

Senate Engrossed House Bill

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 242

## **HOUSE BILL 2325**

AN ACT

AMENDING SECTION 48-3774, ARIZONA REVISED STATUTES; RELATING TO MULTI-COUNTY  
WATER CONSERVATION DISTRICT MEMBER LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 48-3774, Arizona Revised Statutes, is amended to  
3 read:  
4 48-3774. Qualification as member land  
5 A. Real property qualifies as member land only if all of the following  
6 apply:  
7 1. The real property is located in an active management area in which  
8 a part of the central Arizona project aqueduct is located.  
9 2. The real property is not in a member service area or in a  
10 groundwater replenishment district under chapter 27 of this title.  
11 3. The real property is not a water district member land or a parcel  
12 of water district member land, or in a water district member service area  
13 established under chapter 28 of this title.  
14 4. The conditions stated in section 45-576.01, subsection B,  
15 paragraphs 2 and 3 are satisfied with respect to the district at the time of  
16 the qualification.  
17 5. The owner of the real property, or other person or entity, such as  
18 a property owners' or homeowners' association, if the person or entity has  
19 proper authority, records a declaration that has been approved by the  
20 district against the real property in the official records of the county  
21 where the real property is located that:  
22 (a) Contains the legal description of the real property.  
23 (b) Declares the intent of the owner that the real property qualify as  
24 member land under this chapter.  
25 (c) Declares that, in order to permit the delivery of excess  
26 groundwater to the real property, each parcel of member land thereafter  
27 established at the real property is subject to a parcel replenishment  
28 obligation and to a replenishment assessment to be determined by the  
29 district.  
30 (d) Declares that qualifying as member land and subjecting the real  
31 property to the parcel replenishment obligation and the replenishment  
32 assessment directly benefits the real property by increasing the potential of  
33 the property to qualify for a certificate of assured water supply issued by  
34 the department of water resources pursuant to title 45, chapter 2, article 9,  
35 thereby allowing the development, use and enjoyment of the real property.  
36 (e) Contains a covenant that is binding against the real property and  
37 each parcel of member land thereafter established at the real property to pay  
38 to the district a replenishment assessment based on the parcel replenishment  
39 obligation in an amount determined by the district pursuant to section  
40 48-3772, subsection A.  
41 (f) Declares that the district may impose a lien on the real property  
42 and each parcel of member land thereafter established at the real property to  
43 secure payment of the replenishment assessment and any applicable  
44 replenishment reserve fee.

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

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

8 C. Notwithstanding subsection A of this section, no real property  
9 qualifies as member land unless the municipal provider that will provide  
10 water to the real property that is subject to the declaration records in the  
11 official records of the county where the real property is located an  
12 agreement between the district and the municipal provider that contains both  
13 of the following:

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

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

20 D. REAL PROPERTY PREVIOUSLY ACCEPTED AS MEMBER LAND PURSUANT TO  
21 SUBSECTION A OF THIS SECTION TERMINATES ITS MEMBER LAND STATUS ONLY IF ALL OF  
22 THE FOLLOWING APPLY:

23 1. NO LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS  
24 BEEN SOLD OR LEASED TO A RETAIL PURCHASER OR LESSEE.

25 2. THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT  
26 FOR THE REAL PROPERTY.

27 3. IF LOT OR PARCEL BOUNDARIES WERE PREVIOUSLY RECORDED FOR THE REAL  
28 PROPERTY, THE PLANNING AGENCY HAVING PLANNING AUTHORITY OVER THE REAL  
29 PROPERTY HAS APPROVED A PLAT VACATING THE LOT OR PARCEL BOUNDARIES THAT WERE  
30 PREVIOUSLY RECORDED FOR THE REAL PROPERTY.

31 4. THE OWNER OR OWNERS OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY,  
32 SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR  
33 ENTITY HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN EXECUTED BY  
34 THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES AGAINST THE REAL PROPERTY IN  
35 THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED THAT:

36 (a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY THAT IS  
37 SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED  
38 IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS  
39 SECTION.

40 (b) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS  
41 PREVIOUSLY RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION ARE  
42 REVOKED.

43 5. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS  
44 BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE

1 MUNICIPAL PROVIDER HAS RECORDED NOTICE OF THE REVOCATION IN THE OFFICIAL  
2 RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

3 6. IF THE DEPARTMENT OF WATER RESOURCES HAS ISSUED A CERTIFICATE OF  
4 ASSURED WATER SUPPLY FOR THE REAL PROPERTY, THE DIRECTOR OF WATER RESOURCES  
5 HAS REVOKED THE CERTIFICATE PURSUANT TO A WRITTEN AGREEMENT FOR REVOCATION  
6 ENTERED INTO BETWEEN THE HOLDER OF THE CERTIFICATE AND THE DIRECTOR.

7 E. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, A RETAIL  
8 PURCHASER OR LESSEE MEANS A PURCHASER OR LESSEE OF A LOT OR PARCEL OF  
9 SUBDIVIDED LANDS THAT IS ENTITLED TO RECEIVE A PUBLIC REPORT FROM THE SELLER  
10 OR LESSOR PURSUANT TO SECTION 32-2183, SUBSECTION I.

APPROVED BY THE GOVERNOR APRIL 9, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2015.

Passed the House February 24, 20 15

Passed the Senate March 30, 20 15

by the following vote: 37 Ayes,

by the following vote: 29 Ayes,

23 Nays, 0 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate  
*assistant*

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2325

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

March 31, 2015,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
31<sup>st</sup> day of March, 2015

at 3:16 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 9<sup>th</sup> day of

April, 2015,

at 1:26 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 10<sup>th</sup> day of April, 2015,

at 8:15 o'clock A. M.

[Signature]  
Secretary of State

H.B. 2325