

**Short Title: Electronic Record Keeping**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under ARS 41-1033 for a review of the statement.

**Description of Practice/Procedure:** Licensees of the Department (brokers, property management companies and cemetery owners) are required to retain copies of transactions.<sup>1</sup> Brokers and management companies are also required to keep employment records.<sup>2</sup> Records pertaining to trust accounts, if kept electronically, must be able to be reconstructed “. . . in the event of destruction of electronic data.”

A licensee may retain the required transaction and employment records by electronic means, providing that all of the following conditions are met:

- The records are maintained in a manner allowing reconstruction in the event of destruction of electronic data.
- The records can be produced, at the broker's expense, in legible, written form (“hard copy”) upon request by the Commissioner, or the Commissioner's representative, for auditing, inspection, or investigation purposes.
- The electronic records are exact duplicates of the original.
- The stored records are legible.

Backing up records: Transaction and employment records required to be maintained pursuant to statute or rule, must be backed-up (duplicated and stored in a secure, offsite location controlled by the broker) in a manner allowing restoration in the event electronic data maintained at the principal place of business is destroyed.

**Authority:** Brokers are required to retain records pursuant to A.R.S. §§ 32-2151(B)(2), 32-2151.01(A), 32-2151.01(H), 32-2175(A), 32-2175(B) and 32-2194.06(A) and (B). A.R.S. § 32-2151(B)(2) requires that trust account records that are maintained electronically be able to be reconstructed. A.R.S. § 32-2194.03(E) requires a cemetery owner or the owner's agent to keep and maintain records of all sales transactions and monies received, and authorizes examination of the books and records of the cemetery owner or agent. A.R.S. §§ 32-2108(A), 32-2175(H) and 32-2194.06 (B) authorize the Commissioner to examine the books and records of any natural person or entity engaged in the business or acting in the capacity of a broker, salesperson or developer. Pursuant to A.R.S. § 32-2107, the Commissioner is authorized to administer the Department and the provisions under its jurisdiction.

**Policy Program:** Licensing

**Effective Date:** 8/15/2000; Revised & Renumbered 5/28/2004; Renumbered 4/01/2005; Revised 12/07/2018.

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<sup>1</sup> Transaction records, referenced herein, include records of all real estate, cemetery, time-share and membership camping transactions handled by or through a broker, property management firm, or cemetery owner or agent, including contracts and addenda, earnest money receipts, closing statements showing all receipts, disbursements and adjustments, lease contracts, employment agreements (including property management, listing, and buyer-broker agreements), residential and nonresidential leasing or rental agreements.

<sup>2</sup> Employment records include forms evidencing hiring, severing (terminating), or license renewal of employed licensees.

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