

REFERENCE TITLE: contiguous real estate; definition

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2059

Introduced by
Representative Griffin

AN ACT

AMENDING SECTION 32-2101, 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. "Advertising" means attempting by publication, dissemination,
9 exhibition, solicitation or circulation, oral or written, or for broadcast
10 on radio or television to induce directly or indirectly any person to
11 enter into any obligation or acquire any title or interest in lands
12 subject to this chapter, including the land sales contract to be used and
13 any photographs, drawings or artist's presentations of physical conditions
14 or facilities existing or to exist on the property. Advertising does not
15 include:

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

20 (b) Communications to stockholders as follows:

21 (i) Annual reports and interim financial reports.

22 (ii) Proxy materials.

23 (iii) Registration statements.

24 (iv) Securities prospectuses.

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

26 (vi) Prospectuses.

27 (vii) Property reports.

28 (viii) Offering statements.

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

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

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

39 6. "Blanket encumbrance":

40 (a) Means either:

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

- 1 (ii) An agreement that affects more than one lot or parcel by which
2 the subdivider holds the subdivision under an option, contract to sell or
3 trust agreement.
- 4 (b) Does not include taxes and assessments that are levied by
5 public authority.
- 6 7. "Board" means the real estate advisory board.
- 7 8. "Broker", when used without modification, means a person who is
8 licensed as a broker under this chapter or who is required to be licensed
9 as a broker under this chapter.
- 10 9. "Business broker" means a real estate broker who acts as an
11 intermediary or agent between sellers or buyers, or both, in the sale or
12 purchase, or both, of businesses or business opportunities where a lease
13 or sale of real property is either a direct or incidental part of the
14 transaction.
- 15 10. "Camping site" means a space that is designed and promoted for
16 the purpose of locating any trailer, tent, tent trailer, pickup camper or
17 other similar device used for camping.
- 18 11. "Cemetery" or "cemetery property" means any one, or a
19 combination of more than one, of the following in a place that is used, or
20 intended to be used, and dedicated for cemetery purposes:
- 21 (a) A burial park, for earth interments.
- 22 (b) A mausoleum, for crypt or vault entombments.
- 23 (c) A crematory, or a crematory and columbarium, for cinerary
24 interments.
- 25 (d) A cemetery plot, including interment rights, mausoleum crypts,
26 niches and burial spaces.
- 27 12. "Cemetery broker" means a person other than a real estate
28 broker or real estate salesperson who, for another, for compensation:
- 29 (a) Sells, leases or exchanges cemetery property or interment
30 services of or for another, or on the person's own account.
- 31 (b) Offers for another or for the person's own account to buy,
32 sell, lease or exchange cemetery property or interment services.
- 33 (c) Negotiates the purchase and sale, lease or exchange of cemetery
34 property or interment services.
- 35 (d) Negotiates the purchase or sale, lease or exchange, or lists or
36 solicits, or negotiates a loan on or leasing of cemetery property or
37 interment services.
- 38 13. "Cemetery salesperson" means a natural person who acts on the
39 person's own behalf or through and on behalf of a professional limited
40 liability company or a professional corporation engaged by or on behalf of
41 a licensed cemetery or real estate broker, or through and on behalf of a
42 corporation, partnership or limited liability company that is licensed as
43 a cemetery or real estate broker, to perform any act or transaction
44 included in the definition of cemetery broker.
- 45 14. "Commissioner" means the state real estate commissioner.

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

11 16. "Compensation" means any fee, commission, salary, monies or
12 other valuable consideration for services rendered or to be rendered as
13 well as the promise of consideration whether contingent or not.

14 17. "Contiguous":

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

17 (b) INCLUDES LOTS, PARCELS OR FRACTIONAL INTERESTS THAT ARE
18 SEPARATED BY A PRIVATE ROAD OR STREET.

19 ~~(b)~~ (c) DOES not include lots, parcels or fractional interests
20 that are separated by either of the following:

21 (i) A barrier.

22 (ii) A PUBLIC road, street or highway that has been established by
23 this state or by any agency or political subdivision of this state, THAT
24 HAS BEEN DEDICATED TO AND ACCEPTED BY THIS STATE OR BY ANY POLITICAL
25 SUBDIVISION OF THIS STATE, that has been designated by the federal
26 government as an interstate highway or that has been regularly maintained
27 by this state or by any agency or political subdivision of this state ~~and~~
28 ~~has been used continuously by the public for at least the last five years.~~

29 18. "Control" or "controlled" means a person who, through
30 ownership, voting rights, power of attorney, proxy, management rights,
31 operational rights or other rights, has the right to make decisions
32 binding on an entity, whether a corporation, a partnership or any other
33 entity.

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

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

38 21. "Designated broker" means a natural person who is licensed as a
39 broker under this chapter and who is either:

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

42 (b) Doing business as a sole proprietor.

1 22. "Developer":

2 (a) Means a person who offers real property in a development for
3 sale, lease or use, either immediately or in the future, on the person's
4 own behalf or on behalf of another person, under this chapter.

5 (b) Does not include a person whose involvement with a development
6 is limited to listing property within the development for sale, lease or
7 use.

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

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

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

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

17 25. "Fractional interest" means an undivided interest in improved
18 or unimproved land, lots or parcels of any size created for the purpose of
19 sale or lease and evidenced by any receipt, certificate, deed or other
20 document conveying the interest. Undivided interests in land, lots or
21 parcels created in the names of a husband and wife as community property,
22 joint tenants or tenants in common, or in the names of other persons who,
23 acting together as part of a single transaction, acquire the interests
24 without a purpose to divide the interests for present or future sale or
25 lease shall be deemed to constitute only one fractional interest.

26 26. "Improved lot or parcel" means a lot or parcel of a subdivision
27 on which there is a residential, commercial or industrial building or
28 concerning which a contract has been entered into between a subdivider and
29 a purchaser that obligates the subdivider directly, or indirectly through
30 a building contractor, to completely construct a residential, commercial
31 or industrial building on the lot or parcel within two years after the
32 date on which the contract of sale for the lot is entered into.

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

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

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

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

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

4 32. "Limited liability company licensee" means a lawfully organized
5 limited liability company that has a member or manager who is a natural
6 person and who is licensed as the designated broker pursuant to section
7 32-2125.

8 33. "Live classroom course" means a course or instructional segment
9 delivered in either an in-person classroom instructional format or a
10 synchronous remote instructional format that allows students to observe
11 and participate remotely in an instructional segment via livestreaming.

12 34. "Lot reservation" means an expression of interest by a
13 prospective purchaser in buying at some time in the future a subdivided or
14 unsubdivided lot, unit or parcel in this state. In all cases, a
15 subsequent affirmative action by the prospective purchaser must be taken
16 to create a contractual obligation to purchase.

17 35. "Master planned community" means a development that consists of
18 two or more separately platted subdivisions and that is either subject to
19 a master declaration of covenants, conditions or restrictions, is subject
20 to restrictive covenants sufficiently uniform in character to clearly
21 indicate a general scheme for improving or developing real property or is
22 governed or administered by a master owner's association.

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

24 37. "Membership camping broker" means a person, other than a
25 salesperson, who, for compensation:

26 (a) Sells, purchases, lists, exchanges or leases membership camping
27 contracts.

28 (b) Offers to sell, purchase, exchange or lease membership camping
29 contracts.

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

32 (d) Advertises or holds himself out as being engaged in the
33 business of selling, buying, exchanging or leasing membership camping
34 contracts or counseling or advising regarding membership camping
35 contracts.

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

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

41 38. "Membership camping contract" means an agreement that is
42 offered or sold in this state evidencing a purchaser's right or license to
43 use the camping or outdoor recreation facilities of a membership camping
44 operator and includes a membership that provides for this use.

1 39. "Membership camping operator":

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

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

10 40. "Membership camping salesperson" means a natural person who
11 acts on the person's own behalf or through and on behalf of a professional
12 limited liability company or a professional corporation engaged by or on
13 behalf of a licensed membership camping or real estate broker, or by or on
14 behalf of a corporation, partnership or limited liability company that is
15 licensed as a membership camping or real estate broker, to perform any act
16 or participate in any transaction in a manner included in the definition
17 of membership camping broker.

18 41. "Online course" means prelicensure education that is a planned
19 learning experience with a geographic separation that may be synchronous
20 or asynchronous, that does not require real-time interaction between a
21 student and an instructor and that uses a platform with self-paced or
22 prerecorded lessons and materials that a student can access via the
23 internet to proceed at the student's own pace.

24 42. "Partnership licensee" means a partnership with a managing
25 general partner who is licensed as the designated broker pursuant to
26 section 32-2125.

27 43. "Permanent access", as required under article 4 of this
28 chapter, means permanent access from the subdivision to any federal, state
29 or county highway.

30 44. "Perpetual care" or "endowed care":

31 (a) Means maintaining and caring, in all places where interments
32 have been made, for the trees, shrubs, roads, streets and other
33 improvements and embellishments contained within or forming a part of the
34 cemetery.

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

38 45. "Perpetual or endowed-care cemetery" means a cemetery in which
39 lots or other burial spaces are sold or transferred under the
40 representation that the cemetery will receive perpetual care or endowed
41 care free of further cost to the purchaser after payment of the original
42 purchase price for the lot, burial space or interment right.

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

1 47. "Private cemetery" means a cemetery or place that is not
2 licensed under article 6 of this chapter, where burials or interments of
3 human remains are made, in which sales or transfers of interment rights or
4 burial plots are not made to the public and in which not more than ten
5 interments or burials occur annually.

6 48. "Promotion" or "promotional practice" means advertising and any
7 other act, practice, device or scheme to induce directly or indirectly any
8 person to enter into any obligation or acquire any title or interest in or
9 use of real property subject to this chapter, including meetings with
10 prospective purchasers, arrangements for prospective purchasers to visit
11 real property, travel allowances and discount, exchange, refund and
12 cancellation privileges.

13 49. "Real estate" includes leasehold-interests and any estates in
14 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
15 whether located in this state.

16 50. "Real estate broker" means a person, other than a salesperson,
17 who, for another and for compensation:

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

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

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

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

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

30 (f) Buys, sells, offers to buy or sell or otherwise deals in
31 options on real estate, businesses and business opportunities or timeshare
32 interests or improvements to real estate, businesses and business
33 opportunities or timeshare interests.

34 (g) Collects or offers, attempts or agrees to collect rent for the
35 use of real estate, businesses and business opportunities or timeshare
36 interests. This subdivision does not apply to a person who is not a
37 licensee, who works for a real estate broker or a real estate salesperson,
38 who collects in-person rent and related fees on behalf of the real estate
39 broker or real estate salesperson for the use of real estate as part of
40 the person's clerical duties and who provides a receipt when rent is paid.

41 (h) Advertises or holds himself out as being engaged in the
42 business of buying, selling, exchanging, renting or leasing real estate,
43 businesses and business opportunities or timeshare interests or counseling
44 or advising regarding real estate, businesses and business opportunities
45 or timeshare interests.

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

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

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

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

17 (m) Claims, demands, charges, receives, collects or contracts to
18 collect an advance fee in connection with any employment enumerated in
19 this section, including employment undertaken to promote the sale or lease
20 of real property by advance fee listing, by furnishing rental information
21 to a prospective tenant for a fee paid by the prospective tenant, by
22 advertising or by any other offering to sell, lease, exchange or rent real
23 property or selling kits connected therewith. This does not include the
24 activities of any communications media of general circulation or coverage
25 not primarily engaged in advertising real estate or any communications
26 media activities that are specifically exempt from applicability of this
27 article under section 32-2121.

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

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

36 (p) Acts as a business broker.

37 51. "Real estate sales contract" means an agreement in which one
38 party agrees to convey title to real estate to another party on the
39 satisfaction of specified conditions set forth in the contract.

40 52. "Real estate salesperson" means a natural person who acts on
41 the person's own behalf or through and on behalf of a professional limited
42 liability company or a professional corporation engaged by or on behalf of
43 a licensed real estate broker, or by or on behalf of a limited liability
44 company, partnership or corporation that is licensed as a real estate
45 broker, to perform any act or participate in any transaction in a manner

1 included in the definition of real estate broker subject to section
2 32-2155.

3 53. "Sale" or "lease" includes every disposition, transfer, option
4 or offer or attempt to dispose of or transfer real property, or an
5 interest, use or estate in the real property, including offering the
6 property as a prize or gift if a monetary charge or consideration for
7 whatever purpose is required.

8 54. "Salesperson", when used without modification, means a natural
9 person who acts on the person's own behalf or through and on behalf of a
10 professional limited liability company or a professional corporation
11 licensed under this chapter or any person required to be licensed as a
12 salesperson under this chapter.

13 55. "School" means a person or entity that offers a course of study
14 toward completion of the education requirements leading to licensure or
15 renewal of licensure under this chapter.

16 56. "Stock cooperative" means a corporation to which all of the
17 following apply:

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

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

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

26 57. "Subdivider":

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

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

33 58. "Subdivision" or "subdivided lands":

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

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

40 (c) Does not include:

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

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

1 (iii) The leasing of agricultural lands or apartments, offices,
2 stores, hotels, motels, pads or similar space within an apartment
3 building, industrial building, rental recreational vehicle community,
4 rental manufactured home community, rental mobile home park or commercial
5 building.

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

9 (v) A sale or lease of a lot, parcel or fractional interest that
10 occurs ten or more years after the sale or lease of another lot, parcel or
11 fractional interest if the other lot, parcel or fractional interest is not
12 subject to this article and is treated as an independent parcel unless, on
13 investigation by the commissioner, there is evidence of intent to
14 subdivide.

15 59. "Timeshare" or "timeshare property" means real property
16 ownership or right of occupancy in real property pursuant to article 9 of
17 this chapter. For the purposes of this chapter, a timeshare is not a
18 security unless it meets the definition of a security under section
19 44-1801.

20 60. "Trustee":

21 (a) Means a person who either:

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

24 (ii) Holds bare legal title to real property under a subdivision
25 trust.

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

28 61. "Unimproved lot or parcel" means a lot or parcel of a
29 subdivision that is not an improved lot or parcel.

30 62. "Unsubdivided lands":

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

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