



DIALOG

The Periodic Bulletin

from

The Arizona Department of Real Estate

Volume 2011– Issue 1



Judy Lowe
Commissioner

COMMISSIONER'S CORNER

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PLANNING FOR THE FUTURE... FISCAL YEAR 2012 WITH THE ARIZONA DEPARTMENT OF REAL ESTATE (ADRE).....

Did you know that the fiscal year (FY) for the ADRE begins July 1 of each year?? That's when we assume our new Budget Appropriation and implement our Strategic Plan. The ADRE Team is focused on developing our 2012 Strategic Plan.

We have reviewed the numbers from prior years, plus our numbers for Year to Date FY 2011. While the total number of licensees that the ADRE regulates has declined only slightly (active, inactive and grace period = 88,000+), the number of in-active licensees (those still holding an active license, however, not working with a Broker) has grown by 20%. The 2011 projection is that ADRE will process approximately 3,500 new licenses.

Each ADRE Division has reviewed their workload, their processes and the staff coverage for each process. Remember, our staff has been dramatically reduced from 70 a few years ago, to 30 today. Our Budget Appropriation has declined from a high of \$4.6 million in 2008 to our "hoped for" appropriation of \$3 million for FY 2012. It's very evident, ADRE has a few challenges. In addressing these challenges, while listening to stakeholder feedback, we have established five primary goals. The achievement of these goals will certainly allow for better service to the real estate industry, and most importantly, better protection for Arizona constituents.

Primary Goals are:

- **Enforce Existing Regulation – Clearing Out “Bad Eggs”**
- **Enhance the Knowledge Level of the Licensee Through Education**
- **Further Streamline Internal Processes**
- **Enhance the ADRE Technology Platform – Internally/Externally**
- **Develop Team Attitude of “Accountability to the Goals”**

Over the next few weeks, we will be developing Action Steps for each Goal, and timelines for achievement. In the next Bulletin we will share with you “how we’re doing”.

The acceptance of change here at ADRE is exciting to experience. Remember “Good Change is Good”!

EDUCATION UPDATES

INSTRUCTOR APPLICATION FORM

MODIFIED AS OF JANUARY 28, 2011-INSTRUCTOR APPLICATION FORM- [Application For Real Estate Instructor Approval / Renewal / Update \(Form ED-101\)](#)
 - Accredited *sponsor* real estate schools submit this form on behalf of instructor applicants to request approval, renewal or an update as a real estate course instructor. Instructors must now take continuing instructor education similar to real estate licensees. Currently approved schools and instructors should review the modified application [Instructor Application](#) prior to instructor renewal as well as the instructor's list of approved categories [Public Database](#).

NOTE: Course approval applications are reviewed independent of instructor approval applications; instructors stated on course approval applications, must be approved for the category and/or specific subject area of course approval applied for.

REMINDERS:

- An ADRE Approved Instructor, who also holds a real estate license, may use Continuing Education hours used for Real Estate License renewal for Real Estate Instructor Application, Renewal, and/or Change. However, remember, that Courses that the Real Estate Instructor taught themselves may NOT be used for either Real Estate License renewal or Real Estate Instructor Application, Renewal, and/or Change.
- Proof of Legal Presence is required for all original or renewal instructor applications.



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DISTANCE LEARNING CONTINUING EDUCATION COURSES

All distance learning continuing education courses must comply with the 50 minute per credit hour rule (A.A.C. R4-28-101), which requires course timers in each module of the distance learning course. Any approved distance learning courses that do not have built in timers should *immediately* be reported to the ADRE.

INFORMATIONAL ALERT-
3/14/2011

Modified Course Application [ED-102](#) now includes the Instructor Development Workshop course requirements, and a few other revisions.

EDUCATION UPDATE

Fun Facts!

NEW LICENSEE EXAMS

DECEMBER 2010 – Average Passing Percentages for “First Time Takers”

| | |
|-------------------------|------|
| REAL ESTATE BROKER | =75% |
| REAL ESTATE SALESPERSON | =73% |
| CEMETARY SALESPERSON | =75% |

JANUARY 2011 – Average Passing Percentages for “First Time Takers”

| | |
|-------------------------|------|
| REAL ESTATE BROKER | =60% |
| REAL ESTATE SALESPERSON | =63% |
| CEMETARY SALESPERSON | =50% |

MEMBERSHIP CAMPING SALESPERSON =100%

As of February 10, 2011:

ADRE Licensee Online Course Entries for (12/16/2010 through 1/16/2011)

Total courses entered: **11,869**
 Distance Learning: 6,923
 Percentage Distance Learning: 58%

3,456 Active Continuing Education Courses2,914 Live CE (Approximately **84.31%**)

EDUCATION ADVISORY COMMITTEE (EAC)

The Education Advisory Committee meets from 10:00 am to Noon at the Arizona Department of Real Estate .

The EAC is schedule to meet :

- **April 12, 2011**
- June 14, 2011
- September 13, 2011
- December 13, 2011

Prior to meetings, check with ADRE to ensure that the meeting location has not changed.
 Meetings are open to the public.

ONLINE 14 DAY COURSE NOTICE IS ENCOURAGED TO REDUCE THE OUTMODDED NOTICE OPTIONS**14- Day Online Course Notice**

To schedule all currently approved continuing education and pre licensure course events online to comply with the 14-day statutory notice, A.R.S. §32-2135(G), school administrators can access the online system at: <https://services.azre.gov/oes/>

Pointers/Tips

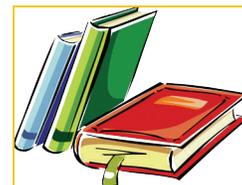
- The sooner you get your notice in, the more easily a licensee can contact your school to plan in advance and register for upcoming courses.
- Check your entries for accurate information. Some of the entries are incomplete.
- Be sure to enter the correct course location in the “other location” field if the course is held at a location other than a campus.
- If information in the online notice changes, such as cancellation or other pertinent course information, be sure to update the online notice.

Timing of Online Notice

The latest entry for a 14-day online notice is exactly to the day and hour of the event. For example, if a course is scheduled for July 15, 210 at 3:00 p.m., the online notice must be submitted no later than July 1, 2010 at 2:59.59 p.m.

Other 14-Day Notice Options

- Mail-ADRE, Attn: Education Division, 2910 N. 44th Street, Suite 100, Phoenix, AZ 85018
 Email- education@azre.gov
 Facsimile-(602) 957-0658
 File Notice In-Person at ADRE in Phoenix or Tucson



Broker Updates

Southern Arizona Broker Meetings!

Stay informed! Attend the **Broker Meetings** held at the Tucson Association of REALTORS®

On **January 31, 2011**, over 60 Southern Arizona Brokers attended the Broker Meeting held at the Tucson Association of REALTORS®. Topics of discussion were the **Short Sale Negotiator Regulations** and the **ADRE Broker Audit Declaration**.

Schedule for 2011:

- **March 17**
- May 23
- July 25
- September 26
- November 7

An email blast from the Department is sent out a month prior to every meeting as a reminder! Please make sure that your e-mail is current by visiting the Department's website: www.azre.gov and using the Online Services.

- If you would like Commissioner Lowe to speak at your office meeting, association or special event please contact Mary Utley at (602) 771-7766 or email at mutley@azre.gov

Q&A Corner

Q. May a licensee of one company hold an Open House on a listing of another company?

A. The Department sees pitfalls with the arrangement, specifically confusion on the part of the public. ADRE requires that both involved brokers agree to allow the non-listing agent to conduct an open house in the listed property. In addition, the non-listing agent may not receive compensation from the listing agent for conducting the open house and the non-listing agent must make it very clear that he/she is not representing the seller and is present in the home for the purpose of finding interested buyers to work with. The licensee holding the Open House must clearly identify their company through signage, business cards distributed and all advertising.

IMPORTANT INFORMATION THAT MAY AFFECT YOUR LICENSURE AS THE DESIGNATED BROKER (DB)

Your Broker responsibility includes ensuring that your licensed employees are in compliance with their Continuing Education (CE) requirements.

ADRE may take action upon your license for failure to properly supervise your licensed employees.

Per [SPS 2008.05 CE Education Requirements for Renewal of a 4-year license](#), your options as a broker, which must be enforced prior to the end of the 30 day grace period, are the following:

- Licensee attends the required CE and inputs the CE credit information via the online licensing and renewal system at www.azre.gov
- Employing broker severs the licensee via the online licensing and renewal system at www.azre.gov

Should you have any concerns please send an email to ceconfirmation@azre.gov

Ensuring that you and your employed licensees maintain current email addresses with the Department will guarantee that you receive important information regarding your real estate license.

Visit the Online Licensing and Renewal system at www.azre.gov

REMEMBER- AS THE LICENSEE, YOU ARE THE RESPONSIBLE PARTY FOR UPLOADING YOUR CONTINUING EDUCATION! (DO NOT DELEGATE OR SHARE YOUR PASSWORD)

Property Management Licensee Advisory: Changes in 1099 Reporting Requirements

Please be aware that The Small Business Jobs Act of 2010 has changed the 1099 reporting requirements for anyone receiving rental income from real property. The Small Business Jobs Act amends the definition of "trade or business" to include renting real property. Please be aware of this change as it relates to your business to ensure compliance with the new reporting requirements.

Legislative Update
Tuesday, March 15, 2011

Real Estate Industry Related Bills:

HB2005 subdivisions; acting in concert (Sponsor: Representative Burges): makes various changes to the statutes governing subdivisions, acting in concert and the Arizona Department of Real Estate. States that the county where the division occurred OR the ADRE, but not both, may enforce statutory prohibitions against acting in concert. Stipulates that “familial relationship” alone is not sufficient to constitute unlawful acting in concert. States that the Commissioner has five years after the date of an initial complaint or initiation of an investigation by the commissioner to determine if the sale or lease of land has violated subdivision statutes

HB2193 municipal water charges; responsibility (Sponsor: Representative JP Weiers): places additional restrictions on whom municipalities may penalize for unpaid water and wastewater charges; prohibits municipalities from requiring payment for unpaid water and wastewater rates from anyone other than the person who made the contract, resided at the property, and received the service.

HB2264 home sales; water supply disclosure (Sponsor: Representative Ableser): mandates the disclosure of water supply status by a subdivider and requires a statement of the water supply status to be recorded with the county recorder if the subdivision is outside of an Active Management Area.

HB2545 homeowners’ associations; rental restrictions (Sponsor: Representatives Heinz, Patterson, Gowan et al): prevents homeowners’ associations from restricting the leasing and rental of properties and units.

HB2609 homeowners’ associations; signs; political; leasing (Sponsor: Representative Barton): modifies the statutes governing the display of for sale, rent, lease, or political signs in condominium and planned communities and allows the prohibition of signs that are not commercially produced.

SB1149 planned communities; condominiums; document fees (Sponsor: Senator Biggs): limits, for documents that cannot be transmitted electronically, the fee that a planned community and condominium association can charge a unit owner for the preparation of required documents with the resale of a unit to ten cents per page.

SB1292 real estate; education; broker requirements (Sponsor: Senator Griffin): as amended, changes the number of days a designated broker has to review listing agreements, purchase or nonresidential lease agreements, or similar documents from five to ten business days and defines business day.

SB1458 professional licensure; out-of-state applicants (Sponsor: Senators Sinema & Driggs): as amended, requires professional licenses and certificates to be issued to a person married to an active duty member of the U.S. Armed Forces who is licensed or certified in another state, if certain conditions are met.

SB1585 military operations; real estate disclosure (Sponsor: Representative Burges): adds military operations area to real estate disclosure provisions; requires the department to post military operations maps on the website and to file them with the office of the county recorder.

*Please visit www.azleg.gov and insert the bill number in the top right hand corner of the screen to view information about these and other bills.

*Please note that this list is not comprehensive, it is a selection of real estate related bills that are currently moving through the legislature.

ADRE ADVERTISING : JUST A FEW OF THE POINTS

Arizona Real Estate Advertising Statutes, Rules, and Policies apply to ALL FORMS of advertising/media , including, but not limited to, building signage, all signs, including directional/bandit signs, business cards, letterhead stationery, web sites, social media, done by an Arizona Real Estate Licensee .

The Commissioner may suspend or revoke a license, deny the issuance of a license, issue a letter of concern to a licensee, issue a provisional license or deny the renewal or the right of renewal of a license if the licensee knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution or circulation of any material false or misleading statement or representation concerning the licensee's business or any land, cemetery property, subdivision or membership campground or camping contract offered for sale in this or any other state.

DESIGNATED BROKER/EMPLOYING BROKER

The Designated Broker (DB) shall supervise all advertising, for real estate, cemetery, or membership camping brokerage services. R4-28-502(G). The Employing broker and DB shall review and inspect advertising and marketing by the Broker and by salespersons, brokers, and others in the Broker's employ. R4-28-1103(5)(b).

A Licensee shall ensure that all advertising identifies in a clear and prominent manner the Employing Broker's or DBA's legal name (the corporation, partnership, limited liability company or sole proprietor) contained on the Employing Broker's license certificate.

Any Broker using a trade name owned by another person on signs displayed at the place of business shall place the broker's name, as licensed by the Department on the signs.

The Broker shall include the following legend, "Each (TRADE NAME or FRANCHISE) office is independently owned and operated."

The Department shall not license an Employing Broker under more than one DBA name, and a person shall not conduct or promote real estate business under any name other than the name under which the person is licensed. R4-28-302(I)

Each Designated Broker and, if applicable, each Employing Broker shall cause a sign to be affixed at the entrance to the Broker's place of business, in a place and position clearly visible to all entering the place of business, with the name of the Broker, the name under which the Broker is doing business, if other than the Broker's given name, and sufficient wording to establish that the person is a real estate broker, cemetery broker, or membership camping broker. A.R.S.32-2126(B); The Department will not consider a Broker to be in violation of the signage requirement under this provision when the Broker; (1) maintains a home office in the Broker's PRIMARY RESIDENCE; (2) handles fewer than 3 transactions a year (0,1, or 2); and, (3) has no real estate related employees (licensed or unlicensed). This Broker shall clearly and obviously display the Broker's real estate license in the home office, and comply with all other applicable statutory and rule requirements to hold a broker's license. SPS No. 2005.15.

ALL LICENSEES

A Licensee shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. The Licensee shall not misrepresent the facts or create misleading impressions.

A Licensee acting as an agent shall not advertise property in a manner that implies that no licensee is taking part in the offer for sale, lease, or exchange. This applies to website homepage and social media advertising, as well.

A Licensee who advertises property that is the subject of another person's real estate employment agreement shall display the name of the listing broker in a clear and prominent manner.

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ADRE ADVERTISING: JUST A FEW OF THE POINTS

Continued from page 6

Any Licensee advertising the licensee's own property for sale, lease, or exchange shall disclose the licensee's status as a licensee, and as the property owner by placing the words "owner/agent" in the advertisement.

Before placing or erecting a sign giving notice that specific property is being offered for sale, lease, rent, or exchange, a Licensee shall secure the written consent of the property owner; The sign shall be promptly removed upon request of the property owner.

OUT OF STATE BROKERS

An out-of-state Broker who is not licensed in this state shall not list, market or advertise in this state real property located in this state for sale, lease or exchange. A.R.S.32-2163(E).

The offering of real estate brokerage services specified by section 32-2101 for compensation or any other thing of value pertaining to real property located in this state through an internet web site constitutes activity that requires a Broker's license issued by the Department. A.R.S.32-2163(D).

Signs shall not be placed on real property in this state by an out-of-state Broker.

Substantive Policy Statements Update

Repeal of Substantive Policy Statements in 2011

2008.04 Business Brokers; License Requirement Clarification

Repealed 1/27/11. This policy statement was intended to clarify what kind of real estate transactions would necessitate an ADRE real estate license for business brokers. It also further clarified the definition of a business broker. The reason for the repeal of this policy statement is that it became invalidated when the business broker designation was removed from statute.

2005.12 Continuing Education, Residential Resale Purchase Contract

Repealed 1/27/11. This policy statement was intended to clarify course approval and instructor approval requirements with regard to the 2005 Arizona Association of Realtors' Residential Resale Purchase Contract. The reason for the repeal of this policy statement is that it is outdated and no longer applicable.

2008.01 Pre-License Education Waiver

Repealed 3/3/11. This policy statement was intended to clarify that the Department of Real Estate had taken a position to not grant a waiver for pre-licensure education for real estate salespersons or brokers. The reason for the repeal of this policy statement is that it is in conflict with existing statute which indicates that the Commissioner may grant a waiver.

ATTENTION! Let's remember:

Update your personal information at www.azre.gov

According to Arizona Real Estate Statutes and Rules: Every real estate licensee is **responsible** for the accuracy of contact information registered with the Arizona Department of Real Estate (ADRE). There may be disciplinary actions taken against those licensees who have invalid information in the ADRE database. Also, should the ADRE send any kind of correspondence to an incorrect address or e-mail that is on file, the excuse of "not receiving" correspondence is not acceptable for any delayed actions. Correspondence sent by the ADRE to a licensee, and sent to the licensee's Designated Broker's office constitutes delivery to the licensee.

Visit <http://www.azre.gov/OnlineServices.aspx> TODAY!! **CONFIRM THAT YOUR NAME, ADDRESS AND E-MAIL INFORMATION IS ACCURATE!** It is best to use an e-mail address that you check regularly and that is personal to you.

*Licensee can **reset** their own passwords by answering their secret question. They simply login on the right side with their License Number, Social Security Suffix, and Birth date and choose the password reset option from the 'Password Already Created' screen.



How do I as the Broker keep track of my licensees who are deficient in their CE Requirements and/or coming due?

Login to your home page:

Go to the ADRE Online Licensing and Renewal System at www.azre.gov.

Login with your password

Real Estate License Number:
Example: SA123456789

Password:

[I forgot my password](#)

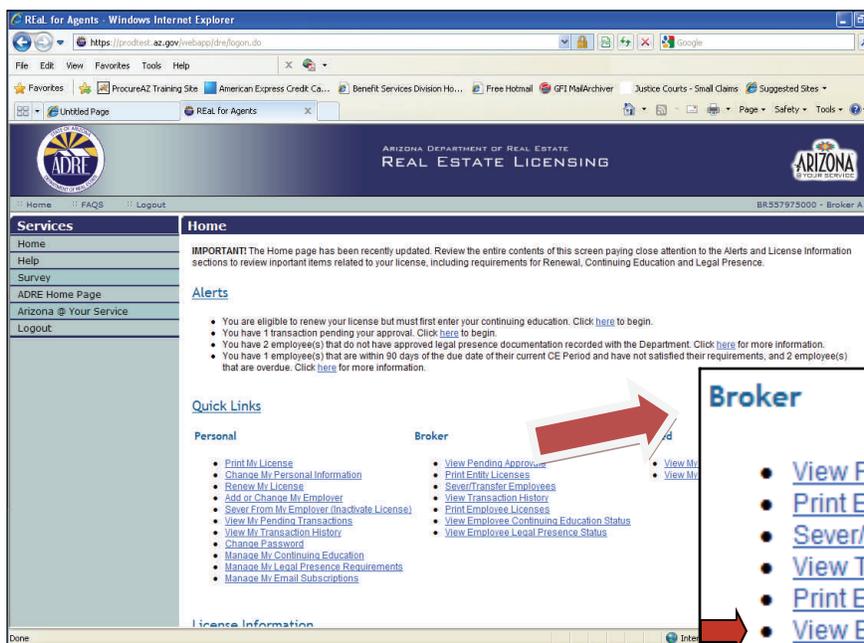
Login for the first time, or if you have no password

Real Estate License Number:
Example: SA123456789

Social Security Number:
(last four digits only)

Date of Birth:
(mm/dd/yyyy)

Go to "Broker" then select "View Employee Continuing Education"



Please refer any questions to ceconfirmation@azre.gov

- Broker**
- [View Pending Approvals](#)
 - [Print Entity Licenses](#)
 - [Sever/Transfer Employees](#)
 - [View Transaction History](#)
 - [Print Employee Licenses](#)
 - [View Employee Continuing Education Status](#)
 - [View Employee Legal Presence Status](#)

Review a list of all licensed employees with their CE Due dates and status

View Employee Continuing Education

Select the desired Date Due and Requirements settings and click the Get Employees button.

Date Due **Requirements**

All Within 90 Days Overdue Satisfied Unsatisfied

Drag a column header and drop it here to group by that column

| License No | Name | Office | Period | Due Date | Requirements Satisfied | Renewal Date |
|------------------------|------|--------|--------|----------|------------------------|--------------|
| No records to display. | | | | | | |

True= requirements satisfied

False= requirements not satisfied.

TECHNOLOGY SAVE TIME, ENERGY, GAS, AND DOLLARS!!

ONLINE AT www.azre.gov ; Visit the [ADRE Website](#) to find answers to most questions. THANKS!!!

Renew License on-line – www.azre.gov – Less expensive when you renew online. No need to call ADRE to confirm that your license is renewed.....Visit your online license information to check new expiration date.

Sever/Hire/Transfer – www.azre.gov – Remember the hiring broker must accept the hire on online.

Enter **Continuing Education** – www.azre.gov – Best to do it as you complete the course. When entering courses for the first 24 months of a 4 year license, there is **no need to call the ADRE** when the message appears that the requirement has been satisfied.

Legal Presence – Go to www.azre.gov ; select “Manage my Legal Presence”, follow directions Remember, Legal Presence must be entered, received by ADRE and reviewed before License Renewal or Entering Continuing Education.

SCAN IT – (Expect a two (2) day turnaround time, with a call from ADRE for payment when complete)

Licensee Personal Name or Address Change – licenseupdates@azre.gov

Branch Manager Change – licenseupdates@azre.gov

Licensee Licensing Questions – licensing@azre.gov

New PC-PLLC Request or Changes – licenseupdates@azre.gov

Cancellation of license – licenseupdates@azre.gov

New Entities – broker.specialist@azre.gov

Designated Broker Change – broker.specialist@azre.gov

Name Reservations – broker.specialist@azre.gov

Broker Questions – broker.specialist@azre.gov

Business/Mailing Address Changes – entityupdates@azre.gov

New Branch Offices or Changes – entityupdates@azre.gov

General Licensing Questions – licensing@azre.gov

Legal Presence Questions – licensing@azre.gov

Original License Applications– licenseapplications@azre.gov

**UPDATE on the Short Sale Negotiator Regulations
February 15, 2011**

By
Arizona Department of Real Estate (“ADRE”) Commissioner Judy Lowe

NOTE: This communication is for general informational purposes only and is not intended to constitute legal advice or a recommended course of action in any given situation. This article does not replace the need for each licensee to become familiar with the laws pertaining to short sales to ensure their business practices comply with all applicable laws.

Numerous regulations have recently been enacted governing short sale negotiations. The following are answers to frequently asked questions regarding short sale negotiators.

1. What licenses are required to negotiate a short sale?

A real estate license and/or a loan originator license may be required for individuals who assist homeowners in negotiating with lenders to accept less than the full amount of the mortgage loan, as part of a short sale transaction.¹ The particular license that is needed depends on the nature of the transaction, what licenses the person or entity holds already, the scope of services offered and whether or not a fee is charged for the service, as explained more below.

2. Is a real estate broker/salesperson acting outside the scope of their real estate license by assisting a seller in negotiations with the lender or servicer to facilitate a short sale?

No. The scope of a real estate license encompasses assisting in the “negotiation of any transaction calculated or intended to result in the sale . . . of real estate.” A.R.S. § 32-2101(48)(j).

3. May a real estate broker/salesperson receive additional compensation for negotiating a short sale in addition to receiving a commission on the sale?

Yes, if the real estate licensee is also licensed by the Arizona Department of Financial Institutions (“DFI”) under Title 6, Chapter 9 (covering loan originators², mortgage brokers and mortgage bankers) and other requirements are met.³ The general rule is that additional compensation requires an additional license. If a real estate broker/salesperson assists the seller in negotiating with the lender or servicer to accept the short sale price as a customer service and does not charge or expect additional compensation (including an increased commission), the real estate broker/salesperson does not need a separate license from DFI.

¹ Arizona law defines “short sales” as “real estate transactions in which the sales price is insufficient to pay the loan encumbering the property in addition to the costs of sale and the seller is unable to pay the difference.” A.R.S. § 32-2130 (A).

² “Loan originator” is defined as “a natural person who for compensation or gain or in the expectation of compensation or gain... (i) Takes a residential mortgage loan application; (ii) Offers or negotiates terms of a residential mortgage loan; and (iii) On behalf of a borrower, negotiates with a lender or note holder to obtain a temporary or permanent modification in an existing residential mortgage loan agreement. A.R.S. § 6-991(12). Also, a loan originator must be employed by a mortgage broker. A.R.S. § 6-991.02(13) and § 6-991-04.

³ A real estate broker/salesperson cannot collect compensation for negotiating loans unless: (1) they are licensed pursuant to Title 6, Chapter 9 (A.R.S. § 6-901, *et. seq*); 2) they have disclosed to the person from whom the compensation is collected that they are receiving compensation for both real estate and mortgage services; and 3) the compensation does not violate any other state or federal law. A.R.S. § 32-2155(C).

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4. Should a broker/salesperson negotiating a short sale with a lender or servicer on behalf of the seller comply with the Federal Trade Commission's Mortgage Assistance Relief Services ("MARS") Rule?

Yes. The MARS Rule applies to any person that provides, offers to provide, or arranges for others to provide any "mortgage assistance relief service." Title 16, Code of Federal Regulations (CFR), Part 322. A "mortgage assistance relief service" includes any service, plan, or program, offered or provided to the consumer in exchange for consideration to assist or attempt to assist the consumer with negotiating, obtaining or arranging a short sale. 16 CFR 322.2(i).

To review the MARS Rule in its entirety, including disclosure and other requirements, go to www.ftc.gov/opa/2010/11/mars.shtm.

5. May a listing broker/salesperson charge the seller a non-refundable retainer fee in a short sale transaction?

No. Any fee, refundable or non-refundable, that a broker/salesperson requests or receives from a consumer to negotiate, obtain or arrange a short sale, in advance of an executed agreement between the consumer and his or her lender or servicer that incorporates the final terms that the lender or servicer will agree to, violates the advance fee ban described in section 322.5 of the Federal Trade Commission's MARS Rule.

6. Must an out-of-state short sale negotiator be licensed in Arizona to negotiate a short sale for compensation on behalf of an Arizona seller?

Yes, they should generally follow the same licensing regulations as Arizona-based short sale negotiators.

7. If a real estate broker/salesperson receives a real estate commission in connection with a short sale, regardless of the how the commission is described on the HUD-1, must the commission be paid through the employing broker?

Yes. A.R.S. §32-2155(A) requires that a real estate salesperson "accept employment and compensation as a licensee only from the legally licensed broker to whom the licensee is licensed." Compensation is defined as "any fee, commission, salary, money or other valuable consideration for services rendered or to be rendered, as well as the promise of consideration, whether contingent or not". Thus, a real estate salesperson/broker may not receive compensation as a real estate licensee from any person or through any entity, other than the employing real estate broker to which the real estate salesperson is licensed.

8. Are there any additional licensing restrictions that apply to FHA loans regulated by the U.S. Department of Housing (HUD)?

Yes. Loan originators must be employed by a licensed mortgage broker who is responsible for the supervision of the loan originator. Under HUD rules, a mortgage broker who handles FHA loans is prohibited from employing staff who are also employed in the real estate field. For further information about HUD's requirements, visit www.hud.gov.

9. Where can I get information about DFI's licensing requirements?

Information on obtaining a loan originator and other licenses is available on the DFI website at www.dfi.gov.

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UPDATE on the Short Sale Negotiator Regulations February 15, 2011

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Conclusion

There are a myriad of other issues relating to short sales. Before engaging in short sale activities make sure that you are on solid legal ground by consulting your broker, manager or independent legal counsel. The following websites may contain additional information on this subject and links to other resources:

Arizona Department of Real Estate, www.azre.gov
Arizona Department of Financial Institutions, www.azdfi.gov
Federal Trade Commission, www.ftc.gov
Arizona Association of Realtors, www.aaronline.com
Arizona State Legislature, www.azleg.gov

Judy Lowe was appointed Commissioner for the Arizona Department of Real Estate by Governor Jan Brewer in May 2009 after a long and distinguished career in the real estate industry.

This article is for informational purposes only, as a service to the public, and is not legal advice or a substitute for legal counsel. Note that laws in this area change frequently, and new laws or cases may impact the information provided here. You are encouraged to consult independent counsel before making any decisions or taking any action concerning the matters in this article. The information contained in this article is not binding in any disciplinary or other legal proceeding initiated by the Department of Real Estate or any other state or governmental agency.



ARIZONA-MEXICO COMMISSION
2011 SUMMER PLENARY SESSION

SAVE THE DATE

ARIZONA & SONORA:
GATEWAY FOR INNOVATION

— June 2-4, 2011 —

Online registration begins April.
To register and receive up-to-date information
on plenary events visit www.azmc.org.

Wigwam Golf Resort & Spa
Litchfield Park, Arizona

ARIZONA-MEXICO COMMISSION
KOSIKINDO ARIZONA MEXICO
ARIZONA-SONORA

ADRE FROM THE BEGINNING.....

The regulation of the Arizona real estate industry had its beginnings in a limited manner in 1912. In 1921, the earlier licensing statutes were strengthened and expanded to focus the efforts of State Government on more thorough regulation of the real estate brokers and salespersons. 1927 saw the addition of the subdivision statutes and laws that provide for the examination of licensees. Regulation was under the jurisdiction of the Land Department until 1947. In 1947, the Real Estate Commission was formed with the Commissioner serving as chairman.

Today, the Department of Real Estate is under the direction of the Commissioner, who is appointed by the Governor. There is a nine-member Advisory Board, also appointed by the Governor, the members of which provide advice and counsel to the Commissioner in matters related to the real estate industry and its relationship with the public and administration of the Department.

Presently, the Department of Real Estate processes over 6,000 new applicants for licensure as real estate, membership, campground and cemetery brokers and salespersons each year. It is charged with the supervision of prelicensure and continuing education courses to ensure the quality and the timeliness of materials being taught and to ensure the competence of the instructors. The Department regulates the activities of licensees, investigates complaints against licensees and developers and participates in administrative hearings pertaining to their conduct. Also within the purview of the Department is regulation of the sale of subdivided and certain unsubdivided lands, timeshares, condominiums, membership campgrounds and cemeteries.

The present commissioner is Judy Lowe, appointed May 25, 2009. The Department's Vision Statement reflects this commitment to our mission. The Vision Statement reads:

That the Arizona Department of Real will be:

- Technologically–The most modern
- Procedurally–The most efficient
- Regulatory–The fairest and most effective
- Relationally–The most customer services oriented
- Organizationally–The most proficient State-level Department of Real Estate in the United States.

The Department has 30 filled FTE's in Phoenix and 1 in Tucson. It is divided into various functional responsibilities. Each of these functional responsibilities has developed a business plan that we call the ADRE 2012 Vision and which make up this document.

The purpose of ADRE is to protect the public interest through licensure, and regulation of the real estate profession in the State of Arizona.

Real Estate Advisory Board



Kim Horn

Kim Horn was appointed to the Arizona Real Estate Advisory Board by Governor Janice Brewer on January 31, 2011. Her term will expire on January 31, 2015.

Ms. Horn has been an Arizona real estate licensee for over 24 years; and, presently Owner/Broker of Nextage Southwest Premier Realty. She has served as President of the Arizona Association of REALTORS® (AAR); and, served on the AAR Legislative and Political Affairs committees. Ms. Horn was also the Recipient of “Arizona Realtor of the Year” and the Arizona “Distinguished Service Award.

She has two children and lives in Prescott, Arizona.

Advisory Board members and their contact information :

Frank Dickens-(480- 596-9799)- Frankdkns@msn.com

Anne White- (520-795-8728)- AWhiterealty@q.com

Kim Ann Horn-(928-713-9418)-
KimHorn@KimHorn.com

Patti Shaw-(602-631-3700) - PShaw151@cox.net

Bruce Mosley- Bdm23@cornell.edu

Charles Bowles-(520-577-0200)-
cbowles@diamondven.com

Carla Bowen- 928-367-6400 (9 am to 5 pm)-
carlab@realtyxonline.com

Real Estate Advisory Board

The Real Estate Advisory Board is established by the Governor and the Governor appoints the nine members. The term of office of each member is six years, and the terms of three members expire on January 31 of each odd numbered year. The board provides the Commissioner with such recommendations as it deems necessary and beneficial to the best interest of the public. The board shall also provide recommendations on specific questions or proposals as the board deems necessary or as requested by the Commissioner. The board annually shall present to the Governor an evaluation of the performance of the Real Estate Commissioner and the Real Estate Department.

On March 9, 2011 the board held elections. Member Charles Bowles was elected Chair; and, Member Carla Bowen was elected Vice-Chair.

The Real Estate Advisory Board meets every other month from 10:00 a.m. to Noon at the Department, 2910 N. 44th Street, Phoenix. The meetings are open to the public and the agenda is available 24 hours prior to the meeting. A copy of the agenda can be obtained by contacting the Department at (602) 771-7799 or by emailing Mary Utley at mutley@azre.gov.

The Meeting Schedule is:

January 20

March 9

May 18

July 13,

September 14

November 17

ADRE Employee "Highlights"



Rose Frazee

Rose has been with ADRE since 1978. In 1979, she became the Supervisor/Manager in the Department's Licensing Division. She served in that position until 2006, at which time she was assigned to the Development Services and Investigations Division as a Subdivision Representative.

In 2010, Rose assumed additional duties which included becoming ADRE's Custodian of Records.

In her spare time, Rose enjoys playing Co-Ed softball on Friday nights; watching movies and sports in general.



Jerry Baranuk

Jerry became an ADRE employee in January, 1986 and was hired by Rose Frazee. He is responsible for all mail (incoming and outgoing). Jerry is the Department Courier and ensures that the Department vehicle is maintained.

Jerry is also responsible for ensuring that the Licensing's paperwork is filed; scans Subdivisions and licensing files; and, helps Rose with Public Records requests and redaction.

He enjoys going on Cancer and Heart Walks and watching old movies!



DISCIPLINARY ACTIONS

| RESPONDENT | OFFENSE | ORDER TERMS |
|----------------------|--|---|
| Alarcon, Kirby D. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Bannister, Brett | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Carrie, Henry | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Cooper, Curtis | Working in concert, divided and conveyed land parcels in La Paz County without complying with applicable subdivision statutes & rules. | \$1,000 CP; Cooperate with further investigations; Cooperated with La Paz County. |
| Courtney, Andrea | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Crandell, James A. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Danz, Brian M. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Ebner, Michael | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Falkner, Teresa | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Fleck, John E. | Failed to timely disclose with 10 days, July 2010 misdemeanor conviction. | \$300 CP |
| Freese, Robin S. | Failed to timely disclose within 10 days, February 2009 misdemeanor conviction. | \$600 CP |
| Gonzvar, Jean E. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Green, Alma | Misrepresentation to a client. | \$3,000 CP; 2 yr PL/BA; 6 hr CE in Commissioner's Standards |
| Hagaman, Morgan Glen | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Hale, Ashley | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Hardman, Brianne | Failed to disclose February 2009 misdemeanor conviction when applying for licensure. | \$600 CP |

DISCIPLINARY ACTIONS

| RESPONDENT | OFFENSE | ORDER TERMS |
|---------------------------|--|---|
| Hartwig, Peter | Offered and/or sold parcels within Playa Carina, Sonora, Mexico without complying with applicable subdivision statutes & rules. | Cease and Desist. |
| Hinkson, Christopher | Failed to timely disclose with 10 days; September 2009 misdemeanor conviction. | \$600 CP |
| Hoag, Sandra S. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Horner, Leo A. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Ivazian, David | | |
| Kassai, Sarah | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Klinkhamer, Trevor Thomas | Failed to timely disclose within 10 days, September 2010 misdemeanor conviction | \$300 CP |
| Kurpas, Octavian | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Lambard, James K. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Leonardo, Livio A. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Little Mark A. | Multiple violations involving property management, accepted compensation from a source other than employing broker, commingled client monies with person monies. | \$2,500 CP; \$500 grant to Ed Fund; 30 day license suspension (stayed); 2 yr PL/PM; 6 hr CE in Commissioner's Standards |
| Maldonado, Patricia A. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Montano, Leticia | Failed to timely disclose within 10 days, May 2009 misdemeanor conviction. | \$600 CP |
| Mussell, Shelly A. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Myers, Gary | Failed to exercise reasonable supervision over entity. | \$2,500 CP; 2 yr PL; 6 hr CE in Commissioner' Standards. |

DISCIPLINARY ACTIONS

| RESPONDENT | OFFENSE | ORDER TERMS |
|-----------------------------|--|---|
| Neugart, Courtney Melissa | Failed to complete CE in timely manner | \$300 CP; Complete CE in 30 days |
| O'Brien, Dannielle | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| O'Daniel, Sarah B. | Failed to complete CE in a timely manner | \$300 CP; Complete CE in 30 days |
| Pardun, David | Conveyed multiple land parcels in Apache County without complying with applicable subdivision statutes and rules. | Cease and Desist |
| Pfursich III, Edwin G. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Phoenix Homes by David Corp | Converted broker trust account monies belonging to clients and tenants. | Summary Suspension of Entity License |
| Puerto Pedro SA DE CV | Offered and/or sold parcels with Playa Carina, Sonora, Mexico without complying with applicable subdivision statutes and rules. | Cease and Desist |
| Rasmussen, Brian | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days |
| Ruiz, Raul D. | 1994 conviction for embezzlement in New Mexico. Denial of license | License granted. 2 yr PL/PM, \$10,000 bond. |
| Sanchez Jr, Raymond | Failed to timely notify the Department of a January 2010 misdemeanor conviction. | \$500 CP; Obtain Fingerprint Clearance Card with 90 days. |
| Sanders, Vicky | Multiple violations, failure to maintain broker trust accounts, substantial misrepresentations, violated terms of previous Order, failed to respond during the course of an investigation. | Revocation of license (default) |
| Schloesser, Shirley | Conveyed land parcels in Apache County without complying with applicable subdivision statutes and rules. | Cease and Desist |
| Schweder, Jon A | November 2010 felony conviction for Sexual Conduct with a Minor. | Summary Suspension of License. |
| Stevens, Dean | December 2008 AZ Corporation Commission order to Cease & Desist, Order of Restitution, Order for Administrative Penalties. Securities violations. | Summary Suspension of License. |

DISCIPLINARY ACTIONS

| | | |
|------------------------|---|--|
| Sollomi, Mark T. | Failed to timely disclose within 10 days, January 2009 misdemeanor conviction. | \$600 CP |
| Starr, Thomas E. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days. |
| Stuetze, Brian P. | Failed to timely notify the Department of a misdemeanor conviction; failed to comply with terms of previous Consent Order; provided false information regarding compliance with previous Consent Order. | 60 day license suspension; 2 yr PL/PM; \$3,000 CP; 12 hr CE in Commissioner's Standards. |
| Thompson, Bret T. | Failed to complete CE in a timely manner. | \$300 CP; Complete CE in 30 days. |
| Tovar, Mario A. | 2001 felony conviction for Aggravated DUI in Maricopa County. Denial of license. | 2 yr PL/BA with Quarterly Reports |
| Wareing, Jeffrey | Failed to timely disclose within 10 days, July 2010 undesignated conviction. | \$600 CP |
| Wehner, Jennifer M. | Failed to timely disclose within 10 days, September 2009 misdemeanor conviction. | \$600 CP |
| Werth, Michelle J. | Failed to disclose March 2005 misdemeanor conviction when applying for licensure. | \$600 CP |
| ZB Holding Company LLC | Divided and conveyed land parcels in Mohave County without complying with applicable subdivision statutes and rules. | \$5,000 CP |
| Zitting, William | Divided and conveyed land parcels in Mohave County without complying with applicable subdivision statutes and rules. | \$5,000 CP |

Definition of Abbreviations

Broker Acknowledgement= **BA**
 Continuing Education=**CE**
 Civil Penalty=**CP**
 Provisional License=**PL**
 Practice Monitor= **PM**



LICENSE SURRENDERS FROM DECEMBER 17, 2010 THROUGH JANUARY 31, 2011

| LAST NAME | FIRST NAME | LIC NUMBER | E&C FILE | SURRENDER DATE |
|-----------|----------------|--------------|--------------|----------------|
| SKEENS | Rick | SA569429000 | 10F-SD-921-1 | 12/28/2010 |
| DORN | Michael Scott | BR004857000 | 11F-DI-237 | 1/3/2011 |
| LIEBER | Tina | BR542633000 | 11F-DI-252 | 12/20/2010 |
| WOODSON | Charles | BR523617000 | 11F-DI-281 | 12/20/2010 |
| ATKINSON | Patricia | BR536955000 | 11F-DI-295 | 1/10/2011 |
| BONNELL | Mary R. | BR0035114000 | 11F-DI-297 | 12/21/2010 |
| CLEARY | Wendy Jo | SA579645000 | 11F-DI-301 | 1/26/2011 |
| GUTTERY | Dallas Willard | BR005353000 | 11F-DI-307 | 12/20/2010 |
| JARAMILLO | Charles | BR581165000 | 11F-DI_312 | 1/20/2011 |
| MACMORRAN | Kathryn A. | SA029366000 | 11F-DI-319 | 1/14/2011 |
| MCINTEE | Richard Shayne | SA555103000 | 11F-DI-320 | 1/14/2011 |
| NUNN | Ralph Leroy | BR039028000 | 11F-DI-325 | 1/25/2011 |
| PETERSEN | Shirley R. | SA034453000 | 11F-DI-328 | 1/21/2011 |
| STIRLING | Delia | SA555307000 | 11F-DI-336 | 1/31/2011 |
| FOX | Jack | SA580334000 | 11F-DI-366 | 1/20/2011 |
| GUTIERREZ | Judy | SA580100000 | 11F-DI-369 | 1/28/2011 |

Prior to July 29, 2010, licensees have never had an option to voluntarily cancel or surrender their license. The most recent legislative session has given a new choice to Arizona real estate licensees: to opt to surrender or cancel their license.

CANCEL – ARS §32-2137

An active licensee may request to cancel their license, and the Department has the discretion to do so if both of the following are true:

- The licensee is not presently under investigation by the Department, and
- The Department has not commenced any disciplinary proceeding against the licensee.

The form for canceling a license can be found at www.azre.gov. Submit form to the ADRE after the Designated Broker and Licensee have signed. The Designated Broker must not sever the Licensee prior to ADRE receiving the signed confirmation of the Commissioner. .

SURRENDER – ARS §32-2157(A)

If the Department has commenced a disciplinary proceeding against a licensee, the licensee may request in writing to voluntarily surrender their license to the Department only, if the surrender of the license occurs not less than 10 days prior to a hearing. After acceptance of the voluntary surrender, **“the Department shall not thereafter issue a license under this chapter to the licensee.”**

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DIALOG

The Periodic bulletin from the
Arizona Department of Real Estate

An official publication of the State of Arizona

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Commissioner

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Kimberly Ann Horn
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Tom Pancrazi
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