

Senate Engrossed House Bill
department of real estate; fees

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2694

AN ACT

AMENDING SECTIONS 32-2101, 32-2124, 32-2132, 32-2135 AND 32-2163, ARIZONA
REVISED STATUTES; RELATING TO THE STATE REAL ESTATE DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2101, Arizona Revised Statutes, is amended to
3 read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acting in concert" means evidence of collaborating to pursue a
7 concerted plan.

8 2. "Advertising" means the attempt by publication, dissemination,
9 exhibition, solicitation or circulation, oral or written, or for broadcast
10 on radio or television to induce directly or indirectly any person to
11 enter into any obligation or acquire any title or interest in lands
12 subject to this chapter, including the land sales contract to be used and
13 any photographs, drawings or artist's presentations of physical conditions
14 or facilities existing or to exist on the property. Advertising does not
15 include:

16 (a) Press releases or other communications delivered to newspapers,
17 periodicals or other news media for general information or public
18 relations purposes if no charge is made by the newspapers, periodicals or
19 other news media for the publication or use of any part of these
20 communications.

21 (b) Communications to stockholders as follows:

22 (i) Annual reports and interim financial reports.

23 (ii) Proxy materials.

24 (iii) Registration statements.

25 (iv) Securities prospectuses.

26 (v) Applications for listing of securities on stock exchanges.

27 (vi) Prospectuses.

28 (vii) Property reports.

29 (viii) Offering statements.

30 3. "Affiliate" means a person who, directly or indirectly through
31 one or more intermediaries, controls, is controlled by or is under common
32 control with the person specified.

33 4. "Associate broker" means a licensed broker who is employed by
34 another broker. Unless otherwise specifically provided, an associate
35 broker has the same license privileges as a salesperson.

36 5. "Barrier" means a natural or man-made geographical feature that
37 prevents parcels of land from being practicably, reasonably and
38 economically united or reunited and that was not caused or created by the
39 owner of the parcels.

40 6. "Blanket encumbrance" means any mortgage, any deed of trust or
41 any other encumbrance or lien securing or evidencing the payment of money
42 and affecting more than one lot or parcel of subdivided land, or an
43 agreement affecting more than one lot or parcel by which the subdivider
44 holds the subdivision under an option, contract to sell or trust

1 agreement. Blanket encumbrance does not include taxes and assessments
2 that are levied by public authority.

3 7. "Board" means the state real estate advisory board.

4 8. "Broker", when used without modification, means a person who is
5 licensed as a broker under this chapter or who is required to be licensed
6 as a broker under this chapter.

7 9. "Business broker" means a real estate broker who acts as an
8 intermediary or agent between sellers or buyers, or both, in the sale or
9 purchase, or both, of businesses or business opportunities where a lease
10 or sale of real property is either a direct or incidental part of the
11 transaction.

12 10. "Camping site" means a space that is designed and promoted for
13 the purpose of locating any trailer, tent, tent trailer, pickup camper or
14 other similar device used for camping.

15 11. "Cemetery" or "cemetery property" means any one, or a
16 combination of more than one, of the following in a place that is used, or
17 intended to be used, and dedicated for cemetery purposes:

18 (a) A burial park, for earth interments.

19 (b) A mausoleum, for crypt or vault entombments.

20 (c) A crematory, or a crematory and columbarium, for cinerary
21 interments.

22 (d) A cemetery plot, including interment rights, mausoleum crypts,
23 niches and burial spaces.

24 12. "Cemetery broker" means a person other than a real estate
25 broker or real estate salesperson who, for another, for compensation:

26 (a) Sells, leases or exchanges cemetery property or interment
27 services of or for another, or on the person's own account.

28 (b) Offers for another or for the person's own account to buy,
29 sell, lease or exchange cemetery property or interment services.

30 (c) Negotiates the purchase and sale, lease or exchange of cemetery
31 property or interment services.

32 (d) Negotiates the purchase or sale, lease or exchange, or lists or
33 solicits, or negotiates a loan on or leasing of cemetery property or
34 interment services.

35 13. "Cemetery salesperson" means a natural person who acts on the
36 person's own behalf or through and on behalf of a professional limited
37 liability company or a professional corporation engaged by or on behalf of a
38 licensed cemetery or real estate broker, or through and on behalf of a
39 corporation, partnership or limited liability company that is licensed as
40 a cemetery or real estate broker, to perform any act or transaction
41 included in the definition of cemetery broker.

42 14. "Commissioner" means the state real estate commissioner.

43 15. "Common promotional plan" means a plan, undertaken by a person
44 or a group of persons acting in concert, to offer lots for sale or lease.
45 If the land is offered for sale by a person or group of persons acting in

1 concert, and the land is contiguous or is known, designated or advertised
2 as a common unit or by a common name, the land is presumed, without regard
3 to the number of lots covered by each individual offering, as being
4 offered for sale or lease as part of a common promotional plan. Separate
5 subdividers selling lots or parcels in separately platted subdivisions
6 within a master planned community shall not be deemed to be offering their
7 combined lots for sale or lease as part of a common promotional plan.

8 16. "Compensation" means any fee, commission, salary, money or
9 other valuable consideration for services rendered or to be rendered as
10 well as the promise of consideration whether contingent or not.

11 17. "Contiguous" means lots, parcels or fractional interests that
12 share a common boundary or point. Lots, parcels or fractional interests
13 are not contiguous if they are separated by either of the following:

14 (a) A barrier.

15 (b) A road, street or highway that has been established by this
16 state or by any agency or political subdivision of this state, that has
17 been designated by the federal government as an interstate highway or that
18 has been regularly maintained by this state or by any agency or political
19 subdivision of this state and has been used continuously by the public for
20 at least the last five years.

21 18. "Control" or "controlled" means a person who, through
22 ownership, voting rights, power of attorney, proxy, management rights,
23 operational rights or other rights, has the right to make decisions
24 binding on an entity, whether a corporation, a partnership or any other
25 entity.

26 19. "Corporation licensee" means a lawfully organized corporation
27 that is registered with the Arizona corporation commission and that has an
28 officer licensed as the designated broker pursuant to section 32-2125.

29 20. "Department" means the state real estate department.

30 21. "Designated broker" means the natural person who is licensed as
31 a broker under this chapter and who is either:

32 (a) Designated to act on behalf of an employing real estate,
33 cemetery or membership camping entity.

34 (b) Doing business as a sole proprietor.

35 22. "Developer" means a person who offers real property in a
36 development for sale, lease or use, either immediately or in the future,
37 on the person's own behalf or on behalf of another person, under this
38 chapter. Developer does not include a person whose involvement with a
39 development is limited to the listing of property within the development
40 for sale, lease or use.

41 23. "Development" means any division, proposed division or use of
42 real property that the department has authority to regulate, including
43 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
44 membership campgrounds and stock cooperatives.

1 24. "Employing broker" means a person who is licensed or is
2 required to be licensed as a:

3 (a) Broker entity pursuant to section 32-2125, subsection A.

4 (b) Sole proprietorship if the sole proprietor is a broker licensed
5 pursuant to this chapter.

6 25. "Fractional interest" means an undivided interest in improved
7 or unimproved land, lots or parcels of any size created for the purpose of
8 sale or lease and evidenced by any receipt, certificate, deed or other
9 document conveying the interest. Undivided interests in land, lots or
10 parcels created in the names of a husband and wife as community property,
11 joint tenants or tenants in common, or in the names of other persons who,
12 acting together as part of a single transaction, acquire the interests
13 without a purpose to divide the interests for present or future sale or
14 lease shall be deemed to constitute only one fractional interest.

15 26. "Improved lot or parcel" means a lot or parcel of a subdivision
16 on which there is a residential, commercial or industrial building or
17 concerning which a contract has been entered into between a subdivider and
18 a purchaser that obligates the subdivider directly, or indirectly through
19 a building contractor, to completely construct a residential, commercial
20 or industrial building on the lot or parcel within two years after the
21 date on which the contract of sale for the lot is entered into.

22 27. "Inactive license" means a license that is issued pursuant to
23 article 2 of this chapter to a licensee who is on inactive status during
24 the current license period and who is not engaged by or on behalf of a
25 broker.

26 28. "Lease" or "leasing" includes any lease, whether it is the
27 sole, the principal or any incidental part of a transaction.

28 29. "License" means the whole or part of any agency permit,
29 certificate, approval, registration, public report, charter or similar
30 form of permission required by this chapter.

31 30. "Licensee" means a person to whom a license for the current
32 license period has been granted under any provision of this chapter, and,
33 for the purposes of section 32-2153, subsection A, includes original
34 license applicants.

35 31. "License period" means the two-year period beginning with the
36 date of original issue or renewal of a particular license and ending on
37 the expiration date, if any.

38 32. "Limited liability company licensee" means a lawfully organized
39 limited liability company that has a member or manager who is a natural
40 person and who is licensed as the designated broker pursuant to section
41 32-2125.

42 33. "LIVE CLASSROOM COURSE" MEANS A COURSE OR INSTRUCTIONAL SEGMENT
43 DELIVERED IN EITHER AN IN-PERSON CLASSROOM INSTRUCTIONAL FORMAT OR A
44 SYNCHRONOUS REMOTE INSTRUCTIONAL FORMAT THAT ALLOWS STUDENTS TO OBSERVE
45 AND PARTICIPATE REMOTELY IN AN INSTRUCTIONAL SEGMENT VIA LIVESTREAMING.

1 ~~33.~~ 34. "Lot reservation" means an expression of interest by a
2 prospective purchaser in buying at some time in the future a subdivided or
3 unsubdivided lot, unit or parcel in this state. In all cases, a
4 subsequent affirmative action by the prospective purchaser must be taken
5 to create a contractual obligation to purchase.

6 ~~34.~~ 35. "Master planned community" means a development that
7 consists of two or more separately platted subdivisions and that is either
8 subject to a master declaration of covenants, conditions or restrictions,
9 is subject to restrictive covenants sufficiently uniform in character to
10 clearly indicate a general scheme for improving or developing real
11 property or is governed or administered by a master owner's association.

12 ~~35.~~ 36. "Member" means a member of the real estate advisory board.

13 ~~36.~~ 37. "Membership camping broker" means a person, other than a
14 salesperson, who, for compensation:

15 (a) Sells, purchases, lists, exchanges or leases membership camping
16 contracts.

17 (b) Offers to sell, purchase, exchange or lease membership camping
18 contracts.

19 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
20 purchase, exchange or lease of membership camping contracts.

21 (d) Advertises or holds himself out as being engaged in the
22 business of selling, buying, exchanging or leasing membership camping
23 contracts or counseling or advising regarding membership camping
24 contracts.

25 (e) Assists or directs in procuring prospects calculated or
26 intended to result in the sale, purchase, listing, exchange or lease of
27 membership camping contracts.

28 (f) Performs any of the foregoing acts as an employee or on behalf
29 of a membership camping operator or membership contract owner.

30 ~~37.~~ 38. "Membership camping contract" means an agreement that is
31 offered or sold in this state evidencing a purchaser's right or license to
32 use the camping or outdoor recreation facilities of a membership camping
33 operator and includes a membership that provides for this use.

34 ~~38.~~ 39. "Membership camping operator" means an enterprise, other
35 than one that is tax exempt under section 501(c)(3) of the internal
36 revenue code of 1986, as amended, that solicits membership paid for by a
37 fee or periodic payments and has as one of its purposes camping or outdoor
38 recreation, including the use of camping sites primarily by members.
39 Membership camping operator does not include camping or recreational
40 trailer parks that are open to the general public and that contain camping
41 sites rented for a per use fee or a mobile home park.

42 ~~39.~~ 40. "Membership camping salesperson" means a natural person
43 who acts on the person's own behalf or through and on behalf of a
44 professional limited liability company or a professional corporation
45 engaged by or on behalf of a licensed membership camping or real estate

1 broker, or by or on behalf of a corporation, partnership or limited
2 liability company that is licensed as a membership camping or real estate
3 broker, to perform any act or participate in any transaction in a manner
4 included in the definition of membership camping broker.

5 ~~40.~~ 41. "Online course" means prelicensure education that is a
6 planned learning experience with a geographic separation that may be
7 synchronous or asynchronous, that does not require real-time interaction
8 between a student and an instructor and that uses a platform with
9 self-paced or prerecorded lessons and materials that a student can access
10 via the internet to proceed at the student's own pace.

11 ~~41.~~ 42. "Partnership licensee" means a partnership with a managing
12 general partner who is licensed as the designated broker pursuant to
13 section 32-2125.

14 ~~42.~~ 43. "Permanent access", as required under article 4 of this
15 chapter, means permanent access from the subdivision to any federal, state
16 or county highway.

17 ~~43.~~ 44. "Perpetual care" or "endowed care" means maintaining and
18 caring, in all places where interments have been made, for the trees,
19 shrubs, roads, streets and other improvements and embellishments contained
20 within or forming a part of the cemetery but does not include maintaining
21 or repairing monuments, tombs, copings or other man-made ornaments as
22 associated with individual burial spaces.

23 ~~44.~~ 45. "Perpetual or endowed-care cemetery" means a cemetery in
24 which lots or other burial spaces are sold or transferred under the
25 representation that the cemetery will receive perpetual care or endowed
26 care free of further cost to the purchaser after payment of the original
27 purchase price for the lot, burial space or interment right.

28 ~~45.~~ 46. "Person" means any individual, corporation, partnership or
29 company and any other form of multiple organization for carrying on
30 business, foreign or domestic.

31 ~~46.~~ 47. "Private cemetery" means a cemetery or place that is not
32 licensed under article 6 of this chapter, where burials or interments of
33 human remains are made, in which sales or transfers of interment rights or
34 burial plots are not made to the public and in which not more than ten
35 interments or burials occur annually.

36 ~~47.~~ 48. "Promotion" or "promotional practice" means advertising
37 and any other act, practice, device or scheme to induce directly or
38 indirectly any person to enter into any obligation or acquire any title or
39 interest in or use of real property subject to this chapter, including
40 meetings with prospective purchasers, arrangements for prospective
41 purchasers to visit real property, travel allowances and discount,
42 exchange, refund and cancellation privileges.

43 ~~48.~~ 49. "Real estate" includes leasehold-interests and any estates
44 in land as defined in title 33, chapter 2, articles 1 and 2, regardless of
45 whether located in this state.

1 ~~49.~~ 50. "Real estate broker" means a person, other than a
2 salesperson, who, for another and for compensation:
3 (a) Sells, exchanges, purchases, rents or leases real estate,
4 businesses and business opportunities or timeshare interests.
5 (b) Offers to sell, exchange, purchase, rent or lease real estate,
6 businesses and business opportunities or timeshare interests.
7 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
8 exchange, purchase, rental or leasing of real estate, businesses and
9 business opportunities or timeshare interests.
10 (d) Lists or offers, attempts or agrees to list real estate,
11 businesses and business opportunities or timeshare interests for sale,
12 lease or exchange.
13 (e) Auctions or offers, attempts or agrees to auction real estate,
14 businesses and business opportunities or timeshare interests.
15 (f) Buys, sells, offers to buy or sell or otherwise deals in
16 options on real estate, businesses and business opportunities or timeshare
17 interests or improvements to real estate, businesses and business
18 opportunities or timeshare interests.
19 (g) Collects or offers, attempts or agrees to collect rent for the
20 use of real estate, businesses and business opportunities or timeshare
21 interests. This subdivision does not apply to a person who is not a
22 licensee, who works for a real estate broker or a real estate salesperson,
23 who collects in-person rent and related fees on behalf of the real estate
24 broker or real estate salesperson for the use of real estate as part of
25 the person's clerical duties and who provides a receipt when rent is paid.
26 (h) Advertises or holds himself out as being engaged in the
27 business of buying, selling, exchanging, renting or leasing real estate,
28 businesses and business opportunities or timeshare interests or counseling
29 or advising regarding real estate, businesses and business opportunities
30 or timeshare interests.
31 (i) Assists or directs in procuring prospects that are calculated
32 to result in the sale, exchange, leasing or rental of real estate,
33 businesses and business opportunities or timeshare interests.
34 (j) Assists or directs in negotiating any transaction calculated or
35 intended to result in the sale, exchange, leasing or rental of real
36 estate, businesses and business opportunities or timeshare interests.
37 (k) Incident to the sale of real estate, businesses and business
38 opportunities negotiates or offers, attempts or agrees to negotiate a loan
39 secured or to be secured by any mortgage or other encumbrance on or
40 transfer of real estate, businesses and business opportunities or
41 timeshare interests subject to section 32-2155, subsection C. This
42 subdivision does not apply to mortgage brokers as defined in and subject
43 to title 6, chapter 9, article 1.

1 (l) Engages in the business of assisting or offering to assist
2 another in filing an application for the purchase or lease of, or in
3 locating or entering on, lands owned by the state or federal government.

4 (m) Claims, demands, charges, receives, collects or contracts to
5 collect an advance fee in connection with any employment enumerated in
6 this section, including employment undertaken to promote the sale or lease
7 of real property by advance fee listing, by furnishing rental information
8 to a prospective tenant for a fee paid by the prospective tenant, by
9 advertisement or by any other offering to sell, lease, exchange or rent
10 real property or selling kits connected therewith. This shall not include
11 the activities of any communications media of general circulation or
12 coverage not primarily engaged in the advertisement of real estate or any
13 communications media activities that are specifically exempt from
14 applicability of this article under section 32-2121.

15 (n) Engages in any of the acts listed in subdivisions (a) through
16 (m) of this paragraph for the sale or lease of other than real property if
17 a real property sale or lease is a part of, contingent on or ancillary to
18 the transaction.

19 (o) Performs any of the acts listed in subdivisions (a) through (m)
20 of this paragraph as an employee of, or in behalf of, the owner of real
21 estate, or interest in the real estate, or improvements affixed on the
22 real estate, for compensation.

23 (p) Acts as a business broker.

24 ~~50.~~ 51. "Real estate sales contract" means an agreement in which
25 one party agrees to convey title to real estate to another party on the
26 satisfaction of specified conditions set forth in the contract.

27 ~~51.~~ 52. "Real estate salesperson" means a natural person who acts
28 on the person's own behalf or through and on behalf of a professional
29 limited liability company or a professional corporation engaged by or on
30 behalf of a licensed real estate broker, or by or on behalf of a limited
31 liability company, partnership or corporation that is licensed as a real
32 estate broker, to perform any act or participate in any transaction in a
33 manner included in the definition of real estate broker subject to section
34 32-2155.

35 ~~52.~~ 53. "Sale" or "lease" includes every disposition, transfer,
36 option or offer or attempt to dispose of or transfer real property, or an
37 interest, use or estate in the real property, including offering the
38 property as a prize or gift if a monetary charge or consideration for
39 whatever purpose is required.

40 ~~53.~~ 54. "Salesperson", when used without modification, means a
41 natural person who acts on the person's own behalf or through and on
42 behalf of a professional limited liability company or a professional
43 corporation licensed under this chapter or any person required to be
44 licensed as a salesperson under this chapter.

1 ~~54.~~ 55. "School" means a person or entity that offers a course of
2 study towards completion of the education requirements leading to
3 licensure or renewal of licensure under this chapter.

4 ~~55.~~ 56. "Stock cooperative" means a corporation to which all of
5 the following apply:

6 (a) The corporation is formed or used to hold title to improved
7 real property in fee simple or for a term of years.

8 (b) All or substantially all of the shareholders of the corporation
9 each receive a right of exclusive occupancy in a portion of the real
10 property to which the corporation holds title.

11 (c) The right of occupancy may only be transferred with the
12 concurrent transfer of the shares of stock in the corporation held by the
13 person having the right of occupancy.

14 ~~56.~~ 57. "Subdivider" means any person who offers for sale or lease
15 six or more lots, parcels or fractional interests in a subdivision or who
16 causes land to be subdivided into a subdivision for the subdivider or for
17 others, or who undertakes to develop a subdivision, but does not include a
18 public agency or officer authorized by law to create subdivisions.

19 ~~57.~~ 58. "Subdivision" or "subdivided lands":

20 (a) Means improved or unimproved land or lands divided or proposed
21 to be divided for the purpose of sale or lease, whether immediate or
22 future, into six or more lots, parcels or fractional interests.

23 (b) Includes a stock cooperative, lands divided or proposed to be
24 divided as part of a common promotional plan and residential condominiums
25 as defined in title 33, chapter 9.

26 (c) Does not include:

27 (i) Leasehold offerings of one year or less.

28 (ii) The division or proposed division of land located in this
29 state into lots or parcels each of which is or will be thirty-six acres or
30 more in area including to the centerline of dedicated roads or easements,
31 if any, contiguous to the lot or parcel.

32 (iii) The leasing of agricultural lands or apartments, offices,
33 stores, hotels, motels, pads or similar space within an apartment
34 building, industrial building, rental recreational vehicle community,
35 rental manufactured home community, rental mobile home park or commercial
36 building.

37 (iv) The subdivision into or development of parcels, plots or
38 fractional portions within the boundaries of a cemetery that has been
39 formed and approved pursuant to this chapter.

40 (v) A sale or lease of a lot, parcel or fractional interest that
41 occurs ten or more years after the sale or lease of another lot, parcel or
42 fractional interest if the other lot, parcel or fractional interest is not
43 subject to this article and is treated as an independent parcel unless, on
44 investigation by the commissioner, there is evidence of intent to
45 subdivide.

1 ~~58.~~ 59. "Timeshare" or "timeshare property" means real property
2 ownership or right of occupancy in real property pursuant to article 9 of
3 this chapter. For the purposes of this chapter, a timeshare is not a
4 security unless it meets the definition of a security under section
5 44-1801.

6 ~~59.~~ 60. "Trustee" means:

7 (a) A person who is designated under section 32-2194.27 to act as a
8 trustee for an endowment-care cemetery fund.

9 (b) A person holding bare legal title to real property under a
10 subdivision trust. A trustee shall not be deemed to be a developer,
11 subdivider, broker or salesperson within this chapter.

12 ~~60.~~ 61. "Unimproved lot or parcel" means a lot or parcel of a
13 subdivision that is not an improved lot or parcel.

14 ~~61.~~ 62. "Unsubdivided lands":

15 (a) Means land or lands divided or proposed to be divided for the
16 purpose of sale or lease, whether immediate or future, into six or more
17 lots, parcels or fractional interests and the lots or parcels are
18 thirty-six acres or more each but less than one hundred sixty acres each,
19 or that are offered, known or advertised under a common promotional plan
20 for sale or lease, except that agricultural leases shall not be included
21 in this definition.

22 (b) Includes any land that is sold and that would otherwise
23 constitute the sixth lot, parcel or fractional interest if the sale occurs
24 ten or more years after the earliest of the previous five sales and if all
25 of the sales consist of property that was originally contained within the
26 same parcel that is thirty-six acres or more and less than one hundred
27 sixty acres.

28 Sec. 2. Section 32-2124, Arizona Revised Statutes, is amended to
29 read:

30 32-2124. Qualifications of licensees

31 A. Except as otherwise provided in this chapter, the commissioner
32 shall require proof, through the application or otherwise, as the
33 commissioner deems advisable with due regard to the interests of the
34 public, as to the honesty, truthfulness, good character and competency of
35 the applicant and shall require that the applicant has:

36 1. If for an original real estate broker's license, at least three
37 years' actual experience as a licensed real estate salesperson or real
38 estate broker during the five years immediately preceding the time of
39 application.

40 2. If for an original cemetery broker's license, either a current
41 real estate broker's license, or if the applicant does not have a current
42 real estate broker's license, at least three years' actual experience as a
43 cemetery salesperson or broker or as a licensed real estate salesperson or
44 broker during the five years immediately preceding the time of
45 application.

1 3. If for an original membership camping broker's license, either a
2 current real estate broker's license, or if the applicant does not have a
3 current real estate broker's license, at least three years' actual
4 experience as a licensed membership camping salesperson or broker or as a
5 licensed real estate salesperson or broker during the five years
6 immediately preceding the time of application.

7 4. If for any type of broker's or salesperson's license, not had a
8 license denied within one year immediately preceding application in this
9 state pursuant to section 32-2153 or a similar statute in any other state.

10 5. If for any type of broker's or salesperson's license, not had a
11 license revoked within the two years immediately preceding application in
12 this state pursuant to section 32-2153 or a similar statute in any other
13 state.

14 6. If reapplying for a license that expired more than one year
15 before the date of application, met all current education and experience
16 requirements and retakes the examination the same as if the applicant were
17 applying for the license for the first time.

18 7. If for a real estate, cemetery or membership camping broker's
19 license, other than a renewal application, an equivalent amount of active
20 experience within the immediately preceding five years in the field in
21 which the applicant is applying for the broker's license, as a substitute
22 for the licensed active experience otherwise required in paragraphs 1, 2
23 and 3 of this subsection. The licensed active experience required may be
24 met if the applicant can demonstrate to the commissioner's satisfaction
25 that the applicant has an equivalent amount of experience in the past five
26 years that, if the applicant had held a license, would have been
27 sufficient to fulfill the licensed experience requirement.

28 B. All applicants other than renewal applicants under section
29 32-2130 for a real estate salesperson's license shall show evidence
30 satisfactory to the commissioner that they have completed a real estate
31 salesperson's course that is prescribed and approved by the commissioner
32 and that is at least ninety classroom hours, or its equivalent, of
33 instruction in a real estate school certified by the commissioner and have
34 satisfactorily passed an examination on the course. An applicant may
35 complete the real estate salesperson's course prescribed by this
36 subsection through **A LIVE CLASSROOM COURSE OR** an online course if the **LIVE**
37 **CLASSROOM COURSE OR** online course is offered by a real estate school that
38 is certified by the commissioner. ~~, but~~ The applicant must complete an
39 examination on the **LIVE CLASSROOM COURSE OR THE** online course in
40 person. **AN APPLICANT MAY COMPLETE THE REQUIRED COURSE OR INSTRUCTIONAL**
41 **SEGMENTS IN ANY COMBINATION OF IN-PERSON OR SYNCHRONOUS REMOTE DELIVERY**
42 **METHODS.** In no case shall the real estate salesperson's course completion
43 or its equivalent be more than ten years before the date of application
44 unless, at the time of application, the commissioner determines in the
45 commissioner's discretion that the applicant has work experience in a real

1 estate-related field and education that together are equivalent to the
2 prelicensure education requirement. The commissioner may waive all or a
3 portion of the prelicensure course requirement, other than the
4 twenty-seven-hour Arizona-specific course, for an applicant who holds a
5 current real estate license in another state.

6 C. All applicants other than renewal applicants under section
7 32-2130 for a real estate broker's license shall show evidence
8 satisfactory to the commissioner that they have completed a real estate
9 broker's course that is prescribed and approved by the commissioner and
10 that is at least ninety classroom hours, or the equivalent, of instruction
11 in a real estate school certified by the commissioner and have
12 satisfactorily passed an examination on the course. An applicant may
13 complete the real estate broker's course prescribed by this subsection
14 through **A LIVE CLASSROOM COURSE OR** an online course if the **LIVE CLASSROOM**
15 **COURSE OR** online course is offered by a real estate school that is
16 certified by the commissioner. ~~but~~ The applicant must complete an
17 examination on the **LIVE CLASSROOM COURSE OR** online course in person. **AN**
18 **APPLICANT MAY COMPLETE THE REQUIRED COURSE OR INSTRUCTIONAL SEGMENTS IN**
19 **ANY COMBINATION OF IN-PERSON OR SYNCHRONOUS REMOTE DELIVERY METHODS.** In
20 no case shall the real estate broker's course completion or its equivalent
21 be more than ten years before the date of application unless, at the time
22 of application, the commissioner determines in the commissioner's
23 discretion that the applicant has work experience in a real estate-related
24 field and education that together are equivalent to the prelicensure
25 education requirement. The commissioner may waive all or a portion of the
26 prelicensure course requirement, other than the twenty-seven-hour
27 Arizona-specific course, for an applicant who holds a current real estate
28 license in another state.

29 D. Before receiving any license provided for by this chapter, an
30 applicant must be at least eighteen years of age.

31 E. The commissioner shall ascertain by a written, electronic or
32 other examination method that an applicant for a real estate license has:

33 1. An appropriate knowledge of the English language, including
34 reading, writing and spelling, and of arithmetical computations common to
35 real estate practices.

36 2. At a minimum, an understanding of the general purpose and legal
37 effect of any real estate practices, principles and related forms,
38 including agency contracts, real estate contracts, deposit receipts,
39 deeds, mortgages, deeds of trust, security agreements, bills of sale, land
40 contracts of sale and property management, and of any other areas that the
41 commissioner deems necessary and proper.

42 3. A thorough understanding of the obligations between principal
43 and agent, the principles of real estate and business opportunity
44 practice, the applicable canons of business ethics, the provisions of this
45 chapter and rules adopted pursuant to this chapter.

1 4. An appropriate knowledge of other real estate practices and
2 principles as determined by the commissioner.

3 F. The commissioner shall ascertain by a written, electronic or
4 other examination method that an applicant for a license as a cemetery
5 broker or a cemetery salesperson has:

6 1. Appropriate knowledge of the English language, including
7 reading, writing and spelling, and of elementary arithmetic.

8 2. A general understanding of:

9 (a) Cemetery associations, cemetery corporations and duties of
10 cemetery directors and officers.

11 (b) Plot ownership, deeds, certificates of ownership, contracts of
12 sale, liens and leases.

13 (c) Establishing, dedicating, maintaining, managing, operating,
14 improving, preserving and conducting a cemetery.

15 (d) The provisions of this chapter and rules adopted pursuant to
16 this chapter relating to the organization and regulation of cemeteries and
17 the licensing and regulation of cemetery brokers and cemetery
18 salespersons.

19 3. A general understanding of the obligations between principal and
20 agent, the principles of cemetery practice and the canons of business
21 ethics pertaining to the operation of cemeteries and the sale of cemetery
22 property.

23 G. The commissioner shall ascertain by a written, electronic or
24 other examination method that an applicant for a license as a membership
25 camping broker or a membership camping salesperson has:

26 1. An appropriate knowledge of the English language, including
27 reading, writing and spelling, and of elementary arithmetic.

28 2. A general understanding of:

29 (a) The general purposes and legal effect of contracts and agency
30 contracts.

31 (b) Establishing, maintaining, managing and operating a membership
32 campground.

33 (c) The provisions of this chapter and rules adopted pursuant to
34 this chapter relating to the organization and regulation of membership
35 campgrounds and the licensing and regulation of membership camping brokers
36 and membership camping salespersons.

37 3. A general understanding of the obligations between principal and
38 agent and the canons of business ethics pertaining to the operation and
39 promotion of membership campgrounds.

40 H. A renewal applicant for a real estate, cemetery or membership
41 camping broker's or salesperson's license is not required to submit to an
42 examination if the application is made within twelve months after the
43 license expires and the license is not canceled, terminated or suspended
44 at the time of application.

1 I. The examination for a broker's license shall be more exacting
2 and stringent and of a broader scope than the examination for a
3 salesperson's license.

4 J. An applicant for a real estate salesperson's or broker's license
5 who currently holds at least an equivalent license in another state may be
6 exempt from taking the national portion of the real estate examination if
7 the applicant can demonstrate passing a national examination within the
8 past five years that is satisfactorily similar to the one administered by
9 the department.

10 K. Identification of each applicant whose licensing requirement was
11 allowed to be met by an equivalent alternative pursuant to this section
12 shall be included in the annual performance report presented by the board
13 to the governor pursuant to section 32-2104.

14 L. An applicant for an original real estate salesperson's license,
15 after completion of the requirements of subsection B of this section,
16 shall provide certification to the department at the time of application
17 evidencing completion of six hours of instruction in real estate contract
18 law and contract writing. This instruction shall include participation by
19 the applicant in the drafting of contracts to purchase real property,
20 listing agreements and lease agreements.

21 M. The commissioner shall not issue a license to a person who has
22 been convicted of a felony offense and who is currently incarcerated for
23 the conviction, paroled or under community supervision and under the
24 supervision of a parole or community supervision officer or who is on
25 probation as a result of the conviction.

26 N. The commissioner shall require an out-of-state applicant for a
27 license that is issued pursuant to section 32-4302 to pass an examination
28 specific to the laws of this state relating to this chapter before the
29 commissioner issues the license to the applicant.

30 Sec. 3. Section 32-2132, Arizona Revised Statutes, is amended to
31 read:

32 32-2132. Fees

33 A. Except as provided in subsection D of this section, the
34 following fees shall be charged and shall not be refunded by the
35 commissioner after issuance of a receipt for payment:

36 1. A broker's examination application fee of ~~not less than~~
37 ~~thirty-five dollars and~~ not more than ~~one hundred twenty-five dollars~~
38 \$125.

39 2. A broker's examination fee of ~~not less than thirty-five dollars~~
40 ~~and~~ not more than ~~one hundred dollars~~ \$100.

41 3. A broker's license fee of ~~not less than seventy-five dollars and~~
42 not more than ~~two hundred fifty dollars~~ \$250.

43 4. A broker's renewal fee of ~~not less than one hundred dollars and~~
44 not more than ~~four hundred dollars~~ \$400.

- 1 5. A salesperson's examination application fee of ~~not less than~~
2 ~~fifteen dollars and~~ not more than ~~seventy-five dollars~~ \$75.
- 3 6. A salesperson's examination fee of ~~not less than fifteen dollars~~
4 ~~and~~ not more than ~~fifty dollars~~ \$50.
- 5 7. A salesperson's license fee of ~~not less than thirty-five dollars~~
6 ~~and~~ not more than ~~one hundred twenty-five dollars~~ \$125.
- 7 8. A salesperson's renewal fee of ~~not less than sixty dollars and~~
8 not more than ~~two hundred dollars~~ \$200.
- 9 9. A branch office broker's license fee or renewal fee of ~~not less~~
10 ~~than sixty dollars and~~ not more than ~~two hundred dollars~~ \$200.
- 11 10. A fee for a change of name and address of licensee on records of
12 the department of not more than ~~twenty dollars~~ \$20.
- 13 11. A duplicate license fee of ~~five dollars~~ \$5.
- 14 12. A fee for reinstatement of license within THE license period of
15 ~~five dollars~~ \$5.
- 16 13. A fee for each certificate of correctness of copy of records or
17 documents on file with the department of ~~one dollar~~ \$1, plus the cost to
18 the department for reproducing the records or documents.
- 19 14. A temporary broker's license fee of ~~not less than fifteen~~
20 ~~dollars and~~ not more than ~~fifty dollars~~ \$50.
- 21 15. A temporary cemetery salesperson's license fee of ~~not less than~~
22 ~~fifteen dollars and~~ not more than ~~fifty dollars~~ \$50.
- 23 16. A membership camping salesperson certificate of convenience fee
24 of ~~not less than fifteen dollars and~~ not more than ~~fifty dollars~~ \$50.
- 25 17. Fees in an amount to be determined by the commissioner by rule
26 for the following:
- 27 (a) A certificate of approval or renewal to operate a school.
- 28 (b) An instructor or other school official approval or renewal fee.
- 29 (c) A ~~five classroom~~ continuing education LIVE CLASSROOM course
30 approval or renewal fee.
- 31 (d) A ~~five classroom~~ prelicensure education LIVE CLASSROOM course
32 or prelicensure online course approval or renewal fee. THE PRELICENSURE
33 COURSE FEE IMPOSED BY THIS SUBDIVISION SHALL BE THE SAME AND THE RENEWAL
34 COURSE FEE IMPOSED BY THIS SUBDIVISION SHALL BE THE SAME REGARDLESS OF THE
35 INSTRUCTIONAL FORMAT A PERSON USES TO COMPLETE A PRELICENSURE EDUCATION
36 COURSE OR INSTRUCTIONAL SEGMENT OR A RENEWAL EDUCATION COURSE OR
37 INSTRUCTIONAL SEGMENT.
- 38 (e) A continuing education distance learning course approval or
39 renewal fee.
- 40 B. A corporation, partnership or limited liability company shall
41 not be assessed a fee for the issuance of a broker's license.
- 42 C. The commissioner may contract for the processing of applications
43 and the examination of applicants for licensure. The contract may provide
44 for specific fees or a reasonable range for fees as determined by the
45 commissioner for examination applications and examinations to be paid

1 directly to the contractor by the applicant. These fees may not exceed
2 the amounts prescribed in subsection A, paragraphs 1, 2, 5 and 6 of this
3 section.

4 D. For good cause shown the commissioner may refund fees previously
5 collected.

6 Sec. 4. Section 32-2135, Arizona Revised Statutes, is amended to
7 read:

8 32-2135. Real estate schools; courses of study; instructors;
9 certification

10 A. Except as provided in section 32-4301, before offering a course
11 of study towards completion of the education requirement for real estate
12 licensure or renewal of licensure, a school shall obtain from the
13 commissioner a certificate of approval or renewal to operate a school for
14 a period of at least four years. A school shall also obtain a certificate
15 of course approval for each course offered for credit that is not
16 currently approved for another school. Each school is responsible for the
17 content of any course it offers and for the professional administration
18 and teaching of the course. ~~Live classroom~~ Prelicensure education LIVE
19 CLASSROOM courses, ~~five classroom~~ continuing education LIVE CLASSROOM
20 courses, online courses and distance learning continuing education courses
21 are subject to approval pursuant to this section.

22 B. Each approved school shall issue a certificate of real estate
23 course attendance to each person who completes an approved prelicensure or
24 continuing education course. An applicant for renewal of licensure as
25 provided by section 32-2130 shall file evidence of the certificates issued
26 by the school with the commissioner showing the number of credit hours and
27 course of study required for renewal.

28 C. The commissioner may withdraw or deny certification or approval
29 of real estate schools, educational courses or real estate instructors for
30 any acts inconsistent with the requirements of this chapter, including:

31 1. ~~The commission of~~ COMMITTING or ~~the failure~~ FAILING to report a
32 violation by an approved school or instructor of any provision of this
33 chapter or rules adopted pursuant to this chapter.

34 2. ~~Improper certification of~~ IMPROPERLY CERTIFYING student
35 attendance or performance.

36 3. COMMITTING any act that is grounds for discipline under section
37 32-2153.

38 4. Teaching information or using course materials that have not
39 been approved by the commissioner.

40 5. Failing to attend any continuing education course required by
41 the commissioner.

42 6. Filing any false or misleading application, report or
43 documentation with the department.

44 7. Teaching course content that is not current or that has
45 substantially changed from the course as approved.

1 D. A real estate school, through any owner, director,
2 administrator, instructor or other agent, shall not:

3 1. Offer a course of study for credit that is not approved by the
4 department, except that the school may advertise a course as pending
5 approval before its approval.

6 2. Promote or advertise the school using false or misleading
7 statistics or testimonials or any other form of deceptive advertisement.

8 E. The commissioner may determine minimal content requirements for
9 approving educational courses and appropriate professional qualifications
10 for approving instructors to teach individual educational courses.

11 F. Except as provided in subsection G of this section, at least
12 thirty days before holding a course of study for completion of the
13 education requirements leading to licensure of real estate applicants or
14 for license renewal requirements, an application for a certificate of
15 course approval or renewal must be filed with the department. For a live
16 classroom course, the application shall include a course outline with
17 sufficient detail to clearly identify the scope and content of the
18 course. The outline shall state a desired instructional outcome for the
19 course. A prelicensure education course outline that is submitted for
20 approval shall be divided into estimated fifty-minute instructional
21 segments. Course approval shall not be unreasonably withheld and shall
22 not be issued later than thirty days after filing with the department for
23 a live classroom course. A continuing education distance learning course
24 approval shall not be issued later than ninety days after filing with the
25 department. If the approvals under this subsection are not granted within
26 the time frames prescribed by this subsection, the course shall be
27 automatically approved on a provisional basis for one hundred eighty days,
28 unless the department has otherwise notified the applicant of specific
29 deficiencies or unfulfilled requirements for the course submission. A
30 provisional approval may be withdrawn by the department ~~upon~~ ON fifteen
31 days' advance notice if the department's review of the course subsequently
32 reveals course deficiencies or unfulfilled course requirements. If not
33 withdrawn, the course approval shall remain approved for the entire course
34 approval period. Course approval shall be for a period of at least four
35 years if the contents of the course remain current and substantially
36 unchanged. The course may not be taught if the content ceases to be
37 current or is substantially changed. The department may establish by rule
38 additional appropriate requirements for approval of a distance learning
39 course.

40 G. At least ninety days before holding an online course of study for
41 completion of the education requirements leading to licensure of real
42 estate applicants, an application for a certificate of online course
43 approval must be filed with the department. An online course outline that
44 is submitted for approval shall be divided into estimated fifty-minute
45 instructional segments. Online course approval shall not be unreasonably

1 withheld and shall be issued not later than ninety days after filing with
2 the department. If the approvals under this subsection are not granted
3 within the time frames prescribed by this subsection, the online course
4 shall be automatically approved on a provisional basis for one hundred
5 eighty days, unless the department has otherwise notified the applicant of
6 specific deficiencies or unfulfilled requirements for the online course
7 submission. A provisional approval may be withdrawn by the department on
8 fifteen days' advance notice if the department's review of the online
9 course subsequently reveals course deficiencies or unfulfilled course
10 requirements. If not withdrawn, the online course approval shall remain
11 approved for the entire online course approval period. Online course
12 approval shall be for a period of at least four years if the contents of
13 the online course remain current and substantially unchanged. The online
14 course may not be taught if the content ceases to be current or is
15 substantially changed. Approved online courses must provide for student
16 participation, feedback and remedial instruction. The department may
17 establish by rule additional appropriate requirements for approval of an
18 online course.

19 H. For a currently approved course or online course:

20 1. The school shall submit notice to the department at least
21 fourteen days before holding the course to ~~permit~~ ALLOW department
22 employees to monitor the course. The notice is not otherwise subject to
23 review and approval by the department.

24 2. With the permission of the school that received original
25 approval for the course, another school that desires to offer the course
26 is subject only to the fourteen-day notice requirement before holding the
27 same course. No additional review and approval by the department is
28 required.

29 I. The department shall approve for continuing education credit any
30 course of study proposed by a real estate school if the course satisfies
31 the commissioner's requirements and is held in this state.

32 J. The department may approve for continuing education credit any
33 course of study proposed by a real estate school if the course satisfies
34 the commissioner's requirements and is held outside this state. On the
35 commissioner's request, the school shall either:

36 1. Provide the department with a videotape or videotapes of the
37 course.

38 2. Make arrangements that are approved by the department for
39 monitoring the course.

40 K. An instructor shall file with the department an application for
41 instructor approval or renewal. Instructor approval shall be for at least
42 four years from the date of approval and is subject to amendment during
43 the license period only if information material to the instructor's
44 qualifications has changed. A person holding instructor approval to teach
45 specific subject matter is not subject to additional or duplicate approval

1 requirements during the original approval period, except that an
2 additional instructor competency area may be added during the license
3 period on submission by the instructor of evidence of competency in such
4 additional competency area.

5 L. ~~Beginning January 1, 2012,~~ In the twenty-four months before
6 application, each instructor original or renewal applicant, other than a
7 panelist, guest speaker, attorney or out-of-state instructor, shall attend
8 at least a three-hour professional seminar or workshop, approved by the
9 department, emphasizing instruction methods, techniques and skills. At
10 the discretion of the commissioner this requirement may be waived based on
11 individual request review.

12 M. The course filing time frames prescribed in this section may be
13 waived by the department for good cause shown.

14 N. Unless subject to a violation or suspected violation listed in
15 subsection C of this section, the department's approval of a school,
16 school official, instructor or course shall be processed in a time frame
17 consistent with the time frames set forth in this section.

18 O. This section does not affect the department's ability to
19 withdraw or deny certification or approval of real estate schools,
20 education courses or real estate instructors for a violation of this
21 chapter.

22 Sec. 5. Section 32-2163, Arizona Revised Statutes, is amended to
23 read:

24 32-2163. Unlawful acts; out-of-state broker; cooperation
25 agreement

26 A. It is unlawful for any licensed broker in this state to employ
27 or compensate, directly or indirectly, any person for performing any of
28 the acts within the scope of this chapter if the person is not also a
29 licensed broker in this state, or a salesperson licensed under the broker
30 employing or compensating the salesperson, except that a licensed broker
31 in this state may pay compensation to and receive compensation from a
32 broker who is lawfully operating in another state.

33 B. Notwithstanding that pursuant to subsection A of this section a
34 licensed broker in this state may pay to and receive compensation from an
35 out-of-state broker, this authority does not allow an out-of-state broker
36 to conduct activity in this state that would otherwise require a broker's
37 license issued by the department.

38 C. A licensed broker in this state may cooperate with an
39 out-of-state broker who would otherwise require licensure in this state
40 if:

41 1. The licensed broker and the out-of-state broker enter into a
42 written cooperation agreement before the out-of-state broker conducts any
43 activity otherwise requiring a broker's license pursuant to this
44 chapter. The cooperation agreement shall include the following:

- 1 (a) A list of the real estate activities to be conducted by the
2 out-of-state broker.
- 3 (b) A statement that the out-of-state broker agrees to fully comply
4 with the laws of this state and submit to the regulatory jurisdiction of
5 the department for activities subject to real estate broker licensure
6 pursuant to this chapter.
- 7 (c) A statement that the licensed broker in this state understands
8 and accepts responsibility for the acts of the out-of-state broker.
- 9 2. All negotiations in this state or with people who own property
10 in this state are conducted through the licensed broker in this state.
- 11 3. The licensed broker in this state assumes all responsibility for
12 the acts of the out-of-state broker.
- 13 4. All principal funds handled by either the licensed broker in
14 this state or the out-of-state broker are subject to the deposit and
15 handling requirements of section 32-2151.
- 16 D. The offering of real estate brokerage services specified by
17 section 32-2101, paragraph ~~49~~ 50 for compensation or any other thing of
18 value pertaining to real property located in this state through an
19 internet website constitutes activity that requires a broker's license
20 issued by the department.
- 21 E. This section does not allow an out-of-state broker who is not
22 licensed in this state to list, market or advertise in this state real
23 property located in this state for sale, lease or exchange.
- 24 F. Signs shall not be placed on real property in this state by an
25 out-of-state broker. An out-of-state broker shall not use a cooperation
26 agreement as authority to sell, lease, rent, exchange or attempt to sell,
27 lease, rent or exchange real property to a resident of this state.