

PINAL AMA - DRAFT LEGISLATIVE LANGUAGE TO ADDRESS IMMEDIATELY ACTIONABLE SOLUTIONS

Re-Issuance of Certificate of Assured Supply in Pinal active management area

Issue: There are many Certificates of Assured Water Supply (Certificates) issued with nothing built on them in the Pinal Active Management Area (AMA). These Certificates are tied to specific plats, often plats that are outdated in today's market. The rules that provide for plat changes have many limitations that can be a barrier to plat changes that can be a reduction in water committed under an existing Certificate.

Solution: Create a statute that specifically allows for re-issuance of Certificates for plat changes that use the same or less water than the original.

Detail: Over 20,000 lots associated with specific plats and are tied to Certificates in the Pinal AMA that have nothing built on them. Criteria in Rule exist that allow for plat changes and the reissuance of Certificates, however, portions of the Rule and not based in water use, but rather lot counts. Today's new homes use significantly less water than new constructs years ago and many Certificates. By focusing only on water use we are able to lift these restrictions to plats in the Pinal AMA.

- The bill provides criteria on which a Certificate can be reissued.
- Re-issuances can be for plat changes as long as the new plat will use the same or less water.
- Re-issuances must be for the same land or a portion of the land covered in the original Certificate – no new land can be added.
- If the re-issuance is for a portion of the land, only the volume of water associated with the portion and its original planned use can be reissued. The remaining volume of water will be reserved for a re-issuance of the remaining piece of land.

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§45-576. ___ RE-ISSUANCE OF CERTIFICATES OF ASSURED WATER SUPPLY IN THE PINAL ACTIVE MANAGEMENT AREA

- A. If the Director previously issued a certificate for a subdivision in the Pinal active management area, the Director shall issue a new certificate to an applicant based on the following criteria:
1. The applicant is the current owner, as demonstrated by a title commitment issued within 90 days of the date of the application, of all or a portion of the land base described in the existing certificate, whether or not the applicant's name appears on the existing certificate;
 2. The plat for the subdivision for which the previous certificate was issued remains unchanged, or any changes to the plat, as identified in an updated plat submitted with the application, are not material, according to the criteria set forth in this section;
 3. If groundwater is a proposed source of supply for the sub-division, the proposed groundwater withdrawals identified in the existing certificate shall be deemed physically and continuously available at the time of the re-issuance application;
 4. If any proposed source of water other than groundwater supported the existing certificate, the director may require proof that those sources of supply remain physically, continuously and legally available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in rules adopted by the director;
 5. If the proposed subdivision is intended to be served by a municipal provider, and the notice of intention to serve by that provider is dated more than two years before the re-issuance application, the director may require an updated notice of intent to serve from the municipal provider;
 6. The proposed uses of groundwater withdrawn within the Pinal Active Management Area under the existing certificate shall be deemed to be consistent with the achievement of the management goal; and
 7. The applicant shall demonstrate that the requirements of adequacy of water quality, financial capability and consistency with the management plan of the Pinal active management area are met according to the criteria in rules adopted by the director at the time of the re-issuance application.
- B. For purposes of this section, the certificate shall be re-issued based upon the revised plat submitted with the application, if different than the original plat, so long as the changes in the plat have not resulted in either (i) the addition of land outside the boundaries of the original plat; or (ii) a projected use of water greater than the volume of water identified in the existing certificate. The applicant may use standard methods of determining water demand as required by the director under rules and procedures in effect at the time of the

re-issuance application. An increase or decrease in the number of total lots within the subdivision, or the mix of commercial, multi-family and single family dwellings within the plat shall not be considered a material change if the total projected water demand remains the same or less than the original volume.

- C. If the applicant is the owner of only a portion of the land identified in the existing certificate, the applicant may proceed to re-issuance of a new certificate for the portion owned by the applicant. For purposes of determining a non-material plat change, the volume of water demand for the portion owned by the applicant shall be determined by review of the existing certificate and apportionment of the total water demand according to the demand characteristics of type of land development associated with the portion owned by the applicant under the plat associated with the existing certificate. The remaining water volume shall be reserved for re-issuance of a partial certificate upon application by the owner of the land remaining after the partial re-issuance.
- D. The applicant may include a named purchaser, optionee, or nominee to be included as a holder of the certificate in the re-issued certificate if supported by an agreement for purchase and sale, or similar conveyance. If so supported, the re-issued certificate shall be issued in the joint names of the owner/applicant and the purchaser, optionee, or nominee.
- E. The director shall classify the re-issued certificate as a class a or b certificate upon re-issuance.