

REFERENCE TITLE: real estate transactions; identification; recordings

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

HB 2754

Introduced by
Representatives Contreras P: Austin, Crews, Gillette, Hernandez M, Ortiz,
Sandoval, Terech

AN ACT

AMENDING SECTIONS 6-841.01, 11-466 AND 11-467, ARIZONA REVISED STATUTES;
AMENDING TITLE 11, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY
ADDING SECTION 11-544; AMENDING SECTIONS 20-1129, 32-2108, 32-2151.02,
32-2153, 32-2160, 41-319 AND 44-5101, 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 6-841.01, Arizona Revised Statutes, is amended
3 to read:

4 6-841.01. Fiduciary duty; notice of pending sale; notice of
5 returned check

6 A. An escrow agent is the trustee of all monies received or
7 collected and held in escrow. An ESCROW agent shall not knowingly or
8 negligently commingle trust monies with the escrow agent's own monies or
9 with monies held in any other capacity. Every escrow agent and every
10 officer, director and employee of an escrow agent who has actual knowledge
11 of fraud or dishonesty in the application of escrow monies, ~~—~~ owes a
12 fiduciary duty as trustee to the owner of the monies held in escrow.

13 B. BEFORE RECEIVING OR COLLECTING MONIES TO BE HELD IN ESCROW FOR
14 THE SALE OR OTHER TRANSFER OF REAL ESTATE OR ANY LEGAL OR EQUITABLE
15 INTEREST IN REAL ESTATE, EXCLUDING LEASES, AN ESCROW AGENT MUST RECORD A
16 NOTICE OF PENDING SALE IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED. TO
17 PROVIDE NOTICE OF THE RECORDED DOCUMENT, THE ESCROW AGENT SHALL
18 PARTICIPATE IN THE NOTIFICATION SYSTEM ESTABLISHED PURSUANT TO SECTION
19 11-467. THE NOTICE OF PENDING SALE MUST CONTAIN THE ADDRESS AND THE LEGAL
20 DESCRIPTION OF THE PROPERTY, THE LISTING BROKERAGE'S NAME AND THE LISTING
21 BROKERAGE'S CONTACT INFORMATION. IF THE TRANSACTION IN ESCROW CANCELS FOR
22 ANY REASON, THE ESCROW AGENT MUST RECORD A NOTICE OF CANCELED TRANSACTION.
23 THE ESCROW AGENT SHALL ALSO NOTIFY ALL OF THE FOLLOWING THAT ARE LISTED ON
24 THE AGREEMENT THAT GOVERNS THE PENDING SALE REAL ESTATE TRANSACTION THAT
25 IS DESCRIBED IN THIS SUBSECTION:

- 26 1. REAL ESTATE BROKERS AS DEFINED IN SECTION 32-2101.
- 27 2. REAL ESTATE SALESPERSONS AS DEFINED IN SECTION 32-2101.
- 28 3. BUYERS.
- 29 4. SELLERS.

30 ~~B.~~ C. An escrow agent shall notify the deputy director of any
31 returned check for insufficient funds or overdraft on any of the escrow
32 agent's trust or fiduciary accounts. The deputy director may revoke,
33 suspend or refuse to renew the escrow agent's license for failure to
34 comply with this subsection.

35 Sec. 2. Section 11-466, Arizona Revised Statutes, is amended to
36 read:

37 11-466. Certified copies of judgments and identification
38 requirements affecting real property

39 A. The recorder shall file and record with the record of deeds,
40 grants and transfers, ~~—~~ certified copies of final judgments partitioning or
41 affecting the title to or possession of real property, any part of which
42 is located in the county.

43 B. IF THE DOCUMENT TO BE RECORDED IS A DEED, QUITCLAIM DEED, DEED
44 OF TRUST OR OTHER DOCUMENT AFFECTING REAL PROPERTY, AN INDIVIDUAL MUST

1 PROVIDE THE RECORDER WITH TWO VALID FORMS OF IDENTIFICATION UNLESS THE
2 DOCUMENT TO BE RECORDED IS SUBMITTED BY ANY OF THE FOLLOWING:

- 3 1. AN ESCROW OFFICER OR A TITLE INSURER OR TITLE INSURANCE AGENT AS
4 DEFINED IN SECTION 20-1562.
- 5 2. A STATE CHARTERED OR FEDERALLY CHARTERED BANK THAT IS INSURED BY
6 THE FEDERAL DEPOSIT INSURANCE CORPORATION.
- 7 3. AN ACTIVE MEMBER OF THE STATE BAR OF ARIZONA.
- 8 4. AN AGENCY, BRANCH OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.
- 9 5. A TRUSTED SUBMITTER AS DEFINED IN SECTION 11-461.
- 10 6. A GOVERNMENTAL ENTITY.

11 Sec. 3. Section 11-467, Arizona Revised Statutes, is amended to
12 read:

13 11-467. Recorded documents; notification system; notice to
14 named party

15 Not later than January 1, 2025, the recorder shall provide a system
16 for notifying a person or entity when any document is recorded in which
17 the person or entity is a named party to the instrument. EXCEPT AS
18 PROVIDED IN SECTION 6-841.01, the system shall allow a person or entity to
19 choose to participate and is voluntary for the person or entity. ~~, and~~ The
20 notice shall be provided promptly by email, text message or other similar
21 means.

22 Sec. 4. Title 11, chapter 3, article 7, Arizona Revised Statutes,
23 is amended by adding section 11-544, to read:

24 11-544. Real property owners; affidavit; mailing address

25 A. EACH ASSESSOR IN THIS STATE SHALL ALLOW A REAL PROPERTY OWNER TO
26 FILE A NOTARIZED AFFIDAVIT STATING THAT THE OWNER IS THE ONLY AUTHORIZED
27 PERSON WHO MAY CHANGE THE MAILING ADDRESS OF THE REAL PROPERTY.

28 B. IF A REAL PROPERTY OWNER SUBMITS A NOTARIZED AFFIDAVIT THAT IS
29 DESCRIBED IN SUBSECTION A OF THIS SECTION, THE MAILING ADDRESS OF THE REAL
30 PROPERTY MAY BE CHANGED ONLY IF THE REAL PROPERTY OWNER SUBSEQUENTLY FILES
31 A NOTARIZED AFFIDAVIT STATING THE NEW MAILING ADDRESS OF THE REAL
32 PROPERTY.

33 Sec. 5. Section 20-1129, Arizona Revised Statutes, is amended to
34 read:

35 20-1129. Furnishing of proof of loss forms by insurer;
36 verification of current policy; definition

37 A. An insurer shall furnish, ~~upon~~ ON written request of any person
38 claiming to have a loss under an insurance contract issued by the insurer,
39 forms of proof of loss for completion by the person, but the insurer shall
40 not, by reason of the requirement so to furnish forms, have any
41 responsibility for or with reference to the completion of such proof or
42 the manner of any such completion or attempted completion.

43 B. ON THE REQUEST OF A REAL ESTATE SALESPERSON AS DEFINED IN
44 SECTION 32-2101 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20, AN
45 INSURER SHALL VERIFY THAT THE INSURER HOLDS A CURRENT POLICY THAT IS

1 IDENTIFIED IN AN INSURANCE CLAIMS HISTORY REPORT. FOR THE PURPOSES OF
2 THIS SUBSECTION, "INSURANCE CLAIMS HISTORY REPORT" MEANS A DOCUMENT THAT
3 SHOWS THE CLAIMS FILED FOR A SPECIFIC RESIDENTIAL REAL ESTATE PROPERTY FOR
4 THE PRECEDING SEVEN YEARS.

5 Sec. 6. Section 32-2108, Arizona Revised Statutes, is amended to
6 read:

7 32-2108. Powers and duties of commissioner to make
8 investigations and require information

9 A. The commissioner on the commissioner's own motion may, and on a
10 verified complaint in writing shall, investigate the actions of any
11 natural person or entity engaged in the business or acting in the capacity
12 of a broker, salesperson or developer and may at any time examine the
13 books and records used in connection with the business insofar as the
14 commissioner reasonably believes the books or records pertain to the
15 transfer, sale, rental, lease, use or management of real property. In
16 connection with an investigation, the commissioner or the commissioner's
17 representative may take testimony and may examine and copy documents and
18 other physical evidence that relate to the investigation. If necessary,
19 the commissioner or the commissioner's representative may issue subpoenas
20 to compel the testimony of witnesses and the production of documents and
21 other evidence. If a person refuses to comply with a subpoena, the
22 commissioner or the commissioner's representative may apply to the
23 superior court for an order to compel compliance.

24 B. The commissioner shall establish a certification and enforcement
25 unit that is charged with investigative duties relevant to the rules of
26 the commissioner and the laws of this state, including applications for
27 certification, investigations and enforcement and other duties as the
28 commissioner prescribes.

29 C. The commissioner may require any reasonably necessary additional
30 information about an applicant for or holder of a license or public report
31 or renewal or amendment of a license or public report. For the purposes
32 of this subsection, "applicant" or "holder" means a person and, if an
33 entity, any officer, director, member, manager, partner, owner, trust
34 beneficiary holding ten percent or more beneficial interest, stockholder
35 owning ten percent or more stock and person exercising control of the
36 entity. The information may include:

37 1. Prior criminal records.

38 2. A valid fingerprint clearance card issued pursuant to section
39 41-1758.03.

40 3. An affidavit setting out whether the applicant or holder has:

41 (a) Been convicted of a felony or a misdemeanor.

42 (b) Had any business or professional license denied, suspended or
43 revoked or had any other disciplinary action taken or administrative order
44 entered against the applicant or holder by any regulatory agency.

45 (c) Had a public report denied or suspended.

1 (d) Been permanently or temporarily enjoined by order, judgment or
2 decree from engaging in or continuing any conduct or practice in
3 connection with the sale or purchase of real estate, cemetery property,
4 timeshare intervals, membership camping campgrounds or contracts or
5 securities or involving consumer fraud or the racketeering laws of this
6 state.

7 (e) Had any adverse decision or judgment entered against the
8 applicant or holder arising out of the conduct of any business in or
9 involving a transaction in real estate, cemetery property, timeshare
10 intervals or membership camping campgrounds or contracts involving fraud,
11 dishonesty or moral turpitude.

12 (f) Filed, or is subject to, a petition under any chapter of the
13 federal bankruptcy act.

14 (g) Participated in, operated or held an interest or exercised
15 control in any entity to which subdivision (b), (c), (d), (e) or (f) of
16 this paragraph applies.

17 D. IN ADDITION TO OTHER POWERS AND DUTIES PROVIDED FOR IN THIS
18 CHAPTER, THE COMMISSIONER SHALL EMPLOY INVESTIGATORS AS NECESSARY TO
19 ENFORCE THIS CHAPTER. THE COMMISSIONER AND THE COMMISSIONER'S
20 INVESTIGATORS MAY COLLECT EVIDENCE RELATING TO AN INVESTIGATION OF FALSE
21 DOCUMENTS AS DESCRIBED TO SECTION 33-420 OR ANY OTHER REAL ESTATE ACTIVITY
22 CONSTITUTING FRAUD. THIS SECTION DOES NOT REMOVE THE AUTHORITY OF LAW
23 ENFORCEMENT TO INVESTIGATE CRIMES DESCRIBED IN THIS SUBSECTION.

24 Sec. 7. Section 32-2151.02, Arizona Revised Statutes, is amended to
25 read:

26 32-2151.02. Real estate employment agreements; identification
27 requirements; definition

28 A. All real estate employment agreements shall:

29 1. Be written in clear and unambiguous language.

30 2. Fully set forth all material terms, including the terms of
31 broker compensation.

32 3. Have a definite duration or expiration date, showing THE dates
33 of inception and expiration.

34 4. Be signed by all parties to the agreement.

35 B. An employing broker shall not assign a real estate employment
36 agreement to another broker without the express written consent of all
37 parties to the agreement at the time of the assignment.

38 C. A licensee shall not procure, or attempt to procure, a real
39 estate employment agreement from a party who is already subject to an
40 existing exclusive real estate employment agreement unless the licensee
41 has received written acknowledgment from the party that the execution of
42 additional real estate employment agreements could expose the party to
43 liability for substantial additional commissions. ~~Nothing in~~ This
44 subsection ~~shall be construed to~~ DOES NOT abrogate any civil liability of
45 a licensee arising out of this conduct.

1 ~~D. A real estate employment agreement is not required for a~~
2 ~~licensee to represent a party in a transaction.~~

3 D. A LICENSEE MUST CHECK A VALID GOVERNMENT-ISSUED FORM OF PHOTO
4 IDENTIFICATION OF THE PARTIES OR LEGALLY AUTHORIZED SIGNERS OF THE PARTIES
5 TO A REAL ESTATE EMPLOYMENT AGREEMENT. THE LICENSEE SHALL RETAIN EVIDENCE
6 OF HAVING CHECKED THE IDENTIFICATION AND MUST INCLUDE A DESCRIPTION OF THE
7 TYPE OF IDENTIFICATION CHECKED AND, IF APPLICABLE, THE EXPIRATION DATE OF
8 THE IDENTIFICATION. IF THE LICENSEE USES A REASONABLE LEVEL OF DISCRETION
9 WHEN CHECKING THE IDENTIFICATION, THE LICENSEE IS NOT LIABLE IF THE
10 IDENTIFICATION USED PURSUANT TO THIS SUBSECTION IS NOT VALID.

11 E. For the purposes of this section, "real estate employment
12 agreement" means a written agreement by which a real estate broker is
13 entitled to compensation for services rendered pursuant to section 44-101,
14 paragraph 7.

15 Sec. 8. Section 32-2153, Arizona Revised Statutes, is amended to
16 read:

17 32-2153. Grounds for denial, suspension or revocation of
18 licenses; letters of concern; provisional license;
19 retention of jurisdiction by commissioner;
20 definitions

21 A. The commissioner may suspend or revoke a license, deny the
22 issuance of a license, issue a letter of concern to a licensee, issue a
23 provisional license or deny the renewal or the right of renewal of a
24 license issued under this chapter if it appears that the holder or
25 applicant, within five years immediately preceding, in performing or
26 attempting to perform any acts authorized by the license or by this
27 chapter, has:

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

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

33 3. Disregarded or violated any of the provisions of this chapter or
34 any rules adopted by the commissioner.

35 4. Knowingly authorized, directed, connived at or aided in the
36 publication, advertisement, distribution or circulation of any material
37 false or misleading statement or representation concerning the licensee's
38 business or any land, cemetery property, subdivision or membership
39 campground or camping contract offered for sale in this or any other
40 state.

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

43 6. Employed any unlicensed salesperson or unlicensed associate
44 broker.

- 1 7. Accepted compensation as a licensee for performing any of the
2 acts specified in this chapter from any person who is not authorized to
3 provide compensation pursuant to section 32-2155.
- 4 8. Represented or attempted to represent a broker other than the
5 broker to whom the salesperson or associate broker is licensed.
- 6 9. Failed, within a reasonable time, to account for or to remit any
7 monies, to surrender to the rightful owner any documents or other valuable
8 property that comes into the licensee's possession and that belongs to
9 others, or to issue an appraisal report on real property or cemetery
10 property in which the licensee has an interest, unless the nature and
11 extent of the interest are fully disclosed in the report.
- 12 10. Paid or received any rebate, profit, compensation or commission
13 in violation of this chapter.
- 14 11. Induced any party to a contract to break the contract for the
15 purpose of substituting a new contract with the same or a different
16 principal, if the substitution is motivated by the personal gain of the
17 licensee.
- 18 12. Placed a sign on any property offering it for sale or for rent
19 without the written authority of the owner or the owner's authorized
20 agent.
- 21 13. Solicited, either directly or indirectly, prospects for the
22 sale, lease or use of real property, cemetery property or membership
23 camping contracts through a promotion of a speculative nature involving a
24 game of chance or risk or through conducting lotteries or contests that
25 are not specifically authorized under this chapter.
- 26 14. Failed to pay to the commissioner the renewal fee as specified
27 in this chapter promptly and before the time specified.
- 28 15. Failed to keep an escrow or trust account or other record of
29 monies deposited with the licensee relating to a real estate transaction.
- 30 16. Commingled the monies or other property of the licensee's
31 principal or client with the licensee's own or converted these monies or
32 property to the licensee or another.
- 33 17. Failed or refused on demand to produce any document, contract,
34 book, record, information, compilation or report that is in the licensee's
35 possession or that the licensee is required by law to maintain concerning
36 any real estate, cemetery or membership camping business, services,
37 activities or transactions involving or conducted by the licensee for
38 inspection by the commissioner or the commissioner's representative.
- 39 18. Failed to maintain a complete record of each transaction that
40 comes within this chapter.
- 41 19. Violated the federal fair housing law, the Arizona civil rights
42 law or any local ordinance of a similar nature.
- 43 20. Tendered to a buyer a wood infestation report in connection
44 with the transfer of residential real property or an interest in
45 residential real property knowing that wood infestation exists or that the

1 wood infestation report was inaccurate or false as of the date of the
2 tender or that an inspection was not done in conjunction with the
3 preparation of the wood infestation report.

4 21. As a licensed broker, failed to exercise reasonable supervision
5 over the activities of salespersons, associate brokers or others under the
6 broker's employ or failed to exercise reasonable supervision and control
7 over the activities for which a license is required of a corporation,
8 limited liability company or partnership on behalf of which the broker
9 acts as designated broker under section 32-2125.

10 22. Demonstrated negligence in performing any act for which a
11 license is required.

12 23. Sold or leased a property to a buyer or lessee that was not the
13 property represented to the buyer or lessee.

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

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

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

20 27. AS A LICENSED BROKER OR LICENSED SALESPERSON, FAILED, BEFORE
21 ENGAGING IN REAL ESTATE ACTIVITY, TO OBTAIN AND RETAIN EVIDENCE, INCLUDING
22 THE TYPE OF IDENTIFICATION AND THE IDENTIFICATION'S EXPIRATION DATE, OF
23 CHECKING A VALID GOVERNMENT-ISSUED FORM OF PHOTO IDENTIFICATION EITHER:

24 (a) AS PRESCRIBED IN SECTION 32-2151.02.

25 (b) OF UNREPRESENTED PARTIES IN A RESIDENTIAL SALES TRANSACTION.

26 28. AS A LICENSED SALESPERSON THAT HAS LISTED A PROPERTY, FAILED TO
27 REQUEST AND CHECK THE VALIDITY OF AN INSURANCE CLAIMS LOSS HISTORY ISSUED
28 BY A LICENSED INSURER OF THIS STATE.

29 B. The commissioner may suspend or revoke a license, deny the
30 issuance of a license, issue a letter of concern to a licensee, issue a
31 provisional license or deny the renewal or the right of renewal of a
32 license issued under this chapter if it appears that the holder or
33 applicant has:

34 1. Procured or attempted to procure a license under this chapter
35 for the holder or applicant or another by fraud, misrepresentation or
36 deceit or by filing an original or renewal application that is false or
37 misleading.

38 2. Been convicted in a court of competent jurisdiction in this or
39 any other state of a felony or of any crime of forgery, theft, extortion,
40 conspiracy to defraud, a crime of moral turpitude or any other like
41 offense.

42 3. Made any substantial misrepresentation.

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

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

4 6. Engaged in the business of a real estate broker, cemetery broker
5 or membership camping broker or real estate SALESPERSON, cemetery
6 SALESPERSON or membership camping salesperson without holding a license as
7 prescribed in this chapter.

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

13 8. Violated the terms of any criminal or administrative order,
14 decree or sentence.

15 9. Violated any federal or state law, regulation or rule that
16 relates to real estate or securities or that involves forgery, theft,
17 extortion, fraud, substantial misrepresentation, dishonest dealings or
18 violence against another person or failure to deal fairly with any party
19 to a transaction that materially and adversely affected the transaction.
20 This paragraph applies equally to violations of which the licensee was
21 convicted in any lawful federal or state tribunal and to any admissions
22 made in any settlement agreement by the licensee to violations.

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

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

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

37 E. The lapsing or suspension of a license by operation of law or by
38 order or decision of the commissioner or a court of law or the voluntary
39 surrender of a license by a licensee does not deprive the commissioner of
40 jurisdiction to do any of the following:

41 1. Proceed with any investigation of or action or disciplinary
42 proceeding against the licensee.

43 2. Render a decision suspending or revoking the license or denying
44 the renewal or right of renewal of the license.

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

1 F. For the purposes of this section:

2 1. "Letter of concern" means an advisory letter to notify a
3 licensee that, while the conduct or evidence does not warrant other
4 disciplinary action, the commissioner believes that the licensee should
5 modify or eliminate certain practices and that continuation of the
6 activities may result in further disciplinary action against the licensee.

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

11 Sec. 9. Section 32-2160, Arizona Revised Statutes, is amended to
12 read:

13 32-2160. Filing of complaint by commissioner; prosecution;
14 evidence

15 A. The commissioner may file a complaint for a violation of this
16 chapter ~~OR FOR AN ACTION OR INACTION THAT CONSTITUTES ANY REAL ESTATE~~
17 ~~FRAUD IN THIS STATE~~ before a court of competent jurisdiction and may in
18 person or by ~~his~~ ~~THE COMMISSIONER'S~~ deputies, assistants or counsel assist
19 in the prosecution of the complaint. The county attorney of any county in
20 which a violation occurs shall, ~~upon~~ ~~ON~~ the written request of the
21 commissioner or the attorney general, prosecute the violation.

22 B. In addition to all other remedies, when it appears to the
23 commissioner either ~~upon~~ ~~ON~~ complaint or otherwise that any person, firm,
24 partnership, corporation, association or other organization, or a
25 combination of any of them, has engaged or is engaging in any act,
26 practice or transaction ~~which~~ ~~THAT~~ constitutes a violation of this chapter
27 or of any rule or order of the commissioner ~~OR AN ACTION OR INACTION THAT~~
28 ~~CONSTITUTES ANY REAL ESTATE FRAUD IN THIS STATE~~, the commissioner may,
29 either through the attorney general or through the county attorney of any
30 county in which the act, practice or transaction ~~OR ACTION OR INACTION~~ is
31 alleged to have been committed, apply to the superior court of that county
32 for an injunction restraining such person, firm, partnership, corporation,
33 association or other organization from engaging in such act, practice or
34 transaction ~~OR ACTION OR INACTION~~, or doing any act in furtherance
35 thereof, and, ~~upon~~ ~~ON~~ a proper showing, a temporary restraining order, a
36 preliminary injunction or a permanent injunction shall be granted without
37 bond. Process in such action may be served ~~upon~~ ~~ON~~ the defendant in any
38 county of this state where ~~such~~ ~~THE~~ defendant transacts business or is
39 found or on the statutory agent in the case of a corporation.

40 C. ~~Nothing in~~ Subsection B ~~shall~~ ~~OF THIS SECTION DOES NOT~~ give the
41 department jurisdiction over any landlord and tenant disputes or federal
42 or state fair housing violations or authorize the commissioner to seek
43 sanctions under this chapter or any rule or order of the commissioner
44 relating to these matters.

1 D. THE COMMISSIONER MAY SUBMIT INVESTIGATION EVIDENCE THE
2 COMMISSIONER RECEIVES PURSUANT TO SECTION 32-2108 TO EITHER THE COUNTY
3 ATTORNEY OF ANY COUNTY IN WHICH A VIOLATION OCCURS OR THE ATTORNEY GENERAL
4 IN AN ACTION BROUGHT UNDER THIS SECTION.

5 Sec. 10. Section 41-319, Arizona Revised Statutes, is amended to
6 read:

7 41-319. Journal

8 A. A notary public shall keep a paper journal to chronicle all
9 notarial acts performed regarding tangible records. A notary public shall
10 keep either a paper journal or one or more electronic journals to
11 chronicle all notarial acts performed regarding electronic records.
12 Except as prescribed by subsection E of this section, a notary public
13 shall keep only one paper journal at a time. The notary public shall
14 record all notarial acts in chronological order. The notary public shall
15 furnish, when requested, a certified copy of any public record in the
16 notary public's journal. Records of notarial acts that violate the
17 attorney-client privilege or that are confidential pursuant to federal or
18 state law are not a public record. Each journal entry shall include at
19 least:

- 20 1. The date of the notarial act.
- 21 2. A description of the document and type of notarial act.
- 22 3. The printed full name and address of each individual for whom a
23 notarial act is performed.
- 24 4. If a paper journal is used, the signature of each individual for
25 whom a notarial act is performed.
- 26 5. The type of satisfactory evidence of identity presented to the
27 notary public by each individual for whom a notarial act is performed, or
28 a notation that the notary public's personal knowledge of the individual
29 was used as satisfactory evidence of identity.
- 30 6. A description of the identification card or document, if any,
31 including its date of issuance or expiration.
- 32 7. The fee, if any, charged for the notarial act.

33 8. IF APPLICABLE, THE INFORMATION PRESCRIBED BY SUBSECTION G OF
34 THIS SECTION.

35 B. If a notary public has personal knowledge of the identity of a
36 signer, the notary public shall retain a paper or electronic copy of the
37 notarized documents for each notarial act in lieu of making a journal
38 entry or the notary public shall make a journal entry pursuant to the
39 requirements of subsection A, paragraphs 1, 2, 3, 4, 5 and 7 of this
40 section.

41 C. Except for notarial acts performed for remotely located
42 individuals under section 41-263, if a notary public performs more than
43 one notarization for an individual within a six month period, the notary
44 public shall have the individual provide satisfactory evidence of identity
45 as required under section 41-255 the first time the notary performs the

1 notarization for the individual but may not require satisfactory evidence
2 of identity or the individual to sign the journal for subsequent
3 notarizations performed for the individual during the six month period.

4 D. If a notary public performs more than one notarization of the
5 same type for a signer either on similar records or within the same record
6 and at the same time, the notary public may group the records together and
7 make one journal entry for the transaction.

8 E. If one or more entries in a notary public's journal are not
9 public records, the notary public shall keep one journal that contains
10 entries that are not public records and one journal that contains entries
11 that are public records. If a notary public keeps only one journal, that
12 journal is presumed to be a public record. A notary public's journal that
13 contains entries that are not public records is the property of the
14 employer of that notary public and shall be retained by that employer if
15 the notary public leaves that employment. A notary public's journal that
16 contains only public records is the property of the notary public without
17 regard to whether the notary public's employer purchased the journal or
18 provided the fees for the commissioning of the notary public.

19 F. Except as provided in subsections A and E of this section, the
20 notary public's journal is a public record that may be viewed by or copied
21 for any member of the public, but only on presentation to the notary
22 public of a written request that details the month and year of the
23 notarial act, the name of the individual whose signature was notarized and
24 the type of record or transaction.

25 G. IF THE DOCUMENT TO BE NOTARIZED BY A NOTARY PUBLIC IS A POWER OF
26 ATTORNEY DOCUMENT OR A DEED, QUITCLAIM DEED, DEED OF TRUST OR OTHER
27 DOCUMENT AFFECTING REAL PROPERTY, THE NOTARY PUBLIC SHALL REQUIRE THE
28 PARTY SIGNING THE DOCUMENT TO PLACE THE PARTY'S RIGHT THUMBPRINT IN THE
29 JOURNAL. IF THE RIGHT THUMBPRINT IS NOT AVAILABLE, THE NOTARY PUBLIC
30 SHALL HAVE THE PARTY USE THE PARTY'S LEFT THUMB OR ANY AVAILABLE FINGER
31 AND SHALL SO INDICATE IN THE JOURNAL. IF THE PARTY SIGNING THE DOCUMENT
32 IS PHYSICALLY UNABLE TO PROVIDE A THUMBPRINT OR FINGERPRINT, THE NOTARY
33 PUBLIC SHALL ACCEPT BIOMETRIC IDENTIFICATION USING TWO-POINT
34 IDENTIFICATION WITH KNOWLEDGE-BASED IDENTIFICATION WITH LIVE CREDENTIAL
35 EVALUATION. IF THE PARTY SIGNING THE DOCUMENT IS PHYSICALLY UNABLE TO
36 PROVIDE A THUMBPRINT OR FINGERPRINT OR COMPLETE BIOMETRIC IDENTIFICATION,
37 THE NOTARY PUBLIC SHALL SO INDICATE IN THE JOURNAL AND PROVIDE AN
38 EXPLANATION OF THAT PHYSICAL CONDITION OR BIOMETRIC LIMITATION. THIS
39 SUBSECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

- 40 1. A TRUSTEE'S DEED RESULTING FROM A DECREE OF FORECLOSURE OR A
41 NONJUDICIAL FORECLOSURE PURSUANT TO TITLE 33, CHAPTER 6.1.
- 42 2. A DEED OF RECONVEYANCE.

1 Sec. 11. Section 44-5101, Arizona Revised Statutes, is amended to
2 read:

3 44-5101. Wholesale buyers; wholesale sellers; disclosure; due
4 diligence; identification; unlawful practice;
5 definitions

6 A. Before the parties enter into any binding agreement:

7 1. A wholesale buyer of residential real property shall disclose in
8 writing to the seller that the buyer is a wholesale buyer.

9 2. A wholesale seller of residential real property shall disclose
10 in writing to the buyer that the seller is a wholesale seller that holds
11 an equitable interest in the RESIDENTIAL real property and that the
12 wholesale seller may not be able to convey title to the RESIDENTIAL REAL
13 property.

14 3. A WHOLESALER BUYER OF RESIDENTIAL PROPERTY MUST:

15 (a) EXERCISE DUE DILIGENCE TO ENSURE THAT THE SELLER IS THE
16 BONAFIDE OWNER OR LEGALLY AUTHORIZED REPRESENTATIVE OF THE RESIDENTIAL
17 REAL PROPERTY.

18 (b) OBTAIN AND RETAIN FOR AT LEAST FIVE YEARS EVIDENCE OF HAVING
19 CHECKED A VALID GOVERNMENT-ISSUED FORM OF IDENTIFICATION FOR UNREPRESENTED
20 PARTIES IN A REAL ESTATE TRANSACTION BEFORE ENGAGING IN WHOLESALER
21 ACTIVITY. THE EVIDENCE MUST INCLUDE A DESCRIPTION OF THE TYPE OF
22 IDENTIFICATION AND THE IDENTIFICATION'S EXPIRATION DATE.

23 B. Notwithstanding ~~any~~ ALL other provisions contained in the
24 contract for sale, if a wholesale buyer violates this section, the seller
25 may cancel the contract for sale at any time ~~prior to~~ BEFORE the close of
26 escrow without penalty and may retain any earnest money paid by the
27 wholesaler buyer.

28 C. Notwithstanding any other provisions contained in the contract
29 for sale, if a wholesaler seller violates this section, the buyer may
30 cancel the contract for sale at any time ~~prior to~~ BEFORE the close of
31 escrow without penalty and shall be refunded all earnest money paid by the
32 buyer.

33 D. For the purposes of this section:

34 1. "Residential real property" means real property with fewer than
35 five dwelling units.

36 2. "Wholesale buyer" means a person or entity that enters into a
37 purchase contract for residential real property as the buyer and assigns
38 that same contract to another person or entity.

39 3. "Wholesale seller" means a person or entity that enters into a
40 purchase contract for residential real property as the seller, that does
41 not hold legal title to that real property and that assigns that same
42 contract to another person or entity.

43 Sec. 12. Short title

44 This act shall be known as "Jerry's Law".