to the member land or the member service area as permitted under such rules.

E. The district shall prepare and file with the director of water resources on or before August 31 of each year for the prior calendar year, which is the reporting year, an annual report that includes the following information:

1. The total amount of water that was stored by the district during the reporting year pursuant to each water storage permit issued to it under title 45, chapter 3.1.

2. The amount of water stored by the district during the reporting year to be credited to the district's conservation district account pursuant to title 45, chapter 3.1.

3. The amount of water stored by the district during the reporting year to be credited to the district's replenishment reserve subaccount pursuant to title 45, chapter 3.1.

4. The groundwater replenishment obligations for the reporting year and for the two calendar years preceding the reporting year, and the extent to which the district has completed the groundwater replenishment obligations applicable to each of those years.

5. The information required under section 45-877.01.

6. The amount of water stored by the district during the reporting year to be credited to the district's long-term storage account pursuant to title 45, chapter 3.1.

7. The amount of long-term storage credits the district has transferred and credited to its conservation district account pursuant to title 45, chapter 3.1 during the reporting year.

F. The district and the municipal providers required to file reports under this section shall maintain current, accurate records of the information required to be included in the reports.

G. If a municipal provider fails to file a report as required by the district, the district may assess a penalty of up to one thousand dollars per day that the report is overdue.

H. A municipal provider shall not file the report required by subsection A of this section for a parcel of member land that is included in the service area of a municipal provider that is a member service area that has been designated as having an assured water supply under section 45-576.

Sec. 18. Section 48-3780, Arizona Revised Statutes, is amended to read:

48-3780. <u>Qualification as a member service area; termination</u>

A. The service area of a municipal provider qualifies as a member service area only if all of the following apply:

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

2. The municipal provider is not a member of a groundwater replenishment district established pursuant to chapter 27 of this title.

3. The service area of the municipal provider is not a water district member service area under chapter 28 of this title.

4. If the municipal provider or its predecessor previously terminated member service area status pursuant to subsection B of this section, the service area or any portion of the service area has not been a member service area for at least ten years. The district may waive this requirement if the district and the director of water resources determine that previously unforeseen circumstances necessitate requalification of the service area.

5. If the municipal provider or its predecessor previously terminated member service area status pursuant to subsection B of this section, the municipal provider agrees to pay to the district all charges that would have otherwise been imposed by the district had the member service area status remained in effect during the period since termination became effective.

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

7. The municipal provider publishes a resolution once each week for two consecutive weeks in a newspaper of general circulation in the county or counties where the service area is located that:

(a) Has attached to it a current map of the municipal provider's service area.

(b) Declares the intent of the municipal provider that the service area qualify as a member service area under this chapter.

(c) Declares that, for the privilege of withdrawing and delivering excess groundwater within its service area and to ensure the continued exercise of that privilege, the municipal provider shall pay an annual replenishment tax to be determined by the district.

(d) Contains a covenant, binding against the municipal provider, to pay to the district an annual replenishment tax based on the service area replenishment obligation in an amount determined by the district as necessary to allow the district to perform the groundwater replenishment obligations.

(e) Authorizes the municipal provider to enter into a written commitment with the district in the form and substance satisfactory to the district regarding payment of the annual replenishment tax.

(f) Declares that the resolution applies to the service area of the municipal provider as it currently exists and to all additions to and extensions of the service area.

(g) Declares that the resolution is irrevocable for as long as the district is obligated to perform the groundwater replenishment obligations.

B. A service area previously accepted as a member service area pursuant to subsection A of this section ~~may terminate~~ TERMINATES its member service area status only if all of the following apply:

1. The municipal provider for the member service area has submitted an application to the district requesting termination of member service area status.

2. The municipal provider for the member service area has submitted an application to the director of water resources requesting modification of the municipal provider's assured water supply designation under section 45-576 that eliminates the municipal provider's reliance on member service area status.

3. The applications provide evidence satisfactory to the director of water resources that the municipal provider has obtained a substitute supply of water, other than groundwater, that is determined by the director of water

1 resources to be consistent with assured water supply requirements pursuant
2 to section 45-576 and that is sufficient to eliminate the municipal
3 provider's reliance on member service area status.
4 4. The director of water resources has approved the municipal
5 provider's application to modify its assured water supply designation based
6 on the addition of the substitute water supply.
7 5. The municipal provider publishes a resolution once each week for
8 two consecutive weeks in a newspaper of general circulation in the county or
9 counties where the service area is located that:
10 (a) Has attached to it a current map of the municipal provider's
11 service area.
12 (b) Declares the intent of the municipal provider to terminate the
13 service area's member service area status.
14 (c) Declares that the district is no longer obligated to perform the
15 groundwater replenishment obligations on behalf of the service area.
16 (d) Revokes the resolution for the member service area provided for
17 in subsection A, paragraph 7 of this section.
18 6. All amounts owed by the water provider on behalf of the member
19 service area to the district have been paid.
20 7. The municipal provider has paid or made arrangements suitable to
21 the district for repayment of any capital costs incurred by the district
22 specifically on behalf of the member service area.
23 Sec. 19. Section 45-852.01, Arizona Revised Statutes, is amended to
24 read:
25 45-852.01. Long-term storage accounts
26 A. The director shall establish one long-term storage account for each
27 person holding long-term storage credits. The director shall establish
28 subaccounts within the long-term storage account according to each active
29 management area, irrigation non-expansion area, groundwater basin or
30 groundwater sub-basin in which the person's stored water is located. The
31 long-term storage account shall be further subdivided by type of water, if
32 the person holds long-term storage credits for more than one type of water.
33 B. Water stored pursuant to a water storage permit at a storage
34 facility may be credited to a long-term storage account if the director
35 determines that all of the following apply:
36 1. The water that was stored was water that cannot reasonably be used
37 directly.
38 2. If the stored water was stored at a storage facility within an
39 active management area, either:
40 (a) The water would not have been naturally recharged within the
41 active management area.
42 (b) If the water was stored at a managed underground storage facility
43 that has been designated as a facility that could add value to a national
44 park, national monument or state park and the water stored is effluent, the

1 water stored is water that could have been used or disposed of by the storer
2 by means other than discharging the effluent into the stream.
3 3. The stored water was not recovered on an annual basis pursuant to
4 section 45-851.01.
5 C. The director shall credit ninety-five per cent of the recoverable
6 amount of stored water that meets the requirements of subsection B of this
7 section to the storer's long-term storage account, except that:
8 1. If the water was stored at a managed underground storage facility
9 that had not been designated at the time of storage as a facility that could
10 add value to a national park, national monument or state park and the water
11 stored is effluent, the director shall credit to the storer's long-term
12 storage account fifty per cent of the recoverable amount of water that meets
13 the requirements of subsection B of this section.
14 2. If the water was stored at a groundwater savings facility and the
15 storer has not met the burden of proving that one hundred per cent of the in
16 lieu water was used on a gallon-for-gallon substitute basis for groundwater,
17 the director shall credit to the storer's long-term storage account only the
18 percentage of the in lieu water that meets the requirements of subsection B
19 of this section and that was proven to the director's satisfaction as being
20 used on a gallon-for-gallon substitute basis for groundwater.
21 3. Except as otherwise provided in paragraphs 1 and 2 of this
22 subsection, the director shall credit to the storer's long-term storage
23 account OR CONSERVATION DISTRICT ACCOUNT one hundred per cent of the
24 recoverable amount of water that meets the requirements of subsection B of
25 this section if any of the following apply:
26 (a) The water stored was effluent.
27 (b) The water was stored in an active management area and the stored
28 water is water from outside the active management area that would not have
29 reached the active management area without the efforts of the holder of the
30 long-term storage credits.
31 (c) The water was stored outside an active management area and the
32 stored water is water from outside the groundwater basin in which the water
33 was stored that would not have reached the groundwater basin without the
34 efforts of the holder of the long-term storage credits.
35 (d) THE WATER WAS STORED FOR PURPOSES OF ESTABLISHING AND MAINTAINING
36 A REPLENISHMENT RESERVE PURSUANT TO SECTION 48-3772, SUBSECTION E.
37 (e) THE WATER WAS STORED FOR REPLENISHMENT PURPOSES PURSUANT TO
38 SECTION 48-3771 AND CREDITED DIRECTLY TO A CONSERVATION DISTRICT ACCOUNT
39 PURSUANT TO SECTION 45-859.01, SUBSECTION E.
40 D. The director shall credit a person's long-term storage account by
41 the amount of long-term storage credits assigned to that person by another
42 holder of long-term storage credits pursuant to section 45-854.01.
43 E. The director shall debit the appropriate subaccount of a person's
44 long-term storage account:

1. One hundred per cent of the amount of stored water that the holder of the long-term storage credits has recovered during the calendar year pursuant to the permit.

2. The amount of long-term storage credits that the person has assigned to another person or transferred to a master replenishment account, conservation district account or water district account.

3. If the water was stored in an active management area, the amount of water during the calendar year that migrates to a location outside the active management area or to a location within the active management area where it cannot be beneficially used within a reasonable period of time by persons other than the storer with rights to withdraw and use groundwater.

4. If the water was stored outside of an active management area, the amount of water during the calendar year that migrates to a location outside the groundwater basin in which the storage facility is located or to a location in the groundwater basin where it cannot be beneficially used within a reasonable period of time by persons other than the storer with rights to withdraw and use groundwater.

5. The amount of long-term storage credits that the storer, pursuant to section 45-853.01, subsection B, has applied to offset groundwater withdrawn or used in excess of the storer's per capita municipal conservation requirements under the second management plan.

6. The amount of long-term storage credits that are held by the Arizona water banking authority and that the authority has chosen to extinguish.

F. To the extent the total amount of water withdrawn by a person from wells designated as recovery wells pursuant to section 45-834.01 during a calendar year exceeds the amount of stored water recovered by the person on an annual basis pursuant to section 45-851.01 and the amount of long-term storage credits recovered by the person, the excess amount of water recovered shall be considered groundwater withdrawn pursuant to chapter 2 of this title.

Sec. 20. Retroactivity

Section 45-802.01, Arizona Revised Statutes, as amended by this act, applies retroactively to January 1, 1995.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.

Passed the House March 15, 2004,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 29, 2004,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

Ken Bennett
President of the Senate

Chamnion Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20___,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20___,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2277

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 26, 2004,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 26, 2004,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor

this 27th day of May, 2004,

at 8:35 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 3 day of

June, 2004,

at 3:40 o'clock P. M.

J K Napolitano
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE
This Bill was received by the Secretary of State

this 3 day of June, 2004,

at 4:22 o'clock P. M.

Janice K. Brewer
Secretary of State

H.B. 2277