

Legislative Overview for ADRE Licensees | 2012

May 16, 2012

The Arizona State Legislature adjourned *sine die* on May 3, 2012. The following bills were passed and signed into law by the Governor and affect the Arizona Department of Real Estate (“ADRE”) and related industries. Please be advised that the general effective date of the bills is August 3, 2012, unless otherwise stated.

Please be advised that this list is not comprehensive and therefore may not include all bills that directly or indirectly affect ADRE licensees. Please visit the state legislature’s website at www.azleg.gov for more information.

General:

SB 1085 Continues ADRE for 10 years – continues ADRE until July 1, 2022, repeals A.R.S. §41-3012.05, amends A.R.S. §41-3022.05, with Title 32, Chapter 20 repealed on January 1, 2023, and is retroactive to July 1, 2012.

SB 1154 Condominium Recovery Fund – (*Eff. March 29, 2012*), repealed (Title 32, chapter 20, article 5.1, A.R.S.).

SB 1171 Clarifies and revises the duties of the Arizona Geological Survey – requires the Arizona Geological Survey to prepare data files showing earth fissures, produce maps of areas showing overlays with the affected counties, municipalities, highways and streets, and transmit the information to ADRE in both hard copy and electronic format. A.R.S. § 32-2117 requires ADRE to provide earth fissure maps in printed or electronic format upon request and provide access to earth fissure maps via the ADRE website.

HB 2026 Allow a licensed real estate broker to renew a license as a real estate salesperson – (*Eff. March 20, 2012*), amends A.R.S. §32-2130, allows a broker to renew a license as a salesperson:

- Without completing required education and passing the licensing exam for a salesperson.
- Must pay the designated salesperson’s renewal fee.

Provides further if a person subsequently desires to obtain a real estate broker’s license after renewing as a salesperson, the person will have to meet then current licensing requirements for a broker.

HB 2357 Real estate broker continuing education hours – (*Eff. January 1, 2013*), amends A.R.S. §§32-2130, 32-2136 and 32-2151, increases the real estate broker continuing education hours and modifies the necessary course requirements:

- Requires instruction at broker management clinics to include statutory and administrative rule instruction, broker policy development, employee supervision, broker responsibilities and other related topics.
- Increases, from twenty-four (24) to thirty (30) hours, the number of continuing education hours for license renewal for designated brokers and associate brokers employed by a designated broker pursuant to A.R.S. §32-2151.01 (G).

- Specifies that broker management clinics must consist of three (3) courses of three (3) hours each for a total of nine (9) hours.
- Increases, from \$500.00 to \$3,000.00, the maximum dollar amount that a real estate broker may deposit into a broker trust fund account.
- Makes technical, clarifying and conforming changes.

HB 2689 Prescribes when an affidavit and fee for transfer of title are required – amends A.R.S. §11-1134, eliminating the requirement for an affidavit and fee for documents that are executed or no monetary consideration or nominal monetary consideration, including a quitclaim deed and transfer of title for residential property. Adds to the list that does not require an affidavit and fee in a transfer of title between parties as follows:

- The ancestor of a husband and wife.
- The natural or adopted children and the descendants of a parent and their child.
- Grandparents and grandchildren.
- Natural and adopted siblings.
- A subsidiary to its parent or from a parent to its subsidiary.
- Among commonly controlled entities.
- From a member to its LLC or from an LLC company to its member.
- From a partner to its partnership and from a partnership to its partner.
- From a joint venturer to its joint venture and a joint venture to its joint venturer.
- From a trust beneficiary to its trustee and from a trustee to its trust beneficiary.
- From an owner to itself or a related entity for no consideration or nominal consideration solely for the purpose of consolidating or splitting parcels.
- Due to a legal name change.

HB 2855 FY 2012-2013 State Budget – exempts ADRE from rule-making requirements and allows the Commissioner to set (by rule) and charge non-refundable fees for the following:

- Certificates of approval or renewal for operating a real estate school;
- Instructor or school official approval and renewal;
- Live classroom continuing education course approval or renewal;
- Live classroom prelicensure education course approval or renewal; and
- Continuing education distance learning course approval or renewal.

Developers:

HB 2195 Use of amended public report in the sale and lease of timeshares – amends A.R.S. §32-2197.08 and A.R.S. §48-6414, specifies that a developer may elect to prepare an amended public report for use in the sale of a timeshare plan:

- Requires a developer to provide, to the Commissioner, an application, copy of the amended public report and filing fee.
- Gives ADRE, upon receipt of the application and amended public report, fifteen (15) business days to issue either a certification of administrative completeness or denial letter for an amendment adding less than six (6) new component sites to the timeshare plan or thirty (30) calendar days if the amendment adds six (6) or more new component sites.
- Deems the application and amended public report administratively complete if the commissioner receives all required information but does not issue a certification of denial within the required time period.

- Allows the developer to begin sales or leasing activities when the Commissioner issues a certification of administrative completeness in hard copy or electronic format.
- Permits the Commissioner to commence an administrative action if it is determined that the public report, timeshare plan or applicant is not in compliance with any requirement of state law or if there are existing grounds to suspend, deny or revoke a public report.
- Stipulates that, if the developer immediately corrects the deficiency and fully complies with state law, the Commissioner shall promptly vacate any action commenced.
- Requires ADRE to provide forms and guidelines for the submission of the application and amended public report.

HB 2611 Subdivision public reports; disclosures and inspections – amends A.R.S. §§32-2181, 32-2182 and 32-2183, specifies disclosure requirement for subdivision public reports, clarifies the distribution of subdivision public reports and permits subdivision inspections by private entities:

- Stipulates that a subdivider is not required to disclose items in a public report that are over one (1) mile from the subdivision boundaries.
- Establishes that a public report must include the existence of foreign nations or Tribal lands, if located within the one-mile radius of the subdivision boundaries.
- Clarifies that a subdivision public report is given by the subdivider to the initial buyer or lessee of real estate and be made available to a prospective buyer or lessee.
- Permits the Commissioner to allow the developer to outsource and pay for the cost of subdivision inspections with the ADRE approval of both the inspector and inspection content.

Homeowners' Associations:

HB 2471 homeowners associations; signs – makes clarifying and conforming changes to condominium and planned community statutes regarding “for rent” signs, “for lease signs” and political signs:

- A homeowners association (“HOA”) may prohibit the display of political signs earlier than seventy-one (71) days (rather than 55 days) before an election and later than three (3) days (rather than 15 days) after an election.
- An HOA may prohibit the use of signs that are not commercially produced.
- Clarifies that an HOA may not limit the number of political signs except that the aggregate total dimensions of all political signs on a member’s property must not exceed nine (9) square feet.
- An HOA or managing agent that violates specific statutes governing the use of indoor or outdoor signs by a property owner on their property forfeits and extinguishes the lien rights authorized by statute against that unit or property for a period of six (6) consecutive months from the date of the violation.
- An HOA may not charge a fee for the use or placement of the indoor or outdoor display of “for rent”, “for lease” signs and sign riders, in any combination, displayed by a property owner on their property.

HB 2513 homeowners associations; rentals – allows a condominium owner or community member to use their unit or property as a rental property:

- Grants the right of condominium owners and community members to use a unit or property as a rental property, unless prohibited by the HOA declaration.
- Provides a unit or property owner with the ability to make a written designation of a third party to act as the owner’s agent with respect to all association matters relating to the rental unit.

- Requires the unit or property owner to provide to the HOA a copy of the written designation of the agent that shall be signed by the owner of record for the rental unit.
- Authorizes the HOA to conduct all HOA business relating to the unit or property owner's rental unit through the designated agent, upon delivery of the written declaration.
- Notice by the HOA to a unit or property owner's designated agent on any matter related to the rental unit constitutes notice to the owner.
- Directs the unit or property owner or the owner's agent, if required by the declaration, to provide the HOA with the time period the tenant will occupy the unit or property as well as the names and contact information for any adults occupying the unit or property, the names of any minor children, and a description and license plate number of the tenants' vehicles, upon rental of an owner's property.
- Requires owners in age restricted communities to have their tenant show a government issued identification that bears a photograph and confirms that the tenant meets the age restrictions or requirements.
- Allows an HOA to charge an administrative fee that is limited to no more than twenty-five (25) dollars for condominium unit rental. The fee may be charged for each new tenancy for the unit.
- Restricts a condominium association from assessing, levying or charging a fee or fine or otherwise imposing a requirement on a unit owner's rental unit any differently than an owner occupied unit.
- Prohibits a planned community association from charging an administrative fee to a member of a community for property rental.
- Forbids an HOA from requiring a member to provide the HOA with a copy of the tenant's rental application, credit report, lease agreement or rental contract or other personal information regarding the tenant except as prescribed by statute. This does not prohibit an HOA from acquiring a credit report on a person in an attempt to collect a debt.
- Prohibits requiring a tenant to sign a waiver or other document limiting the tenant's civil rights of due process as a condition of the tenant's occupancy of the rental property.