

Senate Engrossed House Bill

~~technical correction; groundwater rights; AMAs~~
(now: subsequent AMAs; groundwater rights; adequacy)

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

HOUSE BILL 2572

AN ACT

AMENDING SECTIONS 9-463.01, 11-823, 32-2181, 32-2183, 32-2197.08, 45-108, 45-420, 45-421 AND 45-452, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-465.05, 45-465.06, 45-465.07 AND 45-465.08; AMENDING SECTIONS 45-569 AND 45-576, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended
3 to read:

4 9-463.01. Authority

5 A. Pursuant to this article, the legislative body of every
6 municipality shall regulate the subdivision of all lands within its
7 corporate limits.

8 B. The legislative body of a municipality shall exercise the
9 authority granted in subsection A of this section by ordinance
10 prescribing:

11 1. Procedures to be followed in the preparation, submission, review
12 and approval or rejection of all final plats.

13 2. Standards governing the design of subdivision plats.

14 3. Minimum requirements and standards for the installation of
15 subdivision streets, sewer and water utilities and improvements as a
16 condition of final plat approval.

17 C. By ordinance, the legislative body of any municipality shall:

18 1. Require the preparation, submission and approval of a
19 preliminary plat as a condition precedent to submission of a final plat.

20 2. Establish the procedures to be followed in the preparation,
21 submission, review and approval of preliminary plats.

22 3. Make requirements as to the form and content of preliminary
23 plats.

24 4. Either determine that certain lands may not be subdivided, by
25 reason of adverse topography, periodic inundation, adverse soils,
26 subsidence of the earth's surface, high water table, lack of water or
27 other natural or man-made hazard to life or property, or control the lot
28 size, establish special grading and drainage requirements and impose other
29 regulations deemed reasonable and necessary for the public health, safety
30 or general welfare on any lands to be subdivided affected by such
31 characteristics.

32 5. Require payment of a proper and reasonable fee by the subdivider
33 based ~~upon~~ ON the number of lots or parcels on the surface of the land to
34 defray municipal costs of plat review and site inspection.

35 6. Require the dedication of public streets, sewer and water
36 utility easements or rights-of-way, within the proposed subdivision.

37 7. Require the preparation and submission of acceptable engineering
38 plans and specifications for the installation of required street, sewer,
39 electric and water utilities, drainage, flood control, adequacy of water
40 and improvements as a condition precedent to recordation of an approved
41 final plat.

42 8. Require the posting of performance bonds, assurances or such
43 other security as may be appropriate and necessary to assure the
44 installation of required street, sewer, electric and water utilities,

1 drainage, flood control and improvements meeting established minimum
2 standards of design and construction.

3 D. The legislative body of any municipality may require by
4 ordinance that land areas within a subdivision be reserved for parks,
5 recreational facilities, school sites and fire stations subject to the
6 following conditions:

7 1. The requirement may only be made ~~upon~~ ON preliminary plats filed
8 at least thirty days after the adoption of a general or specific plan
9 affecting the land area to be reserved.

10 2. The required reservations are in accordance with definite
11 principles and standards adopted by the legislative body.

12 3. The land area reserved shall be of such a size and shape as to
13 ~~permit~~ ALLOW the remainder of the land area of the subdivision within
14 which the reservation is located to develop in an orderly and efficient
15 manner.

16 4. The land area reserved shall be in such multiples of streets and
17 parcels as to ~~permit~~ ALLOW an efficient division of the reserved area in
18 the event that it is not acquired within the prescribed period.

19 E. The public agency for whose benefit an area has been reserved
20 shall have a period of one year after recording the final subdivision plat
21 to enter into an agreement to acquire such reserved land area. The
22 purchase price shall be the fair market value of the reserved land area at
23 the time of the filing of the preliminary subdivision plat plus the taxes
24 against such reserved area from the date of the reservation and any other
25 costs incurred by the subdivider in the maintenance of such reserved area,
26 including the interest cost incurred on any loan covering such reserved
27 area.

28 F. If the public agency for whose benefit an area has been reserved
29 does not exercise the reservation agreement set forth in subsection E of
30 this section within such ~~one year~~ ONE-YEAR period or such extended period
31 as may be mutually agreed ~~upon~~ ON by such public agency and the
32 subdivider, the reservation of such area shall terminate.

33 G. The legislative body of every municipality shall comply with
34 this article and applicable state statutes pertaining to the hearing,
35 approval or rejection, and recordation of:

36 1. Final subdivision plats.

37 2. Plats filed for the purpose of reverting to acreage of land
38 previously subdivided.

39 3. Plats filed for the purpose of vacating streets or easements
40 previously dedicated to the public.

41 4. Plats filed for the purpose of vacating or redescribing lot or
42 parcel boundaries previously recorded.

1 H. Approval of every preliminary and final plat by a legislative
2 body is conditioned ~~upon~~ ON compliance by the subdivider with:

3 1. Rules as may be established by the department of transportation
4 relating to provisions for the safety of entrance ~~upon~~ ON and departure
5 from abutting state primary highways.

6 2. Rules as may be established by a county flood control district
7 relating to the construction or prevention of construction of streets in
8 land established as being subject to periodic inundation.

9 3. Rules as may be established by the department of health services
10 or a county health department relating to the provision of domestic water
11 supply and sanitary sewage disposal.

12 I. If the subdivision is ~~comprised~~ COMPOSED of subdivided lands, as
13 defined in section 32-2101, and is within an active management area, as
14 defined in section 45-402, the final plat shall not be approved unless it
15 is accompanied by a certificate of assured water supply issued by the
16 director of water resources, or unless the subdivider has obtained a
17 written commitment of water service for the subdivision from a city, town
18 or private water company designated as having an assured water supply by
19 the director of water resources pursuant to section 45-576 or is exempt
20 from the requirement pursuant to section 45-576. The legislative body of
21 the municipality shall note on the face of the final plat that a
22 certificate of assured water supply has been submitted with the plat or
23 that the subdivider has obtained a written commitment of water service for
24 the proposed subdivision from a city, town or private water company
25 designated as having an assured water supply, pursuant to section 45-576,
26 or is exempt from the requirement pursuant to section 45-576.

27 J. Except as provided in subsections K and P of this section, if
28 the subdivision is composed of subdivided lands as defined in section
29 32-2101 outside of an INITIAL active management area and the director of
30 water resources has given written notice to the municipality pursuant to
31 section 45-108, subsection H, the final plat shall not be approved unless
32 one of the following applies:

33 1. The director of water resources has determined that there is an
34 adequate water supply for the subdivision pursuant to section 45-108 and
35 the subdivider has included the report with the plat.

36 2. The subdivider has obtained a written commitment of water
37 service for the subdivision from a city, town or private water company
38 designated as having an adequate water supply by the director of water
39 resources pursuant to section 45-108.

40 K. The legislative body of a municipality that has received written
41 notice from the director of water resources pursuant to section 45-108,
42 subsection H or that has adopted an ordinance pursuant to subsection O of
43 this section may provide by ordinance an exemption from the requirement in
44 subsection J or O of this section for a subdivision that the director of
45 water resources has determined will have an inadequate water supply

1 because the water supply will be transported to the subdivision by motor
2 vehicle or train if all of the following apply:

3 1. The legislative body determines that there is no feasible
4 alternative water supply for the subdivision and that the transportation
5 of water to the subdivision will not constitute a significant risk to the
6 health and safety of the residents of the subdivision.

7 2. If the water to be transported to the subdivision will be
8 withdrawn or diverted in the service area of a municipal provider as
9 defined in section 45-561, the municipal provider has consented to the
10 withdrawal or diversion.

11 3. If the water to be transported is groundwater, the
12 transportation complies with the provisions governing the transportation
13 of groundwater in title 45, chapter 2, article 8.

14 4. The transportation of water to the subdivision meets any
15 additional conditions imposed by the legislative body.

16 L. A municipality that adopts the exemption authorized by
17 subsection K of this section shall give written notice of the adoption of
18 the exemption, including a certified copy of the ordinance containing the
19 exemption, to the director of water resources, the director of
20 environmental quality and the state real estate commissioner. If the
21 municipality later rescinds the exemption, the municipality shall give
22 written notice of the rescission to the director of water resources, the
23 director of environmental quality and the state real estate
24 commissioner. A municipality that rescinds an exemption adopted pursuant
25 to subsection K of this section shall not readopt the exemption for at
26 least five years after the rescission becomes effective.

27 M. If the legislative body of a municipality approves a subdivision
28 plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this
29 section, the legislative body shall note on the face of the plat that the
30 director of water resources has reported that the subdivision has an
31 adequate water supply or that the subdivider has obtained a commitment of
32 water service for the proposed subdivision from a city, town or private
33 water company designated as having an adequate water supply pursuant to
34 section 45-108.

35 N. If the legislative body of a municipality approves a subdivision
36 plat pursuant to an exemption authorized by subsection K of this section
37 or granted by the director of water resources pursuant to section
38 45-108.02 or 45-108.03:

39 1. The legislative body shall give written notice of the approval
40 to the director of water resources and the director of environmental
41 quality.

42 2. The legislative body shall include on the face of the plat a
43 statement that the director of water resources has determined that ~~the~~
44 ~~water supply for the subdivision is inadequate~~ SUFFICIENT GROUNDWATER,
45 SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY,

1 LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE
2 SUBDIVISION FOR ONE HUNDRED YEARS and a statement describing the exemption
3 under which the plat was approved, including a statement that the
4 legislative body or the director of water resources, whichever applies,
5 has determined that the specific conditions of the exemption were met. If
6 the director subsequently informs the legislative body that the
7 subdivision is being served by a water provider that has been designated
8 by the director as having an adequate water supply pursuant to section
9 45-108, the legislative body shall record in the county recorder's office
10 a statement disclosing that fact.

11 O. If a municipality has not been given written notice by the
12 director of water resources pursuant to section 45-108, subsection H, the
13 legislative body of the municipality, to protect the public health and
14 safety, may provide by ordinance that, except as provided in subsections K
15 and P of this section, the final plat of a subdivision located in the
16 municipality and outside of an INITIAL active management area will not be
17 approved by the legislative body unless the director of water resources
18 has determined that there is an adequate water supply for the subdivision
19 pursuant to section 45-108 or the subdivider has obtained a written
20 commitment of water service for the subdivision from a city, town or
21 private water company designated as having an adequate water supply by the
22 director of water resources pursuant to section 45-108. Before holding a
23 public hearing to consider whether to enact an ordinance pursuant to this
24 subsection, a municipality shall provide written notice of the hearing to
25 the board of supervisors of the county in which the municipality is
26 located. A municipality that enacts an ordinance pursuant to this
27 subsection shall give written notice of the enactment of the ordinance,
28 including a certified copy of the ordinance, to the director of water
29 resources, the director of environmental quality, the state real estate
30 commissioner and the board of supervisors of the county in which the
31 municipality is located. If a municipality enacts an ordinance pursuant
32 to this subsection, water providers may be eligible to receive monies in a
33 water supply development fund, as otherwise provided by law.

34 P. Subsections J and O of this section do not apply to:

35 1. A proposed subdivision that the director of water resources has
36 determined will have an inadequate water supply pursuant to section 45-108
37 if the director grants an exemption for the subdivision pursuant to
38 section 45-108.02 and the exemption has not expired or if the director
39 grants an exemption pursuant to section 45-108.03.

40 2. A proposed subdivision that received final plat approval from
41 the municipality before the requirement for an adequate water supply
42 became effective in the municipality if the plat has not been materially
43 changed since it received the final plat approval. If changes were made
44 to the plat after the plat received the final plat approval, the director
45 of water resources shall determine whether the changes are material

1 pursuant to the rules adopted by the director to implement section
2 45-108. If the municipality approves a plat pursuant to this paragraph
3 and the director of water resources has determined that there is an
4 inadequate water supply for the subdivision pursuant to section 45-108,
5 the municipality shall note ~~this~~ on the face of the plat **THAT THE DIRECTOR**
6 **OF WATER RESOURCES HAS DETERMINED THAT SUFFICIENT GROUNDWATER, SURFACE**
7 **WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY**
8 **OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR**
9 **ONE HUNDRED YEARS.**

10 Q. If the subdivision is composed of subdivided lands as defined in
11 section 32-2101 outside of an **INITIAL** active management area and the
12 municipality has not received written notice pursuant to section 45-108,
13 subsection H and has not adopted an ordinance pursuant to subsection O of
14 this section:

15 1. If the director of water resources has determined that there is
16 an adequate water supply for the subdivision pursuant to section 45-108 or
17 if the subdivider has obtained a written commitment of water service for
18 the subdivision from a city, town or private water company designated as
19 having an adequate water supply by the director of water resources
20 pursuant to section 45-108, the municipality shall note this on the face
21 of the plat if the plat is approved.

22 2. If the **PLAT IS APPROVED AND THE** director of water resources has
23 determined that there is an inadequate water supply for the subdivision
24 pursuant to section 45-108, the municipality shall note ~~this~~ **THAT THE**
25 **DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT SUFFICIENT GROUNDWATER,**
26 **SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY,**
27 **LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE**
28 **SUBDIVISION FOR ONE HUNDRED YEARS** on the face of the plat if the plat is
29 approved.

30 R. Every municipality is responsible for the recordation of all
31 final plats approved by the legislative body and shall receive from the
32 subdivider and transmit to the county recorder the recordation fee
33 established by the county recorder.

34 S. Pursuant to provisions of applicable state statutes, the
35 legislative body of any municipality may itself prepare or have prepared a
36 plat for the subdivision of land under municipal ownership.

37 T. The legislative bodies of cities and towns may regulate by
38 ordinance land splits within their corporate limits. Authority granted
39 under this section refers to the determination of division lines, area and
40 shape of the tracts or parcels and does not include authority to regulate
41 the terms or condition of the sale or lease nor does it include the
42 authority to regulate the sale or lease of tracts or parcels that are not
43 the result of land splits as defined in section 9-463.

1 U. For any subdivision that consists of ten or fewer lots, tracts
2 or parcels, each of which is of a size as prescribed by the legislative
3 body, the legislative body of each municipality may expedite the
4 processing of or waive the requirement to prepare, submit and receive
5 approval of a preliminary plat as a condition precedent to submitting a
6 final plat and may waive or reduce infrastructure standards or
7 requirements proportional to the impact of the subdivision. Requirements
8 for dust-controlled access and drainage improvements shall not be waived.

9 Sec. 2. Section 11-823, Arizona Revised Statutes, is amended to
10 read:

11 11-823. Water supply; adequacy; exemptions

12 A. To protect the public health and safety, the general regulations
13 adopted by the board pursuant to section 11-821, subsection B, if approved
14 by unanimous vote of the board of supervisors, may provide that, except as
15 provided in subsection C and subsection D, paragraph 1 of this section,
16 the board shall not approve a final plat for a subdivision composed of
17 subdivided lands, as defined in section 32-2101, located outside of an
18 INITIAL active management area, as defined in section 45-402, OR LOCATED
19 WITHIN A SUBSEQUENT ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402,
20 unless one of the following applies:

21 1. The director of water resources has determined that there is an
22 adequate water supply for the subdivision pursuant to section 45-108 and
23 the subdivider has included the report with the plat.

24 2. The subdivider has obtained a written commitment of water
25 service for the subdivision from a city, town or private water company
26 designated as having an adequate water supply by the director of water
27 resources pursuant to section 45-108.

28 B. If the board unanimously adopts the provision authorized by
29 subsection A of this section:

30 1. The board may include in the general regulations an exemption
31 from the provision for a subdivision that the director of water resources
32 has determined will have an inadequate water supply because the water
33 supply will be transported to the subdivision by motor vehicle or train if
34 all of the following apply:

35 (a) The board determines that there is no feasible alternative
36 water supply for the subdivision and that the transportation of water to
37 the subdivision will not constitute a significant risk to the health and
38 safety of the residents of the subdivision.

39 (b) If the water to be transported to the subdivision will be
40 withdrawn or diverted in the service area of a municipal provider as
41 defined in section 45-561, the municipal provider has consented to the
42 withdrawal or diversion.

43 (c) If the water to be transported is groundwater, the
44 transportation complies with the provisions governing the transportation
45 of groundwater in title 45, chapter 2, article 8.

1 (d) The transportation of water to the subdivision meets any
2 additional conditions imposed by the county.

3 2. The board shall promptly give written notice of the adoption of
4 the provision to the director of water resources, the director of
5 environmental quality and the state real estate commissioner. The notice
6 shall include a certified copy of the provision, ~~and~~ any exemptions
7 adopted pursuant to paragraph 1 of this subsection AND SPECIFY WHETHER THE
8 PROVISION AND EXCEPTIONS APPLY TO ALL AREAS OF THE COUNTY THAT ARE LOCATED
9 OUTSIDE OF AN INITIAL ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION
10 45-402, OR TO ONLY AREAS OF THE COUNTY THAT ARE LOCATED WITHIN A
11 SUBSEQUENT ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402. Water
12 providers may be eligible to receive monies in a water supply development
13 fund, as otherwise provided by law.

14 3. The board shall not rescind the provision or amend it in a
15 manner that is inconsistent with subsection A of this section. If the
16 board amends the provision, it shall give written notice of the amendment
17 to the director of water resources, the director of environmental quality
18 and the state real estate commissioner. The board may rescind an
19 exemption adopted pursuant to paragraph 1 of this subsection. If the
20 board rescinds the exemption, it shall give written notice of the
21 rescission to the director of water resources, the director of
22 environmental quality and the state real estate commissioner, and the
23 board shall not readopt the exemption for at least five years after the
24 rescission becomes effective.

25 4. If the board approves a subdivision plat pursuant to subsection
26 A, paragraph 1 or 2 of this section, the board shall note on the face of
27 the plat that the director of water resources has reported that the
28 subdivision has an adequate water supply or that the subdivider has
29 obtained a commitment of water service for the proposed subdivision from a
30 city, town or private water company designated as having an adequate water
31 supply pursuant to section 45-108.

32 5. If the board approves a subdivision plat pursuant to an
33 exemption authorized by paragraph 1 of this subsection or granted by the
34 director of water resources pursuant to section 45-108.02 or 45-108.03:

35 (a) The board shall give written notice of the approval to the
36 director of water resources and the director of environmental quality.

37 (b) The board shall include on the face of the plat a statement
38 that the director of water resources has determined that ~~the water supply~~
39 ~~for the subdivision is inadequate~~ SUFFICIENT GROUNDWATER, SURFACE WATER OR
40 EFFLUENT OF ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY OR
41 PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR ONE
42 HUNDRED YEARS and a statement describing the exemption under which the
43 plat was approved, including a statement that the board or the director of
44 water resources, whichever applies, has determined that the specific
45 conditions of the exemption were met. If the director of water resources

1 subsequently informs the board that the subdivision is being served by a
2 water provider that has been designated by the director as having an
3 adequate water supply pursuant to section 45-108, the board shall record
4 in the county recorder's office a statement disclosing that fact.

5 C. Subsection A of this section does not apply to:

6 1. A proposed subdivision that the director of water resources has
7 determined will have an inadequate water supply pursuant to section 45-108
8 if the director grants an exemption for the subdivision pursuant to
9 section 45-108.02 and the exemption has not expired or the director grants
10 an exemption pursuant to section 45-108.03.

11 2. A proposed subdivision that received final plat approval from
12 the county before the requirement for an adequate water supply became
13 effective in the county if the plat has not been materially changed since
14 it received the final plat approval. If changes were made to the plat
15 after the plat received the final plat approval, the director of water
16 resources shall determine whether the changes are material pursuant to the
17 rules adopted by the director to implement section 45-108. If the county
18 approves a plat pursuant to this paragraph and the director of water
19 resources has determined that there is an inadequate water supply for the
20 subdivision pursuant to section 45-108, the county shall note ~~this~~ on the
21 face of the plat **THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT**
22 **SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY**
23 **MIGHT NOT BE CONTINUOUSLY, LEGALLY OR PHYSICALLY AVAILABLE TO SATISFY THE**
24 **WATER NEEDS OF THE SUBDIVISION FOR ONE HUNDRED YEARS.**

25 D. If the subdivision is composed of subdivided lands as defined in
26 section 32-2101 outside of an **INITIAL** active management area and the board
27 has not adopted a provision pursuant to subsection A of this section:

28 1. If the director of water resources has determined that there is
29 an adequate water supply for the subdivision pursuant to section 45-108 or
30 if the subdivider has obtained a written commitment of water service for
31 the subdivision from a city, town or private water company designated as
32 having an adequate water supply by the director of water resources
33 pursuant to section 45-108, the board shall note this on the face of the
34 plat if the plat is approved.

35 2. If the **PLAT IS APPROVED AND THE** director of water resources has
36 determined that there is an inadequate water supply for the subdivision
37 pursuant to section 45-108, the board shall note ~~this~~ on the face of the
38 plat ~~if the plat is approved~~ **THAT THE DIRECTOR OF WATER RESOURCES HAS**
39 **DETERMINED THAT SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF**
40 **ADEQUATE QUALITY MIGHT NOT BE CONTINUOUSLY, LEGALLY OR PHYSICALLY**
41 **AVAILABLE TO SATISFY THE WATER NEEDS OF THE SUBDIVISION FOR ONE HUNDRED**
42 **YEARS.**

1 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to
2 read:

3 32-2181. Notice to commissioner of intention to subdivide
4 lands; unlawful acting in concert; exceptions; deed
5 restrictions; definition

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

9 1. The name and address of the owner. If the holder of any
10 ownership interest in the land is other than an individual, such as a
11 corporation, partnership or trust, **THE NOTICE SHALL CONTAIN** a statement
12 naming the type of legal entity and listing the interest and the extent of
13 any interest of each principal in the entity. For the purposes of this
14 section, "principal" means any person or entity having a ten ~~per cent~~
15 **PERCENT** or more financial interest or, if the legal entity is a trust,
16 each beneficiary of the trust holding a ten ~~per cent~~ **PERCENT** or more
17 beneficial interest.

18 2. The name and address of the subdivider.

19 3. The legal description and area of the land.

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

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

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

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

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

1 9. A statement as to the location of the nearest public common and
2 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
3 residing on the subdivision property.

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

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

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

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

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

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

27 16. A statement of the provisions for easements for permanent access
28 for irrigation water ~~where~~ IF applicable.

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

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

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

1 20. A true statement as to whether all or any portion of the
2 subdivision is located in an open range or area in which livestock may
3 roam at large under the laws of this state and what provisions, if any,
4 have been made for ~~the~~ fencing ~~of~~ the subdivision to preclude livestock
5 from roaming within the subdivided lands.

6 21. If the subdivider is a subsidiary corporation, a true statement
7 identifying the parent corporation and any of the following in which the
8 parent or any of its subsidiaries is or has been involved within the past
9 five years:

10 (a) Any subdivision in this state.

11 (b) Any subdivision, wherever located, for which registration is
12 required pursuant to the federal interstate land sales full disclosure
13 act.

14 (c) Any subdivision, wherever located, for which registration would
15 have been required pursuant to the federal interstate land sales full
16 disclosure act but for the exemption for subdivisions whose lots are all
17 twenty acres or more in size.

18 22. A true statement identifying all other subdivisions, designated
19 in paragraph 21 of this subsection, in which any of the following is or,
20 within the last five years, has been directly or indirectly involved:

21 (a) The holder of any ownership interest in the land.

22 (b) The subdivider.

23 (c) Any principal or officer in the holder or subdivider.

24 23. A true statement as to whether all or any portion of the
25 subdivision is located in territory in the vicinity of a military airport
26 or ancillary military facility as defined in section 28-8461, in territory
27 in the vicinity of a public airport as defined in section 28-8486, on or
28 after July 1, 2001, in a high noise or accident potential zone as defined
29 in section 28-8461 or on or after July 1 of the year in which the
30 subdivision becomes located in a high noise or accident potential
31 zone. The statement required pursuant to this paragraph does not require
32 the amendment or refiling of any notice filed before July 1, 2001 or
33 before July 1 of the year in which the subdivision becomes located in a
34 high noise or accident potential zone.

35 24. If the subdivision is a conversion from multifamily rental to
36 condominiums as defined in section 33-1202, a true statement as to the
37 following:

38 (a) That the property is a conversion from multifamily rental to
39 condominiums.

40 (b) The date original construction was completed.

41 25. Other information and documents and certifications as the
42 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
43 shall not be required to disclose any critical infrastructure information
44 as defined in section 41-1801 or any information contained in a report
45 issued pursuant to section 41-4273.

1 B. The commissioner, on application, may grant a subdivider of lots
2 or parcels within a subdivision for which a public report was previously
3 issued by the commissioner an exemption from all or part of the
4 notification requirements of subsection A of this section. The subdivider
5 shall file a statement with the commissioner indicating the change of
6 ownership in the lots or parcels together with any material changes
7 occurring subsequent to the original approval of the subdivision within
8 which the lots or parcels are located. The statement shall further refer
9 to the original approval by the commissioner.

10 C. If the subdivision is within an INITIAL active management area,
11 as defined in section 45-402, the subdivider shall accompany the notice
12 with a certificate of assured water supply issued by the director of water
13 resources along with proof that all applicable fees have been paid
14 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply by the director of water resources pursuant to section 45-576 or is
18 exempt from the requirement pursuant to section 45-576. If the subdivider
19 has submitted a certificate of assured water supply to a city, town or
20 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
21 and this has been noted on the face of the plat, the submission
22 constitutes compliance with this subsection if the subdivider provides
23 proof to the commissioner that all applicable fees have been paid pursuant
24 to sections 48-3772 and 48-3774.01.

25 D. It is unlawful for a person or group of persons acting in
26 concert to attempt to avoid this article by acting in concert to divide a
27 parcel of land or sell subdivision lots by using a series of owners or
28 conveyances or by any other method that ultimately results in the division
29 of the lands into a subdivision or the sale of subdivided land. The plan
30 or offering is subject to this article. Unlawful acting in concert
31 pursuant to this subsection with respect to the sale or lease of
32 subdivision lots requires proof that the real estate licensee or other
33 licensed professional knew or with the exercise of reasonable diligence
34 should have known that property ~~which~~ THAT the licensee listed or for
35 which the licensee acted in any capacity as agent was subdivided land
36 subject to this article. A familial relationship alone is not sufficient
37 to constitute unlawful acting in concert.

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

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

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

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

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

14 5. The lots, parcels or fractional interests are registered as
15 securities under the laws of the United States or the laws of this state
16 or are exempt transactions under section 44-1844, 44-1845 or 44-1846.

17 6. The commissioner by special order exempts offerings or
18 dispositions of any lots, parcels or fractional interests from compliance
19 with this article on written petition and on a showing satisfactory to the
20 commissioner that compliance is not essential to the public interest or
21 for the protection of buyers.

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

28 F. In areas outside of INITIAL active management areas established
29 pursuant to title 45, chapter 2, article 2:

30 1. If the subdivision is located in a county that has adopted the
31 provision authorized by section 11-823, subsection A, or in a city or town
32 that has enacted an ordinance pursuant to section 9-463.01, subsection 0,
33 the subdivider shall accompany the notice with a report issued by the
34 director of water resources pursuant to section 45-108 stating that the
35 subdivision has an adequate water supply, unless one of the following
36 applies:

37 (a) The subdivider submitted the report to a city, town or county
38 before approval of the plat by the city, town or county and this has been
39 noted on the face of the plat.

40 (b) The subdivider has obtained a written commitment of water
41 service for the subdivision from a city, town or private water company
42 designated as having an adequate water supply by the director of water
43 resources pursuant to section 45-108.

1 (c) The plat was approved pursuant to an exemption authorized by
2 section 9-463.01, subsection K, pursuant to an exemption authorized by
3 section 11-823, subsection B, paragraph 1, pursuant to an exemption
4 granted by the director of water resources under section 45-108.02 and the
5 exemption has not expired or pursuant to an exemption granted by the
6 director under section 45-108.03. If the plat was approved pursuant to an
7 authorized exemption, the state real estate commissioner shall require
8 that all promotional material and contracts for the sale of lots in the
9 subdivision adequately display the following:

10 (i) The director of water resources' report or the developer's
11 brief summary of the report as approved by the commissioner on the
12 proposed water supply for the subdivision.

13 (ii) A statement describing the exemption under which the
14 subdivision was approved, including the specific conditions of the
15 exemption that were met. If the plat was approved by the legislative body
16 of a city or town pursuant to an exemption authorized by section 9-463.01,
17 subsection K or by the board of supervisors of a county pursuant to an
18 exemption authorized by section 11-823, subsection B, paragraph 1, the
19 subdivider shall record the document required by section 33-406.

20 (d) The subdivision received final plat approval from the city,
21 town or county before the requirement for an adequate water supply became
22 effective in the city, town or county, and there have been no material
23 changes to the plat since the final plat approval. If changes were made
24 to the plat after the final plat approval, the director of water resources
25 shall determine whether the changes are material pursuant to the rules
26 adopted by the director to implement section 45-108. If this subdivision
27 applies, the state real estate commissioner shall require that all
28 promotional materials and contracts for the sale of lots in the
29 subdivision adequately display the director of water resources' report or
30 the developer's brief summary of the report as approved by the
31 commissioner on the proposed water supply for the subdivision.

32 2. If the subdivision is not located in a county that has adopted
33 the provision authorized by section 11-823, subsection A or in a city or
34 town that has enacted an ordinance pursuant to section 9-463.01,
35 subsection 0, and if the director of water resources, pursuant to section
36 45-108, reports an inadequate on-site supply of water to meet the needs
37 projected by the developer or if no water is available, the state real
38 estate commissioner shall require that all promotional material and
39 contracts for the sale of lots in subdivisions approved by the
40 commissioner adequately display the director of water resources' report or
41 the developer's brief summary of the report as approved by the
42 commissioner on the proposed water supply for the subdivision.

43 G. The commissioner may require the subdivider to supplement the
44 notice of intention to subdivide lands and may require the filing of

1 periodic reports to update the information contained in the original
2 notice of intention to subdivide lands.

3 H. The commissioner may authorize the subdivider to file as the
4 notice of intention to subdivide lands, in lieu of some or all of the
5 requirements of subsection A of this section, a copy of the statement of
6 record filed with respect to the subdivision pursuant to the federal
7 interstate land sales full disclosure act if the statement complies with
8 the requirements of the act and the regulations pertinent to the act.

9 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
10 assignment or other instrument to transfer any interest in subdivided land
11 ~~nor~~ AND any covenant or restriction affecting real property shall NOT
12 contain any provision limiting the right of any party to appear or testify
13 in support of or opposition to zoning changes, building permits or any
14 other official acts affecting real property before a governmental body or
15 official considering zoning changes, building permits or any other
16 official acts affecting real property, whether the property is located
17 within or outside of the boundaries of the subdivision. All contractual
18 provisions that conflict with this subsection are declared to be contrary
19 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
20 prohibit private restrictions on the use of any real property.

21 J. Before offering subdivided lands for lease or sale, the
22 subdivider who makes any promises through any form of advertising media
23 that the subdivided lands will be exclusively a retirement community or
24 one that is limited to the residency of adults or senior citizens shall
25 include the promises in the deed restrictions affecting any interest in
26 real property within the subdivided lands.

27 K. Except as otherwise provided in this section, a subdivider ~~shall~~
28 IS not ~~be~~ required to disclose items that are over one mile from the
29 subdivision boundaries. The existence of foreign nations or tribal lands
30 shall also be disclosed if located within the ~~one-mile~~ ONE-MILE radius of
31 the subdivision boundaries.

32 Sec. 4. Section 32-2183, Arizona Revised Statutes, is amended to
33 read:

34 32-2183. Subdivision public reports; denial of issuance;
35 unlawful sales; voidable sale or lease; order
36 prohibiting sale or lease; investigations;
37 hearings; summary orders

38 A. On examination of a subdivision, the commissioner, unless there
39 are grounds for denial, shall issue to the subdivider a public report
40 authorizing the sale or lease in this state of the lots, parcels or
41 fractional interests within the subdivision. The report shall contain the
42 data obtained in accordance with section 32-2181 and any other information
43 that the commissioner determines is necessary to implement the purposes of
44 this article. If any of the lots, parcels or fractional interests within
45 the subdivision are located within territory in the vicinity of a military

1 airport or ancillary military facility as defined in section 28-8461,
2 under a military training route as delineated in the military training
3 route map prepared pursuant to section 37-102, in a military installation
4 or range or Arizona national guard site influence area as delineated in
5 the maps prepared pursuant to section 37-102, subsection H, paragraph 4,
6 under restricted air space as delineated in the restricted air space map
7 prepared pursuant to section 37-102 or contained in the military
8 electronics range as delineated in the military electronics range map
9 prepared pursuant to section 37-102, the report shall include, in bold
10 twelve-point font block letters on the first page of the report, the
11 statements required pursuant to section 28-8484, subsection A, section
12 32-2183.05 or section 32-2183.06 and, if the department has been provided
13 a map prepared pursuant to section 28-8484, subsection B or section
14 37-102, the report shall include a copy of the map. The military airport
15 report requirements do not require the amendment or reissuance of any
16 public report issued on or before December 31, 2001 or on or before
17 December 31 of the year in which the lots, parcels or fractional interests
18 within a subdivision become territory in the vicinity of a military
19 airport or ancillary military facility. The military training route
20 report requirements do not require the amendment or reissuance of any
21 public report issued on or before December 31, 2004. The restricted air
22 space report requirements do not require the amendment or reissuance of
23 any public report issued on or before December 31, 2006. The military
24 electronics range report requirements do not require the amendment or
25 reissuance of any public report issued on or before December 31, 2008.
26 ~~A~~ Military installation or range or Arizona national guard site report
27 requirements do not require the amendment or reissuance of any public
28 report issued on or before December 31, 2024. The commissioner shall
29 require the subdivider to reproduce the report, make the report available
30 to each initial prospective customer and furnish each initial buyer or
31 lessee with a copy before the buyer or lessee signs any offer to purchase
32 or lease, taking a receipt therefor.

33 B. This section does not require a public report issued sixty or
34 fewer days before the filing of the military electronics range map or the
35 military installation or range or Arizona national guard site influence
36 area map prepared pursuant to section 37-102 to meet the military
37 electronics range or military installation or range or Arizona national
38 guard site notification requirements of this section.

39 C. A public report issued sixty-one or more days after the filing
40 of the military electronics range map or the military installation or
41 range or Arizona national guard site influence area map prepared pursuant
42 to section 37-102 shall meet all of the requirements of subsection A of
43 this section.

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

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

8 2. An initial filing fee of \$500 or an amended filing fee of \$250
9 shall accompany the notification required by paragraph 1 of this
10 subsection.

11 3. The department shall assign a registration number to each
12 notification and public report submitted pursuant to this subsection and
13 shall maintain a database of all of these submissions. The subdivider
14 shall place the number on each public report.

15 4. On receipt of the notification and public report, the department
16 shall review and issue within ten business days either a certification
17 that the notification and public report are administratively complete or a
18 denial letter if it appears that the application or project is not in
19 compliance with all legal requirements, that the applicant has a
20 background of violations of state or federal law or that the applicant or
21 project presents an unnecessary risk of harm to the public. If the
22 commissioner has received the notification and public report but has not
23 issued a certification or a denial letter within ten business days
24 pursuant to this paragraph, the notification and public report are
25 administratively complete.

26 5. A subdivider may commence sales or leasing activities as
27 ~~permitted~~ ALLOWED under this article after obtaining a certificate of
28 administrative completeness from the commissioner.

29 6. Before or after the commissioner issues a certificate of
30 administrative completeness or, if applicable, after the notification and
31 public report are deemed to be administratively complete pursuant to
32 paragraph 4 of this subsection, the department may examine any public
33 report, subdivision or applicant that has applied for or received the
34 certificate. If the commissioner determines that the subdivider or
35 subdivision is not in compliance with any requirement of state law or that
36 grounds exist under this chapter to suspend, deny or revoke a public
37 report, the commissioner may commence an administrative action under
38 section 32-2154 or 32-2157. If the subdivider immediately corrects the
39 deficiency and comes into full compliance with state law, the commissioner
40 shall vacate any action that the commissioner may have commenced pursuant
41 to section 32-2154 or 32-2157.

42 7. The department shall provide forms and guidelines for the
43 submission of the notification and public report pursuant to this section.

44 E. The commissioner may suspend, revoke or deny issuance of a
45 public report on any of the following grounds:

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

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

5 3. Inability to deliver title or other interest contracted for.

6 4. Inability to demonstrate that adequate financial or other
7 arrangements acceptable to the commissioner have been made for completion
8 of all streets, sewers, electric, gas and water utilities, drainage and
9 flood control facilities, community and recreational facilities and other
10 improvements included in the offering.

11 5. Failure to make a showing that the lots, parcels or fractional
12 interests can be used for the purpose for which they are offered.

13 6. The owner, agent, subdivider, officer, director or partner,
14 subdivider trust beneficiary holding ten percent or more direct or
15 indirect beneficial interest or, if a corporation, any stockholder owning
16 ten percent or more of the stock in the corporation has:

17 (a) Been convicted of a felony or misdemeanor involving fraud or
18 dishonesty or involving conduct of any business or a transaction in real
19 estate, cemetery property, timeshare intervals or membership camping
20 campgrounds or contracts.

21 (b) Been permanently or temporarily enjoined by order, judgment or
22 decree from engaging in or continuing any conduct or practice in
23 connection with the sale or purchase of real estate or cemetery property,
24 timeshare intervals, membership camping contracts or campgrounds, or
25 securities or involving consumer fraud or the racketeering laws of this
26 state.

27 (c) Had an administrative order entered against the person by a
28 real estate regulatory agency or security regulatory agency.

29 (d) Had an adverse decision or judgment entered against the person
30 involving fraud or dishonesty or involving the conduct of any business or
31 transaction in real estate, cemetery property, timeshare intervals or
32 membership camping campgrounds or contracts.

33 (e) Disregarded or violated this chapter or the rules of the
34 commissioner pertaining to this chapter.

35 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
36 OF THIS PARAGRAPH applies.

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

40 8. Failure of the declaration for a condominium created pursuant to
41 title 33, chapter 9, article 2 to comply with the requirements of section
42 33-1215 or failure of the plat for the condominium to comply with the
43 requirements of section 33-1219. The commissioner may require an
44 applicant for a public report to submit a notarized statement signed by
45 the subdivider or an engineer or attorney licensed to practice in this

1 state certifying that the condominium plat and declaration of condominium
2 are in compliance with the requirements of sections 33-1215 and
3 33-1219. If the notarized statement is provided, the commissioner is
4 entitled to rely on this statement.

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

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

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

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

20 1. All proposed or promised subdivision improvements are completed.

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

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

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

35 G. If the subdivision is within an active management area, as
36 defined in section 45-402, the commissioner shall deny issuance of a
37 public report or the use of any exemption pursuant to section 32-2181.02,
38 subsection B unless the subdivider has been issued a certificate of
39 assured water supply by the director of water resources and has paid all
40 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
41 subdivider has obtained a written commitment of water service for the
42 subdivision from a city, town or private water company designated as
43 having an assured water supply by the director of water resources pursuant
44 to section 45-576 or is exempt from the requirement pursuant to section
45 45-576.

1 H. In areas outside of INITIAL active management areas, if the
2 subdivision is located in a county that has adopted the provision
3 authorized by section 11-823, subsection A or in a city or town that has
4 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
5 commissioner shall deny issuance of a public report or the use of any
6 exemption pursuant to section 32-2181.02, subsection B unless one of the
7 following applies:

8 1. The director of water resources has reported pursuant to section
9 45-108 that the subdivision has an adequate water supply.

10 2. The subdivider has obtained a written commitment of water
11 service for the subdivision from a city, town or private water company
12 designated as having an adequate water supply by the director of water
13 resources pursuant to section 45-108.

14 3. The plat was approved pursuant to an exemption authorized by
15 section 9-463.01, subsection K, pursuant to an exemption authorized by
16 section 11-823, subsection B, paragraph 1, pursuant to an exemption
17 granted by the director of water resources under section 45-108.02 and the
18 exemption has not expired or pursuant to an exemption granted by the
19 director of water resources under section 45-108.03.

20 4. The subdivision received final plat approval from the city, town
21 or county before the requirement for an adequate water supply became
22 effective in the city, town or county, and there have been no material
23 changes to the plat since the final plat approval. If changes were made
24 to the plat after the final plat approval, the director of water resources
25 shall determine whether the changes are material pursuant to the rules
26 adopted by the director to implement section 45-108.

27 I. A subdivider shall not sell or lease or offer for sale or lease
28 in this state any lots, parcels or fractional interests in a subdivision
29 without first obtaining a public report from the commissioner except as
30 provided in section 32-2181.01 or 32-2181.02, and a certificate of
31 administrative completeness issued pursuant to this section. Unless
32 exempt, the sale or lease of subdivided lands before issuance of the
33 public report or failure to deliver the public report to the purchaser or
34 lessee shall render the sale or lease rescindable by the purchaser or
35 lessee. An action by the purchaser or lessee to rescind the transaction
36 shall be brought within three years after the date of execution of the
37 purchase or lease agreement by the purchaser or lessee. In any rescission
38 action, the prevailing party is entitled to reasonable attorney fees as
39 determined by the court.

40 J. On a print advertisement in a magazine or newspaper or on an
41 internet advertisement that advertises a specific lot or parcel of a
42 subdivider, the subdivider shall include a disclosure stating that "a
43 public report is available on the state real estate department's website".

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

10 L. On the commissioner's own motion, or when the commissioner has
11 received a complaint and has satisfactory evidence that the subdivider or
12 the subdivider's agent is violating this article or the rules of the
13 commissioner or has engaged in any unlawful practice as defined in section
14 44-1522 with respect to the sale of subdivided lands or deviated from the
15 provisions of the public report, the commissioner may investigate the
16 subdivision project and examine the books and records of the
17 subdivider. For the purpose of examination, the subdivider shall keep and
18 maintain records of all sales transactions and funds received by the
19 subdivider pursuant to the sales transactions and shall make them
20 accessible to the commissioner on reasonable notice and demand.

21 M. On the commissioner's own motion, or when the commissioner has
22 received a complaint and has satisfactory evidence that any person has
23 violated this article or the rules of the commissioner or has engaged in
24 any unlawful practice as defined in section 44-1522 with respect to the
25 sale of subdivided lands or deviated from the provisions of the public
26 report or special order of exemption, or has been indicted for fraud or
27 against whom an information for fraud has been filed or has been convicted
28 of a felony, before or after the commissioner issues the public report as
29 provided in subsection A of this section, the commissioner may conduct an
30 investigation of the matter, issue a summary order as provided in section
31 32-2157, or provide notice and hold a public hearing and, after the
32 hearing, may issue the order or orders the commissioner deems necessary to
33 protect the public interest and ensure compliance with the law, rules or
34 public report or the commissioner may bring action in any court of
35 competent jurisdiction against the person to enjoin the person from
36 continuing the violation or engaging in or doing any act or acts in
37 furtherance of the violation. The court may make orders or judgments,
38 including the appointment of a receiver, ~~which~~ **THAT ARE** necessary to prevent the
39 use or employment by a person of any unlawful practices, or ~~which~~ **THAT** may
40 be necessary to restore to any person in interest any monies or property,
41 real or personal, that may have been acquired by means of any practice in
42 this article declared to be unlawful.

1 N. When it appears to the commissioner that a person has engaged in
2 or is engaging in a practice declared to be unlawful by this article and
3 that the person is concealing assets or self or has made arrangements to
4 conceal assets or is about to leave the state, the commissioner may apply
5 to the superior court, ex parte, for an order appointing a receiver of the
6 assets of the person or for a writ of ne exeat, or both.

7 O. The court, on receipt of an application for the appointment of a
8 receiver or for a writ of ne exeat, or both, shall examine the verified
9 application of the commissioner and other evidence that the commissioner
10 may present the court. If satisfied that the interests of the public
11 require the appointment of a receiver or the issuance of a writ of ne
12 exeat without notice, the court shall issue an order appointing the
13 receiver or issue the writ, or both. If the court determines that the
14 interests of the public will not be harmed by the giving of notice, the
15 court shall set a time for a hearing and require notice be given as the
16 court deems satisfactory.

17 P. If the court appoints a receiver without notice, the court shall
18 further direct that a copy of the order appointing a receiver be served on
19 the person engaged in or engaging in a practice declared to be unlawful
20 under this article by delivering the order to the last address of the
21 person that is on file with the state real estate department. The order
22 shall inform the person that the person has the right to request a hearing
23 within ten days after the date of the order and, if requested, the hearing
24 shall be held within thirty days after the date of the order.

25 Sec. 5. Section 32-2197.08, Arizona Revised Statutes, is amended to
26 read:

27 32-2197.08. Issuance of public report and amended public
28 report by commissioner on timeshare plan;
29 denial of issuance; additional information; use
30 of another state's public report

31 A. On examination of a timeshare plan, the commissioner, unless
32 there are grounds for denial, shall approve for use by the developer a
33 public report authorizing the sale or lease of the timeshare interests
34 within the timeshare plan. For all timeshare interests sold in this
35 state, the commissioner shall require the developer to reproduce the
36 public report and furnish each prospective customer with a copy, taking a
37 receipt for each copy. The public report shall be made available to each
38 prospective purchaser in written format either by electronic means or in
39 hard copy. The public report shall include the following:

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

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

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

1 4. A description of any accommodations and amenities that are
2 committed to be built, including:
3 (a) The developer's schedule of commencement and completion of all
4 accommodations and amenities.
5 (b) The estimated number of accommodations per site that may become
6 subject to the timeshare plan.
7 5. A brief description of the duration, phases and operation of the
8 timeshare plan.
9 6. The current annual budget if available or the projected annual
10 budget for the timeshare plan. The budget shall include:
11 (a) A statement of the amount or a statement that there is no
12 amount included in the budget as a reserve for repairs and replacement.
13 (b) The projected common expense liability, if any, by category of
14 expenditures for the timeshare plan.
15 (c) A statement of any services or expenses that are not reflected
16 in the budget and that the developer provides or pays.
17 7. A description of any liens, defects or encumbrances on or
18 affecting the title to the timeshare interests.
19 8. A statement that by midnight of the tenth calendar day after
20 execution of the purchase agreement a purchaser may cancel any purchase
21 agreement for a timeshare interest from a developer together with a
22 statement providing the name and street address where the purchaser should
23 mail any notice of cancellation. If, by agreement of the parties through
24 the purchase agreement, the purchase agreement allows for cancellation of
25 the purchase agreement for a period of time exceeding ten calendar days,
26 the public report shall include a statement that the cancellation of the
27 purchase agreement is allowed for that period of time exceeding ten
28 calendar days.
29 9. A description of any bankruptcies, pending suits, adjudications
30 or disciplinary actions material to the timeshare interests of which the
31 developer has knowledge.
32 10. Any restrictions on alienation of any number or portion of any
33 timeshare interests.
34 11. Any current or expected fees or charges to be paid by timeshare
35 purchasers for the use of any amenities related to the timeshare plan.
36 12. The extent to which financial arrangements have been provided
37 for completion of all promised improvements.
38 13. If the timeshare plan provides purchasers with the opportunity
39 to participate in any exchange programs, a description of the name and
40 address of the exchange companies and the method by which a purchaser
41 accesses the exchange programs.
42 14. Any other information that the developer, with the approval of
43 the commissioner, desires to include in the public report.

1 15. If the developer is offering a multisite timeshare plan, the
2 following information, which may be disclosed in a written, graphic or
3 tabular form:

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

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

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

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

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

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

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

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

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

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

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

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

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

42 16. If a developer offers a nonspecific timeshare interest in a
43 multisite timeshare plan, the information set forth in paragraphs 1
44 through 14 of this subsection as to each component site.

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

3 B. Except as otherwise provided in this subsection, the
4 requirements prescribed by subsection A of this section apply to a
5 developer's application for approval to use an amended public report for
6 the sale of timeshare interests in a timeshare plan, including an amended
7 public report to disclose and address a material change under section
8 32-2197.04. A developer may elect to prepare an amended public report for
9 use in the sale of timeshare interests as follows:

10 1. The developer shall prepare the amended public report and
11 provide a copy of the report to the commissioner with the submission of
12 the application for an amended public report, including any notification
13 required by section 32-2197.04, and shall comply with all other
14 requirements of this article.

15 2. An amendment filing fee established pursuant to section
16 32-2197.07 shall accompany the application prescribed by paragraph 1 of
17 this subsection.

18 3. On receipt of the application and amended public report, the
19 department shall review and, within fifteen business days if the amendment
20 adds less than six new component sites to the timeshare plan or within
21 thirty calendar days if the amendment adds six or more new component sites
22 to the timeshare plan, issue either a certification that the application
23 and amended public report are administratively complete or a denial letter
24 if it appears that the application, amended public report or timeshare
25 plan is not in compliance with all legal requirements, that the applicant
26 has a background of violations of state or federal law or that the
27 applicant or timeshare plan presents an unnecessary risk of harm to the
28 public. If the commissioner has received the application and amended
29 public report but has not issued a certification or a denial letter within
30 the required time period, the application and amended public report are
31 deemed administratively complete.

32 4. The developer may commence sales or leasing activities as
33 allowed under this article using an amended public report when the
34 commissioner issues a certification of administrative completeness or as
35 of the date the application and amended public report are deemed
36 administratively complete pursuant to paragraph 3 of this subsection. The
37 certification may be issued on paper or electronically.

38 5. Before or after the commissioner issues a certification of
39 administrative completeness or, if applicable, after the application and
40 amended public report are deemed to be administratively complete pursuant
41 to paragraph 3 of this subsection, the department may examine any public
42 report, timeshare plan or applicant that has applied for or received the
43 certification. If the commissioner determines that the public report,
44 timeshare plan or applicant is not in compliance with any requirement of
45 state law or that grounds exist under this chapter to suspend, deny or

1 revoke a public report, the commissioner may commence an administrative
2 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
3 immediately corrects the deficiency and fully complies with state law, the
4 commissioner shall promptly vacate any action that the commissioner may
5 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

6 6. The department shall provide forms and guidelines for the
7 submission of the application and amended public report pursuant to this
8 subsection.

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

13 1. Failure to comply with this article or the rules of the
14 commissioner pertaining to this article.

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

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

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

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

30 (b) Been permanently or temporarily enjoined by order, judgment or
31 decree from engaging in or continuing any conduct or practice in
32 connection with the sale or purchase of real estate, cemetery property,
33 timeshare interests, membership camping campgrounds or contracts, or
34 securities or involving consumer fraud or the ~~Arizona~~ racketeering laws ~~OF~~
35 ~~THIS STATE~~.

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

38 (d) Had an adverse decision or judgment entered against him
39 involving fraud or dishonesty or involving the conduct of any business in
40 or a transaction in real estate, cemetery property, timeshare interests or
41 membership camping campgrounds or contracts.

42 (e) Disregarded or violated this chapter or the rules of the
43 commissioner pertaining to this chapter.

1 (f) Participated in, operated or held an interest in any entity to
2 which subdivision (b), (c), (d), or (e) of this paragraph applies.

3 5. If within this state, the timeshare property is incompatible
4 with the existing neighborhood and would introduce into a neighborhood a
5 character of property or use that would clearly be detrimental to property
6 values in that neighborhood.

7 D. If the timeshare property is within an active management area,
8 as defined in section 45-402, the commissioner shall deny issuance of a
9 public report unless the developer has been issued a certificate of
10 assured water supply by the director of water resources and has paid all
11 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
12 developer has obtained a written commitment of water service for the
13 timeshare property from a city, town or private water company designated
14 as having an assured water supply by the director of water resources
15 pursuant to section 45-576.

16 E. In areas outside of INITIAL active management areas, if the
17 timeshare property is located in a county that has adopted the provision
18 authorized by section 11-823, subsection A or in a city or town that has
19 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
20 commissioner shall deny issuance of a public report unless one of the
21 following applies:

22 1. The director of water resources has reported pursuant to section
23 45-108 that the timeshare property has an adequate water supply.

24 2. The developer has obtained a written commitment of water service
25 for the timeshare property from a city, town or private water company
26 designated as having an adequate water supply by the director of water
27 resources pursuant to section 45-108.

28 3. The timeshare property was approved pursuant to an exemption
29 authorized by section 9-463.01, subsection K, pursuant to an exemption
30 authorized by section 11-823, subsection B, paragraph 1, pursuant to an
31 exemption granted by the director of water resources under section
32 45-108.02 and the exemption has not expired or pursuant to an exemption
33 granted by the director of water resources under section 45-108.03.

34 4. The subdivision received final plat approval from the city, town
35 or county before the requirement for an adequate water supply became
36 effective in the city, town or county, and there have been no material
37 changes to the plat since the final plat approval. If changes were made
38 to the plat after the final plat approval, the director of water resources
39 shall determine whether the changes are material pursuant to the rules
40 adopted by the director to implement section 45-108.

41 F. In addition to providing to each prospective customer a copy of
42 the public report as required in subsection A of this section, the
43 developer shall also provide to each customer before the close of any
44 transaction information and materials that identify any timeshare exchange
45 companies currently under contract and disclosure statements regarding the

1 use of the timeshare exchange companies, as well as any additional
2 information the commissioner deems appropriate.

3 G. The commissioner may authorize for use in this state by a
4 developer of a timeshare plan in which all accommodations are located
5 outside of this state a current public report that is issued by another
6 jurisdiction or an equivalent registration and disclosure document that is
7 required before offering a timeshare plan for sale, lease or use and that
8 is issued by another jurisdiction. This authorization does not constitute
9 an exemption from other applicable requirements of this article.

10 Sec. 6. Section 45-108, Arizona Revised Statutes, is amended to
11 read:

12 45-108. Evaluation of subdivision water supply; definition

13 A. In areas outside of INITIAL active management areas established
14 pursuant to chapter 2, article 2 of this title, the developer of a
15 proposed subdivision including dry lot subdivisions, regardless of
16 subdivided lot size, ~~prior to recordation of~~ BEFORE RECORDING the plat,
17 shall submit plans for the water supply for the subdivision and
18 demonstrate the adequacy of the water supply to meet the needs projected
19 by the developer to the director. The director shall evaluate the plans
20 and issue a report on the plans.

21 B. The director shall evaluate the proposed source of water for the
22 subdivision to determine whether there is an adequate water supply for the
23 subdivision, and shall forward a copy of the director's report to the
24 state real estate commissioner and the city, town or county responsible
25 for platting the subdivision.

26 C. The director may designate cities, towns and private water
27 companies as having an adequate water supply by reporting that designation
28 to the water department of the city or town or private water company and
29 the state real estate commissioner.

30 D. As an alternative to designation under subsection C of this
31 section, the director may designate a city or town that has entered into a
32 contract with the United States secretary of the interior or a county
33 water authority established pursuant to chapter 13 of this title for
34 permanent supplies of Colorado river water for municipal and industrial
35 use as having an adequate water supply if all of the following apply:

36 1. The city or town has entered into a contract with each private
37 water company that serves water within the city or town to provide
38 Colorado river water to those private water companies.

39 2. The Colorado river water for which the city or town has
40 contracted is sufficient together with other water supplies available to
41 the city or town and the private water companies that serve water within
42 that city or town to provide an adequate supply of water for the city or
43 town.

1 3. The director finds that new subdivisions within the city or town
2 will be served primarily with Colorado river water by the city or town or
3 one of the private water companies that serve water within that city or
4 town.

5 E. The director shall not require a developer to submit plans for
6 the water supply pursuant to subsection A of this section if either:

7 1. Both of the following apply:

8 (a) The developer has obtained a written commitment of water
9 service from cities, towns or private water companies that have been
10 designated as having an adequate water supply.

11 (b) That city, town or private water company has been designated as
12 having an adequate water supply pursuant to subsection C of this section.

13 2. All of the following apply:

14 (a) The city or town has been designated as having an adequate
15 water supply pursuant to subsection D of this section.

16 (b) The developer has obtained a written commitment of water
17 service from the city or town or a private water company that serves water
18 within that city or town.

19 (c) The developer has obtained the written concurrence of the city
20 or town that has been designated.

21 F. The director may revoke a designation made pursuant to this
22 section when the director finds that the water supply may become
23 inadequate.

24 G. ~~The~~ THIS state ~~of Arizona~~ and the director or department shall
25 not be liable for any report, designation or evaluation prepared in good
26 faith pursuant to this section.

27 H. If the director receives written notice from the board of
28 supervisors of a county that it has adopted the provision authorized by
29 section 11-823, subsection A, the director shall give written notice of
30 the provision to the mayors of all cities and towns in the county. A city
31 or town that receives the notice shall comply with section 9-463.01,
32 subsections J, K, L, M and N.

33 I. For the purposes of this section, "adequate water supply" means
34 both of the following:

35 1. Sufficient groundwater, surface water or effluent of adequate
36 quality will be continuously, legally and physically available to satisfy
37 the water needs of the proposed use for at least one hundred years.

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

1 Sec. 7. Section 45-420, Arizona Revised Statutes, is amended to
2 read:

3 45-420. Groundwater users advisory councils; appointment;
4 representation of water users; term; removal;
5 recall; compensation

6 A. There shall be a groundwater users advisory council in each
7 active management area consisting of five members.

8 B. IN AN INITIAL ACTIVE MANAGEMENT AREA, members of the council
9 shall be appointed by the governor to represent the users of groundwater
10 in the active management area and on the basis of their knowledge of,
11 interest in and experience with problems relating to the development, use
12 and conservation of water.

13 C. IN A SUBSEQUENT ACTIVE MANAGEMENT AREA, MEMBERS OF THE COUNCIL
14 SHALL BE:

15 1. GROUNDWATER USERS IN THE SUBSEQUENT ACTIVE MANAGEMENT AREA.

16 2. RESIDENTS OF THIS STATE.

17 3. APPOINTED BY THE UNANIMOUS VOTE OF THE COUNTY BOARD OF
18 SUPERVISORS OF THE COUNTY WHERE THE MAJORITY OF THE ACRES IN THE
19 SUBSEQUENT ACTIVE MANAGEMENT AREA ARE LOCATED TO REPRESENT THE USERS OF
20 GROUNDWATER IN THE SUBSEQUENT ACTIVE MANAGEMENT AREA AND ON THE BASIS OF
21 THEIR KNOWLEDGE OF, INTEREST IN AND EXPERIENCE WITH PROBLEMS RELATING TO
22 THE DEVELOPMENT, USE AND CONSERVATION OF WATER.

23 ~~B.~~ D. The term of office of each member is six years. The terms
24 of two members shall expire on the third Monday of January each ~~even~~
25 ~~numbered~~ EVEN-NUMBERED year, except that each third ~~even-numbered~~
26 EVEN-NUMBERED year the term of one member shall expire.

27 ~~C.~~ E. Members of the council shall serve without compensation,
28 except that each member shall be reimbursed for travel and subsistence
29 while engaged in business of the council in the same manner as is provided
30 by law for state officers.

31 F. IF A COUNCIL MEMBER POSITION IS VACATED, THE APPOINTING
32 AUTHORITY SHALL APPOINT A NEW MEMBER. IN AN INITIAL ACTIVE MANAGEMENT
33 AREA A COUNCIL MEMBER MAY BE REMOVED ONLY FOR CAUSE. IN A SUBSEQUENT
34 ACTIVE MANAGEMENT AREA A COUNCIL MEMBER MAY BE REMOVED FOR CAUSE OR BY
35 RECALL ELECTION AS PROVIDED IN SUBSECTION G OF THIS SECTION. A COUNCIL
36 MEMBER WHO IS REMOVED OR RECALLED FROM OFFICE IS NOT ELIGIBLE FOR
37 APPOINTMENT ON ANY GROUNDWATER USERS ADVISORY COUNCIL.

38 G. IN A SUBSEQUENT ACTIVE MANAGEMENT AREA A COUNCIL MEMBER SHALL BE
39 SUBJECT TO RECALL CONSISTENT WITH THE PROCEDURE PRESCRIBED IN TITLE 19,
40 CHAPTER 2. THE NUMBER OF QUALIFIED ELECTORS NECESSARY TO PETITION TO HOLD
41 A RECALL ELECTION SHALL BE EQUAL TO TWENTY-FIVE PERCENT OF THE VOTES CAST
42 FOR ALL CANDIDATES FOR GOVERNOR IN THE SUBSEQUENT ACTIVE MANAGEMENT AT THE
43 GENERAL ELECTION LAST PRECEDING THE FILING OF ANY RECALL PETITION. IF A
44 RECALL ELECTION IS HELD AND ONE OR MORE OTHER CANDIDATES FILE A NOMINATION
45 PETITION FOR THE COUNCIL MEMBER POSITION AS PRESCRIBED BY SECTION 19-212,

1 THE CANDIDATE THAT RECEIVES THE LARGEST NUMBER OF VOTES SHALL SERVE THE
2 REMAINDER OF THE TERM, AND THE COUNCIL MEMBER POSITION REMAINS AS AN
3 APPOINTED OFFICE, SUBJECT TO REMOVAL FOR CAUSE.

4 Sec. 8. Section 45-421, Arizona Revised Statutes, is amended to
5 read:

6 45-421. Administrative duties of the groundwater users
7 advisory councils

8 ~~The~~ EACH groundwater users advisory council shall:

9 1. Advise the area director for the active management area, make
10 recommendations on groundwater management programs and policies for the
11 active management area and comment to the area director and to the
12 director on draft management plans for the active management area before
13 they are ~~promulgated~~ ADOPTED by the director.

14 2. Keep the minutes of its meetings and all records, reports and
15 other information relative to its work and programs in permanent form
16 indexed and systematically filed.

17 3. Elect from its members a ~~chairman~~ CHAIRPERSON and ~~vice-chairman~~
18 VICE CHAIRPERSON for terms of two years expiring on the third Monday of
19 January of each ~~even-numbered~~ EVEN-NUMBERED year.

20 4. Designate the person or persons who shall execute all documents
21 and instruments on behalf of the council.

22 5. Manifest and record its actions by motion, resolution or other
23 appropriate means.

24 6. Make a complete record of its proceedings which shall be open to
25 public inspection during regular business hours in the branch office of
26 the department in the active management area.

27 7. Provide comment to the Arizona water banking authority with
28 regard to draft plans for additional storage facilities and draft plans of
29 operation in accordance with sections 45-2453 and 45-2456.

30 8. IN A SUBSEQUENT ACTIVE MANAGEMENT AREA, ADOPT A MANAGEMENT GOAL
31 AND MANAGEMENT PLAN PURSUANT TO SECTION 45-569.

32 Sec. 9. Section 45-452, Arizona Revised Statutes, is amended to
33 read:

34 45-452. No new irrigated acreage in active management areas;
35 central Arizona project water; exemption

36 A. In an initial active management area, except as provided in
37 subsections B, H, I and J of this section and sections 45-172, 45-465.01
38 and 45-465.02, only acres of land which were legally irrigated at any time
39 from January 1, 1975 through January 1, 1980, which are capable of being
40 irrigated, which have not been retired from irrigation for a
41 non-irrigation use pursuant to section 45-463 or 45-469 and for which the
42 irrigation grandfathered right has not been conveyed for a non-irrigation
43 use, may be irrigated with any groundwater, effluent, diffused water on
44 the surface or surface water, except that this does not prohibit
45 irrigation with surface water used pursuant to decreed or appropriative

1 rights established before June 12, 1980. In an initial active management
2 area, land which was not irrigated at any time from January 1, 1975
3 through January 1, 1980 is deemed to have been in irrigation if the
4 director finds that either of the following applies:

5 1. In areas of an initial active management area not designated as
6 critical groundwater areas under prior statutory law ~~prior to~~ BEFORE the
7 date of the designation of the active management area, land is deemed to
8 have been in irrigation if substantial capital investment has been made
9 for the subjugation of such land for an irrigation use including on-site
10 irrigation distribution facilities and a well or wells the drilling and
11 construction of which were substantially commenced ~~prior to~~ BEFORE the
12 date of the designation of the active management area.

13 2. In areas of an initial active management area which were
14 designated as critical groundwater areas under prior statutory law, land
15 is deemed to have been in irrigation if substantial capital investment has
16 been made in the twelve months before June 12, 1980 for the improvement of
17 the land and on-site irrigation distribution facilities, including the
18 drilling of wells, for an irrigation use. This paragraph does not allow
19 irrigation of land which could not have been legally irrigated under prior
20 statutory law.

21 B. In an initial active management area, a person who owns acres of
22 land which may be irrigated pursuant to subsection A of this section may
23 apply to the director to permanently retire all or a portion of such acres
24 from irrigation and to irrigate conjunctively with central Arizona project
25 water the same number of substitute acres. The director may approve the
26 substitution of acres if the director determines that all of the following
27 exist:

28 1. The substitute acres were legally irrigated during the period of
29 September 30, 1958 to September 30, 1968, or such other period as the
30 United States secretary of the interior may designate.

31 2. The acres to be retired from irrigation and the substitute acres
32 are located outside of the exterior boundaries of the service area of a
33 city, town or private water company and such acres are located within the
34 same irrigation district and the same ~~sub-basin~~ SUBBASIN.

35 3. The substitution of acres is necessary to enable the irrigation
36 district within which the acres are located to more efficiently deliver
37 central Arizona project water.

38 4. Central Arizona project water available to the irrigation
39 district within which the acres are located will be adequate to supply the
40 substitute acres.

41 5. The substitution of acres will benefit the management of the
42 active management area in which the acres are located.

43 C. Any acres permanently retired from irrigation pursuant to
44 subsection B of this section relinquish their irrigation grandfathered
45 rights, and such rights are deemed to be appurtenant to the substitute

1 acres. Groundwater withdrawn or received for the irrigation of the
2 substitute acres pursuant to an irrigation grandfathered right shall be
3 reduced by the amount of central Arizona project water received for such
4 acres.

5 D. The service area of the irrigation district in which the acres
6 are located shall be modified to permanently delete the acres permanently
7 retired from irrigation and include the substitute acres.

8 E. If a person retires land from irrigation pursuant to subsection
9 B of this section, groundwater shall not be withdrawn from such retired
10 land for any purpose unless pursuant to a groundwater withdrawal permit or
11 unless withdrawn by a city, town or private water company within the
12 service area of such city, town or private water company.

13 F. The director may reverse the substitution of irrigated acres as
14 provided by subsections B through E of this section under the following
15 conditions and procedures:

16 1. Title to the retired acres and substitute acres has reverted
17 involuntarily, or voluntarily in lieu of foreclosure or forfeiture, to a
18 previous owner or owners of the retired and substitute acres.

19 2. The current owner of the retired acres must apply to the
20 director in writing stating:

21 (a) The history of the original substitution of acres under
22 subsections B through E of this section.

23 (b) The circumstances regarding the reversion of title to the
24 current owner or owners.

25 (c) Why reversal of the substitution of acres is necessary.

26 3. The director must find that reversing the substitution of acres:

27 (a) Will benefit the management of the active management area.

28 (b) Is necessary to prevent unreasonable hardship to the current
29 owner of the retired acres.

30 (c) Will not cause unreasonable hardship to the current owner of
31 the substitute acres, if owned separately from the retired acres.

32 4. If the director decides to reverse the substitution of acres:

33 (a) The originally retired irrigation acres regain their original
34 irrigation grandfathered rights, but groundwater withdrawn or received for
35 the irrigation of those acres pursuant to an irrigation grandfathered
36 right shall be reduced by any amount of central Arizona project water
37 received for such acres.

38 (b) The substitute acres relinquish all irrigation grandfathered
39 rights that were transferred to them under the original substitution of
40 acres.

41 (c) The service area of the irrigation district in which the acres
42 are located shall be modified to delete the substitute acres and include
43 the originally retired irrigation acres.

1 (d) Groundwater may not thereafter be withdrawn from the substitute
2 acres for any purpose unless pursuant to a groundwater withdrawal permit
3 or unless withdrawn by a city, town or private water company within its
4 service area.

5 G. In a subsequent active management area, except as provided in
6 subsections H, I and J of this section or section 45-172, only acres of
7 land which were legally irrigated at any time during the five years
8 preceding the date of the notice of the initiation of designation
9 procedures or the call for the election, which are capable of being
10 irrigated, which have not been retired from irrigation for a non-
11 irrigation use pursuant to section 45-463 or 45-469 and for which the
12 irrigation grandfathered right has not been conveyed for a non-irrigation
13 use, ~~may~~ may be irrigated with groundwater, effluent, diffused water on the
14 surface or surface water, except that this does not prohibit irrigation
15 with surface water used pursuant to decreed or appropriative rights
16 established before the date of the notice or the call. In a subsequent
17 active management area, land is deemed to have been in irrigation if the
18 director finds that ~~either~~ ONE of the following applies:

19 1. In areas of a subsequent active management area which were not
20 irrigation non-expansion areas, land GREATER THAN THREE HUNDRED TWENTY
21 ACRES is deemed to have been in irrigation if substantial capital
22 investment has been made for the subjugation of such land for an
23 irrigation use including on-site irrigation distribution facilities and a
24 well or wells the drilling and construction of which were substantially
25 commenced before the date of the notice of the initiation of designation
26 procedures or the call for the election.

27 2. In areas of a subsequent active management area which were
28 irrigation non-expansion areas, land GREATER THAN THREE HUNDRED TWENTY
29 ACRES is deemed to have been in irrigation if the director finds that
30 substantial capital investment has been made in the twelve months before
31 the date of the notice of the initiation of designation procedures or the
32 call for the election, for the improvement of the land and on-site
33 irrigation distribution facilities, including the drilling of wells, for
34 an irrigation use. This paragraph does not allow irrigation of land which
35 could not have been legally irrigated under section 45-437.

36 3. IN A SUBSEQUENT ACTIVE MANAGEMENT AREA, LAND EQUAL TO OR LESS
37 THAN THREE HUNDRED TWENTY ACRES IS DEEMED TO HAVE BEEN IN IRRIGATION IF
38 THE DIRECTOR FINDS THAT SUBSTANTIAL CAPITAL INVESTMENT HAS BEEN MADE IN
39 THE FIVE YEARS BEFORE THE DATE OF THE NOTICE OF THE INITIATION OF
40 DESIGNATION PROCEDURES OR THE CALL FOR THE ELECTION, OR THE SUBJUGATION OR
41 IMPROVEMENT OF SUCH LAND FOR AN IRRIGATION USE, INCLUDING ON-SITE
42 IRRIGATION DISTRIBUTION FACILITIES AND DRILLING OF WELLS. THIS PARAGRAPH
43 DOES NOT ALLOW IRRIGATION OF LAND THAT COULD NOT HAVE BEEN LEGALLY
44 IRRIGATED UNDER SECTION 45-437.

1 H. In an active management area, a state university engaged in the
2 teaching and study of and experimentation in the science of agriculture
3 may irrigate not more than three hundred twenty acres of land for such
4 purposes with not more than five acre-feet of groundwater per acre per
5 year. Water produced from any well pursuant to this subsection shall not
6 be leased, sold or transported off the irrigated land operated by the
7 state university. The right to withdraw and use groundwater pursuant to
8 this subsection does not require a withdrawal permit, is not a
9 grandfathered right, shall not give rise to a grandfathered right and may
10 not be conveyed to any other user.

11 I. In an active management area, a correctional facility under the
12 jurisdiction of the state department of corrections may irrigate with
13 groundwater, effluent, diffused water on the surface or surface water up
14 to a total of ten acres of land that otherwise may not be irrigated
15 pursuant to subsection A or G of this section if the irrigation is for the
16 purpose of producing plants or parts of plants for consumption by inmates
17 at the correctional facility as part of a prisoner work program and if the
18 correctional facility notifies the director of water resources in writing
19 of the location of the acres of land to be irrigated ~~prior to~~ BEFORE
20 their irrigation. The actual number of acres of land that a correctional
21 facility may irrigate pursuant to this subsection shall be calculated by
22 subtracting the number of acres of land the correctional facility may
23 already irrigate under subsection A or G of this section from ten. The
24 amount of water that a correctional facility may use during a year to
25 irrigate acres of land pursuant to this subsection shall not exceed an
26 amount calculated by multiplying the number of acres of land that are
27 actually irrigated by the correctional facility during the year pursuant
28 to this subsection, ~~by~~ by four and one-half acre-feet of water. The right
29 to withdraw and use groundwater pursuant to this subsection does not
30 require an irrigation grandfathered right, is not a grandfathered right,
31 shall not give rise to a grandfathered right, ~~and~~ and may not be conveyed to
32 any other user.

33 J. During the second management period, acres of land in an active
34 management area which have been retired from irrigation for a
35 non-irrigation use pursuant to section 45-463 or 45-469 or for which the
36 irrigation grandfathered right has been conveyed for a non-irrigation use
37 pursuant to section 45-472 may be irrigated with effluent, other than
38 effluent recovered pursuant to a recovery well permit issued under chapter
39 3.1 of this title or effluent given or received pursuant to a water
40 exchange under chapter 4 of this title, and shall retain its appurtenant
41 type 1 non-irrigation grandfathered right where the following conditions
42 are met:

43 1. The land to be irrigated lies within the boundaries of an
44 incorporated city or town.

1 2. The governing body or manager of the city or town has consented
2 in writing to the irrigation of the land with effluent.

3 3. The effluent proposed for irrigation of the land cannot be
4 reasonably beneficially used otherwise.

5 4. The owner of the land gives written notice to the director of
6 intention to irrigate the land with effluent and receives written approval
7 from the director before commencing irrigation. The notice shall set
8 forth the legal description of the land to be irrigated, the certificate
9 number of the type 1 non-irrigation grandfathered right appurtenant to the
10 land, the source of effluent and the reasons the effluent cannot be
11 reasonably beneficially used otherwise, and shall be accompanied by a
12 copy of the written consent of the city or town in which the land to be
13 irrigated is located.

14 K. A person who may irrigate with effluent land to which a type 1
15 non-irrigation right is appurtenant under subsection J of this section may
16 relinquish the right to irrigate all or a portion of the land by giving
17 the director written notice that the person relinquishes the right. The
18 notice shall include a legal description of the acres to be
19 relinquished. The relinquishment is effective upon receipt of the notice
20 by the director.

21 L. If a person who may irrigate with effluent land to which a type
22 1 non-irrigation grandfathered right is appurtenant under subsection J of
23 this section conveys all or a portion of the land to a successor owner,
24 the successor owner shall not irrigate the land prior to providing written
25 notification to the director of the successor owner's intention to
26 irrigate the land and receiving approval from the director pursuant to
27 subsection J of this section.

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

33 Sec. 10. Title 45, chapter 2, article 5, Arizona Revised Statutes,
34 is amended by adding sections 45-465.05, 45-465.06, 45-465.07 and
35 45-465.08, to read:

36 45-465.05. Addition of acres; subsequent active management
37 areas; definition

38 A. A PERSON THAT OWNS ACRES OF LAND WITHIN A SUBSEQUENT ACTIVE
39 MANAGEMENT AREA DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
40 RIGHT THAT HAVE NOT BEEN RETIRED FROM IRRIGATION FOR A NON-IRRIGATION USE
41 PURSUANT TO SECTION 45-463 OR 45-469 MAY APPLY TO THE DIRECTOR TO ADD
42 ACRES OF LAND WITHIN THE SAME GROUNDWATER BASIN OR SUBBASIN TO THE
43 PERSON'S CERTIFICATE OF IRRIGATION GRANDFATHERED RIGHT. THE OWNER OR
44 LESSEE OF THE ADDITIONAL ACRES SHALL HAVE THE RIGHT TO USE GROUNDWATER TO
45 IRRIGATE THE ADDITIONAL ACRES.

1 B. IF A PERSON ADDS ACRES TO A CERTIFICATE OF IRRIGATION
2 GRANDFATHERED RIGHT PURSUANT TO THIS SECTION, THE IRRIGATION GRANDFATHERED
3 RIGHTS ARE APPURTENANT TO THE ORIGINAL CERTIFICATED ACRES AND THE
4 ADDITIONAL ACRES. THE MAXIMUM AMOUNT OF GROUNDWATER A PERSON MAY USE TO
5 IRRIGATE THE ORIGINAL CERTIFICATED ACRES AND THE ADDITIONAL ACRES MAY NOT
6 EXCEED THE MAXIMUM AMOUNT OF GROUNDWATER AS DETERMINED FOR THE ORIGINAL
7 CERTIFICATED ACRES PURSUANT TO SECTION 45-465.

8 C. FOR THE PURPOSES OF THIS SECTION, "ORIGINAL CERTIFICATED ACRES"
9 MEANS THE ACRES DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
10 RIGHT BEFORE THE ADDITION OF ACRES AS DETERMINED PURSUANT TO SECTION
11 45-465.

12 45-465.06. Substitution of acres; subsequent active
13 management areas

14 A. A PERSON THAT OWNS ACRES OF LAND WITHIN A SUBSEQUENT ACTIVE
15 MANAGEMENT AREA DESCRIBED ON A CERTIFICATE OF IRRIGATION GRANDFATHERED
16 RIGHT THAT HAVE NOT BEEN RETIRED FROM IRRIGATION FOR A NON-IRRIGATION USE
17 PURSUANT TO SECTION 45-463 OR 45-469 MAY APPLY TO THE DIRECTOR TO RETIRE
18 ALL OR A PORTION OF THE PERSON'S ACRES FROM IRRIGATION AND SUBSTITUTE THE
19 RETIRED ACRES FOR OTHER ACRES WITHIN THE SAME GROUNDWATER BASIN OR
20 SUBBASIN.

21 B. ANY PERSON THAT RETIRES ACRES FROM IRRIGATION PURSUANT TO THIS
22 SECTION SHALL RELINQUISH THE IRRIGATION GRANDFATHERED RIGHTS FOR THE
23 RETIRED ACRES. IRRIGATION GRANDFATHERED RIGHTS GAINED THROUGH
24 SUBSTITUTION AS PRESCRIBED BY THIS SECTION ARE APPURTENANT TO THE
25 SUBSTITUTE ACRES. THE OWNER OR LESSEE OF THE SUBSTITUTE ACRES SHALL HAVE
26 THE RIGHT TO USE GROUNDWATER TO IRRIGATE THE SUBSTITUTE ACRES BASED ON THE
27 CALCULATION OF THE IRRIGATION GRANDFATHERED RIGHTS FOR THE RETIRED ACRES
28 AS DETERMINED PURSUANT TO SECTION 45-465.

29 45-465.07. Conveyance of irrigation grandfathered rights;
30 subsequent active managements areas

31 A. THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT IN A SUBSEQUENT
32 ACTIVE MANAGEMENT AREA MAY RETIRE FROM IRRIGATION ALL OR A PORTION OF THE
33 ACRES THAT THE RIGHT IS APPURTENANT AND CONVEY THE RIGHT FOR IRRIGATION
34 USE ON OTHER LAND IN THE SAME GROUNDWATER BASIN OR SUBBASIN.

35 B. THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT THAT RETIRES ANY
36 ACRES FROM IRRIGATION PURSUANT TO THIS SECTION SHALL RELINQUISH THEIR
37 IRRIGATION GRANDFATHERED RIGHTS FOR THE RETIRED ACRES. ONCE A PERSON
38 RETIRES AND CONVEYS AN IRRIGATION GRANDFATHERED RIGHT AS PROVIDED IN THIS
39 SECTION, THE IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT TO THE LAND TO
40 WHERE THE RIGHT IS CONVEYED. THE AMOUNT OF AN IRRIGATION GRANDFATHERED
41 RIGHT THAT IS CONVEYED SHALL BE THE CURRENT MAXIMUM AMOUNT OF GROUNDWATER
42 THAT AN IRRIGATION GRANDFATHER MAY USE PURSUANT TO THE ACRES ATTACHED TO
43 THE RETIRED ACRES AS DETERMINED PURSUANT TO SECTION 45-465.

1 45-465.08. Combination of irrigation grandfathered rights:
2 subsequent active management areas

3 A. THE OWNER OF MORE THAN ONE IRRIGATION GRANDFATHERED RIGHT IN A
4 SUBSEQUENT ACTIVE MANAGEMENT AREA MAY APPLY TO THE DIRECTOR TO COMBINE
5 MULTIPLE IRRIGATION GRANDFATHERED RIGHTS IN THE SAME GROUNDWATER BASIN OR
6 SUBBASIN THAT ARE FARMED BY THE SAME OWNER OR BY ANY PERSON ENTITLED TO
7 USE GROUNDWATER PURSUANT TO THE PERSON'S IRRIGATION GRANDFATHERED RIGHTS.

8 B. THE IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT TO THE
9 CERTIFICATED ACRES DESCRIBED IN THE PERSON'S IRRIGATION GRANDFATHERED
10 RIGHTS THAT ARE COMBINED. THE MAXIMUM AMOUNT OF GROUNDWATER THAT A PERSON
11 MAY USE TO IRRIGATE THE COMBINED CERTIFICATED ACRES IS THE SUM OF THE
12 MAXIMUM AMOUNT OF GROUNDWATER THAT A PERSON MAY USE TO IRRIGATE THE
13 CERTIFICATED ACRES FOR EACH INDIVIDUAL IRRIGATION GRANDFATHERED RIGHT THAT
14 IS COMBINED AS DETERMINED PURSUANT TO SECTION 45-465.

15 Sec. 11. Section 45-569, Arizona Revised Statutes, is amended to
16 read:

17 45-569. Management goals and management plans for subsequent
18 active management areas; definition

19 A. Within thirty days ~~of~~ AFTER the designation of a subsequent
20 active management area pursuant to article 2 of this chapter, the COUNCIL
21 IN CONSULTATION WITH THE director shall establish a management goal for
22 the active management area and the number of years in which the goal is to
23 be achieved. THE DIRECTOR SHALL PROVIDE TECHNICAL AND LEGAL SUPPORT TO
24 THE COUNCIL ON REQUEST. IF THE SUBSEQUENT ACTIVE MANAGEMENT AREA IS
25 LOCATED IN A BASIN OR SUBBASIN WHERE THERE IS NO FEASIBLE ALTERNATIVE
26 WATER SUPPLY, THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA MAY NOT BE
27 SAFE YIELD.

28 B. Not later than two years after the designation of a subsequent
29 active management area, the COUNCIL IN CONSULTATION WITH THE director
30 shall ~~promulgate~~ ADOPT an initial management plan for the active
31 management area and may provide for subsequent management plans to be
32 promulgated during the time set for achieving the management goal. If the
33 ~~director~~ COUNCIL determines that active management is necessary to
34 preserve the existing supply of groundwater for future needs or that land
35 subsidence or fissuring is endangering property or potential groundwater
36 storage capacity, the ~~director~~ COUNCIL, in developing the plan or plans,
37 shall include measures for reducing groundwater withdrawals ~~which~~ THAT
38 follow as closely as practicable the program set forth in sections 45-564
39 through 45-568. If the ~~director~~ COUNCIL determines that active management
40 is necessary because the use of groundwater is resulting in actual or
41 threatened groundwater quality degradation, the ~~director shall~~ COUNCIL, in
42 cooperation with the department of environmental quality, SHALL include in
43 the plan or plans a program for prevention or amelioration of groundwater
44 quality problems and a schedule for implementation of the proposed
45 solutions. The ~~director~~ COUNCIL shall submit such program to the

1 legislature for any necessary enabling legislation or coordination with
2 existing programs of the department of environmental quality.

3 C. All management plans, including the management goal, for a
4 subsequent active management area, shall be adopted only after public
5 hearings pursuant to sections 45-570 and 45-571 AND REVIEW BY THE DIRECTOR
6 FOR TECHNICAL, ECONOMIC AND LEGAL FEASIBILITY.

7 D. FOR THE PURPOSES OF THIS SECTION, "COUNCIL" MEANS THE
8 GROUNDWATER USERS ADVISORY COUNCIL FOR A SUBSEQUENT ACTIVE MANAGEMENT AREA
9 ESTABLISHED PURSUANT TO SECTION 45-420.

10 Sec. 12. Section 45-576, Arizona Revised Statutes, is amended to
11 read:

12 45-576. Certificate of assured water supply; designated
13 cities, towns and private water companies;
14 exemptions; definition

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

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

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

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

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

6 D. The director shall designate private water companies in INITIAL
7 active management areas that have an assured water supply. If a city or
8 town acquires a private water company that has contracted for central
9 Arizona project water, the city or town shall assume the private water
10 company's contract for central Arizona project water.

11 E. The director shall designate cities and towns in INITIAL active
12 management areas where an assured water supply exists. If a city or town
13 has entered into a contract for central Arizona project water, the city or
14 town is deemed to continue to have an assured water supply until December
15 31, 1997. Commencing on January 1, 1998, the determination that the city
16 or town has an assured water supply is subject to review by the director
17 and the director may determine that a city or town does not have an
18 assured water supply.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 M. For the purposes of this section, "assured water supply" means
39 all of the following:

40 1. Sufficient groundwater, surface water or effluent of adequate
41 quality will be continuously available to satisfy the water needs of the
42 proposed use for at least one hundred years. Beginning January 1 of the
43 calendar year following the year in which a groundwater replenishment
44 district is required to submit its preliminary plan pursuant to section
45 45-576.02, subsection A, paragraph 1, with respect to an applicant that is

1 a member of the district, "sufficient groundwater" for the purposes of
2 this paragraph means that the proposed groundwater withdrawals that the
3 applicant will cause over a period of one hundred years will be of
4 adequate quality and will not exceed, in combination with other
5 withdrawals from land in the replenishment district, a depth to water of
6 one thousand feet or the depth of the bottom of the aquifer, whichever is
7 less. In determining depth to water for the purposes of this paragraph,
8 the director shall consider the combination of:

- 9 (a) The existing rate of decline.
10 (b) The proposed withdrawals.
11 (c) The expected water requirements of all recorded lots that are
12 not yet served water and that are located in the service area of a
13 municipal provider.

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

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