

Senate Engrossed

real estate department; licensing; administration

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1171

AN ACT

AMENDING SECTIONS 32-2101, 32-2104, 32-2106, 32-2108.01, 32-2116, 32-2123, 32-2124, 32-2125, 32-2125.02, 32-2126, 32-2127, 32-2130, 32-2132, 32-2135, 32-2136, 32-2151, 32-2151.01, 32-2153, 32-2163, 32-2174, 32-2197.08, 32-2197.10 AND 32-2197.16, ARIZONA REVISED STATUTES; RELATING TO REAL ESTATE.

(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. "ADDRESS OF RECORD" MEANS ANY OF THE FOLLOWING:

9 (a) THE ADDRESS WHERE A LICENSEE PRACTICES OR IS OTHERWISE
10 EMPLOYED.

11 (b) A LICENSEE'S RESIDENTIAL ADDRESS.

12 (c) THE ADDRESS OF A LICENSEE'S STATUTORY AGENCY WHO IS REGISTERED
13 AS THE LICENSEE'S STATUTORY AGENT WITH THE CORPORATION COMMISSION. THIS
14 SUBDIVISION APPLIES ONLY IF NOTICE OF THE STATUTORY AGENT IS GIVEN TO THE
15 DEPARTMENT PURSUANT TO SECTION 32-2126.

16 ~~2.~~ 3. "Advertising" means attempting by publication,
17 dissemination, exhibition, solicitation or circulation, oral or written,
18 or for broadcast on radio or television to induce directly or indirectly
19 any person to enter into any obligation or acquire any title or interest
20 in lands subject to this chapter, including the land sales contract to be
21 used and any photographs, drawings or artist's presentations of physical
22 conditions or facilities existing or to exist on the property.
23 Advertising does not include:

24 (a) Press releases or other communications delivered to newspapers,
25 periodicals or other news media for general information or public
26 relations purposes if no charge is made by the newspapers, periodicals or
27 other news media to publish or use any part of these communications.

28 (b) Communications to stockholders as follows:

29 (i) Annual reports and interim financial reports.

30 (ii) Proxy materials.

31 (iii) Registration statements.

32 (iv) Securities prospectuses.

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

34 (vi) Prospectuses.

35 (vii) Property reports.

36 (viii) Offering statements.

37 ~~3.~~ 4. "Affiliate" means a person who, directly or indirectly
38 through one or more intermediaries, controls, is controlled by or is under
39 common control with the person specified.

40 ~~4.~~ 5. "Associate broker" means a licensed broker who is employed
41 by another broker. Unless otherwise specifically provided, an associate
42 broker has the same license privileges as a salesperson.

43 ~~5.~~ 6. "Barrier" means a natural or man-made geographic feature
44 that prevents parcels of land from being practicably, reasonably and

1 economically united or reunited and that was not caused or created by the
2 owner of the parcels.

3 ~~6.~~ 7. "Blanket encumbrance":

4 (a) Means either:

5 (i) Any mortgage, any deed of trust or any other encumbrance or
6 lien that secures or evidences the payment of monies and that affects more
7 than one lot or parcel of subdivided land.

8 (ii) An agreement that affects more than one lot or parcel by which
9 the subdivider holds the subdivision under an option, contract to sell or
10 trust agreement.

11 (b) Does not include taxes and assessments that are levied by
12 public authority.

13 ~~7.~~ 8. "Board" means the real estate advisory board.

14 ~~8.~~ 9. "Broker", when used without modification, means a person who
15 is licensed as a broker under this chapter or who is required to be
16 licensed as a broker under this chapter.

17 ~~9.~~ 10. "Business broker" means a real estate broker who acts as an
18 intermediary or agent between sellers or buyers, or both, in the sale or
19 purchase, or both, of businesses or business opportunities where a lease
20 or sale of real property is either a direct or incidental part of the
21 transaction.

22 ~~10.~~ 11. "Camping site" means a space that is designed and promoted
23 for the purpose of locating any trailer, tent, tent trailer, pickup camper
24 or other similar device used for camping.

25 ~~11.~~ 12. "Cemetery" or "cemetery property" means any one, or a
26 combination of more than one, of the following in a place that is used, or
27 intended to be used, and dedicated for cemetery purposes:

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

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

30 (c) A crematory, or a crematory and columbarium, for cinerary
31 interments.

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

34 ~~12.~~ 13. "Cemetery broker" means a person other than a real estate
35 broker or real estate salesperson who, for another, for compensation:

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

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

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

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

1 ~~13.~~ 14. "Cemetery salesperson" means a natural person who acts on
2 the person's own behalf or through and on behalf of a professional limited
3 liability company or a professional corporation engaged by or on behalf of a
4 a licensed cemetery or real estate broker, or through and on behalf of a
5 corporation, partnership or limited liability company that is licensed as
6 a cemetery or real estate broker, to perform any act or transaction
7 included in the definition of cemetery broker.

8 ~~14.~~ 15. "Commissioner" means the state real estate commissioner.

9 ~~15.~~ 16. "Common promotional plan" means a plan, undertaken by a
10 person or a group of persons acting in concert, to offer lots for sale or
11 lease. If the land is offered for sale by a person or group of persons
12 acting in concert, and the land is contiguous or is known, designated or
13 advertised as a common unit or by a common name, the land is presumed,
14 without regard to the number of lots covered by each individual offering,
15 as being offered for sale or lease as part of a common promotional
16 plan. Separate subdividers selling lots or parcels in separately platted
17 subdivisions within a master planned community shall not be deemed to be
18 offering their combined lots for sale or lease as part of a common
19 promotional plan.

20 ~~16.~~ 17. "Compensation" means any fee, commission, salary, monies
21 or other valuable consideration for services rendered or to be rendered as
22 well as the promise of consideration whether contingent or not.

23 ~~17.~~ 18. "Contiguous":

24 (a) Means lots, parcels or fractional interests that share a common
25 boundary or point.

26 (b) Does not include lots, parcels or fractional interests that are
27 separated by either of the following:

28 (i) A barrier.

29 (ii) A road, street or highway that has been established by this
30 state or by any agency or political subdivision of this state, that has
31 been designated by the federal government as an interstate highway or that
32 has been regularly maintained by this state or by any agency or political
33 subdivision of this state and has been used continuously by the public for
34 at least the last five years.

35 ~~18.~~ 19. "Control" or "controlled" means a person who, through
36 ownership, voting rights, power of attorney, proxy, management rights,
37 operational rights or other rights, has the right to make decisions
38 binding on an entity, whether a corporation, a partnership or any other
39 entity.

40 ~~19.~~ 20. "Corporation licensee" means a lawfully organized
41 corporation that is registered with the ~~Arizona~~ corporation commission and
42 that has an officer licensed as the designated broker pursuant to section
43 32-2125.

44 ~~20.~~ 21. "Department" means the state real estate department.

1 ~~21.~~ 22. "Designated broker" means a natural person who is licensed
2 as a broker under this chapter and who is either:
3 (a) Designated to act on behalf of an employing real estate,
4 cemetery or membership camping entity.
5 (b) Doing business as a sole proprietor.
6 ~~22.~~ 23. "Developer":
7 (a) Means a person who offers real property in a development for
8 sale, lease or use, either immediately or in the future, on the person's
9 own behalf or on behalf of another person, under this chapter.
10 (b) Does not include a person whose involvement with a development
11 is limited to listing property within the development for sale, lease or
12 use.
13 ~~23.~~ 24. "Development" means any division, proposed division or use
14 of real property that the department has authority to regulate, including
15 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
16 membership campgrounds and stock cooperatives.
17 25. "DISTANCE LEARNING" MEANS CONTINUING EDUCATION OR PRELICENSURE
18 EDUCATION THAT IS AN ONLINE, PLANNED LEARNING EXPERIENCE WITH A GEOGRAPHIC
19 SEPARATION THAT MAY BE SYNCHRONOUS OR ASYNCHRONOUS, THAT DOES NOT REQUIRE
20 REAL-TIME INTERACTION BETWEEN A STUDENT AND AN INSTRUCTOR AND THAT USES A
21 PLATFORM WITH SELF-PACED OR PRERECORDED LESSONS AND MATERIALS THAT A
22 STUDENT CAN ACCESS VIA THE INTERNET TO PROCEED AT THE STUDENT'S OWN PACE.
23 ~~24.~~ 26. "Employing broker" means a person who is licensed or is
24 required to be licensed as a:
25 (a) Broker entity pursuant to section 32-2125, subsection A.
26 (b) Sole proprietorship if the sole proprietor is a broker licensed
27 pursuant to this chapter.
28 ~~25.~~ 27. "Fractional interest" means an undivided interest in
29 improved or unimproved land, lots or parcels of any size created for the
30 purpose of sale or lease and evidenced by any receipt, certificate, deed
31 or other document conveying the interest. Undivided interests in land,
32 lots or parcels created in the names of a husband and wife as community
33 property, joint tenants or tenants in common, or in the names of other
34 persons who, acting together as part of a single transaction, acquire the
35 interests without a purpose to divide the interests for present or future
36 sale or lease shall be deemed to constitute only one fractional interest.
37 ~~26.~~ 28. "Improved lot or parcel" means a lot or parcel of a
38 subdivision on which there is a residential, commercial or industrial
39 building or concerning which a contract has been entered into between a
40 subdivider and a purchaser that obligates the subdivider directly, or
41 indirectly through a building contractor, to completely construct a
42 residential, commercial or industrial building on the lot or parcel within
43 two years after the date on which the contract of sale for the lot is
44 entered into.

1 ~~27.~~ 29. "Inactive license" means a license that is issued pursuant
2 to article 2 of this chapter to a licensee who is on inactive status
3 during the current license period and who is not engaged by or on behalf
4 of a broker.

5 ~~28.~~ 30. "Lease" or "leasing" includes any lease, whether it is the
6 sole, the principal or any incidental part of a transaction.

7 ~~29.~~ 31. "License" means the whole or part of any agency permit,
8 certificate, approval, registration, public report, charter or similar
9 form of permission required by this chapter.

10 ~~30.~~ 32. "Licensee" means a person to whom a license for the
11 current license period has been granted under any provision of this
12 chapter, and, for the purposes of section 32-2153, subsection A, includes
13 original license applicants.

14 ~~31.~~ 33. "License period" means the two-year period beginning with
15 the date of original issue or renewal of a particular license and ending
16 on the expiration date, if any.

17 ~~32.~~ 34. "Limited liability company licensee" means a lawfully
18 organized limited liability company that has a member or manager who is a
19 natural person and who is licensed as the designated broker pursuant to
20 section 32-2125.

21 ~~33.~~ 35. "Live classroom course" means a course or instructional
22 segment delivered in either an in-person classroom instructional format or
23 a synchronous remote instructional format that allows students to observe
24 and participate remotely in an instructional segment via livestreaming.

25 ~~34.~~ 36. "Lot reservation" means an expression of interest by a
26 prospective purchaser in buying at some time in the future a subdivided or
27 unsubdivided lot, unit or parcel in this state. In all cases, a
28 subsequent affirmative action by the prospective purchaser must be taken
29 to create a contractual obligation to purchase.

30 ~~35.~~ 37. "Master planned community" means a development that
31 consists of two or more separately platted subdivisions and that is either
32 subject to a master declaration of covenants, conditions or restrictions,
33 is subject to restrictive covenants sufficiently uniform in character to
34 clearly indicate a general scheme for improving or developing real
35 property or is governed or administered by a master owner's association.

36 ~~36.~~ 38. "Member" means a member of the real estate advisory board.

37 ~~37.~~ 39. "Membership camping broker" means a person, other than a
38 salesperson, who, for compensation:

39 (a) Sells, purchases, lists, exchanges or leases membership camping
40 contracts.

41 (b) Offers to sell, purchase, exchange or lease membership camping
42 contracts.

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

1 (d) Advertises or holds himself out as being engaged in the
2 business of selling, buying, exchanging or leasing membership camping
3 contracts or counseling or advising regarding membership camping
4 contracts.

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

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

10 ~~38.~~ 40. "Membership camping contract" means an agreement that is
11 offered or sold in this state evidencing a purchaser's right or license to
12 use the camping or outdoor recreation facilities of a membership camping
13 operator and includes a membership that provides for this use.

14 ~~39.~~ 41. "Membership camping operator":

15 (a) Means an enterprise, other than one that is tax exempt under
16 section 501(c)(3) of the internal revenue code of 1986, as amended, that
17 solicits membership paid for by a fee or periodic payments and has as one
18 of its purposes camping or outdoor recreation, including the use of
19 camping sites primarily by members.

20 (b) Does not include camping or recreational trailer parks that are
21 open to the general public and that contain camping sites rented for a per
22 use fee or a mobile home park.

23 ~~40.~~ 42. "Membership camping salesperson" means a natural person
24 who acts on the person's own behalf or through and on behalf of a
25 professional limited liability company or a professional corporation
26 engaged by or on behalf of a licensed membership camping or real estate
27 broker, or by or on behalf of a corporation, partnership or limited
28 liability company that is licensed as a membership camping or real estate
29 broker, to perform any act or participate in any transaction in a manner
30 included in the definition of membership camping broker.

31 ~~41. "Online course" means precicensure education that is a planned~~
32 ~~learning experience with a geographic separation that may be synchronous~~
33 ~~or asynchronous, that does not require real-time interaction between a~~
34 ~~student and an instructor and that uses a platform with self-paced or~~
35 ~~prerecorded lessons and materials that a student can access via the~~
36 ~~internet to proceed at the student's own pace.~~

37 ~~42.~~ 43. "Partnership licensee" means a partnership with a managing
38 general partner who is licensed as the designated broker pursuant to
39 section 32-2125.

40 ~~43.~~ 44. "Permanent access", as required under article 4 of this
41 chapter, means permanent access from the subdivision to any federal, state
42 or county highway.

43 ~~44.~~ 45. "Perpetual care" or "endowed care":

44 (a) Means maintaining and caring, in all places where interments
45 have been made, for the trees, shrubs, roads, streets and other

1 improvements and embellishments contained within or forming a part of the
2 cemetery.

3 (b) Does not include maintaining or repairing monuments, tombs,
4 copings or other man-made ornaments as associated with individual burial
5 spaces.

6 ~~45.~~ 46. "Perpetual or endowed-care cemetery" means a cemetery in
7 which lots or other burial spaces are sold or transferred under the
8 representation that the cemetery will receive perpetual care or endowed
9 care free of further cost to the purchaser after payment of the original
10 purchase price for the lot, burial space or interment right.

11 ~~46.~~ 47. "Person" means any individual, corporation, partnership or
12 company and any other form of multiple organization for carrying on
13 business, foreign or domestic.

14 ~~47.~~ 48. "Private cemetery" means a cemetery or place that is not
15 licensed under article 6 of this chapter, where burials or interments of
16 human remains are made, in which sales or transfers of interment rights or
17 burial plots are not made to the public and in which not more than ten
18 interments or burials occur annually.

19 ~~48.~~ 49. "Promotion" or "promotional practice" means advertising
20 and any other act, practice, device or scheme to induce directly or
21 indirectly any person to enter into any obligation or acquire any title or
22 interest in or use of real property subject to this chapter, including
23 meetings with prospective purchasers, arrangements for prospective
24 purchasers to visit real property, travel allowances and discount,
25 exchange, refund and cancellation privileges.

26 ~~49.~~ 50. "Real estate" includes leasehold-interests and any estates
27 in land as defined in title 33, chapter 2, articles 1 and 2, regardless of
28 whether located in this state.

29 ~~50.~~ 51. "Real estate broker" means a person, other than a
30 salesperson, who, for another and for compensation:

31 (a) Sells, exchanges, purchases, rents or leases real estate,
32 businesses and business opportunities or timeshare interests.

33 (b) Offers to sell, exchange, purchase, rent or lease real estate,
34 businesses and business opportunities or timeshare interests.

35 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
36 exchange, purchase, rental or leasing of real estate, businesses and
37 business opportunities or timeshare interests.

38 (d) Lists or offers, attempts or agrees to list real estate,
39 businesses and business opportunities or timeshare interests for sale,
40 lease or exchange.

41 (e) Auctions or offers, attempts or agrees to auction real estate,
42 businesses and business opportunities or timeshare interests.

43 (f) Buys, sells, offers to buy or sell or otherwise deals in
44 options on real estate, businesses and business opportunities or timeshare

1 interests or improvements to real estate, businesses and business
2 opportunities or timeshare interests.

3 (g) Collects or offers, attempts or agrees to collect rent for the
4 use of real estate, businesses and business opportunities or timeshare
5 interests. This subdivision does not apply to a person who is not a
6 licensee, who works for a real estate broker or a real estate salesperson,
7 who collects in-person rent and related fees on behalf of the real estate
8 broker or real estate salesperson for the use of real estate as part of
9 the person's clerical duties and who provides a receipt when rent is paid.

10 (h) Advertises or holds himself out as being engaged in the
11 business of buying, selling, exchanging, renting or leasing real estate,
12 businesses and business opportunities or timeshare interests or counseling
13 or advising regarding real estate, businesses and business opportunities
14 or timeshare interests.

15 (i) Assists or directs in procuring prospects that are calculated
16 to result in the sale, exchange, leasing or rental of real estate,
17 businesses and business opportunities or timeshare interests.

18 (j) Assists or directs in negotiating any transaction calculated or
19 intended to result in the sale, exchange, leasing or rental of real
20 estate, businesses and business opportunities or timeshare interests.

21 (k) Incident to the sale of real estate, businesses and business
22 opportunities negotiates or offers, attempts or agrees to negotiate a loan
23 secured or to be secured by any mortgage or other encumbrance on or
24 transfer of real estate, businesses and business opportunities or
25 timeshare interests subject to section 32-2155, subsection D. This
26 subdivision does not apply to mortgage brokers as defined in and subject
27 to title 6, chapter 9, article 1.

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

31 (m) Claims, demands, charges, receives, collects or contracts to
32 collect an advance fee in connection with any employment enumerated in
33 this section, including employment undertaken to promote the sale or lease
34 of real property by advance fee listing, by furnishing rental information
35 to a prospective tenant for a fee paid by the prospective tenant, by
36 advertising or by any other offering to sell, lease, exchange or rent real
37 property or selling kits connected therewith. This does not include the
38 activities of any communications media of general circulation or coverage
39 not primarily engaged in advertising real estate or any communications
40 media activities that are specifically exempt from applicability of this
41 article under section 32-2121.

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

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

5 (p) Acts as a business broker.

6 ~~51.~~ 52. "Real estate sales contract" means an agreement in which
7 one party agrees to convey title to real estate to another party on the
8 satisfaction of specified conditions set forth in the contract.

9 ~~52.~~ 53. "Real estate salesperson" means a natural person who acts
10 on the person's own behalf or through and on behalf of a professional
11 limited liability company or a professional corporation engaged by or on
12 behalf of a licensed real estate broker, or by or on behalf of a limited
13 liability company, partnership or corporation that is licensed as a real
14 estate broker, to perform any act or participate in any transaction in a
15 manner included in the definition of real estate broker subject to section
16 32-2155.

17 ~~53.~~ 54. "Sale" or "lease" includes every disposition, transfer,
18 option or offer or attempt to dispose of or transfer real property, or an
19 interest, use or estate in the real property, including offering the
20 property as a prize or gift if a monetary charge or consideration for
21 whatever purpose is required.

22 ~~54.~~ 55. "Salesperson", when used without modification, means a
23 natural person who acts on the person's own behalf or through and on
24 behalf of a professional limited liability company or a professional
25 corporation licensed under this chapter or any person required to be
26 licensed as a salesperson under this chapter.

27 ~~55.~~ 56. "School" means a person or entity that offers a course of
28 study toward completion of the education requirements leading to licensure
29 or renewal of licensure under this chapter.

30 ~~56.~~ 57. "Stock cooperative" means a corporation to which all of
31 the following apply:

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

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

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

40 ~~57.~~ 58. "Subdivider":

41 (a) Means any person who offers for sale or lease six or more lots,
42 parcels or fractional interests in a subdivision or who causes land to be
43 subdivided into a subdivision for the subdivider or for others, or who
44 undertakes to develop a subdivision.

1 (b) Does not include a public agency or officer authorized by law
2 to create subdivisions.

3 ~~58.~~ 59. "Subdivision" or "subdivided lands":

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

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

10 (c) Does not include:

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

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

16 (iii) The leasing of agricultural lands or apartments, offices,
17 stores, hotels, motels, pads or similar space within an apartment
18 building, industrial building, rental recreational vehicle community,
19 rental manufactured home community, rental mobile home park or commercial
20 building.

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

24 (v) A sale or lease of a lot, parcel or fractional interest that
25 occurs ten or more years after the sale or lease of another lot, parcel or
26 fractional interest if the other lot, parcel or fractional interest is not
27 subject to this article and is treated as an independent parcel unless, on
28 investigation by the commissioner, there is evidence of intent to
29 subdivide.

30 ~~59.~~ 60. "Timeshare" or "timeshare property" means real property
31 ownership or right of occupancy in real property pursuant to article 9 of
32 this chapter. For the purposes of this chapter, a timeshare is not a
33 security unless it meets the definition of a security under section
34 44-1801.

35 ~~60.~~ 61. "Trustee":

36 (a) Means a person who either:

37 (i) Is designated under section 32-2194.27 to act as a trustee for
38 an endowment-care cemetery fund.

39 (ii) Holds bare legal title to real property under a subdivision
40 trust.

41 (b) Does not include a developer, subdivider, broker or salesperson
42 within this chapter.

43 ~~61.~~ 62. "Unimproved lot or parcel" means a lot or parcel of a
44 subdivision that is not an improved lot or parcel.

1 ~~4.~~ 7. Three public members who are not related within the third
2 degree of consanguinity or affinity to any person holding a broker's or
3 salesperson's license from this state.

4 C. Members of the board shall receive no compensation but shall be
5 reimbursed for subsistence expenses pursuant to section 38-624 and travel
6 expenses pursuant to section 38-623.

7 D. The board annually shall select from its membership a
8 chairperson for the board.

9 E. The board shall provide the commissioner with such
10 recommendations as it deems necessary and beneficial to the best interests
11 of the public. The board shall also provide recommendations on specific
12 questions or proposals as the board deems necessary or as requested by the
13 commissioner.

14 F. The board annually shall present to the governor an evaluation
15 of the performance of the real estate commissioner and the real estate
16 department.

17 G. Not more than five members of the board from any one county may
18 serve concurrently.

19 Sec. 3. Section 32-2106, Arizona Revised Statutes, is amended to
20 read:

21 32-2106. Real estate commissioner; appointment;
22 qualifications

23 A. The real estate commissioner shall be appointed by the governor,
24 pursuant to section 38-211. The real estate commissioner shall serve at
25 the pleasure of the governor.

26 B. To be a candidate for the position of real estate commissioner a
27 person shall have at least five years' experience in the real estate
28 industry, title insurance industry, ~~OR~~ banking or mortgage broker
29 industry and three years' administrative experience and shall not at the
30 date of acceptance of appointment be financially interested in any real
31 estate or brokerage firm, ~~nor~~ OR act as a broker, ~~and salesman~~ SALESPERSON
32 or agent ~~therefor except through a trust over which the applicant has no~~
33 ~~control~~ OF ANY REAL ESTATE OR BROKERAGE FIRM.

34 Sec. 4. Section 32-2108.01, Arizona Revised Statutes, is amended to
35 read:

36 32-2108.01. License applicants; fingerprint clearance cards;
37 definition

38 A. Before receiving and holding a license issued pursuant to this
39 chapter, each license applicant shall obtain a valid fingerprint clearance
40 card issued pursuant to section 41-1758.03.

41 B. The license applicant is responsible for providing the
42 department with a valid fingerprint clearance card.

43 C. The department shall not issue a license to an original license
44 applicant before receiving a valid fingerprint clearance card pursuant to
45 this section. ~~However,~~ The department ~~shall~~ MAY suspend ~~the~~ A license if

1 the LICENSEE'S fingerprint clearance card is ~~determined to be invalid~~
2 SUSPENDED and EITHER:

3 1. IF THE PERSON WAS CONVICTED OF THE ALLEGED CRIME CAUSING THE
4 FINGERPRINT CLEARANCE CARD SUSPENSION, THE COMMISSIONER COULD USE THE
5 CONVICTION TO DENY THE LICENSE APPLICATION PURSUANT TO THIS CHAPTER.

6 2. ~~An applicant who was issued a license~~ THE LICENSEE fails to
7 submit ~~a new valid fingerprint clearance card within ten days~~ SUFFICIENT
8 EVIDENCE TO PROVE THE INDIVIDUAL APPLIED FOR A GOOD CAUSE EXCEPTION
9 PURSUANT TO SECTION 41-619.55 WITHIN FIVE BUSINESS DAYS after being
10 notified by the department.

11 D. This section does not affect the department's authority to
12 otherwise issue, deny, cancel, terminate, suspend or revoke a license.

13 E. For the purposes of this section, "license applicant" means:

14 1. Each original real estate SALESPERSON, cemetery SALESPERSON and
15 membership camping salesperson and EACH ORIGINAL REAL ESTATE BROKER,
16 CEMETERY BROKER AND MEMBERSHIP CAMPING broker applicant pursuant to
17 article 2 of this chapter.

18 2. Each natural person, or for an entity applicant, any person
19 exercising control of the entity, who applies for an original certificate
20 of approval to operate a real estate school, or for a renewal certificate,
21 any natural person or person exercising control who has not previously
22 submitted a fingerprint CLEARANCE card to the department.

23 3. Any natural person, or for an entity applicant, any person
24 exercising control of the entity, ~~or~~ FOR whom the department has evidence
25 of a criminal record that has not been previously reviewed or evaluated by
26 the department and who applies for a:

27 (a) License renewal pursuant to section 32-2130.

28 (b) Public report to:

29 (i) Sell or lease subdivided lands pursuant to article 4 of this
30 chapter.

31 (ii) Sell or lease unsubdivided lands pursuant to article 7 of this
32 chapter.

33 (iii) Sell or lease ~~time-share~~ TIMESHARE estates pursuant to
34 article 9 of this chapter.

35 (iv) Sell membership camping contracts pursuant to article 10 of
36 this chapter.

37 (c) Certificate of authority to sell cemetery lots pursuant to
38 article 6 of this chapter.

39 Sec. 5. Section 32-2116, Arizona Revised Statutes, is amended to
40 read:

41 32-2116. Military airspace working group; contact
42 information; posting

43 ~~A. Each year the department shall contact the chairperson of the~~
44 ~~Arizona military airspace working group and request the name, address and~~
45 ~~telephone number of the chairperson.~~

1 ~~6.~~ The department shall post the CONTACT information ~~it receives~~
2 ~~pursuant to subsection A~~ FOR THE ARIZONA MILITARY AIRSPACE WORKING GROUP
3 on the department's ~~web site~~ WEBSITE.

4 Sec. 6. Section 32-2123, Arizona Revised Statutes, is amended to
5 read:

6 32-2123. Application for license as broker or salesperson

7 A. Every application for an original license shall be either
8 submitted in writing and signed by the applicant or submitted
9 electronically and contain an electronic or digital identifier that the
10 commissioner deems appropriate. The application shall be accompanied by
11 all applicable fees.

12 B. An application for an original license as a broker or
13 salesperson shall set forth:

14 1. The applicant's ~~residence~~ address OF RECORD and legal name and
15 any derivative of the applicant's first name or middle name or a nickname
16 that the applicant regularly uses for advertising purposes.

17 ~~2. The applicant's employers and employment history for the~~
18 ~~immediately preceding ten years and any experience in real estate sales,~~
19 ~~appraisals, transfers or similar business in which the applicant~~
20 ~~previously engaged, if the commissioner determines that this information~~
21 ~~is needed to reasonably evaluate the applicant.~~

22 ~~3. The name and place of business of the applicant's present~~
23 ~~employer, if any.~~

24 ~~4.~~ 2. Whether the applicant has ever been convicted of a felony
25 and, if so, the nature of the felony, where and when THE FELONY WAS
26 committed and the disposition of the conviction, or whether the applicant
27 has been disbarred or suspended from the practice of law.

28 ~~5.~~ 3. Whether the applicant has ever been refused a broker's or
29 salesperson's license or any other occupational license in this or any
30 other state, whether the applicant's license as a broker or salesperson
31 has been revoked or suspended in this or any other state or whether the
32 applicant has had any other occupational or professional license,
33 certificate or registration revoked or suspended in this or any other
34 state.

35 ~~6.~~ 4. The name of any corporation, company or partnership that is
36 or ever has been licensed by the department in which the applicant
37 exercised any control.

38 ~~7.~~ 5. If the applicant is a natural person, the applicant's social
39 security number. If the applicant, due to bona fide religious convictions
40 or other bona fide reasons that the applicant documents on the application
41 to the satisfaction of the commissioner, does not have a social security
42 number, the applicant may provide the applicant's federal tax
43 identification number with the application. The state real estate
44 department shall use the applicant's social security number or federal tax
45 identification number to aid the department of economic security in

1 locating noncustodial parents or the assets of noncustodial parents, and
2 for no other purpose.

3 C. An application for a license as a broker additionally shall set
4 forth:

5 1. The name under which the business is to be conducted.

6 2. The ~~situs and mailing~~ APPLICANT'S address of ~~the applicant's~~
7 ~~place of business, or if more than one, the situs and mailing addresses of~~
8 ~~each~~ RECORD.

9 D. An applicant for a broker's or salesperson's license shall
10 provide information that the commissioner determines is reasonably
11 necessary. The information may include:

12 1. Prior criminal records.

13 2. A valid fingerprint clearance card issued pursuant to section
14 41-1758.03.

15 3. An affidavit setting out whether the applicant has participated
16 in, operated or held an interest in any land development company that has
17 filed, or is subject to, a petition under any chapter of the federal
18 bankruptcy act.

19 ~~E. Each person licensed pursuant to this article, whether the~~
20 ~~license is active or inactive, shall have available for the licensee's use~~
21 ~~a current copy of the department's statutes, rules and annotations~~
22 ~~pertaining to real estate laws. Failure to comply with this requirement~~
23 ~~shall not be deemed grounds for a civil penalty or for denial, suspension~~
24 ~~or revocation of a license.~~

25 Sec. 7. Section 32-2124, Arizona Revised Statutes, is amended to
26 read:

27 32-2124. Qualifications of licensees

28 A. Except as otherwise provided in this chapter, the commissioner
29 shall require proof, through the application or otherwise, as the
30 commissioner deems advisable with due regard to the interests of the
31 public, as to the competency of the applicant and shall require that the
32 applicant has:

33 1. If for an original real estate broker's license, ~~at least three~~
34 ~~years' actual experience as a~~ BEEN AN ACTIVE licensed real estate
35 salesperson or real estate broker FOR AT LEAST THREE YEARS during the five
36 years immediately preceding the time of application.

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

43 3. If for an original membership camping broker's license, either a
44 current real estate broker's license, or if the applicant does not have a
45 current real estate broker's license, at least three years' actual

1 experience as a licensed membership camping salesperson or LICENSED
2 MEMBERSHIP CAMPING broker or as a licensed real estate salesperson or
3 LICENSED REAL ESTATE broker during the five years immediately preceding
4 the time of application.

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

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

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

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

26 B. All applicants other than renewal applicants under section
27 32-2130 for a real estate salesperson's license shall show evidence
28 satisfactory to the commissioner that they have completed a real estate
29 salesperson's course that is prescribed and approved by the commissioner
30 and that is at least ninety classroom hours, or ~~its~~ THE equivalent, of
31 instruction in a real estate school certified by the commissioner and have
32 satisfactorily passed an examination on the course. An applicant may
33 complete the real estate salesperson's course prescribed by this
34 subsection through a live classroom course or ~~an online~~ A DISTANCE
35 LEARNING course if the live classroom course or ~~online~~ DISTANCE LEARNING
36 course is offered by a real estate school that is certified by the
37 commissioner. The applicant must complete ~~an~~ A PROCTORED examination on
38 the live classroom course or the ~~online~~ DISTANCE LEARNING course in
39 person. An applicant may complete the required course or instructional
40 segments in any combination of in-person or synchronous remote delivery
41 methods. The real estate salesperson's course completion or its
42 equivalent may not be more than ten years before the date of application
43 unless, at the time of application, the commissioner determines in the
44 commissioner's discretion that the applicant has work experience in a real
45 estate-related field and education that together are equivalent to the

1 prelicensure education requirement. EXCEPT AS PROVIDED IN SECTION
2 32-4302, the commissioner may waive all or a portion of the prelicensure
3 course requirement, other than the twenty-seven-hour Arizona-specific
4 course, for an applicant who holds a current real estate license in
5 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~~ A DISTANCE LEARNING course if
15 the live classroom course or ~~online~~ DISTANCE LEARNING course is offered by
16 a real estate school that is certified by the commissioner. The applicant
17 must complete ~~an~~ A PROCTORED examination on the live classroom course or
18 ~~online~~ DISTANCE LEARNING course in person. An applicant may complete the
19 required course or instructional segments in any combination of in-person
20 or synchronous remote delivery methods. The real estate broker's course
21 completion or its equivalent may not be more than ten years before the
22 date of application unless, at the time of application, the commissioner
23 determines in the commissioner's discretion that the applicant has work
24 experience in a real estate-related field and education that together are
25 equivalent to the prelicensure education requirement. EXCEPT AS PROVIDED
26 IN SECTION 32-4302, the commissioner may waive all or a portion of the
27 prelicensure course requirement, other than the twenty-seven-hour
28 Arizona-specific course, for an applicant who holds a current real estate
29 license in another state.

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

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

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

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

43 3. A thorough understanding of the obligations between principal
44 and agent, the principles of real estate and business opportunity

1 practice, the applicable canons of business ethics, ~~the provisions of~~ this
2 chapter and rules adopted pursuant to this chapter.

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

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

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

10 2. A general understanding of:

11 (a) Cemetery associations, cemetery corporations and duties of
12 cemetery directors and officers.

13 (b) Plot ownership, deeds, certificates of ownership, contracts of
14 sale, liens and leases.

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

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

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

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

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

30 2. A general understanding of:

31 (a) The general purposes and legal effect of contracts and agency
32 contracts.

33 (b) Establishing, maintaining, managing and operating a membership
34 campground.

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

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

42 H. A renewal applicant for a real estate **BROKER'S**, cemetery
43 **BROKER'S** or membership camping broker's or **REAL ESTATE SALESPERSON'S**,
44 **CEMETERY SALESPERSON'S OR MEMBERSHIP CAMPING** salesperson's license is not
45 required to submit to an examination if the application is made within

1 twelve months after the license expires and the license is not canceled,
2 terminated or suspended at the time of application.

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

6 J. An applicant for a real estate salesperson's or REAL ESTATE
7 broker's license who currently holds at least an equivalent license in
8 another state ~~may be~~ IS exempt from taking the national portion of the
9 real estate examination ~~if the applicant can demonstrate passing a~~
10 ~~national examination within the past five years that is satisfactorily~~
11 ~~similar to the one administered by the department~~ PURSUANT TO SECTION
12 32-4302.

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

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

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

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

33 Sec. 8. Section 32-2125, Arizona Revised Statutes, is amended to
34 read:

35 32-2125. Licenses for corporations, limited liability
36 companies or partnerships

37 A. A corporation, limited liability company or partnership applying
38 for a broker's license for the entity shall designate a natural person who
39 is licensed as a broker and who is an officer of the corporation, manager
40 of the limited liability company if management of the limited liability
41 company is vested in one or more managers, member of the limited liability
42 company if management is vested in the members or partner of the
43 partnership who shall act as designated broker. The license shall extend
44 no authority to act as designated broker to any other person. This
45 subsection does not apply to a corporation or limited liability company

1 applying for a license under subsection B of this section. An entity's
2 broker's license issued pursuant to this subsection shall run concurrently
3 with the corporation's, limited liability company's or partnership's
4 designated broker's license.

5 B. An employing broker may engage the services of salespersons and
6 associate brokers who act through and on behalf of professional
7 corporations or professional limited liability companies that are licensed
8 by the department. A designated broker who acts on behalf of an employing
9 real estate entity is allowed to become a professional corporation or a
10 professional limited liability company. Any person so engaged shall be
11 separately licensed. The department shall issue to or renew a license
12 under this subsection only for a professional corporation or a
13 professional limited liability company whose shareholders, members or
14 managers hold active real estate licenses. A corporation licensed under
15 this subsection shall meet the requirements of title 10, chapter 20. A
16 limited liability company licensed under this subsection shall meet the
17 requirements of title 29, chapter 7, article 11. A professional
18 corporation or professional limited liability company shall not be
19 licensed as an employing broker.

20 C. The license of a corporation or limited liability company
21 licensed under subsection B of this section terminates only on the death
22 of a shareholder, member or manager or any other change of shareholders,
23 members or managers, except that any remaining shareholder, member or
24 manager who was an authorized officer and shareholder ~~prior to~~ BEFORE the
25 change remains authorized to continue business under the corporation's or
26 limited liability company's license for up to an additional ninety days
27 pending the issuance of a new license OR INSTALLATION OF A NEW DESIGNATED
28 BROKER. THE CORPORATION OR LIMITED LIABILITY COMPANY MAY NOT ASSUME
29 REPRESENTATION FOR NEW CLIENTS WHILE A NEW LICENSE IS PENDING OR UNTIL A
30 NEW DESIGNATED BROKER IS ADDED TO THE ENTITY'S LICENSE.

31 D. The commissioner may suspend, revoke or deny renewal or the
32 right of renewal of the license of a corporation, limited liability
33 company or partnership licensed under this section if the corporation,
34 limited liability company or partnership or any shareholder, officer,
35 agent, partner or member of a corporation, limited liability company or
36 partnership violates any of the provisions of this chapter.

37 E. AN ENTITY THAT IS LICENSED PURSUANT TO THIS CHAPTER MAY NOT HAVE
38 A PERSON NAMED AS THE DESIGNATED BROKER ON THE LICENSE IF THE PERSON IS OR
39 WAS NAMED AS A DESIGNATED BROKER OR THE EQUIVALENT OF A DESIGNATED BROKER
40 ON ANY OTHER LICENSE IN THIS STATE OR IN ANOTHER STATE AND ANY OF THE
41 FOLLOWING APPLIES:

42 1. THE PERSON IS UNDER AN ORDER TO CEASE AND DESIST FROM ENGAGING
43 IN REAL ESTATE ACTIVITY.

44 2. THE PERSON'S LICENSE IS UNDER SUSPENSION.

1 the licensee as though the licensee were personally served with the
2 process in this state.

3 C. A nonresident licensee shall accept employment or compensation
4 as a nonresident licensee only under section 32-2155 and only from a
5 broker who is actively licensed in this state.

6 D. A nonresident broker shall maintain in this state the records
7 required by section 32-2151.01 and shall notify the commissioner of the
8 address where the records are kept OR MAY USE ONLINE RECORDKEEPING IF THE
9 DATA IS BACKED UP AND THE NONRESIDENT BROKER NOTIFIES THE DEPARTMENT OF
10 THE NAME OF AND CONTACT INFORMATION FOR THE ONLINE RECORDKEEPING PROVIDER.

11 ~~E. Broker or salesperson license applicants who do not reside in
12 this state are required to complete a minimum of a twenty-seven hour
13 course that is specific to this state's real estate statutes, rules,
14 practices and procedures and that is prescribed and approved by the
15 commissioner and are required to pass the real estate school examination
16 before taking this state's examination. The subject matter and course
17 outline shall cover areas specific to this state's real estate practice
18 and law. The requirements of this subsection also apply, to the extent
19 applicable, to broker or salesperson applicants who wish to use college
20 credit in fulfillment of the required ninety prelicensure hours.~~

21 E. PURSUANT TO SECTION 32-4302, A BROKER LICENSE OR SALESPERSON
22 LICENSE APPLICANT WHO DOES NOT RESIDE IN THIS STATE IS REQUIRED TO
23 SUCCESSFULLY PASS THE PORTION OF THE EXAMINATION THAT IS SPECIFIC TO THIS
24 STATE'S REAL ESTATE PRACTICE AND LAWS.

25 F. The commissioner may adopt rules necessary for the regulation of
26 nonresident licensees.

27 Sec. 10. Section 32-2126, Arizona Revised Statutes, is amended to
28 read:

29 32-2126. Place of business or statutory agent required;
30 notice of change; failure to give notice as
31 cancellation of license; signage

32 A. Each employing broker shall have and maintain a definite place
33 of business OR AN ACTIVE AND VALID STATUTORY AGENT ON FILE WITH THE
34 CORPORATION COMMISSION. THE EMPLOYING BROKER MUST NOTIFY THE DEPARTMENT
35 OF THE DEFINITE PLACE OF BUSINESS OR THE VALID STATUTORY AGENT. Notice of
36 A change of business location OR STATUTORY AGENT shall be given to the
37 commissioner in writing ~~and the commissioner shall issue a new license for~~
38 ~~the unexpired period.~~ Change or abandonment of a business location OR
39 STATUTORY AGENT without notice shall automatically cancel the EMPLOYING
40 broker's license and shall sever the license of any salesperson or
41 associate broker employed by the employing broker. If an employing
42 broker's license is cancelled pursuant to this subsection and the
43 EMPLOYING broker's license is later reinstated, any salesperson or
44 associate broker employed by the employing broker whose license was
45 severed pursuant to this subsection may be rehired.

1 B. Each designated broker and, if applicable, each employing broker
2 shall cause a sign to be affixed at the entrance to the broker's place of
3 business, in a place and position clearly visible to all entering the
4 place of business, with the name of the broker, the name under which the
5 broker is doing business if other than the broker's given name, and
6 sufficient wording to establish that the person is a real estate broker,
7 cemetery broker or membership camping broker. In addition to any other
8 applicable law, the sign shall conform to rules adopted by the
9 commissioner.

10 C. ~~Upon~~ ON removal from any location the broker shall remove the
11 sign from the location. A broker shall not display any name at designated
12 places of business named in the broker's license other than the name under
13 which the broker is licensed.

14 Sec. 11. Section 32-2127, Arizona Revised Statutes, is amended to
15 read:

16 32-2127. Licenses for additional places of business; branch
17 office manager; broker's temporary absence

18 A. ~~When~~ IF a broker maintains more than one place of business
19 within the state, ~~he~~ THE BROKER shall ~~be required to~~ procure an additional
20 license for each branch office maintained.

21 B. Branch office licenses shall be issued in the same name as the
22 principal office license is issued, and the license must be posted in the
23 branch office. Branch office signs shall conform to the provisions for
24 the principal office and shall include the designation "branch office".

25 C. Each branch office shall be under the management of a broker or
26 a licensed salesman.

27 D. If a designated broker is unable to act within twenty-four
28 hours, ~~he~~ THE DESIGNATED BROKER may designate a licensee whom ~~he~~ THE
29 DESIGNATED BROKER employs or another designated broker to act in ~~his~~ THE
30 DESIGNATED BROKER'S behalf. The designated broker shall make this
31 designation in writing and shall keep the original designation at ~~his~~ THE
32 DESIGNATED BROKER'S office for one year from its effective date. A copy
33 of this designation must be attached to any hire, sever or renewal form
34 submitted to the department ~~which~~ THAT is signed by the designated
35 broker's designee. This designation shall not exceed thirty days'
36 duration and may authorize the designee to perform any ~~and all~~ duties the
37 designated broker may legally perform, except that a salesperson ~~shall~~ IS
38 not ~~be~~ authorized to hire or sever licensees. A written designation is
39 required for each temporary absence.

40 Sec. 12. Section 32-2130, Arizona Revised Statutes, is amended to
41 read:

42 32-2130. Renewal of licenses; education requirements; broker
43 licensee renewal as salesperson licensee

44 A. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, a license
45 may be renewed in a timely manner by filing an application for renewal in

1 the manner prescribed by the commissioner, by paying the renewal fee
2 specified in this chapter and by presenting evidence of attendance at a
3 school certified by the commissioner during the preceding license period
4 of twenty-four credit hours for salespersons and associate brokers and
5 thirty credit hours for designated brokers or for associate brokers
6 employed by a designated broker pursuant to section 32-2151.01, subsection
7 G, or a lesser number of credit hours prescribed by the commissioner, of
8 real estate oriented continuing education courses prescribed and approved
9 by the commissioner. The total number of credit hours shall be accrued at
10 a rate of twenty-four credit hours for salespersons and associate brokers
11 and thirty credit hours for designated brokers or for associate brokers
12 employed by a designated broker pursuant to section 32-2151.01, subsection
13 G during each ~~twenty-four month~~ TWENTY-FOUR-MONTH period of
14 licensure. The department shall maintain a current list of approved
15 courses. The commissioner may waive all or a portion of the continuing
16 education requirement for good cause shown. The commissioner shall
17 determine by rule the content of the renewal credit hours. The renewal
18 credit hours may include the commissioner's current topics, including
19 short sales. For the purposes of this subsection, "short sales" means
20 real estate transactions in which the sales price is insufficient to pay
21 the loan encumbering the property in addition to the costs of sale and the
22 seller is unable to pay the difference.

23 B. If an applicant is renewing a license within one year after it
24 expired, the applicant may apply continuing education hours completed
25 after the expiration toward the continuing education required for renewal.

26 C. Each renewal application shall contain, as applicable, the same
27 information required in an original application pursuant to section
28 32-2123.

29 D. Cemetery brokers and salespersons and membership camping brokers
30 and salespersons are exempt from the educational requirements of this
31 section.

32 E. ~~Nothing in~~ This section ~~requires~~ DOES NOT REQUIRE a licensee to
33 attend department produced or sponsored courses if approved courses are
34 otherwise available.

35 F. Between the expiration date of the license and the date of
36 renewal of the license, the rights of the licensee under the license
37 expire. While the license is expired it is unlawful for a person to act
38 or attempt or offer to act in a manner included in the definition of a
39 real estate, cemetery or membership camping broker or salesperson. If the
40 license of an employing broker expires under this subsection, the licenses
41 of persons who are employed by the employing broker shall be severed from
42 the employing broker on the license expiration date of the employing
43 broker. These persons may be rehired on renewal of the employing broker's
44 license. The department shall terminate a license that has been expired
45 for more than one year.

1 G. Except as provided in section 32-4301, ~~no~~ NOT more than one year
2 after the license expiration date, the department shall renew a license
3 without requiring the applicant to submit to an examination if the
4 applicant held a license that was not canceled or suspended at the time of
5 expiration. Except as provided in section 32-4301, the license period for
6 a license renewed pursuant to this subsection commences the day after the
7 expiration date of the expired license. Except as provided in section
8 32-2131, subsection A, paragraph 4 or 6, an applicant whose license has
9 been terminated or revoked does not qualify for license renewal.

10 H. Any employee or immediate family member of any employee of this
11 state who, pursuant to section 32-2110 or any other law, rule or
12 requirement, is prohibited from using a license issued under this chapter
13 shall have, on the request of the employee or family member, the license
14 placed on inactive status, shall have the right to renew the license and
15 shall not be required to pay further fees until the employee or family
16 member is again eligible to use the license. Renewal fees for the license
17 shall not be required for only as long as the employee or family member is
18 prohibited from using the license.

19 I. The department shall not renew the license of a person who has
20 been convicted of a felony offense and who is currently incarcerated for
21 the conviction, paroled or under community supervision and under the
22 supervision of a parole or community supervision officer or who is on
23 probation as a result of the conviction. This subsection does not limit
24 the commissioner's authority and discretion to deny the renewal for any
25 other reason pursuant to this chapter.

26 J. A real estate broker licensee may renew as a real estate
27 salesperson licensee without having to meet the requirements prescribed by
28 section 32-2124, subsection B. If a person renews as a real estate
29 salesperson pursuant to this subsection, the person shall pay the
30 salesperson's renewal fee as prescribed in section 32-2132. If the person
31 subsequently wants to obtain a real estate broker license, the person must
32 meet the requirements of this chapter, including the requirements
33 prescribed by section 32-2124, subsection C.

34 K. A LICENSEE WITH AN INACTIVE LICENSE DOES NOT NEED TO COMPLETE
35 CONTINUING EDUCATION CREDIT HOURS DURING THE PERIOD THAT THE LICENSE IS
36 INACTIVE. IF THE LICENSEE APPLIES WITH THE DEPARTMENT TO CHANGE THE
37 LICENSE STATUS TO ACTIVE:

38 1. THE COMMISSIONER MAY REQUIRE THE LICENSEE TO COMPLETE CONTINUING
39 EDUCATION CREDIT HOURS BEFORE ACTIVATING THE LICENSE.

40 2. IN ADDITION TO THE CONTINUING EDUCATION REQUIREMENT DESCRIBED IN
41 PARAGRAPH 1 OF THIS SUBSECTION, IF THE LICENSE HAS BEEN INACTIVE FOR MORE
42 THAN FIFTEEN YEARS, THE COMMISSIONER SHALL REQUIRE THAT THE APPLICANT
43 SUCCESSFULLY PASS AN EXAMINATION SPECIFIC TO THE LAWS OF THIS STATE
44 RELATING TO THIS CHAPTER BEFORE ACTIVATING THE LICENSE.

1 L. ONE YEAR BEFORE THE FIFTEEN-YEAR PERIOD DESCRIBED IN SUBSECTION
2 K, PARAGRAPH 2 OF THIS SECTION EXPIRES, THE DEPARTMENT SHALL SEND A NOTICE
3 TO A LICENSEE WITH AN INACTIVE LICENSE. THE NOTICE SHALL BE SENT TO THE
4 LICENSEE'S LAST KNOWN ADDRESS OF RECORD MAINTAINED BY THE DEPARTMENT AND
5 SHALL DISCLOSE THE REQUIREMENTS OF SUBSECTION K OF THIS SECTION.

6 Sec. 13. Section 32-2132, Arizona Revised Statutes, is amended to
7 read:

8 32-2132. Fees

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

- 12 1. A broker's examination application fee of not more than \$125.
- 13 2. A broker's examination fee of not more than \$100.
- 14 3. A broker's license fee of not more than \$250.
- 15 4. A broker's renewal fee of not more than \$400.
- 16 5. A salesperson's examination application fee of not more
17 than \$75.
- 18 6. A salesperson's examination fee of not more than \$50.
- 19 7. A salesperson's license fee of not more than \$125.
- 20 8. A salesperson's renewal fee of not more than \$200.
- 21 9. A branch office broker's license fee or renewal fee of not more
22 than \$200.
- 23 10. A fee for a change of name and address of licensee on records of
24 the department of not more than \$20.
- 25 11. A duplicate license fee of \$5.
- 26 12. A fee for reinstatement of license within the license period
27 of \$5.
- 28 13. A fee for each certificate of correctness of copy of records or
29 documents on file with the department of \$1, plus the cost to the
30 department for reproducing the records or documents.
- 31 14. A temporary broker's license fee of not more than \$50.
- 32 15. A temporary cemetery salesperson's license fee of not more
33 than \$50.
- 34 16. A membership camping salesperson certificate of convenience fee
35 of not more than \$50.
- 36 17. Fees in an amount to be determined by the commissioner by rule
37 for the following:
 - 38 (a) A certificate of approval or renewal to operate a school.
 - 39 (b) An instructor or other school official approval or renewal fee.
 - 40 (c) A continuing education live classroom course approval or
41 renewal fee.
 - 42 (d) A prelicensure education live classroom course or prelicensure
43 ~~online~~ DISTANCE LEARNING course approval or renewal fee. The prelicensure
44 course fee imposed by this subdivision shall be the same and the renewal
45 course fee imposed by this subdivision shall be the same regardless of the

1 instructional format a person uses to complete a prelicensure education
2 course or instructional segment or a renewal education course or
3 instructional segment.

4 (e) A continuing education distance learning course approval or
5 renewal fee.

6 B. A corporation, partnership or limited liability company shall
7 not be assessed a fee for the issuance of a broker's license.

8 C. The commissioner may contract for the processing of applications
9 and the examination of applicants for licensure. The contract may provide
10 for specific fees or a reasonable range for fees as determined by the
11 commissioner for examination applications and examinations to be paid
12 directly to the contractor by the applicant. These fees may not exceed
13 the amounts prescribed in subsection A, paragraphs 1, 2, 5 and 6 of this
14 section.

15 D. For good cause shown the commissioner may refund fees previously
16 collected.

17 Sec. 14. Section 32-2135, Arizona Revised Statutes, is amended to
18 read:

19 32-2135. Real estate schools; courses of study; instructors;
20 certification

21 A. Except as provided in section 32-4301, before offering a course
22 of study towards completion of the education requirement for real estate
23 licensure or renewal of licensure, a school shall obtain from the
24 commissioner a certificate of approval or renewal to operate a school for
25 a period of at least four years. A school shall also obtain a certificate
26 of course approval for each course offered for credit that is not
27 currently approved for another school. Each school is responsible for the
28 content of any course it offers and for the professional administration
29 and teaching of the course. Prelicensure education live classroom
30 courses, **PRELICENSURE EDUCATION DISTANCE LEARNING COURSES**, continuing
31 education live classroom courses, ~~online courses~~ and distance learning
32 continuing education courses are subject to approval pursuant to this
33 section.

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

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

43 1. Committing or failing to report a violation by an approved
44 school or instructor of any provision of this chapter or rules adopted
45 pursuant to this chapter.

- 1 2. Improperly certifying student attendance or performance.
- 2 3. Committing any act that is grounds for discipline under section
- 3 32-2153.
- 4 4. Teaching information or using course materials that have not
- 5 been approved by the commissioner.
- 6 5. Failing to attend any continuing education course required by
- 7 the commissioner.
- 8 6. Filing any false or misleading application, report or
- 9 documentation with the department.
- 10 7. Teaching course content that is not current or that has
- 11 substantially changed from the course as approved.
- 12 D. A real estate school, through any owner, director,
- 13 administrator, instructor or other agent, shall not:
- 14 1. Offer a course of study for credit that is not approved by the
- 15 department, except that the school may advertise a course as pending
- 16 approval before its approval.
- 17 2. Promote or advertise the school using false or misleading
- 18 statistics or testimonials or any other form of deceptive advertisement.
- 19 E. The commissioner may determine minimal content requirements for
- 20 approving educational courses and appropriate professional qualifications
- 21 for approving instructors to teach individual educational courses.
- 22 F. Except as provided in subsection G of this section, at least
- 23 thirty days before holding a course of study for completion of the
- 24 education requirements leading to licensure of real estate applicants or
- 25 for license renewal requirements, an application for a certificate of
- 26 course approval or renewal must be filed with the department. For a live
- 27 classroom course, the application shall include a course outline with
- 28 sufficient detail to clearly identify the scope and content of the
- 29 course. The outline shall state ~~a desired instructional outcome for the~~
- 30 ~~course~~ **HOW THE COURSE IS INTENDED TO PROTECT THE PUBLIC**. A prelicensure
- 31 education course outline that is submitted for approval shall be divided
- 32 into estimated fifty-minute instructional segments. Course approval shall
- 33 not be unreasonably withheld and shall not be issued later than thirty
- 34 days after filing with the department for a live classroom course. A
- 35 continuing education distance learning course approval shall not be issued
- 36 later than ninety days after filing with the department. If the approvals
- 37 under this subsection are not granted within the time frames prescribed by
- 38 this subsection, the course shall be automatically approved on a
- 39 provisional basis for one hundred eighty days, unless the department has
- 40 otherwise notified the applicant of specific deficiencies or unfulfilled
- 41 requirements for the course submission. A provisional approval may be
- 42 withdrawn by the department on fifteen days' advance notice if the
- 43 department's review of the course subsequently reveals course deficiencies
- 44 or unfulfilled course requirements. If not withdrawn, the course approval
- 45 shall remain approved for the entire course approval period. Course

1 approval shall be for a period of at least four years if the contents of
2 the course remain current and substantially unchanged. The course may not
3 be taught if the content ceases to be current or is substantially changed.
4 The department may establish by rule additional appropriate requirements
5 for approval of a distance learning course.

6 G. At least ninety days before holding ~~an online~~ A DISTANCE LEARNING
7 course of study for completion of the education requirements leading to
8 licensure of real estate applicants, an application for a certificate of
9 ~~online~~ DISTANCE LEARNING course approval must be filed with the
10 department. ~~An online~~ A DISTANCE LEARNING course outline that is
11 submitted for approval shall be divided into estimated fifty-minute
12 instructional segments. ~~Online~~ DISTANCE LEARNING course approval shall
13 not be unreasonably withheld and shall be issued not later than ninety
14 days after filing with the department. If the approvals under this
15 subsection are not granted within the time frames prescribed by this
16 subsection, the ~~online~~ DISTANCE LEARNING course shall be automatically
17 approved on a provisional basis for one hundred eighty days, unless the
18 department has otherwise notified the applicant of specific deficiencies
19 or unfulfilled requirements for the ~~online~~ DISTANCE LEARNING course
20 submission. A provisional approval may be withdrawn by the department on
21 fifteen days' advance notice if the department's review of the ~~online~~
22 DISTANCE LEARNING course subsequently reveals course deficiencies or
23 unfulfilled course requirements. If not withdrawn, the ~~online~~ DISTANCE
24 LEARNING course approval shall remain approved for the entire ~~online~~
25 DISTANCE LEARNING course approval period. ~~Online~~ DISTANCE LEARNING course
26 approval shall be for a period of at least four years if the contents of
27 the ~~online~~ DISTANCE LEARNING course remain current and substantially
28 unchanged. The ~~online~~ DISTANCE LEARNING course may not be taught if the
29 content ceases to be current or is substantially changed. Approved ~~online~~
30 DISTANCE LEARNING courses must provide for student participation, feedback
31 and remedial instruction. The department may establish by rule additional
32 appropriate requirements for approval of ~~an online~~ A DISTANCE LEARNING
33 course.

34 H. For a currently approved course or ~~online~~ DISTANCE LEARNING
35 course:

36 1. UNLESS GRANTED AN EXEMPTION BY THE COMMISSIONER, the school
37 shall submit notice to the department at least fourteen days before
38 holding the course to allow department employees to monitor the
39 course. The notice is not otherwise subject to review and approval by the
40 department.

41 2. With the permission of the school that received original
42 approval for the course, another school that desires to offer the course
43 is subject only to the fourteen-day notice requirement before holding the
44 same course. No additional review and approval by the department is
45 required.

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

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

8 1. Provide the department with a ~~videotape or videotapes~~ VIDEO
9 RECORDING of the course.

10 2. Make arrangements that are approved by the department for
11 monitoring the course.

12 K. An instructor shall file with the department an application for
13 instructor approval or renewal. Instructor approval shall be for at least
14 four years ~~from~~ AFTER the date of approval and is subject to amendment
15 during the license period only if information material to the instructor's
16 qualifications has changed. A person holding instructor approval to teach
17 specific subject matter is not subject to additional or duplicate approval
18 requirements during the original approval period, except that an
19 additional instructor competency area may be added during the license
20 period on submission by the instructor of evidence of competency in such
21 additional competency area.

22 L. In the twenty-four months before application, each instructor
23 original or renewal applicant, other than a panelist, guest speaker,
24 attorney or out-of-state instructor, shall attend at least a three-hour
25 professional seminar or workshop, approved by the department, emphasizing
26 instruction methods, techniques and skills. At the discretion of the
27 commissioner this requirement may be waived based on individual request
28 review.

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

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

35 O. This section does not affect the department's ability to
36 withdraw or deny certification or approval of real estate schools,
37 education courses or real estate instructors for a violation of this
38 chapter.

39 Sec. 15. Section 32-2136, Arizona Revised Statutes, is amended to
40 read:

41 32-2136. Broker management clinics

42 A. The department shall determine the instructor qualifications for
43 teaching broker management clinics and the course content of broker
44 management clinics for persons required to attend these clinics pursuant
45 to subsection C of this section.

1 B. A broker management clinic shall consist of three courses of
2 three hours each. The course topics shall be broker statute and rule
3 requirements, including instruction on department audits, and the legal
4 obligations of designated brokers, broker policy development and employee
5 supervision and broker responsibilities and related topics. A broker
6 management clinic shall address ~~record keeping~~ RECORDKEEPING requirements,
7 trust fund accounts, advertising and promotions, employment agreements,
8 contracts, fiduciary duties, material disclosures, department
9 investigations and risk management. A broker management clinic may be
10 designed to address property management activities, a specialty field of
11 real estate or sales activities, or any combination described in this
12 subsection. IF ENGAGING IN PROPERTY MANAGEMENT ACTIVITIES, A BROKER MUST
13 COMPLETE A BROKER MANAGEMENT CLINIC THAT IS DESIGNED TO TEACH PROFICIENCY
14 IN PROPERTY MANAGEMENT.

15 C. An applicant for an original real estate broker's license shall
16 attend a broker management clinic before activating the license. A broker
17 shall attend a broker management clinic before becoming a designated
18 broker, unless the broker has attended a broker management clinic during
19 the preceding twenty-three months. All designated brokers and associate
20 brokers employed by a designated broker pursuant to section 32-2151.01,
21 subsection G, shall attend a broker management clinic once during each
22 twenty-four months of licensure after their initial attendance.

23 D. Attendance at a broker management clinic constitutes three
24 courses of three hours each for a total of nine credit hours of real
25 estate oriented education pursuant to section 32-2130, subsection A.

26 Sec. 16. Section 32-2151, Arizona Revised Statutes, is amended to
27 read:

28 32-2151. Disposition of monies; trust fund accounts; deposit
29 requirements; broker duties; violations

30 A. Unless otherwise provided in writing by all parties to a
31 transaction, any licensed real estate broker who does not immediately
32 place all ~~funds~~ MONIES entrusted to the broker, in the broker's capacity
33 as a real estate broker, in a neutral escrow depository in this state
34 shall ~~upon~~ ON receipt place all such ~~funds~~ MONIES in a trust fund account
35 in a federally insured or guaranteed account in a depository located in
36 this state. The commissioner may adopt such rules as are necessary to
37 provide for records to be maintained and the manner in which such trust
38 fund account deposits may be made.

39 B. The following minimum requirements apply to each broker's trust
40 fund account:

41 1. The broker shall make deposits to trust fund accounts by deposit
42 slips. Receipts or other documentation shall identify each transaction,
43 the date and the amount of each deposit and the names of parties involved
44 in the transaction represented by the deposit, and monies shall be used
45 only for the purpose for which the monies were deposited.

1 2. The broker shall retain a complete record of all monies received
2 in connection with a real estate transaction **ELECTRONICALLY OR** in the main
3 or branch office of the designated broker in this state or at an off-site
4 storage location in this state if the broker provides prior written
5 notification of the street address of the off-site storage location to the
6 department. A broker's records shall be kept according to generally
7 accepted accounting principles and shall include ~~a~~ properly descriptive
8 receipts and **A** disbursement journal and client ledger. The broker shall
9 keep any computerized records in a manner allowing reconstruction in the
10 event of destruction of electronic data. ~~The broker shall maintain a~~
11 ~~trust fund account bank reconciliation and client ledger balance on a~~
12 ~~monthly basis and shall remove any interest earned on a trust fund account~~
13 ~~at least once every twelve months. A broker shall not permit advance~~
14 ~~payment of monies belonging to others to be deposited in the broker's~~
15 ~~personal account or to be commingled with personal monies. It is not~~
16 ~~considered commingling if, when establishing a trust fund account, a~~
17 ~~broker deposits monies not exceeding three thousand dollars to keep the~~
18 ~~account open or to avoid charges for an insufficient minimum balance.~~

19 **3. ON A MONTHLY BASIS THE BROKER MUST COMPLETE A THREE-WAY**
20 **RECONCILIATION BETWEEN THE TRUST FUND ACCOUNT BANK STATEMENTS, CLIENT**
21 **LEDGERS AND TRUST FUND ACCOUNT LEDGERS AND PROVIDE AN EXPLANATION FOR ANY**
22 **VARIATION.**

23 **C. A VARIATION THAT IS CAUSED BY ANY OF THE FOLLOWING ACTS OR**
24 **OMISSIONS IS A VIOLATION OF THIS CHAPTER:**

25 **1. FAILING TO REMOVE ANY INTEREST THAT IS EARNED ON A TRUST FUND**
26 **ACCOUNT AT LEAST ONCE EVERY TWELVE MONTHS.**

27 **2. ALLOWING ADVANCE PAYMENT OF MONIES BELONGING TO OTHERS TO BE**
28 **DEPOSITED IN THE BROKER'S PERSONAL ACCOUNT OR TO BE COMMINGLED WITH**
29 **PERSONAL MONIES. FOR THE PURPOSES OF THIS PARAGRAPH, IT IS NOT**
30 **COMMINGLING IF A BROKER DEPOSITS PERSONAL MONIES OF NOT MORE THAN \$5,000**
31 **TO KEEP THE ACCOUNT OPEN OR TO AVOID CHARGES FOR AN INSUFFICIENT MINIMUM**
32 **BALANCE.**

33 **3. FAILING TO IDENTIFY MONIES AS NONOWNER TENANT MONIES IN**
34 **DESCRIPTIVE RECEIPTS.**

35 **4. FAILING TO MAINTAIN SEPARATE LEDGERS FOR EACH PROPERTY.**

36 **5. FAILING TO REGULARLY COMPLETE A THREE-WAY RECONCILIATION AS**
37 **REQUIRED BY SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.**

38 **6. TRANSFERRING MONIES BETWEEN ACCOUNTS THAT ARE OWNED BY DIFFERENT**
39 **PERSONS UNLESS EACH PERSON CONSENTS IN WRITING.**

40 **7. FAILING TO CREATE CHECKS AND BALANCES.**

41 **8. FAILING TO FOLLOW STATE OR FEDERAL REQUIREMENTS.**

42 ~~C.~~ **D. An agreement to place monies entrusted to the broker in a**
43 **depository that is located outside of this state is valid if all parties**
44 **to the transaction agree in writing and either:**

1 1. The monies are placed in a property management trust account
2 established pursuant to section 32-2174 and:

3 (a) The account is federally insured or guaranteed.

4 (b) The property management agreement contains:

5 (i) Disclosure that the department's regulatory protections of the
6 owner's monies may be significantly hampered.

7 (ii) Disclosure that the owner may not have access to or any
8 control over the trust account, except to audit and review the status of
9 the account.

10 (iii) An addendum that has the signed authorization by an
11 appropriately empowered official of the depository in which the trust
12 account is placed that the trust account and all related documentation
13 will be open to examination by the department and the owner.

14 2. If the monies are not deposited in a property management trust
15 account, the broker discloses to the parties to the transaction that
16 potential risks may accrue as the result of depositing the monies in a
17 depository outside this state.

18 ~~D.~~ E. This section ~~shall~~ DOES not ~~be construed to~~ allow a broker
19 to commingle monies entrusted to the broker with the broker's own monies,
20 unless the commissioner adopts rules that allow commingling.

21 Sec. 17. Section 32-2151.01, Arizona Revised Statutes, is amended
22 to read:

23 32-2151.01. Broker requirements; recordkeeping requirements;
24 definition

25 A. Each licensed employing broker shall keep records of all real
26 estate, cemetery, ~~time-share~~ TIMESHARE or membership camping transactions
27 handled by or through the broker and shall keep employment records,
28 including copies of employment status, for all current and former
29 employees. The records required by this section shall include copies of
30 earnest money receipts, confirming that the earnest money has been handled
31 in accordance with the transaction, closing statements showing all
32 receipts, disbursements and adjustments, sales contracts and, if
33 applicable, copies of employment agreements. The records shall be open at
34 all reasonable times for inspection by the commissioner or the
35 commissioner's representatives. The records of each transaction and
36 employment records shall be kept by the broker for a period of at least
37 five years ~~from~~ AFTER the date of the termination of the transaction or
38 employment. The records shall be kept in the employing broker's principal
39 office or licensed branch office in this state or at an off-site storage
40 location in this state if the broker provides prior written notification
41 of the street address of the off-site storage location to the department.

42 B. Except as provided by section 32-2174, subsection C, a broker
43 shall not grant any person authority to withdraw monies from the broker's
44 trust fund account unless that person is a licensee under that broker's
45 license.

1 C. A broker shall specifically state in the real estate purchase
2 contract, lease agreement or receipt for earnest money the type of earnest
3 money received in any real estate transaction, whether it is cash, a
4 check, a promissory note or any other item of value.

5 D. All licensees shall promptly place all cash, checks or other
6 items of value received as payment in connection with a real estate
7 transaction in the care of the designated broker.

8 E. The broker shall maintain each real estate purchase contract or
9 lease agreement and the transaction folder in which it is kept in a
10 chronological log or other systematic manner that is easily accessible by
11 the commissioner or the commissioner's representatives.

12 F. Sales transaction folders shall include:

13 1. Confirmation that the earnest monies or other monies handled by
14 or through the broker were handled according to instructions given by or
15 agreed to by the parties to the transaction.

16 2. A complete copy of the sales contract, any escrow account
17 receipt, any closing or settlement statement and, if applicable, a copy of
18 the escrow instructions, listing agreement, employment agreement and
19 release of escrow monies.

20 G. The designated broker shall review each listing agreement,
21 purchase or nonresidential lease agreement or similar instrument within
22 ten business days ~~of~~ AFTER the date of execution by placing the broker's
23 initials and the date of review on the instrument on the same page as the
24 signatures of the parties. A designated broker may authorize in writing
25 an associate broker who the designated broker employs to review and
26 initial these instruments on the designated broker's behalf.

27 H. The broker shall retain all real estate purchase and
28 nonresidential lease contracts and employment agreements, or copies of
29 these documents, in the employing broker's principal office or licensed
30 branch office or at an off-site storage location in this state if the
31 broker provides prior written notification of the street address of the
32 off-site storage location to the department.

33 I. The broker shall retain an original, ~~a copy~~ or a ~~microfilm~~ copy
34 of any document evidencing a rejected offer to purchase real property as a
35 matter of record for at least one year. In instances that result in
36 binding contracts, the broker shall retain prior rejected offers for at
37 least five years.

38 J. If real property in a development is sold or leased by a
39 developer without the services of a listing or selling broker, the
40 developer shall keep all records required by subsections A and C of this
41 section.

42 K. For the purposes of this section, "business day" means a day
43 that is not a Saturday, a Sunday or any other legal holiday in this state.

1 Sec. 18. Section 32-2153, Arizona Revised Statutes, is amended to
2 read:

3 32-2153. Grounds for denial, suspension or revocation of
4 licenses; letters of concern; provisional license;
5 retention of jurisdiction by commissioner;
6 definitions

7 A. The commissioner may suspend or revoke a license, deny the
8 issuance of a license, issue a letter of concern to a licensee, issue a
9 provisional license or deny the renewal or the right of renewal of a
10 license issued under this chapter if it appears that the holder or
11 applicant, within five years immediately preceding, in performing or
12 attempting to perform any acts authorized by the license or by this
13 chapter, has:

14 1. Pursued a course of misrepresentation or made false promises,
15 either directly or through others, whether acting in the role of a
16 licensee or a principal in a transaction.

17 2. Acted for more than one party in a transaction without the
18 knowledge or WRITTEN consent of all parties to the transaction.

19 3. Disregarded or violated any of the provisions of this chapter or
20 any rules adopted by the commissioner.

21 4. Knowingly authorized, directed, connived at or aided in the
22 publication, advertisement, distribution or circulation of any material
23 false or misleading statement or representation concerning the licensee's
24 business or any land, cemetery property, subdivision or membership
25 campground or camping contract offered for sale in this or any other
26 state.

27 5. Knowingly used the term "real estate broker", "cemetery broker"
28 or "membership camping broker" without the legal right to do so.

29 6. Employed any unlicensed salesperson or unlicensed associate
30 broker.

31 7. Accepted compensation as a licensee for performing any of the
32 acts specified in this chapter from any person who is not authorized to
33 provide compensation pursuant to section 32-2155.

34 8. Represented or attempted to represent a broker other than the
35 broker to whom the salesperson or associate broker is licensed.

36 9. Failed, within a reasonable time, to account for or to remit any
37 monies, to surrender to the rightful owner any documents or other valuable
38 property that comes into the licensee's possession and that belongs to
39 others, or to issue an appraisal report on real property or cemetery
40 property in which the licensee has an interest, unless the nature and
41 extent of the interest are fully disclosed in the report.

42 10. Paid or received any rebate, profit, compensation or commission
43 in violation of this chapter.

44 11. Induced any party to a contract to break the contract for the
45 purpose of substituting a new contract with the same or a different

1 principal, if the substitution is motivated by the personal gain of the
2 licensee.

3 12. Placed a sign on any property offering it for sale or for rent
4 without the written authority of the owner or the owner's authorized
5 agent.

6 13. Solicited, either directly or indirectly, prospects for the
7 sale, lease or use of real property, cemetery property or membership
8 camping contracts through a promotion of a speculative nature involving a
9 game of chance or risk or through conducting lotteries or contests that
10 are not specifically authorized under this chapter.

11 14. Failed to pay to the commissioner the renewal fee as specified
12 in this chapter promptly and before the time specified.

13 15. Failed to keep an escrow or trust account or other record of
14 monies deposited with the licensee relating to a real estate transaction.

15 16. Commingled the monies or other property of the licensee's
16 principal or client with the licensee's own or converted these monies or
17 property to the licensee or another.

18 17. Failed or refused on demand to produce any document, contract,
19 book, record, information, compilation or report that is in the licensee's
20 possession or that the licensee is required by law to maintain concerning
21 any real estate, cemetery or membership camping business, services,
22 activities or transactions involving or conducted by the licensee for
23 inspection by the commissioner or the commissioner's representative.

24 18. Failed to maintain a complete record of each transaction that
25 comes within this chapter.

26 19. Violated the federal fair housing law, the Arizona civil rights
27 law or any local ordinance of a similar nature.

28 20. Tendered to a buyer a wood infestation report in connection
29 with the transfer of residential real property or an interest in
30 residential real property knowing that wood infestation exists or that the
31 wood infestation report was inaccurate or false as of the date of the
32 tender or that an inspection was not done in conjunction with the
33 preparation of the wood infestation report.

34 21. As a licensed broker, failed to exercise reasonable supervision
35 over the activities of salespersons, associate brokers or others under the
36 broker's employ or failed to exercise reasonable supervision and control
37 over the activities for which a license is required of a corporation,
38 limited liability company or partnership on behalf of which the broker
39 acts as designated broker under section 32-2125.

40 22. Demonstrated negligence in performing any act for which a
41 license is required.

42 23. Sold or leased a property to a buyer or lessee that was not the
43 property represented to the buyer or lessee.

44 24. Violated any condition or term of a commissioner's order.

1 25. Signed the name of another person on any document or form
2 without the express written consent of the person.

3 26. As a licensed school, failed to exercise reasonable supervision
4 over the activities for which a license is required for an owner,
5 director, administrator or instructor in the school's employ.

6 B. The commissioner may suspend or revoke a license, deny the
7 issuance of a license, issue a letter of concern to a licensee, issue a
8 provisional license or deny the renewal or the right of renewal of a
9 license issued under this chapter if it appears that the holder or
10 applicant has:

11 1. Procured or attempted to procure a license under this chapter
12 for the holder or applicant or another by fraud, misrepresentation or
13 deceit or by filing an original or renewal application that is false or
14 misleading.

15 2. Been convicted in a court of competent jurisdiction in this or
16 any other state of a felony or of any crime of forgery, theft, extortion,
17 conspiracy to defraud, a crime of moral turpitude or any other like
18 offense.

19 3. Made any substantial misrepresentation.

20 4. Made any false promises of a character likely to influence,
21 persuade or induce.

22 5. Been guilty of any conduct, whether of the same or a different
23 character than specified in this section, that constitutes fraud or
24 dishonest dealings.

25 6. Engaged in the business of a real estate broker, cemetery broker
26 or membership camping broker or real estate SALESPERSON, cemetery
27 SALESPERSON or membership camping salesperson without holding a license as
28 prescribed in this chapter.

29 7. Demonstrated incompetence to perform any duty or requirement of
30 a licensee under or arising from this chapter. For the purposes of this
31 paragraph, "incompetence" means a lack of basic knowledge or skill
32 appropriate to the type of license the person holds or a failure to
33 appreciate the probable consequences of the licensee's action or inaction.

34 8. Violated the terms of any criminal or administrative order,
35 decree or sentence.

36 9. Violated any federal or state law, regulation or rule that
37 relates to real estate or securities or that involves forgery, theft,
38 extortion, fraud, substantial misrepresentation, dishonest dealings or
39 violence against another person or failure to deal fairly with any party
40 to a transaction that materially and adversely affected the transaction.
41 This paragraph applies equally to violations of which the licensee was
42 convicted in any lawful federal or state tribunal and to any admissions
43 made in any settlement agreement by the licensee to violations.

44 10. Failed to respond in the course of an investigation or audit by
45 providing documents or written statements.

1 C. A judgment based on a court's finding or stipulation of fraud by
2 a licensee following a trial on the merits or a criminal conviction of a
3 licensee that results in a payment from the real estate recovery fund is
4 prima facie evidence of a violation and grounds for discipline under this
5 section.

6 D. The commissioner may deny, suspend or revoke the issuance of a
7 license on application by a corporation, a limited liability company or a
8 partnership if it appears that an owner, officer, director, member,
9 manager, partner, stockholder owning ten percent or more of the stock in
10 the corporation or limited liability company or person exercising control
11 of the entity is a current or former licensee whose license as a broker or
12 a salesperson has been denied, suspended or revoked.

13 E. The lapsing or suspension of a license by operation of law or by
14 order or decision of the commissioner or a court of law or the voluntary
15 surrender of a license by a licensee does not deprive the commissioner of
16 jurisdiction to do any of the following:

17 1. Proceed with any investigation of or action or disciplinary
18 proceeding against the licensee.

19 2. Render a decision suspending or revoking the license or denying
20 the renewal or right of renewal of the license.

21 3. Assess a civil penalty pursuant to section 32-2160.01.

22 F. For the purposes of this section:

23 1. "Letter of concern" means an advisory letter to notify a
24 licensee that, while the conduct or evidence does not warrant ~~other~~
25 disciplinary action, the commissioner believes that the licensee should
26 modify or eliminate certain practices and that continuation of the
27 activities may result in ~~further~~ disciplinary action against the licensee.

28 2. "Provisional license" means a license that the department issues
29 and that allows a licensee to practice subject to either a consent order
30 as prescribed in section 32-2153.01 or the commissioner's terms,
31 conditions and restrictions.

32 Sec. 19. Section 32-2163, Arizona Revised Statutes, is amended to
33 read:

34 32-2163. Unlawful acts; out-of-state broker; cooperation
35 agreement

36 A. It is unlawful for any licensed broker in this state to employ
37 or compensate, directly or indirectly, any person for performing any of
38 the acts within the scope of this chapter if the person is not also a
39 licensed broker in this state, or a salesperson licensed under the broker
40 employing or compensating the salesperson, except that a licensed broker
41 in this state may pay compensation to and receive compensation from a
42 broker who is lawfully operating in another state.

43 B. Notwithstanding that pursuant to subsection A of this section a
44 licensed broker in this state may pay to and receive compensation from an
45 out-of-state broker, this authority does not allow an out-of-state broker

1 to conduct activity in this state that would otherwise require a broker's
2 license issued by the department.

3 C. A licensed broker in this state may cooperate with an
4 out-of-state broker who would otherwise require licensure in this state
5 if:

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

10 (a) A list of the real estate activities to be conducted by the
11 out-of-state broker.

12 (b) A statement that the out-of-state broker agrees to fully comply
13 with the laws of this state and submit to the regulatory jurisdiction of
14 the department for activities subject to real estate broker licensure
15 pursuant to this chapter.

16 (c) A statement that the licensed broker in this state understands
17 and accepts responsibility for the acts of the out-of-state broker.

18 2. All negotiations in this state or with people who own property
19 in this state are conducted through the licensed broker in this state.

20 3. The licensed broker in this state assumes all responsibility for
21 the acts of the out-of-state broker.

22 4. All principal funds handled by either the licensed broker in
23 this state or the out-of-state broker are subject to the deposit and
24 handling requirements of section 32-2151.

25 D. The offering of real estate brokerage services specified by
26 section 32-2101, paragraph ~~50~~ 51 for compensation or any other thing of
27 value pertaining to real property located in this state through an
28 internet website constitutes activity that requires a broker's license
29 issued by the department.

30 E. This section does not allow an out-of-state broker who is not
31 licensed in this state to list, market or advertise in this state real
32 property located in this state for sale, lease or exchange.

33 F. Signs shall not be placed on real property in this state by an
34 out-of-state broker. An out-of-state broker shall not use a cooperation
35 agreement as authority to sell, lease, rent, exchange or attempt to sell,
36 lease, rent or exchange real property to a resident of this state.

37 Sec. 20. Section 32-2174, Arizona Revised Statutes, is amended to
38 read:

39 32-2174. Property management accounts; trust accounts;
40 signatories

41 A. All property management accounts shall be designated as trust
42 accounts ON THE BROKER'S RECORDS. ~~and shall include descriptive wording,~~
43 ~~substantially similar to one of the following, in the trust account title:~~

- 44 ~~1. "Trust account".~~
45 ~~2. "Fiduciary account".~~

1 ~~3. "In trust for (individual or entity name)".~~

2 ~~4. "Trustee for (individual or entity name)".~~

3 ~~5. "Fiduciary for (individual or entity name)".~~

4 B. A broker's trust account is required for all of the owner's
5 monies, except if the owner directs the broker to deposit the monies
6 directly into the owner's account. The broker shall not have access to
7 the owner's account. Trust accounts may be interest bearing.

8 C. The designated broker for a property management firm may
9 authorize either a licensee or an unlicensed natural person in the direct
10 employ of the broker to transfer monies or to be a signatory on the
11 property management firm's trust accounts. If the person who is
12 designated to sign on behalf of the designated property management broker
13 is an unlicensed person, that person shall be a bona fide officer, member,
14 principal or employee of the property management firm. The broker may
15 require dual signatures on checks and may use a facsimile signature
16 according to the broker's business policies and procedures. The
17 designation of a licensed or unlicensed person to transfer monies or to be
18 a signatory on trust accounts does not lessen the broker's responsibility
19 or liability for any monies handled.

20 D. Within three banking days after receiving monies that are not
21 subject to dispute or contingency, the property management firm shall
22 deposit the monies in either the owner's direct account or the property
23 management firm's trust account for the benefit of the owner. A property
24 management firm may remit an owner's monies under its control to or for
25 the owner by any lawful means available.

26 E. Each rental agreement executed by a property manager shall
27 include a provision that clearly states the disposition of any tenant
28 deposits.

29 Sec. 21. Section 32-2197.08, Arizona Revised Statutes, is amended
30 to read:

31 32-2197.08. Issuance of public report and amended public
32 report by commissioner on timeshare plan;
33 denial of issuance; additional information; use
34 of another state's public report

35 A. On examination of a timeshare plan, the commissioner, unless
36 there are grounds for denial, shall approve for use by the developer a
37 public report authorizing the sale or lease of the timeshare interests
38 within the timeshare plan. For all timeshare interests sold in this
39 state, the commissioner shall require the developer to reproduce the
40 public report and furnish each prospective customer with a copy, taking a
41 receipt for each copy. The public report shall be made available to each
42 prospective purchaser in written format ~~and may also be made available in~~
43 ~~a CD-ROM or other electronic format as approved by the commissioner~~ EITHER
44 BY ELECTRONIC MEANS OR IN HARD COPY. The public report shall include the
45 following:

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

1 address of the exchange companies and the method by which a purchaser
2 accesses the exchange programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 B. Except as otherwise provided in this subsection, the
7 requirements prescribed by subsection A of this section apply to a
8 developer's application for approval to use an amended public report for
9 the sale of timeshare interests in a timeshare plan, including an amended
10 public report to disclose and address a material change under section
11 32-2197.04. A developer may elect to prepare an amended public report for
12 use in the sale of timeshare interests as follows:

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

18 2. An amendment filing fee established pursuant to section
19 32-2197.07 shall accompany the application prescribed by paragraph 1 of
20 this subsection.

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

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

41 5. Before or after the commissioner issues a certification of
42 administrative completeness or, if applicable, after the application and
43 amended public report are deemed to be administratively complete pursuant
44 to paragraph 3 of this subsection, the department may examine any public
45 report, timeshare plan or applicant that has applied for or received the

1 certification. If the commissioner determines that the public report,
2 timeshare plan or applicant is not in compliance with any requirement of
3 state law or that grounds exist under this chapter to suspend, deny or
4 revoke a public report, the commissioner may commence an administrative
5 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
6 immediately corrects the deficiency and fully complies with state law, the
7 commissioner shall promptly vacate any action that the commissioner may
8 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

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

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

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

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

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

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

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

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

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

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

44 (e) Disregarded or violated this chapter or the rules of the
45 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 active management areas, if the timeshare
17 property is located in a county that has adopted the provision authorized
18 by section 11-823, subsection A or in a city or town that has enacted an
19 ordinance pursuant to section 9-463.01, subsection O, the commissioner
20 shall deny issuance of a public report unless one of the following
21 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. 22. Section 32-2197.10, Arizona Revised Statutes, is amended
11 to read:

12 32-2197.10. Timeshare interest reservations

13 A. The notice of intent required by section 32-2197.02 and the
14 approval for use of a public report required by section 32-2197.08 are not
15 required for any party to enter into a timeshare interest reservation.

16 B. Before the approval for use of a public report for a timeshare
17 plan, a deposit may be accepted from a prospective buyer for a timeshare
18 interest reservation if all of the following requirements are met:

19 1. Before accepting any timeshare interest reservation, the
20 prospective seller shall mail or deliver, ~~or provide in a written, CD-ROM~~
21 ~~or other electronic format as approved by the commissioner, notice of the~~
22 ~~seller's intention to accept timeshare interest reservations to the~~
23 ~~department~~ A HARD COPY NOTICE OR ELECTRONIC NOTICE AS APPROVED BY THE
24 COMMISSIONER OF THE SELLER'S INTENTION TO ACCEPT THE TIMESHARE INTEREST
25 RESERVATIONS TO THE DEPARTMENT. The notice shall include:

26 (a) The name, address and telephone number of the prospective
27 seller.

28 (b) The name, address and telephone number of any real estate
29 broker retained by the prospective seller to promote the timeshare
30 interest reservation program.

31 (c) The name and location of the timeshare property for which
32 timeshare interest reservations are to be offered.

33 (d) The form to be used for accepting timeshare interest
34 reservations subject to approval by the commissioner.

35 (e) The name and address of the independent ~~third party~~ THIRD-PARTY
36 escrow or trust account agent responsible for holding the reservation
37 deposits.

38 2. The reservation deposit for a single timeshare interest shall
39 not exceed twenty percent of the purchase price.

40 3. Within one business day after a reservation is accepted by the
41 prospective seller, the reservation deposit shall be delivered to an
42 independent third-party escrow or trust account in a federally insured
43 depository. The account may be interest bearing at the direction of
44 either the prospective seller or prospective buyer. Payment of any
45 account fees and payment of interest monies shall be as agreed to between

1 the prospective buyer and prospective seller. All reservation deposits
2 shall remain in the account until cancellation or termination of the
3 timeshare interest reservation or execution of a purchase agreement.

4 4. Within fifteen calendar days after the prospective seller
5 receives the public report approved for use by the commissioner relating
6 to the reserved timeshare interest, the prospective seller shall provide
7 the prospective buyer with a copy of the public report and a copy of the
8 proposed purchase agreement for the sale of the timeshare interest. The
9 prospective buyer and prospective seller shall have ten business days
10 after the prospective buyer's receipt of the public report and the
11 proposed purchase agreement to enter into a contract for the purchase of
12 the timeshare interest. If the prospective buyer and prospective seller
13 do not enter into a contract for the purchase of the timeshare interest
14 within the ten business day period, the reservation automatically
15 terminates. The prospective seller has no cancellation rights concerning
16 a timeshare interest reservation other than as provided in this
17 subsection.

18 5. A prospective buyer may cancel a timeshare interest reservation
19 at any time before the execution of a purchase agreement by delivering
20 written notice of termination to the prospective seller as provided in
21 paragraph 9 of this subsection.

22 6. Within five business days after a timeshare interest reservation
23 has been terminated for any reason, the prospective seller shall refund to
24 the prospective buyer all reservation deposits made by the prospective
25 buyer, including any interest monies earned minus any account fees agreed
26 on, if applicable. The independent third-party escrow account or trust
27 account agent shall refund to the prospective buyer all reservation
28 deposits made by the prospective buyer, including any interest monies
29 earned minus any account fees agreed on if the prospective seller is not
30 available. After the refund, neither the prospective buyer nor the
31 prospective seller has any obligation arising out of the timeshare
32 interest reservation.

33 7. A prospective buyer may not transfer rights under a reservation
34 without the prior written consent of the prospective seller, and any
35 purported transfer without the consent of the prospective seller is
36 voidable at the sole discretion of the prospective seller.

37 8. If the department denies an application for a public report on a
38 timeshare plan on which timeshare interest reservations were taken, within
39 five business days after notification by the department, the prospective
40 seller shall notify in writing each prospective buyer who entered into a
41 timeshare interest reservation agreement. The prospective seller shall
42 return any reservation deposits previously taken.

43 9. All notices required by this section to be given to the
44 department, the prospective buyer or the prospective seller shall be in
45 writing and either hand delivered or sent by certified mail, return

1 receipt requested with postage fully prepaid. Notices sent by mail are
2 deemed delivered on the earlier of actual receipt, as evidenced by the
3 delivery receipt, or seven calendar days after being deposited in the
4 United States mail.

5 10. Each timeshare interest reservation form shall contain the
6 following statement in conspicuous type above the purchaser's signature
7 line:

8 The Arizona department of real estate has not inspected
9 or approved this timeshare property and no public report has
10 been issued for the timeshare plan. No offer to sell may be
11 made and no offer to purchase may be accepted before issuance
12 of a public report or pre-sale authorization for the timeshare
13 plan.

14 C. The commissioner may deny, suspend or revoke authorization to
15 accept timeshare interest reservations under this section to any person
16 who has violated any provision of this chapter.

17 Sec. 23. Section 32-2197.16, Arizona Revised Statutes, is amended
18 to read:

19 32-2197.16. Separate disclosures

20 A. The purchase agreement must contain a separate disclosure
21 document that discloses all of the following in at least ten-point type:

22 1. If the purchaser signs the purchase agreement, the purchaser has
23 ten days to cancel the purchase agreement without a penalty.

24 2. If the purchaser signs the purchase agreement, the purchaser may
25 be responsible for paying maintenance fees, taxes and other assessments
26 every year for the duration of ownership.

27 3. Timeshares are not investments.

28 4. The purchase agreement is final and any conflicting statements
29 made by the seller are not part of the purchase agreement.

30 5. The purchaser has the right to file a consumer complaint with
31 the attorney general.

32 B. Before entering into a purchase agreement, the seller must
33 provide the purchaser with a separate disclosure document to adequately
34 inform the purchaser of the purchaser's actual and potential liabilities
35 under the purchase agreement. At a minimum, this separate disclosure
36 document must conspicuously disclose all of the following:

37 1. The duration of the timeshare agreement entered into by the
38 purchaser or whether the agreement has no set duration.

39 2. A ~~good-faith~~ **LOAN** estimate of the total potential financial
40 obligation of the purchaser during the first year of ownership that
41 includes additional charges to which the purchaser may be subject during
42 the first year of ownership, including all potential assessments. The
43 disclosure shall be as follows:

44 (a) If the maximum amount of the first year's assessments is known
45 at the time of purchase, the disclosure must disclose the maximum amount

1 of these assessments and the assessments levied for each of the previous
2 three years, if available.

3 (b) If the maximum amount of the first year's assessments is
4 unknown at the time of purchase, the disclosure must provide the purchaser
5 with the following:

6 (i) Notice that the purchaser will be required to pay assessments
7 in addition to the disclosed purchase payment and that the amount of those
8 assessments is currently unknown.

9 (ii) A statement disclosing the assessments levied for each of the
10 previous three years, if available, and a ~~good faith~~ LOAN estimate of the
11 first year's assessments that is at least the highest amount assessed
12 during any of the previous three years based on the timeshare interest
13 being offered.

14 (iii) Unless the purchase agreement provides for a limit on
15 assessments during the first year of ownership, an affirmative statement
16 that there is no limit on the assessments that the purchaser may be
17 charged in the first year of ownership.

18 C. If there are blank spaces in the purchase agreement or the
19 disclosure documents prescribed by this section, the contract is voidable.

20 D. The purchaser must separately initial each disclosure prescribed
21 by subsection A of this section, sign the separate disclosure prescribed
22 by subsection B of this section and verify that the purchaser has read and
23 understands the information presented in the separate disclosures. An
24 initialed copy of the separate disclosure prescribed by subsection A of
25 this section and a signed copy of the separate disclosure prescribed by
26 subsection B of this section shall be provided to the purchaser for the
27 purchaser's records at the time of signing, and the seller shall keep a
28 signed copy of the separate disclosures.

29 E. The commissioner may recommend or require that the separate
30 disclosures be in a specified form. The form must contain the information
31 required by this section.

32 Sec. 24. Retention of members

33 Notwithstanding section 32-2104, Arizona Revised Statutes, as
34 amended by this act, all persons serving as members of the real estate
35 advisory board on the effective date of this act may continue to serve
36 until the expiration of their normal terms. The governor shall make all
37 subsequent appointments as prescribed by statute.