

**This insert includes legislative changes for Title 32, Chapter 20 enacted in the 2022 Legislative Session and recent Substantive Policy Statements.**

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***This Real Estate Law Book is intended for use solely as a desk reference tool and should not be used as a substitute for the Arizona Revised Statutes, which can be referenced at [www.azleg.gov](http://www.azleg.gov).***

***Many additional statutes outside of Title 32, Chapter 30 have been updated and can be located on our [Law Book](#) or at [www.azleg.gov](http://www.azleg.gov).***

## **Arizona Real Estate Laws**

### **Title 32, Chapter 20 REAL ESTATE**

#### **Article 1 Real Estate Department**

##### **32-2101. Definitions**

*(Ariz. Sess. Laws Ch. 298, § 1 (2022))*

In this chapter, unless the context otherwise requires:

1. "Acting in concert" means evidence of collaborating to pursue a concerted plan.
2. "Advertising" means attempting by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in lands subject to this chapter, including the land sales contract to be used and any photographs, drawings or artist's presentations of physical conditions or facilities existing or to exist on the property. Advertising does not include:
  - (a) Press releases or other communications delivered to newspapers, periodicals or other news media for general information or public relations purposes if no charge is made by the newspapers, periodicals or other news media to publish or use any part of these communications.
  - (b) Communications to stockholders as follows:
    - (i) Annual reports and interim financial reports.
    - (ii) Proxy materials.
    - (iii) Registration statements.
    - (iv) Securities prospectuses.
    - (v) Applications for listing of securities on stock exchanges.
    - (vi) Prospectuses.
    - (vii) Property reports.
    - (viii) Offering statements.
3. "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.
4. "Associate broker" means a licensed broker who is employed by another broker. Unless otherwise specifically provided, an associate broker has the same license privileges as a salesperson.
5. "Barrier" means a natural or man-made geographic feature that prevents parcels of land from being practicably, reasonably and economically united or reunited and that was not caused or created by the owner of the parcels.
6. "Blanket encumbrance":
  - (a) Means either:
    - (i) Any mortgage, any deed of trust or any other encumbrance or lien that secures or evidences the payment of monies and that affects more than one lot or parcel of subdivided land.
    - (ii) An agreement that affects more than one lot or parcel by which the subdivider holds the subdivision under an option, contract to sell or trust agreement.
  - (b) Does not include taxes and assessments that are levied by public authority.
7. "Board" means the real estate advisory board.
8. "Broker", when used without modification, means a person who is licensed as a broker under this chapter or who is required to be licensed as a broker under this chapter.
9. "Business broker" means a real estate broker who acts as an intermediary or agent between sellers or buyers, or both, in the sale or purchase, or both, of businesses or business opportunities where a lease or sale of real property is either a direct or incidental part of the transaction.
10. "Camping site" means a space that is designed and promoted for the purpose of locating any trailer, tent, tent trailer, pickup camper or other similar device used for camping.
11. "Cemetery" or "cemetery property" means any one, or a combination of more than one, of the following in a place that is used, or intended to be used, and dedicated for cemetery purposes:
  - (a) A burial park, for earth interments.

- (b) A mausoleum, for crypt or vault entombments.
  - (c) A crematory, or a crematory and columbarium, for cinerary interments.
  - (d) A cemetery plot, including interment rights, mausoleum crypts, niches and burial spaces.
12. "Cemetery broker" means a person other than a real estate broker or real estate salesperson who, for another, for compensation:
- (a) Sells, leases or exchanges cemetery property or interment services of or for another, or on the person's own account.
  - (b) Offers for another or for the person's own account to buy, sell, lease or exchange cemetery property or interment services.
  - (c) Negotiates the purchase and sale, lease or exchange of cemetery property or interment services.
  - (d) Negotiates the purchase or sale, lease or exchange, or lists or solicits, or negotiates a loan on or leasing of cemetery property or interment services.
13. "Cemetery salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed cemetery or real estate broker, or through and on behalf of a corporation, partnership or limited liability company that is licensed as a cemetery or real estate broker, to perform any act or transaction included in the definition of cemetery broker.
14. "Commissioner" means the state real estate commissioner.
15. "Common promotional plan" means a plan, undertaken by a person or a group of persons acting in concert, to offer lots for sale or lease. If the land is offered for sale by a person or group of persons acting in concert, and the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan. Separate subdividers selling lots or parcels in separately platted subdivisions within a master planned community shall not be deemed to be offering their combined lots for sale or lease as part of a common promotional plan.
16. "Compensation" means any fee, commission, salary, monies or other valuable consideration for services rendered or to be rendered as well as the promise of consideration whether contingent or not.
17. "Contiguous":
- (a) Means lots, parcels or fractional interests that share a common boundary or point.
  - (b) Does not include lots, parcels or fractional interests that are separated by either of the following:
    - (i) A barrier.
    - (ii) A road, street or highway that has been established by this state or by any agency or political subdivision of this state, that has been designated by the federal government as an interstate highway or that has been regularly maintained by this state or by any agency or political subdivision of this state and has been used continuously by the public for at least the last five years.
18. "Control" or "controlled" means a person who, through ownership, voting rights, power of attorney, proxy, management rights, operational rights or other rights, has the right to make decisions binding on an entity, whether a corporation, a partnership or any other entity.
19. "Corporation licensee" means a lawfully organized corporation that is registered with the Arizona corporation commission and that has an officer licensed as the designated broker pursuant to section 32-2125.
20. "Department" means the state real estate department.
21. "Designated broker" means a natural person who is licensed as a broker under this chapter and who is either:
- (a) Designated to act on behalf of an employing real estate, cemetery or membership camping entity.
  - (b) Doing business as a sole proprietor.
22. "Developer":

- (a) Means a person who offers real property in a development for sale, lease or use, either immediately or in the future, on the person's own behalf or on behalf of another person, under this chapter.
- (b) Does not include a person whose involvement with a development is limited to listing property within the development for sale, lease or use.
23. "Development" means any division, proposed division or use of real property that the department has authority to regulate, including subdivided and unsubdivided lands, cemeteries, condominiums, timeshares, membership campgrounds and stock cooperatives.
24. "Employing broker" means a person who is licensed or is required to be licensed as a:
- (a) Broker entity pursuant to section 32-2125, subsection A.
- (b) Sole proprietorship if the sole proprietor is a broker licensed pursuant to this chapter.
25. "Fractional interest" means an undivided interest in improved or unimproved land, lots or parcels of any size created for the purpose of sale or lease and evidenced by any receipt, certificate, deed or other document conveying the interest. Undivided interests in land, lots or parcels created in the names of a husband and wife as community property, joint tenants or tenants in common, or in the names of other persons who, acting together as part of a single transaction, acquire the interests without a purpose to divide the interests for present or future sale or lease shall be deemed to constitute only one fractional interest.
26. "Improved lot or parcel" means a lot or parcel of a subdivision on which there is a residential, commercial or industrial building or concerning which a contract has been entered into between a subdivider and a purchaser that obligates the subdivider directly, or indirectly through a building contractor, to completely construct a residential, commercial or industrial building on the lot or parcel within two years after the date on which the contract of sale for the lot is entered into.
27. "Inactive license" means a license that is issued pursuant to article 2 of this chapter to a licensee who is on inactive status during the current license period and who is not engaged by or on behalf of a broker.
28. "Lease" or "leasing" includes any lease, whether it is the sole, the principal or any incidental part of a transaction.
29. "License" means the whole or part of any agency permit, certificate, approval, registration, public report, charter or similar form of permission required by this chapter.
30. "Licensee" means a person to whom a license for the current license period has been granted under any provision of this chapter, and, for the purposes of section 32-2153, subsection A, includes original license applicants.
31. "License period" means the two-year period beginning with the date of original issue or renewal of a particular license and ending on the expiration date, if any.
32. "Limited liability company licensee" means a lawfully organized limited liability company that has a member or manager who is a natural person and who is licensed as the designated broker pursuant to section 32-2125.
33. "Live classroom course" means a course or instructional segment delivered in either an in-person classroom instructional format or a synchronous remote instructional format that allows students to observe and participate remotely in an instructional segment via livestreaming.
34. "Lot reservation" means an expression of interest by a prospective purchaser in buying at some time in the future a subdivided or unsubdivided lot, unit or parcel in this state. In all cases, a subsequent affirmative action by the prospective purchaser must be taken to create a contractual obligation to purchase.
35. "Master planned community" means a development that consists of two or more separately platted subdivisions and that is either subject to a master declaration of covenants, conditions or restrictions, is subject to restrictive covenants sufficiently uniform in character to clearly indicate a general scheme for improving or developing real property or is governed or administered by a master owner's association.
36. "Member" means a member of the real estate advisory board.
37. "Membership camping broker" means a person, other than a salesperson, who, for compensation:
- (a) Sells, purchases, lists, exchanges or leases membership camping contracts.
- (b) Offers to sell, purchase, exchange or lease membership camping contracts.

- (c) Negotiates or offers, attempts or agrees to negotiate the sale, purchase, exchange or lease of membership camping contracts.
  - (d) Advertises or holds himself out as being engaged in the business of selling, buying, exchanging or leasing membership camping contracts or counseling or advising regarding membership camping contracts.
  - (e) Assists or directs in procuring prospects calculated or intended to result in the sale, purchase, listing, exchange or lease of membership camping contracts.
  - (f) Performs any of the foregoing acts as an employee or on behalf of a membership camping operator or membership contract owner.
38. "Membership camping contract" means an agreement that is offered or sold in this state evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator and includes a membership that provides for this use.
39. "Membership camping operator":
- (a) Means an enterprise, other than one that is tax exempt under section 501(c)(3) of the internal revenue code of 1986, as amended, that solicits membership paid for by a fee or periodic payments and has as one of its purposes camping or outdoor recreation, including the use of camping sites primarily by members.
  - (b) Does not include camping or recreational trailer parks that are open to the general public and that contain camping sites rented for a per use fee or a mobile home park.
40. "Membership camping salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed membership camping or real estate broker, or by or on behalf of a corporation, partnership or limited liability company that is licensed as a membership camping or real estate broker, to perform any act or participate in any transaction in a manner included in the definition of membership camping broker.
41. "Online course" means preclicensure education that is a planned learning experience with a geographic separation that may be synchronous or asynchronous, that does not require real-time interaction between a student and an instructor and that uses a platform with self-paced or prerecorded lessons and materials that a student can access via the internet to proceed at the student's own pace.
42. "Partnership licensee" means a partnership with a managing general partner who is licensed as the designated broker pursuant to section 32-2125.
43. "Permanent access", as required under article 4 of this chapter, means permanent access from the subdivision to any federal, state or county highway.
44. "Perpetual care" or "endowed care":
- (a) Means maintaining and caring, in all places where interments have been made, for the trees, shrubs, roads, streets and other improvements and embellishments contained within or forming a part of the cemetery.
  - (b) Does not include maintaining or repairing monuments, tombs, copings or other man-made ornaments as associated with individual burial spaces.
45. "Perpetual or endowed-care cemetery" means a cemetery in which lots or other burial spaces are sold or transferred under the representation that the cemetery will receive perpetual care or endowed care free of further cost to the purchaser after payment of the original purchase price for the lot, burial space or interment right.
46. "Person" means any individual, corporation, partnership or company and any other form of multiple organization for carrying on business, foreign or domestic.
47. "Private cemetery" means a cemetery or place that is not licensed under article 6 of this chapter, where burials or interments of human remains are made, in which sales or transfers of interment rights or burial plots are not made to the public and in which not more than ten interments or burials occur annually.
48. "Promotion" or "promotional practice" means advertising and any other act, practice, device or scheme to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in or use of real property subject to this chapter, including meetings with prospective purchasers, arrangements for prospective purchasers to visit real property, travel allowances and discount, exchange, refund and cancellation privileges.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) Acts as a business broker.

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

52. "Real estate salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed real estate broker, or by or on behalf of a limited liability company, partnership or corporation that is licensed as a real estate broker, to perform any act or participate in any transaction in a manner included in the definition of real estate broker subject to section 32-2155.

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

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

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

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

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

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

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

57. "Subdivider":

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

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

58. "Subdivision" or "subdivided lands":

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

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

(c) Does not include:

(i) Leasehold offerings of one year or less.

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

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

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

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



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

60. "Trustee":

(a) Means a person who either:

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

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

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

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

62. "Unsubdivided lands":

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

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

### **32-2108. Powers and duties of commissioner to make investigations and require information**

*(Ariz. Sess. Laws Ch. 59, § 77 (2022))*

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

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

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

1. Prior criminal records.

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

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

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

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

(c) Had a public report denied or suspended.

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

- (e) Had any adverse decision or judgment entered against the applicant or holder arising out of the conduct of any business in or involving a transaction in real estate, cemetery property, timeshare intervals or membership camping campgrounds or contracts involving fraud, dishonesty or moral turpitude.
- (f) Filed, or is subject to, a petition under any chapter of the federal bankruptcy act.
- (g) Participated in, operated or held an interest or exercised control in any entity to which subdivision (b), (c), (d), (e) or (f) of this paragraph applies.

## **Article 2 Licensing**

### **32-2121. Applicability of article; exemption**

*((Ariz. Sess. Laws Ch. 298, § 1 (2022))*

A. This article does not apply to:

1. A natural person, a corporation through its officers, a partnership through its partners or a limited liability company through its members or managers that deals in selling, exchanging, purchasing, renting, leasing, managing or pledging the person's or entity's own property, including cemetery property and membership camping contracts, and that does not receive special compensation for a sales transaction or does not receive special compensation or other consideration, including property management fees or consulting fees for any property management services performed, if the majority of an officer's, partner's, member's or manager's activities do not involve the acts of a real estate broker, cemetery broker or membership camping broker as defined in section 32-2101.
2. A person holding a valid power of attorney that is being used for a specific purpose in an isolated transaction and not as a method of conducting a real estate business.
3. An attorney performing the attorney's duties as an attorney. This paragraph does not allow an attorney to otherwise engage in any acts requiring a license under this article.
4. Any receiver, a trustee in bankruptcy or any other person acting under an order of a court.
5. A trustee selling under a deed of trust.
6. Natural persons who are acting as residential leasing agents or on-site managers of residential rental property, who are performing residential leasing activities on residential income property at not more than one location during the period of the agents' or on-site managers' regular workday, who do not receive special compensation for the acts described in subdivisions (a) through (e) of this paragraph and who are employed by the owner or the owner's licensed management agent to perform the duties customarily associated with that employment. A bonus that is paid to a residential leasing agent or on-site manager working under the supervision of a licensed real estate broker and that is based on performance, that is received not more frequently than monthly and that does not exceed one-half of the agent's or on-site manager's total compensation for the time period does not constitute special compensation for the acts described in subdivisions (a) through (e) of this paragraph. For the purposes of this paragraph, "residential leasing agents or on-site managers" means natural persons who are employed by the owner or the owner's licensed management agent and whose normal duties and responsibilities include any one or a combination of the following:
  - (a) Preparing and presenting to any person a residential lease, application or renewal or any amendment of the lease.
  - (b) Collecting or receiving a security deposit, a rental payment or any related payment for delivery to and made payable to a property, a property manager, an owner or the location.
  - (c) Showing a residential rental unit to any prospective tenant.
  - (d) Executing residential leases or rental agreements adopted under title 33, chapter 10.
  - (e) Acting on behalf of the owner or the owner's licensed management agent to deliver notice pursuant to title 12, chapter 8 and title 33, chapters 10 and 11.

7. Any officer or employee of a governmental agency who is not a contract or temporary employee of the agency in conducting the officer's or employee's official duties.
8. One natural person who acts as a property manager for one nonresidential income property or for two or more contiguous nonresidential income properties that are under common ownership and who is employed by the owner or the owner's licensed management agent to perform the duties customarily associated with that employment.
9. Natural persons who are employed by an employing broker, a person otherwise licensed under this chapter or a person or entity exempt under this section, who are unlicensed and perform clerical, bookkeeping, accounting and other administrative and support duties, who are not engaged in any other acts requiring a license under this chapter and whose employment is not conditioned on or designed to perform duties otherwise requiring a license under this chapter.
10. Natural persons who are employed by an employing broker and who perform telemarketing services that are limited to soliciting interest in engaging the services of a licensee or broker or gathering demographic information that will be used by a licensee or broker to solicit prospective buyers, sellers, lessees and lessors.
11. Communications media or their representatives that are primarily engaged in advertising real estate and that perform no other acts requiring a real estate license, if:
  - (a) The communications media or their representatives do not, directly or indirectly, compile or represent that they compile information about specific prospective purchasers or tenants, except that general information about prospective purchasers or tenants, such as demographic and marketing information, may be compiled.
  - (b) The communications media or their representatives do not make representations to prospective real property sellers or landlords, or their representatives, concerning specific prospective purchasers or tenants or specific sales or leasing leads.
  - (c) The fee charged for advertising is based solely on the advertising services provided.
  - (d) The advertisements provide for direct contact between the seller or landlord and the prospective buyers or tenants, or for contact through a licensed real estate broker or property management firm. The communications media or their representatives shall not act as intermediaries or assist in any intermediary action between prospective parties to a real estate transaction, except that additional information about advertised properties may be provided to prospects on request.
12. Persons who perform residential property management services or marketing and promotional services solely for nursing care institutions as defined in section 36-401 or pursuant to life care contracts as defined in section 20-1801.
13. A person who offers to sell or lease property that constitutes a security as defined in section 44-1801 and that is offered, sold or leased in compliance with title 44, chapter 12 if the person is a registered securities dealer or salesperson pursuant to title 44, chapter 12, article 9.
14. A person who manages a hotel, motel or recreational vehicle park.
15. A person who, on behalf of another, solicits, arranges or accepts reservations or monies, or both, for occupancies of thirty-one or fewer days in a dwelling unit.
16. An escrow agent in performing the escrow agent's duties as an escrow agent, a title insurer in performing the title insurer's duties as a title insurer or a title insurance agent in performing the title insurance agent's duties as a title insurance agent. This paragraph does not allow an escrow agent, a title insurer or a title insurance agent to otherwise engage in acts requiring a license under this article.
17. Notwithstanding paragraph 1 of this subsection, a corporation through its officers and employees that purchases, sells, exchanges, rents, leases, manages or pledges its property if both of the following apply:
  - (a) The activity is only incidental to the business of the corporation.

(b) The officers and employees engaged in the activity do not receive special compensation or other consideration for the activity.

18. A trust company owned by a bank holding company regulated by the federal reserve board or a bank in exercising its fiduciary duties under the terms of a trust agreement to which real property is subject.

19. A person who receives a finder fee pursuant to section 32-2176 or 32-2197.21.

B. The commissioner may grant an exemption from the licensure requirements of this article to any corporation that applies for an exemption on a finding that both of the following apply:

1. The corporation is a nonprofit corporation that provides project-based housing services and operates solely as a charitable organization as defined in section 44-6551.

2. The corporation's sole activities related to real estate involve ownership or management of residential property owned or controlled by the corporation.

### **32-2123. Application for license as broker or salesperson**

*(Ariz. Sess. Laws Ch. 59 § 78 (2022))*

A. Every application for an original license shall be either submitted in writing and signed by the applicant or submitted electronically and contain an electronic or digital identifier that the commissioner deems appropriate. The application shall be accompanied by all applicable fees.

B. An application for an original license as a broker or salesperson shall set forth:

1. The applicant's residence address and legal name and any derivative of the applicant's first name or middle name or a nickname that the applicant regularly uses for advertising purposes.

2. The applicant's employers and employment history for the immediately preceding ten years and any experience in real estate sales, appraisals, transfers or similar business in which the applicant previously engaged, if the commissioner determines that this information is needed to reasonably evaluate the applicant.

3. The name and place of business of the applicant's present employer, if any.

4. Whether the applicant has ever been convicted of a felony and, if so, the nature of the felony, where and when committed and the disposition of the conviction, or whether the applicant has been disbarred or suspended from the practice of law.

5. Whether the applicant has ever been refused a broker's or salesperson's license or any other occupational license in this or any other state, whether the applicant's license as a broker or salesperson has been revoked or suspended in this or any other state or whether the applicant has had any other occupational or professional license, certificate or registration revoked or suspended in this or any other state.

6. The name of any corporation, company or partnership that is or ever has been licensed by the department in which the applicant exercised any control.

7. If the applicant is a natural person, the applicant's social security number. If the applicant, due to bona fide religious convictions or other bona fide reasons that the applicant documents on the application to the satisfaction of the commissioner, does not have a social security number, the applicant may provide the applicant's federal tax identification number with the application. The state real estate department shall use the applicant's social security number or federal tax identification number to aid the department of economic security in locating noncustodial parents or the assets of noncustodial parents, and for no other purpose.

C. An application for a license as a broker additionally shall set forth:

1. The name under which the business is to be conducted.

2. The situs and mailing address of the applicant's place of business, or if more than one, the situs and mailing addresses of each.

D. An applicant for a broker's or salesperson's license shall provide information that the commissioner determines is reasonably necessary. The information may include:

1. Prior criminal records.

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

3. An affidavit setting out whether the applicant has participated in, operated or held an interest in any land development company that has filed, or is subject to, a petition under any chapter of the federal bankruptcy act.

E. Each person licensed pursuant to this article, whether the license is active or inactive, shall have available for the licensee's use a current copy of the department's statutes, rules and annotations pertaining to real estate laws. Failure to comply with this requirement shall not be deemed grounds for a civil penalty or for denial, suspension or revocation of a license.

**32-2124. Qualifications of licensees**

*(Ariz. Sess. Laws Ch. 298, § 2 (2022) and (Ariz. Sess. Laws Ch. 59, § 79 (2022))*

A. Except as otherwise provided in this chapter, the commissioner shall require proof, through the application or otherwise, as the commissioner deems advisable with due regard to the interests of the public, as to the competency of the applicant and shall require that the applicant has:

1. If for an original real estate broker's license, at least three years' actual experience as a licensed real estate salesperson or real estate broker during the five years immediately preceding the time of application.
2. If for an original cemetery broker's license, either a current real estate broker's license, or if the applicant does not have a current real estate broker's license, at least three years' actual experience as a cemetery salesperson or broker or as a licensed real estate salesperson or broker during the five years immediately preceding the time of application.
3. If for an original membership camping broker's license, either a current real estate broker's license, or if the applicant does not have a current real estate broker's license, at least three years' actual experience as a licensed membership camping salesperson or broker or as a licensed real estate salesperson or broker during the five years immediately preceding the time of application.
4. If for any type of broker's or salesperson's license, not had a license denied within one year immediately preceding application in this state pursuant to section 32-2153 or a similar statute in any other state.
5. If for any type of broker's or salesperson's license, not had a license revoked within the two years immediately preceding application in this state pursuant to section 32-2153 or a similar statute in any other state.
6. If reapplying for a license that expired more than one year before the date of application, met all current education and experience requirements and retakes the examination the same as if the applicant were applying for the license for the first time.
7. If for a real estate, cemetery or membership camping broker's license, other than a renewal application, an equivalent amount of active experience within the immediately preceding five years in the field in which the applicant is applying for the broker's license, as a substitute for the licensed active experience otherwise required in paragraphs 1, 2 and 3 of this subsection. The licensed active experience required may be met if the applicant can demonstrate to the commissioner's satisfaction that the applicant has an equivalent amount of experience in the past five years that, if the applicant had held a license, would have been sufficient to fulfill the licensed experience requirement.

B. All applicants other than renewal applicants under section 32-2130 for a real estate salesperson's license shall show evidence satisfactory to the commissioner that they have completed a real estate salesperson's course that is prescribed and approved by the commissioner and that is at least ninety classroom hours, or its equivalent, of instruction in a real estate school certified by the commissioner and have satisfactorily passed an examination on the course. An applicant may complete the real estate salesperson's course prescribed by this subsection through a live classroom course or an online course if the live classroom course or online course is offered by a real estate school that is certified by the commissioner. The applicant must complete an examination on the live classroom course or the online course in person. An applicant may complete the required course or instructional segments in any combination of in-person or synchronous remote delivery methods. The real estate salesperson's course completion or its equivalent may not be more than ten years before the date of application unless, at the time of application, the commissioner determines in the commissioner's discretion that the applicant has work experience in a real estate-related field and education that together are equivalent to the prelicensure education requirement. The commissioner may waive all or a portion of the prelicensure course requirement, other than the twenty-seven-hour Arizona-specific course, for an applicant who holds a current real estate license in another state.

C. All applicants other than renewal applicants under section 32-2130 for a real estate broker's license shall show evidence satisfactory to the commissioner that they have completed a real estate broker's course that



is prescribed and approved by the commissioner and that is at least ninety classroom hours, or the equivalent, of instruction in a real estate school certified by the commissioner and have satisfactorily passed an examination on the course. An applicant may complete the real estate broker's course prescribed by this subsection through a live classroom course or an online course if the live classroom course or online course is offered by a real estate school that is certified by the commissioner. The applicant must complete an examination on the live classroom course or online course in person. An applicant may complete the required course or instructional segments in any combination of in-person or synchronous remote delivery methods. The real estate broker's course completion or its equivalent may not be more than ten years before the date of application unless, at the time of application, the commissioner determines in the commissioner's discretion that the applicant has work experience in a real estate-related field and education that together are equivalent to the precicensure education requirement. The commissioner may waive all or a portion of the precicensure course requirement, other than the twenty-seven-hour Arizona-specific course, for an applicant who holds a current real estate license in another state.

D. Before receiving any license provided for by this chapter, an applicant must be at least eighteen years of age.

E. The commissioner shall ascertain by a written, electronic or other examination method that an applicant for a real estate license has:

1. An appropriate knowledge of the English language, including reading, writing and spelling, and of arithmetical computations common to real estate practices.
2. At a minimum, an understanding of the general purpose and legal effect of any real estate practices, principles and related forms, including agency contracts, real estate contracts, deposit receipts, deeds, mortgages, deeds of trust, security agreements, bills of sale, land contracts of sale and property management, and of any other areas that the commissioner deems necessary and proper.
3. A thorough understanding of the obligations between principal and agent, the principles of real estate and business opportunity practice, the applicable canons of business ethics, the provisions of this chapter and rules adopted pursuant to this chapter.
4. An appropriate knowledge of other real estate practices and principles as determined by the commissioner.

F. The commissioner shall ascertain by a written, electronic or other examination method that an applicant for a license as a cemetery broker or a cemetery salesperson has:

1. Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.
2. A general understanding of:
  - (a) Cemetery associations, cemetery corporations and duties of cemetery directors and officers.
  - (b) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.
  - (c) Establishing, dedicating, maintaining, managing, operating, improving, preserving and conducting a cemetery.
  - (d) The provisions of this chapter and rules adopted pursuant to this chapter relating to the organization and regulation of cemeteries and the licensing and regulation of cemetery brokers and cemetery salespersons.
3. A general understanding of the obligations between principal and agent, the principles of cemetery practice and the canons of business ethics pertaining to the operation of cemeteries and the sale of cemetery property.

G. The commissioner shall ascertain by a written, electronic or other examination method that an applicant for a license as a membership camping broker or a membership camping salesperson has:

1. An appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.
2. A general understanding of:
  - (a) The general purposes and legal effect of contracts and agency contracts.
  - (b) Establishing, maintaining, managing and operating a membership campground.
  - (c) The provisions of this chapter and rules adopted pursuant to this chapter relating to the organization and regulation of membership campgrounds and the licensing and regulation of membership camping brokers and membership camping salespersons.



3. A general understanding of the obligations between principal and agent and the canons of business ethics pertaining to the operation and promotion of membership campgrounds.
- H. A renewal applicant for a real estate, cemetery or membership camping broker's or salesperson's license is not required to submit to an examination if the application is made within twelve months after the license expires and the license is not canceled, terminated or suspended at the time of application.
- I. The examination for a broker's license shall be more exacting and stringent and of a broader scope than the examination for a salesperson's license.
- J. An applicant for a real estate salesperson's or broker's license who currently holds at least an equivalent license in another state may be exempt from taking the national portion of the real estate examination if the applicant can demonstrate passing a national examination within the past five years that is satisfactorily similar to the one administered by the department.
- K. Identification of each applicant whose licensing requirement was allowed to be met by an equivalent alternative pursuant to this section shall be included in the annual performance report presented by the board to the governor pursuant to section 32-2104.
- L. An applicant for an original real estate salesperson's license, after completing the requirements of subsection B of this section, shall provide certification to the department at the time of application evidencing completion of six hours of instruction in real estate contract law and contract writing. This instruction shall include participation by the applicant in drafting contracts to purchase real property, listing agreements and lease agreements.
- M. The commissioner shall not issue a license to a person who has been convicted of a felony offense and who is currently incarcerated for the conviction, paroled or under community supervision and under the supervision of a parole or community supervision officer or who is on probation as a result of the conviction.
- N. The commissioner shall require an out-of-state applicant for a license that is issued pursuant to section 32-4302 to pass an examination specific to the laws of this state relating to this chapter before the commissioner issues the license to the applicant.

### **32-2132. Fees**

*(Ariz. Sess. Laws Ch. 298, § 3 (2022))*

- A. Except as provided in subsection D of this section, the following fees shall be charged and shall not be refunded by the commissioner after issuance of a receipt for payment:
1. A broker's examination application fee of not more than \$125.
  2. A broker's examination fee of not more than \$100.
  3. A broker's license fee of not more than \$250.
  4. A broker's renewal fee of not more than \$400.
  5. A salesperson's examination application fee of not more than \$75.
  6. A salesperson's examination fee of not more than \$50.
  7. A salesperson's license fee of not more than \$125.
  8. A salesperson's renewal fee of not more than \$200.
  9. A branch office broker's license fee or renewal fee of not more than \$200.
  10. A fee for a change of name and address of licensee on records of the department of not more than \$20.
  11. A duplicate license fee of \$5.
  12. A fee for reinstatement of license within the license period of \$5.
  13. A fee for each certificate of correctness of copy of records or documents on file with the department of \$1, plus the cost to the department for reproducing the records or documents.
  14. A temporary broker's license fee of not more than \$50.
  15. A temporary cemetery salesperson's license fee of not more than \$50.
  16. A membership camping salesperson certificate of convenience fee of not more than \$50.
  17. Fees in an amount to be determined by the commissioner by rule for the following:
    - (a) A certificate of approval or renewal to operate a school.
    - (b) An instructor or other school official approval or renewal fee.
    - (c) A continuing education live classroom course approval or renewal fee.
    - (d) A prelicensure education live classroom course or prelicensure online course approval or renewal fee. The prelicensure course fee imposed by this subdivision shall be the same and the renewal course fee imposed by this subdivision shall be the same regardless of

the instructional format a person uses to complete a prelicensure education course or instructional segment or a renewal education course or instructional segment.

(e) A continuing education distance learning course approval or renewal fee.

B. A corporation, partnership or limited liability company shall not be assessed a fee for the issuance of a broker's license.

C. The commissioner may contract for the processing of applications and the examination of applicants for licensure. The contract may provide for specific fees or a reasonable range for fees as determined by the commissioner for examination applications and examinations to be paid directly to the contractor by the applicant. These fees may not exceed the amounts prescribed in subsection A, paragraphs 1, 2, 5 and 6 of this section.

D. For good cause shown the commissioner may refund fees previously collected.

**32-2135. Real estate schools; courses of study; instructors; certification**

*(Ariz. Sess. Laws Ch. 298, § 4 (2022))*

A. Except as provided in section 32-4301, before offering a course of study towards completion of the education requirement for real estate licensure or renewal of licensure, a school shall obtain from the commissioner a certificate of approval or renewal to operate a school for a period of at least four years. A school shall also obtain a certificate of course approval for each course offered for credit that is not currently approved for another school. Each school is responsible for the content of any course it offers and for the professional administration and teaching of the course. Prelicensure education live classroom courses, continuing education live classroom courses, online courses and distance learning continuing education courses are subject to approval pursuant to this section.

B. Each approved school shall issue a certificate of real estate course attendance to each person who completes an approved prelicensure or continuing education course. An applicant for renewal of licensure as provided by section 32-2130 shall file evidence of the certificates issued by the school with the commissioner showing the number of credit hours and course of study required for renewal.

C. The commissioner may withdraw or deny certification or approval of real estate schools, educational courses or real estate instructors for any acts inconsistent with the requirements of this chapter, including:

1. Committing or failing to report a violation by an approved school or instructor of any provision of this chapter or rules adopted pursuant to this chapter.
2. Improperly certifying student attendance or performance.
3. Committing any act that is grounds for discipline under section 32-2153.
4. Teaching information or using course materials that have not been approved by the commissioner.
5. Failing to attend any continuing education course required by the commissioner.
6. Filing any false or misleading application, report or documentation with the department.
7. Teaching course content that is not current or that has substantially changed from the course as approved.

D. A real estate school, through any owner, director, administrator, instructor or other agent, shall not:

1. Offer a course of study for credit that is not approved by the department, except that the school may advertise a course as pending approval before its approval.
2. Promote or advertise the school using false or misleading statistics or testimonials or any other form of deceptive advertisement.

E. The commissioner may determine minimal content requirements for approving educational courses and appropriate professional qualifications for approving instructors to teach individual educational courses.

F. Except as provided in subsection G of this section, at least thirty days before holding a course of study for completion of the education requirements leading to licensure of real estate applicants or for license renewal requirements, an application for a certificate of course approval or renewal must be filed with the department. For a live classroom course, the application shall include a course outline with sufficient detail to clearly identify the scope and content of the course. The outline shall state a desired instructional outcome for the course. A prelicensure education course outline that is submitted for approval shall be divided into estimated fifty-minute instructional segments. Course approval shall not be unreasonably withheld and shall not be issued later than thirty days after filing with the department for a live classroom course. A continuing education distance learning course approval shall not be issued later than ninety days after filing with the department. If the approvals under this subsection are not granted within the time frames prescribed by this subsection, the course shall be automatically approved on a provisional basis for one

hundred eighty days, unless the department has otherwise notified the applicant of specific deficiencies or unfulfilled requirements for the course submission. A provisional approval may be withdrawn by the department on fifteen days' advance notice if the department's review of the course subsequently reveals course deficiencies or unfulfilled course requirements. If not withdrawn, the course approval shall remain approved for the entire course approval period. Course approval shall be for a period of at least four years if the contents of the course remain current and substantially unchanged. The course may not be taught if the content ceases to be current or is substantially changed. The department may establish by rule additional appropriate requirements for approval of a distance learning course.

G. At least ninety days before holding an online course of study for completion of the education requirements leading to licensure of real estate applicants, an application for a certificate of online course approval must be filed with the department. An online course outline that is submitted for approval shall be divided into estimated fifty-minute instructional segments. Online course approval shall not be unreasonably withheld and shall be issued not later than ninety days after filing with the department. If the approvals under this subsection are not granted within the time frames prescribed by this subsection, the online course shall be automatically approved on a provisional basis for one hundred eighty days, unless the department has otherwise notified the applicant of specific deficiencies or unfulfilled requirements for the online course submission. A provisional approval may be withdrawn by the department on fifteen days' advance notice if the department's review of the online course subsequently reveals course deficiencies or unfulfilled course requirements. If not withdrawn, the online course approval shall remain approved for the entire online course approval period. Online course approval shall be for a period of at least four years if the contents of the online course remain current and substantially unchanged. The online course may not be taught if the content ceases to be current or is substantially changed. Approved online courses must provide for student participation, feedback and remedial instruction. The department may establish by rule additional appropriate requirements for approval of an online course.

H. For a currently approved course or online course:

1. The school shall submit notice to the department at least fourteen days before holding the course to allow department employees to monitor the course. The notice is not otherwise subject to review and approval by the department.
2. With the permission of the school that received original approval for the course, another school that desires to offer the course is subject only to the fourteen-day notice requirement before holding the same course. No additional review and approval by the department is required.

I. The department shall approve for continuing education credit any course of study proposed by a real estate school if the course satisfies the commissioner's requirements and is held in this state.

J. The department may approve for continuing education credit any course of study proposed by a real estate school if the course satisfies the commissioner's requirements and is held outside this state. On the commissioner's request, the school shall either:

1. Provide the department with a videotape or videotapes of the course.
2. Make arrangements that are approved by the department for monitoring the course.

K. An instructor shall file with the department an application for instructor approval or renewal. Instructor approval shall be for at least four years from the date of approval and is subject to amendment during the license period only if information material to the instructor's qualifications has changed. A person holding instructor approval to teach specific subject matter is not subject to additional or duplicate approval requirements during the original approval period, except that an additional instructor competency area may be added during the license period on submission by the instructor of evidence of competency in such additional competency area.

L. In the twenty-four months before application, each instructor original or renewal applicant, other than a panelist, guest speaker, attorney or out-of-state instructor, shall attend at least a three-hour professional seminar or workshop, approved by the department, emphasizing instruction methods, techniques and skills. At the discretion of the commissioner this requirement may be waived based on individual request review.

M. The course filing time frames prescribed in this section may be waived by the department for good cause shown.

N. Unless subject to a violation or suspected violation listed in subsection C of this section, the department's approval of a school, school official, instructor or course shall be processed in a time frame consistent with the time frames set forth in this section.

O. This section does not affect the department's ability to withdraw or deny certification or approval of real estate schools, education courses or real estate instructors for a violation of this chapter.

### **Article 3: Regulation**

#### **32-2153. Grounds for denial, suspension or revocation of licenses; letters of concern; provisional license; retention of jurisdiction by commissioner; definitions**

*(Ariz. Sess. Laws Ch. 126, § 2 (2022) and Ariz. Sess. Laws Ch. 59, § 80 (2022))*

A. 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 issued under this chapter if it appears that the holder or applicant, within five years immediately preceding, in performing or attempting to perform any acts authorized by the license or by this chapter, has:

1. Pursued a course of misrepresentation or made false promises, either directly or through others, whether acting in the role of a licensee or a principal in a transaction.
2. Acted for more than one party in a transaction without the knowledge or consent of all parties to the transaction.
3. Disregarded or violated any of the provisions of this chapter or any rules adopted by the commissioner.
4. 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.
5. Knowingly used the term "real estate broker", "cemetery broker" or "membership camping broker" without the legal right to do so.
6. Employed any unlicensed salesperson or unlicensed associate broker.
7. Accepted compensation as a licensee for performing any of the acts specified in this chapter from any person who is not authorized to provide compensation pursuant to section 32-2155.
8. Represented or attempted to represent a broker other than the broker to whom the salesperson or associate broker is licensed.
9. Failed, within a reasonable time, to account for or to remit any monies, to surrender to the rightful owner any documents or other valuable property that comes into the licensee's possession and that belongs to others, or to issue an appraisal report on real property or cemetery property in which the licensee has an interest, unless the nature and extent of the interest are fully disclosed in the report.
10. Paid or received any rebate, profit, compensation or commission in violation of this chapter.
11. Induced any party to a contract to break the contract for the purpose of substituting a new contract with the same or a different principal, if the substitution is motivated by the personal gain of the licensee.
12. Placed a sign on any property offering it for sale or for rent without the written authority of the owner or the owner's authorized agent.
13. Solicited, either directly or indirectly, prospects for the sale, lease or use of real property, cemetery property or membership camping contracts through a promotion of a speculative nature involving a game of chance or risk or through conducting lotteries or contests that are not specifically authorized under this chapter.
14. Failed to pay to the commissioner the renewal fee as specified in this chapter promptly and before the time specified.
15. Failed to keep an escrow or trust account or other record of monies deposited with the licensee relating to a real estate transaction.
16. Commingled the monies or other property of the licensee's principal or client with the licensee's own or converted these monies or property to the licensee or another.
17. Failed or refused on demand to produce any document, contract, book, record, information, compilation or report that is in the licensee's possession or that the licensee is required by law to maintain concerning any real estate, cemetery or membership camping business, services, activities or transactions involving or conducted by the licensee for inspection by the commissioner or the commissioner's representative.
18. Failed to maintain a complete record of each transaction that comes within this chapter.
19. Violated the federal fair housing law, the Arizona civil rights law or any local ordinance of a similar nature.

20. Tendered to a buyer a wood infestation report in connection with the transfer of residential real property or an interest in residential real property knowing that wood infestation exists or that the wood infestation report was inaccurate or false as of the date of the tender or that an inspection was not done in conjunction with the preparation of the wood infestation report.
  21. As a licensed broker, failed to exercise reasonable supervision over the activities of salespersons, associate brokers or others under the broker's employ or failed to exercise reasonable supervision and control over the activities for which a license is required of a corporation, limited liability company or partnership on behalf of which the broker acts as designated broker under section 32-2125.
  22. Demonstrated negligence in performing any act for which a license is required.
  23. Sold or leased a property to a buyer or lessee that was not the property represented to the buyer or lessee.
  24. Violated any condition or term of a commissioner's order.
  25. Signed the name of another person on any document or form without the express written consent of the person.
  26. As a licensed school, failed to exercise reasonable supervision over the activities for which a license is required for an owner, director, administrator or instructor in the school's employ.
- B. 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 issued under this chapter if it appears that the holder or applicant has:
1. Procured or attempted to procure a license under this chapter for the holder or applicant or another by fraud, misrepresentation or deceit or by filing an original or renewal application that is false or misleading.
  2. Been convicted in a court of competent jurisdiction in this or any other state of a felony or of any crime of forgery, theft, extortion, conspiracy to defraud, a crime of moral turpitude or any other like offense.
  3. Made any substantial misrepresentation.
  4. Made any false promises of a character likely to influence, persuade or induce.
  5. Been guilty of any conduct, whether of the same or a different character than specified in this section, that constitutes fraud or dishonest dealings.
  6. Engaged in the business of a real estate broker, cemetery broker or membership camping broker or real estate, cemetery or membership camping salesperson without holding a license as prescribed in this chapter.
  7. Demonstrated incompetence to perform any duty or requirement of a licensee under or arising from this chapter. For the purposes of this paragraph, "incompetence" means a lack of basic knowledge or skill appropriate to the type of license the person holds or a failure to appreciate the probable consequences of the licensee's action or inaction.
  8. Violated the terms of any criminal or administrative order, decree or sentence.
  9. Violated any federal or state law, regulation or rule that relates to real estate or securities or that involves forgery, theft, extortion, fraud, substantial misrepresentation, dishonest dealings or violence against another person or failure to deal fairly with any party to a transaction that materially and adversely affected the transaction. This paragraph applies equally to violations of which the licensee was convicted in any lawful federal or state tribunal and to any admissions made in any settlement agreement by the licensee to violations.
  10. Failed to respond in the course of an investigation or audit by providing documents or written statements.
- C. A judgment based on a court's finding or stipulation of fraud by a licensee following a trial on the merits or a criminal conviction of a licensee that results in a payment from the real estate recovery fund is prima facie evidence of a violation and grounds for discipline under this section.
- D. The commissioner may deny, suspend or revoke the issuance of a license on application by a corporation, a limited liability company or a partnership if it appears that an owner, officer, director, member, manager, partner, stockholder owning ten percent or more of the stock in the corporation or limited liability company or person exercising control of the entity is a current or former licensee whose license as a broker or a salesperson has been denied, suspended or revoked.



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

1. Proceed with any investigation of or action or disciplinary proceeding against the licensee.
2. Render a decision suspending or revoking the license or denying the renewal or right of renewal of the license.
3. Assess a civil penalty pursuant to section 32-2160.01.

F. For the purposes of this section:

1. "Letter of concern" means an advisory letter to notify a licensee that, while the conduct or evidence does not warrant other disciplinary action, the commissioner believes that the licensee should modify or eliminate certain practices and that continuation of the activities may result in further disciplinary action against the licensee.
2. "Provisional license" means a license that the department issues and that allows a licensee to practice subject to either a consent order as prescribed in section 32-2153.01 or the commissioner's terms, conditions and restrictions.

**32-2155. Restriction on employment or compensation of person as broker or salesperson**  
(*Ariz. Sess. Laws Ch. 126, § 3 (2022)*)

A. A broker shall employ and pay only active licensees, and a licensee shall accept employment and compensation as a licensee only from either or both of the following:

1. The legally licensed broker to whom the licensee is licensed.
2. An employer other than the legally licensed broker as described in paragraph 1 of this subsection if the all of the following apply:
  - (a) The employer holds a license.
  - (b) The licensee is the employer's employee and receives a federal form W-2 wage and tax statement.
  - (c) The employer has the same employing broker as the licensee.
  - (d) The employer obtains written permission from the employing broker to pay the licensee.

B. If the licensee is licensed through a professional corporation or a professional limited liability company, the employing broker may pay and the licensee may receive compensation only through the licensed professional corporation of which the licensee is an officer and shareholder or the licensed professional limited liability company of which the licensee is a member or manager.

C. It is unlawful for a person, firm or corporation, whether an obligor, escrow holder or otherwise, to pay or deliver to anyone compensation for performing any of the acts specified by this chapter, as a broker, who is not licensed at the time the service is rendered. An identification card or certificate of license issued by the state real estate department showing that the person, firm or corporation holds a license for the year in which the payment is made or earned is sufficient proof to relieve from any penalty for a violation of this section the obligor, escrow holder or other person who relied in good faith on the card or certificate.

D. A real estate broker or real estate salesperson shall not collect compensation for rendering services in negotiating loans secured by real property unless all of the following apply:

1. The broker or salesperson is licensed pursuant to title 6, chapter 9 or is an employee, officer or partner of a corporation or partnership licensed pursuant to title 6, chapter 9.
2. The broker or salesperson has disclosed to the person from whom the compensation is collected that the broker or salesperson is receiving compensation both for real estate brokerage, when applicable, and for mortgage broker services.
3. The compensation does not violate any other state or federal law.

E. Notwithstanding subsection A or B of this section, brokers licensed under this chapter may employ residential leasing agents or managers of residential rental properties, as prescribed by section 32-2121, subsection A, paragraph 6. The exemption of residential leasing agents or managers of residential rental property under article 2 of this chapter does not exempt the designated broker from the responsibility to exercise reasonable supervision over these leasing agents or managers.

**32-2163. Unlawful acts; out-of-state broker; cooperation agreement**  
(*Ariz. Sess. Laws Ch. 298, § 5 (2022)*)

A. It is unlawful for any licensed broker in this state to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter if the person is not also a licensed



broker in this state, or a salesperson licensed under the broker employing or compensating the salesperson, except that a licensed broker in this state may pay compensation to and receive compensation from a broker who is lawfully operating in another state.

B. Notwithstanding that pursuant to subsection A of this section a licensed broker in this state may pay to and receive compensation from an out-of-state broker, this authority does not allow an out-of-state broker to conduct activity in this state that would otherwise require a broker's license issued by the department.

C. A licensed broker in this state may cooperate with an out-of-state broker who would otherwise require licensure in this state if:

1. The licensed broker and the out-of-state broker enter into a written cooperation agreement before the out-of-state broker conducts any activity otherwise requiring a broker's license pursuant to this chapter. The cooperation agreement shall include the following:

(a) A list of the real estate activities to be conducted by the out-of-state broker.

(b) A statement that the out-of-state broker agrees to fully comply with the laws of this state and submit to the regulatory jurisdiction of the department for activities subject to real estate broker licensure pursuant to this chapter.

(c) A statement that the licensed broker in this state understands and accepts responsibility for the acts of the out-of-state broker.

2. All negotiations in this state or with people who own property in this state are conducted through the licensed broker in this state.

3. The licensed broker in this state assumes all responsibility for the acts of the out-of-state broker.

4. All principal funds handled by either the licensed broker in this state or the out-of-state broker are subject to the deposit and handling requirements of section 32-2151.

D. The offering of real estate brokerage services specified by section 32-2101, paragraph 50 for compensation or any other thing of value pertaining to real property located in this state through an internet website constitutes activity that requires a broker's license issued by the department.

E. This section does not allow an out-of-state broker who is not licensed in this state to list, market or advertise in this state real property located in this state for sale, lease or exchange.

F. Signs shall not be placed on real property in this state by an out-of-state broker. An out-of-state broker shall not use a cooperation agreement as authority to sell, lease, rent, exchange or attempt to sell, lease, rent or exchange real property to a resident of this state.

## **SUBSTANTIVE POLICY STATEMENTS**

For updated versions of the Substantive Policy Statements please refer to the ADRE website at [www.azre.gov](http://www.azre.gov) or follow this link [Substantive Policy Statements](#)

### **No. 2022.05 Online Pre Licensing Education Course and Learning Guidelines**

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.

### **STATEMENT OF PURPOSE AND SCOPE**

This Substantive Policy Statement is to inform the real estate education industry of the Department's current approach to, and opinion of, the requirements of education statutes and rules regarding Online Pre Licensing Education which applies solely to the delivery of Online Pre Licensing Education courses.

The commissioner may determine minimal content requirements for approving educational courses and appropriate professional qualifications for approving instructors to teach individual educational courses pursuant to A.R.S. 32-2135(E).

## **DEFINITIONS**

**“Online Course”** means pre licensure education that is a planned learning experience with a geographic separation that may be synchronous or asynchronous, that does not require real-time interaction between a student and an instructor and that uses a platform with self-paced or prerecorded lessons and materials that a student can access via the internet to proceed at the student’s own pace. (A.R.S. 32-2101(41))

**“Certificate of Course Approval”** any [approved] school offering a course of study for original or renewal licensure of a real estate applicant shall apply for and possess a Certificate of Course Approval for each course offered by the school. The school’s administrator shall submit the requirements listed in A.A.C. R4-28-404(B).

**“Credit hour”** means 50 minute instructional segment. (A.A.C. R4-28-101)

**“Final school examination proctor”** means a disinterested third party with no conflict of interest who verifies a student’s identity and processes an affidavit testifying that the student received no outside assistance with the examination. The student’s proctor cannot be another student, relative, spouse or significant other, friend, roommate, landlord, current or prospective employer, or a co-worker who is a friend, family member, or who is above or below the student’s line of supervision.

**“Instructor approval”** any person wishing to teach an approved real estate course shall apply for an instructor’s approval, and shall have at least one of the qualifications on the proposed subject indicated by A.A.C. R4-28-404(C). Instructors should refer to [www.azre.gov](http://www.azre.gov) for additional instructor requirements in effect at the time of seeking Instructor Approval. See Substantive Policy Statement 2022.04 Instructor Professional Development Requirements, [here](#).

**“In person”** a student must complete an online examination on the online pre license course in person at the provider’s school or with an independent third-party proctor per the requirements herein.

**“Learning Management System”** is a software application for the administration, documentation, tracking, reporting and delivery of educational courses, training programs, or learning and development programs.

**“Module”** is a unit of instruction no shorter than .25 credit hours (12.5 minutes), and no longer than two credit hours (100 minutes), that covers topics contained in the ADRE approved Detailed Instructor Outline Prescribed Curriculum for Salesperson’s License. A course requires a minimum of 45 modules of instruction allowing the module to vary in length from the minimum minutes to the maximum credit hours.

**“School”** means a person or entity that offers a course of study towards completion of the education requirements leading to licensure or renewal of licensure. (A.R.S. 32-2101(54)) A school shall hold a current Certificate of School Approval. (A.A.C. R4-28-404(A))

**“Synchronous learning”** occurs when the interaction between the instructor and learner is simultaneous, or in real time.

**“Asynchronous learning”** occurs when interaction between the instructor and learner is non-simultaneous, or takes place at different times.

## **PRE LICENSING ONLINE EDUCATION GUIDELINES AND STANDARDS**

### **General Course Set-Up:**

Any course delivered in an online format is required to use a Learning Management System (LMS), Learning and Content Management System (LCMS), and/or written programing. The systems must ensure

that the students are presented information in an organized and effective manner. For course approval, all courses submitted to ADRE for approval must have a system that allows for the following requirements:

1. The ability for students and instructors to log into the system with user identity verification, as stated in number three below.
2. The ability to implement a personal identity verification requirement as stated in number three below.
3. Each provider of pre license online course content must have in place a system and process for identifying and authenticating online learners, ensuring the student who registers for a course is the student who completes the course material, and is the student who successfully passes the school's final exam.
  - a. The student authentication system must require each student to authenticate themselves each time they enter the course, and have one authentication during each logged in session, and prior to any final school exam for the course. The system must provide a detailed reporting structure allowing audits for compliance of student authentication by the Department, if requested.
  - b. Simple user name and password authentication, or the use of a student attestation is not sufficient. No information which may be freely exchanged shall constitute user authentication. The use of a Short Message Service (SMS) text messaging or "authenticate your device" technology is also not acceptable, as it is too easily shared. Due to accuracy and simplicity, the use of biometrics or personal and unique student information, not provided by the student, such as a biodata format is acceptable.
4. The capability to administer content in multiple formats, e.g. true/false, and/or multiple choice.
5. Enables the course administrator to track a student's time engaged with the course materials, units of instruction, and assignments/activities to ensure the student's time in the course and/or time on each subject meets or exceeds the required time in the course.
6. Provide a report that tracks student progress and course completion.
7. Provide students with a visual indicator as to the progress and time through the course.
8. Allow the student to stop, log-out, and then log back in to resume the course where they left off ("bookmarking").
9. Stop the progression of course time while the student is not interactive with the course material. Students cannot accumulate time for simply being in the course, nor should a student accumulate time while not engaged in some form of interaction.
10. Allow the student to access completed modules to review the content for a reasonable period of time.
11. Allow students the ability to retake quizzes and final exams for a reasonable number of times.
12. Support delivery of different content formats e.g. text, presentation of information through slides or screens, and streaming video and/or audio.
13. The system should be able to be accessed using common Web browsers e.g. Internet Explorer, Firefox, Safari, and Chrome.
14. Provide access to course material via the Internet 24 hours a day/ 7 days a week.

**ADRE Requirements:**

1. Prior to Departmental approval of a course, whether original or course renewal, the real estate school shall provide access to the Department to view and evaluate the course, in the manner the school proposes to deliver the course.
2. All real estate course content, including but not limited to: laws, administrative code, practices, policies, customs and standards of care, shall be applicable to Arizona real estate practice. No course shall include content that has no practical or meaningful application to Arizona real estate.
3. For each pre licensing online course approval submission to the Department, the school shall identify the Department-approved instructor who authored the course. The instructor must meet the same qualifications as established for instructors of live classroom course delivery, including course content competence. Instructors must remain actively licensed as an Arizona real estate broker in good standing with the Department during the approved course period.
4. The school administrator shall file with the Department an application for instructor approval or renewal. Instructor approval shall be for at least four years from the date of approval and is subject to amendment during the license period only if information material to the instructor's qualifications has changed, A.R.S. § 32-2135.
5. If a pre licensing online course approval is not granted within 90 days of application, the course shall be automatically approved on a provisional basis for 180 days, unless the Department notifies the school of specific deficiencies or unfulfilled requirements for the course submission.
6. A pre licensing online education course approval shall be for a period of at least four years if the contents of the online course remain current and substantially unchanged (A.R.S. § 32-2135(G)). Schools must regularly review and update the course content.
7. Each pre license online course must meet the requirements for the ADRE Detailed Instructor Outline Prescribed Curriculum as stated on the course approval application before being approved for pre licensing education credit in the prescribed curriculum.
8. The **50-minute-per-credit-hour** rule applies to online courses to be designed appropriately for adult learners. For example, a 90-credit-hour pre licensing course must incorporate a requirement that the student log a total of at least 4,500 minutes to complete the course. Each school must be able to measure the amount of time spent by the student in the school's course, and enforcement of the 50-minute-per-credit-hour requirement is subject to Department audit.
9. Each course approval application must include the school's plan for dealing with possible hardware and software failure, including appropriate contact information. A link to request help, or contact information should be available on the school's website and throughout every page, screen, or segment of the course.
10. Each page, screen, or segment of the course clearly indicates the approved ADRE instructor contact information, or a linked help tool should the student need assistance.

**Course Design:**

1. **Course Orientation.** The prospective student shall physically or electronically sign an agreement or application to enroll, presented to the student by the school administrator or electronically, that includes, but is not limited to, in bold type and capital letters: 1) The course, or course unit title within a curriculum; 2) The ADRE approved course number; 3) The total credit hours applicable to licensure; 4) The cost of the course, and any other anticipated costs; 5) A statement of the refund policy; 6) The web browser and any other system requirements, and any costs if not free; 7) A list of any/all required course material, with information on the accessibility and/or required anticipated cost of the material; 8) Course completion requirements; 9) Policies regarding attendance; 10) Topical outline; 11) Learning objectives; 12) The

geographic location of the “in person” online final school exam, and whether there is the ability to arrange an alternative proctoring location that adheres to the Department guidelines; and 13) A statement of any job placement services.

2. **Modules.** Each 90-hour course shall be divided into modules as defined above. Schools should time each module so that the student may not proceed in the course until the minimum time for the module has elapsed. The school must provide, through robust course content and delivery, a course that shall prevent all opportunities for students to move through the course too quickly. The course platform is to be configured such that the course modules are locked. This means the student is required to advance through modules in a linear fashion, and cannot advance to any subsequent module until the previous module and all associated instructional content interactivity quizzes have been passed.

3. **Instructional Content Interactivity.** Each module shall contain instances of instructional content interactivity questions at the discretion of the provider which may be achieved through multiple choice, true-false, matching, prioritizing, or other reasonably accepted formats. The entire 90 hour course must contain a minimum of 900 instances of instructional content of interactivity placed throughout the course modules.

Course delivery must include interactivity, and course performance measured by quizzes.

a. Additionally, at the end of each module, the student’s understanding must be assessed through a quiz using multiple choice questions, each with only one correct/best answer. The difficulty of the assessment/quiz should be reflective of the content presented in that module. The student must achieve a minimum passing score of 80 percent before proceeding in the course.

b. The entire 90-hour course must contain a minimum of 700 end of module multiple choice quiz questions that are different from any multiple choice questions used within a module to meet the interactivity requirements. The number of end-of-module quiz questions may vary from module to module, but shall reflect that module’s substance and length.

**Course Administration:** The following are required in the school administration of pre licensing online education courses:

**Course Timing Requirements:**

Every course is to be structured, and follow the approved course outline, and is to contain enough content and/or activities to meet the minimum time requirement of 50 seat minutes for each credit hour the course is approved for. The minimum total sum of time of all the modules for a 90-hour course will equal 4,500 minutes.

**Mandatory log-out for inactivity:** A course must log students completely out of the course after fifteen (15) minutes of inactivity. The timer must be a background function that is set to log out at fifteen (15) minutes when the student is not actively engaged in the course. If the student is logged out for lack of interactivity, the student is to be returned to the start of the unit of instruction where the inactivity was detected, and the student identity verification shall be required.

**Time Zone Consideration:** Some course providers may offer courses to students who are participating from multiple time zones. Course providers need to give consideration to this fact, schedule start time accordingly, and set student and instructor expectations such that all interaction can be completed within the required time period.

A person shall not receive credit for more than 10 hours of pre licensure education credit per day, A.A.C. R4-28-401(E). A provider shall verify that the 10 hour per day instruction requirement has not been violated.

**In Person Final School Exam:**

All online pre licensing courses are required to have an end-of-course school comprehensive examination delivered on a lock down browser covering the content of the course. Final school examination requirements shall contain a minimum of the following, 1) Not less than 150 questions with only one correct

best answer; 2) Final exam questions must be pulled from a question bank with a 2:1 ratio (300 question bank); 3) Questions must be related to the subject and content of the entire course, and proportionally reflect all major learning objectives (topics) covered in the teaching objectives of the course and may not contain true/false questions; 4) Exam must consist of multiple choice questions with at least four options for each question/item; 5) Questions must be of sufficient rigor that they support the courses learning objectives, test the student's knowledge, and ensure the student's comprehension and retention of the material; 6) Final exam may not count toward the overall time of the course; 7) A minimum 75% passing ratio must be achieved on the final exam before a school course completion certificate is issued; and 8) If end-of-module quiz questions are included in the final exam, they must be randomly re ordered and/or have the answers reordered.

The applicant (i.e. student) must complete a final school examination of the course online in person, at the approved school, or in person with an independent third party proctor selected by the school in accordance with ADRE required guidelines. The exam shall not be taken on any device provided by the student, i.e. personal computer, tablet, or phone.

The student shall utilize the same student identity authentication during the in person final exam, whether or not the exam is proctored, as was used throughout the course, in compliance with General Course Setup, section 3.

The school offering a third party proctor shall complete a prescribed Department Online Pre License School Exam Education Proctor Certification Form, and provide it to the proctor for compliance in advance of the in person school exam. After the examination is administered, the proctor should complete the remainder of the form and return it to the school. Acceptable third party proctors are:

- A licensed Arizona real estate school's administrator or ADRE approved pre licensing instructor at an ADRE licensed real estate facility;
- An assigned proctor employee at an official testing or learning center;
- An administrator, faculty, or academic advisor at a college or university;
- An educational officer at a military installation;
- A Director of Education at a real estate association.

**The school administrator is responsible to ensure the proctor follows the established school policy and procedure to administer the in person final school online exam. ADRE required minimum standards for proctor responsibilities include, but are not limited to,**

#### **Proctor Responsibilities**

- Identify the student with a photo ID – student identity authentication required at each login.
- Notify the student of what they are allowed to use on the exam as described in the exam instructions. **Cell phones and other electronic devices must be turned off and placed out of reach.**
- Make sure the student is aware of the time limit on the exam; proctors do not need to keep track of time for the student.
- In person supervision of the student taking the exam.
- Terminate the exam if the testing procedure is compromised due to the student's improper conduct. Notify the school administrator as soon as possible.
- If unusual circumstances occur, please contact the school administrator or appropriate local authority as soon as possible.

#### **Student Final Course Evaluation:**

Course providers must have a means by which to measure student satisfaction through an online end of course student course evaluation provided to the student before the exam. Course providers must be prepared to demonstrate that end-of-course evaluations are being submitted by the student and that substantive feedback is being incorporated in the course material.

Course providers must use the ADRE pre licensure course evaluation form covering both content and instructor delivery. The school administrator must be prepared to demonstrate that "end of course"



evaluations are being completed. All course evaluations must be retained by the school according to course number for five years from completion date.

**Issuance of Course Completion Certificate:**

Every student upon successful completion, at the end of every course, is required to be issued an ADRE required course completion certificate signed by school administrator. At a minimum, the course completion certificate is to include the following information:

- Name of the course provider
- School certification (license) number
- Course number
- Course title
- Course start date
- Course completion date
- Student's name
- Credit hours awarded
- School contact information
- Administrator signature

**Application of Provisions:** The above provisions apply to every original and renewal application for online pre licensing course approval.

**Authority:** A.R.S. §§ 32-2101, 32-2108, 32-2130, 32-2135 and 32-2153, and A.A.C. R4-28-101, R4-28-401, R4-28-402 and R4-28-404.

**Policy Program:** Education/Regulation

**Effective Dates:** Established January 3, 2019; Revised on September 28, 2022 to reflect renumbering of SPS 2022.04 - Instructor Professional Development Requirements, which was updated due to amendments made in Ariz. Laws Ch. 298 § 1 (2022).

**No. 2022.04 - Instructor Professional Development Requirements**

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.

**STATEMENT OF PURPOSE AND SCOPE**

This Substantive Policy Statement is intended to inform the regulated real estate education industry of the Department's interpretation and implementation of the education statutes and rules under the Department's original jurisdiction, through the establishment of real estate instructor professional development requirements.

**CONTENT INSTRUCTOR PROFESSIONAL DEVELOPMENT REQUIREMENTS**

The Law: In addition to instructor qualifications required pursuant to A.A.C. R4-28-404(C), the Department has established content instructor professional development requirements. Specifically: "The commissioner may determine... appropriate professional qualifications for approving instructors to teach individual educational courses." A.R.S. § 32-2135(E); and "The commissioner may withdraw or deny certification or approval of... real estate instructors for... failing to attend any continuing education course required by the commissioner." A.R.S. § 32-2135(C)(5).

As defined by 32-2101, "live classroom" means a course or instructional segment delivered in either an in-person classroom instructional format or a synchronous remote instructional format that allows students to observe and participate remotely in an instructional segment via live streaming.

A live classroom course may be held in person or via live streaming. If in person, it will be referred to by the Department as a Live Classroom In-person course. If via live streaming, it will be referred to by the Department as a Live Classroom Live Streaming Course. If offering both in-person and live streaming, it will be referred to by the Department as a Live Classroom Hybrid Course. Pursuant to A.R.S. § 32-2124, an applicant for licensure may complete the required course or instructional segments in any combination of in person or synchronous remote delivery methods.

A live classroom live streaming course held online in a synchronous remote instructional format may be a course held in classrooms with live streaming, synchronized platforms, bidirectional audio and video communications between the host and remote classrooms, administered by a live instructor from the host classroom, and monitored as required by onsite monitors in the classroom at each remote location. A live classroom live streaming course held in a synchronous remote instruction format may also be a course with a live instructor live streaming with bidirectional audio and video communications between the instructor and a student's location(s). Synchronous remote delivery must be delivered from and to an environment conducive to learning.

**Requirements and Administration:**

1. For an Instructor Applying for Individual Continuing Education Category Teaching Approval: Upon an original or renewal instructor approval application, or during the instructor's current four year approval period, the applicant shall provide evidence to the Department of having attended any combination of six hours of live classroom or distance learning Department-approved continuing education (CE) courses, taken within the 48 months immediately preceding the date of application, for each of the following seven CE categories in which the applicant wishes to be approved to teach:

- a. Agency Law
- b. Contract Law
- c. Commissioner's Standards

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- d. Real Estate Legal Issues
- e. Fair Housing
- f. Disclosure
- g. General Real Estate

2. For a Licensed Arizona Broker or Salesperson: As an alternative to paragraph 1 above, upon an original or renewal instructor approval application, or during the instructor's current approval period, a licensee applicant shall provide evidence to the Department of having renewed the licensee's Arizona broker's or salesperson's license twice within the 48 months immediately preceding the date of application for each of the following seven CE categories in which the applicant wishes to be approved to teach:

- a. Agency Law
- b. Contract Law
- c. Commissioner's Standards
- d. Real Estate Legal Issues
- e. Fair Housing
- f. Disclosure
- g. General Real Estate

3. For an Arizona Broker Applying for Approval to Teach a Pre license Education Course: Upon an original or renewal instructor approval application, or during the instructor's current approval period, the applicant shall provide evidence to the Department of having met the requirements of either paragraph 1 or 2 above for all seven CE categories, and paragraph 5 for all three Broker Management Clinic subject areas. A currently approved pre license instructor who does not hold a current broker's license is grandfathered and may maintain the prelicense approval by meeting the requirements of paragraph 1 above for all seven CE categories, and paragraph 5 for all three Broker Management Clinic subject areas.

4. For an Instructor Applying for Approval to Teach the 6-hour Contract Writing ("Boot Camp"): Upon an original or renewal instructor approval application, or during the instructor's current approval period, the applicant shall provide evidence to the Department of having attended twelve hours of Department-approved Contract Law courses, taken within the 48 months immediately preceding the date of application. No more than six of the CE hours may be in distance learning.

5. For an Arizona Broker Applying for Approval to Teach the Broker Management Clinic ("BMC"): Upon an original or renewal instructor approval application, or during the instructor's current approval period, the applicant shall provide evidence to the Department of having attended *two different* live classroom BMC courses for each of the following three CE subject areas in which the applicant wishes to be approved to teach, within the 48 months immediately preceding the date of application:

	<u>Courses</u>	<u>Hours</u>
a. Broker Management Clinic #1 – Statutes And Rules	2	6
b. Broker Management Clinic #2 – Broker Policies	2	6
c. Broker Management Clinic #3 – Supervision	<u>2</u>	<u>6</u>
Total:	6	18

**CONTENT INSTRUCTOR DEVELOPMENT WORKSHOP ("CONTENT IDW")**

The Law: Pursuant to authority of the Department: "The commissioner may determine... appropriate professional qualifications for approving instructors to teach individual educational courses." A.R.S. § 32-2135(E); and "The commissioner may withdraw or deny certification or approval of... real estate instructors for... failing to attend any continuing education course required by the commissioner." A.R.S. § 32-2135(C)(5).

**Discontinuance of the Content IDW Program:**

1. The Department previously approved numerous Content IDW courses that were individually designed and approved to satisfy twice their number of CE hours required for instructor approval to teach

in a specific CE or pre license course area. Effective the date of this Substantive Policy, the Content IDW Program is discontinued and no new Content IDW applications will be accepted by the Department. Previously approved Content IDW courses will not be eligible for renewal and will expire upon the course expiration date on the Department's course approval system.

2. A three hour minimum Content IDW previously taken by an instructor applicant within the 48 months prior to the original or renewal application date, or during the instructor's current approval period, with evidence of attendance submitted to the Department, will be accepted as equal to and qualifying for two of the regular CE courses in that category of instruction.

### **SKILLS INSTRUCTOR DEVELOPMENT WORKSHOP ("SKILLS IDW")**

The Law: "Beginning January 1, 2012, in the twenty-four months before application, each instructor original or renewal applicant, other than a panelist, guest speaker, an attorney or out-of-state instructor, shall attend at least a three hour professional seminar or workshop, approved by the department, emphasizing instruction methods, techniques and skills." A.R.S. § 32-2135 (L).

#### **Skills IDW Requirements & Administration:**

1. For Approval to Teach Pre license or Continuing Education: Upon the original or renewal instructor approval application, the applicant shall provide evidence to the Department of having attended at least one live classroom Department-approved 3-hour Skills IDW within the 24 months immediately preceding the date of application.

2. For Approval to Teach a Skills IDW: Upon an original or renewal instructor approval application, or during the instructor's current approval period, the applicant shall provide evidence to the Department of having attended at least six hours of live classroom Department-approved Skills IDW course(s) within the 24 months immediately preceding the date of application.

**Authority:** A.R.S. § 32-2135 and A.A.C. R4-28-404.

**Policy Program:** Education

**Effective Dates:** March 20, 2015, Revised January 10, 2022, Revised on September 28, 2022 to reflect Amendments made in Ariz. Laws Ch. 298 § 1 (2022).

#### **No. 2022.03 - Unlicensed Assistants**

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.

#### **STATEMENT OF PURPOSE AND SCOPE**

In looking at the issue of unlicensed assistants, various aspects must be considered, including what activities the individual will perform and how the individual is paid.

#### **Definitions**

**"Unlicensed Assistant"** is an unlicensed individual hired by an Arizona licensed real estate broker or salesperson as an assistant, who is not engaging in any activity for which a real estate license is required.

**"Compensation"** means 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 (A.R.S. § 32-2101(16)).

An unlicensed assistant cannot be compensated on any basis that relies on the ultimate sale or closing of a property. The employing broker or designated broker is responsible for addressing in its written policies and procedures who is responsible for hiring and compensating unlicensed assistants. The employing broker is responsible for all activities of licensed individuals within the brokerage pursuant to Arizona Revised Statutes and Rule.

All inclusions of the unlicensed assistant in advertising or marketing must indicate the individual as being "unlicensed" (A.R.S. § 32-2165(A)).

**An unlicensed assistant may:**

- Under the direct supervision of an Arizona licensee, perform the following tasks, which include, but are not limited to:
  - Personal errands for the licensee
  - Clerical/administrative tasks including filing, copying, mailing, scanning, answering phones, forwarding calls or transcribing callers' information for licensee
  - Using technology as a tool to complete tasks assigned by a licensee, which are not activities otherwise requiring a real estate license
  - Preparing marketing materials approved by the Designated Broker
  - Delivering documents
  - Assist at an open house with a licensee present
  - Set or confirm appointments for:
    - A licensee to list or show property
    - A buyer with a loan officer
    - A property inspector to inspect a home
    - A repair/maintenance person to perform repairs/maintenance
    - An appraiser to appraise property
  - Transmitting only instructions or information to clients, contractors, inspectors, appraisers and maintenance/repair people as completed and dictated by a licensee.
  - Unlocking a home for a licensee so that the licensee can show a client the property or preview the property (No discussion about the property).
  - A person who works for a real estate broker or a real estate salesperson may collect in-person rent and related fees on behalf of the real estate broker or real estate salesperson for the use of real estate as part of the person's clerical duties and who provides a receipt when rent is paid.

**An unlicensed assistant shall not perform the following activities:**

- Originate documents
- Perform a walk-through inspection or Tenant Vacate Inspection
- Provide advice, pricing, or opinions of value to a consumer
- Provide advice or negotiate with anyone regarding a property or transaction
- Assist in the preparation of documents **with** a consumer
- Hold/host an open house without a licensee being present
- Assist or direct in the procuring of prospects calculated to result in the sale, exchange, leasing or renting of real estate pursuant to A.R.S. 32-2101(50)(i) unless exempt under A.R.S. 32-2121(A)(10). **Be advised that the exemption in A.R.S. 32-2121(A)(10) is very fact specific and limited in scope.**
- Attend closing with a consumer without a licensee being present

**An unlicensed assistant may transfer monies or be a signatory on a property management trust account only when the unlicensed assistant:**

- Is in the direct employ of the broker, and
- Is a bona fide officer, member, principal or employee of the property management firm pursuant to A.R.S. § 32-2174(C) and employing broker pursuant to A.R.S. § 32-2101(24).

**An unlicensed assistant is otherwise not permitted to withdraw monies from the broker's trust account.**

Pursuant to A.R.S. 32-2165(B) A person who performs acts that require a license under this chapter, other than a broker's or salesperson's license, without being licensed as prescribed by this chapter is guilty of a class 5 felony.

**Employee Classification and Compensation:**

For additional information on ensuring proper classification of employees as 1099 Independent Contractors or W-2 Employees, visit the Internal Revenue Service, a Bureau of the United States Treasury at [irs.gov](https://www.irs.gov) or [here](#).

For additional information on ensuring proper wages and compensation for employees and other labor-related requirements, visit the United States Department of Labor at [dol.gov](https://www.dol.gov) or [here](#).

**Authority:** A.R.S. § 32-2101(50) defines the activities of a real estate broker for which licensure is required pursuant to A.R.S. §§ 32-2122, 32-2121, 32-2151.01(B), 32-2174(C). See also A.A.C. R4-28-1103.

**Policy Program:** Enforcement

**Effective Date:** Revised April 3, 2000; Revised & Renumbered 5/28/2004; Renumbered 4/01/2005; Revised & Renumbered 6/9/2017; Revised 9/29/2021; Revised on September 28, 2022 to reflect Amendments made in Ariz. Laws Ch. 298 § 1 (2022).

**No. 2022.02 Requirements for Teams**

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.

**STATEMENT OF PURPOSE AND SCOPE**

This Substantive Policy Statement is to inform the real estate industry of the relevant statutes and rules that govern real estate licensees and are applicable to real estate "Teams". Although not officially recognized entities in Arizona real estate law, Teams are impacted through statutes and rules that address activities within a real estate brokerage.

**Definitions**

**"Team"** is not a defined term under Arizona law. For purposes of this Substantive Policy Statement, a Team refers to an established business relationship of more than one Arizona real estate licensee, all of whom must be licensed with the same Arizona licensed real estate brokerage.

**"Advertising"** means the attempt by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television to induce directly or indirectly any person to enter into any obligation or acquire services with an individual for real estate purposes, A.R.S. § 32-2101(2).

**"Compensation"** means any fee, commission, salary, monies or other valuable consideration for services rendered or to be rendered, as well as the promise of consideration whether contingent or not, A.R.S. § 32-2101(16), and paid pursuant to A.R.S. § 32-2155(A).

**"Designated Broker"** means a natural person who is licensed as a broker under A.R.S. Title 32 Chapter 20, and is either designated to act on behalf of an Arizona real estate, cemetery or membership camping entity, or doing business as a sole proprietor, A.R.S. § 32-2101(21).

**"Employing Broker"** means a person who is licensed or is required to be licensed as a Broker Entity pursuant to A.R.S. § 32-2125, Subsection A, or a sole proprietorship if the sole proprietor is a broker licensed pursuant to A.R.S. § 32-2101(24).



### **Broker Policy and Procedure Manual**

An Employing Broker and a Designated Broker shall exercise reasonable supervision and control over the activities of brokers, salespersons, and others in the employ of the broker. The Employing Broker is responsible for all activities of licensed individuals within the brokerage pursuant to Arizona Revised Statutes and Rule, A.R.S. § 32-2153, A.A.C. R4-28-1103. If Teams operate within the brokerage, the Employing Broker is strongly encouraged to address Teams in their Broker Policy and Procedure Manual. Topics to address could include, but are not limited to:

- Team formation and dissolution
- Compensation and agreements with Team Members, including any required Broker approval
- Conflicts and Disputes
- Use of unlicensed assistants, if any, including the party responsible for hiring and compensation, whether employed by the Employing Broker or the Team. It is recommended that the Employing Broker emphasize that unlicensed assistants are not to engage in any activity for which a real estate license is required.
- Changes in license status
- Signage and advertising, A.R.S. §§ 32-2126, 32-2128, A.A.C. R4-28-502(E)
- Team names
- [Click here](#) to view the Model ADRE Policy and Procedures Manual

### **Team Activity**

All Team members that practice real estate in this state must possess an active Arizona real estate license, and be affiliated with the same Arizona licensed Employing Broker, A.R.S. § 32-2153(A)(7)(8). Licensed Team members must sign all prepared real estate transaction documents with their own legal name.

The Employing Broker is responsible for the supervision of Team activity of salespersons, Associate Brokers or others under the broker's employ and shall exercise reasonable supervision and control over the activities for which a license is required, A.R.S. § 32- 2153(A)(21). A real estate licensee that is a member of a Team may employ an unlicensed assistant to conduct limited activity that does not require a real estate license, to perform clerical, bookkeeping, accounting and other administrative and support duties. A person who performs acts that require a license, without being licensed is guilty of a class 5 felony, A.R.S. § 32-2165(B). (See SPS No. 2022.03 Unlicensed Assistants, [click here](#)).

A Designated Broker may authorize in writing an Associate Broker who the Designated Broker employs to review and initial on the Designated Broker's behalf, A.R.S. § 32- 2151.01(G). Only a Designated Broker, authorized Associate Broker, or employer other than the legally licensed broker as described in A.R.S. § 32-2155(A)(2) may direct the compensation distribution to licensed Team members. See below, under "Compensation," for definition.

### **Advertising**

The same advertising rules apply to a Team as apply to individual licensees. All advertising must clearly and prominently display the legal name of the Employing Broker, or the "doing- business as" (or "DBA") name as licensed with the Department, A.A.C. R4-28-502(E). It should be clear that the Team is not an independent entity, but is working under the auspices of the Employing Broker. An unlicensed person who acts as a broker or salesperson or who advertises in a manner that indicates that the person is licensed as a broker or salesperson, without being licensed is guilty of a class 6 felony, A.R.S. § 32-2165(A). (See **SPS No. 2007.18 Real Estate Licensee Advertising**, [click here](#)). A licensee must disclose their status as a licensee when selling, leasing, or exchanging their own property, and by placing the words "owner/agent" in any advertisement, A.A.C. R4-28-502.

### **Branch Office and Signage**

Team names cannot be used on branch office signage. Branch office signage shall conform only to the provisions of the principal office, and shall include only the name of the brokerage as licensed with the Department, A.R.S. §§ 32-2127(B), 32-2126. Each branch office shall affix a sign at the entrance to the

Brokerage office, in a place and position clearly visible to all entering the place of business, with the name of the Employing Broker, or the DBA name (if any), and the name of the Designated Broker, and shall include the designation "Branch Office".

An additional license is required for each branch office. Each Brokerage branch office must be under the management of a licensed broker or salesperson delegated in writing by the Designated Broker, A.R.S. § 32-2127(C). A Designated Broker may authorize in writing an Associate Broker, who the Designated Broker employs, to review and initial real estate documents on the Designated Broker's behalf, without releasing the Designated Broker from any responsibility, A.R.S. § 32-2151.01(G).

### **Compensation**

Each licensee shall accept employment and compensation only from the legally licensed broker to whom the licensee is licensed or employer other than the legally licensed broker as described in A.R.S. § 32-2155(A)(2); A.R.S. § 32-2153(A)(7). Each licensed member of a Team must receive their compensation directly from the Employing Broker or employer other than the legally licensed broker as described in A.R.S. § 32-2155(A)(2).

A.R.S. § 32-2155(A). Restriction on employment or compensation of person as broker or salesperson

A. A broker shall employ and pay only active licensees, and a licensee shall accept employment and compensation as a licensee only from either or both of the following:

1. The legally licensed broker to whom the licensee is licensed.
2. An employer other than the legally licensed broker as described in Paragraph 1 of this Subsection if the all of the following apply:
  - a. The Employer holds a license.
  - b. The Licensee is the Employer's Employee and receives a federal form W-2 Wage and Tax Statement.
  - c. The Employer has the same Employing Broker as the Licensee.
  - d. The Employer obtains written permission from the Employing Broker to pay the Licensee.

Unless otherwise and explicitly permitted by statute, the broker cannot pay the Team leader, PC, or PLLC, and have the Team leader distribute payment to licensed individuals, unless the licensed persons are an employee, officer or partner of the corporate entity. An unlicensed person cannot be compensated on any basis that relies on the ultimate sale or closing of a property, A.R.S. §§ 32-2122(D), 32-2101(16), A.A.C. R4-28-306.

### **Employee Classification and Compensation:**

For additional information on ensuring proper classification of employees as 1099 Independent Contractors or W-2 Employees, visit the Internal Revenue Service, a Bureau of the United States Treasury at [irs.gov](https://www.irs.gov) or [here](#).

For additional information on ensuring proper wages and compensation for employees and other labor-related requirements, visit the United States Department of Labor at [dol.gov](https://www.dol.gov) or [here](#).

**Authority:** Pursuant to A.R.S. § 32-2107, the Commissioner has charge of the Department and authority to administer the laws and rules adopted pursuant to Arizona Revised Statutes, Title 32, Chapter 20. A.R.S. § 32-2153(A)(7),(8) and A.R.S. § 32-2155(A) regulate employment status and compensation requirements for licensees. A.A.C. R4-28-1103 provides for broker oversight and control of all employees of the brokerage.

**Policy Program:** Compliance

**Effective Date:** Established March 11, 2020; Revised on September 28, 2022 to reflect Amendments made in Ariz. Laws Ch. 126 § 3 (2022)

## **Title 33, Chapter 9 CONDOMINIUMS**

### **Article 3 Management of the Condominium**

#### **33-1261. Flag display; for sale, rent or lease signs; political signs; political and community activities; applicability; definitions**

*(Ariz. Sess. Laws Ch. 125, § 1 (2022) and Ariz. Sess. Laws Ch. 272, § 1 (2022))*

A. Notwithstanding any provision in the condominium documents, an association shall not prohibit the outdoor display of any of the following:

1. The American flag or an official or replica of a flag of the uniformed services of the United States by a unit owner on that unit owner's property if the American flag or a uniformed services flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).
2. The POW/MIA flag.
3. The Arizona state flag.
4. An Arizona Indian nations flag.
5. The Gadsden flag.
6. A first responder flag. A first responder flag may incorporate the design of one or two other first responder flags to form a combined flag.
7. A blue star service flag or a gold star service flag.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the flags prescribed by subsection A of this section. The association rules may regulate the location and size of flagpoles but shall not prohibit installing a flagpole.

C. Notwithstanding any provision in the condominium documents, an association shall not prohibit or charge a fee for the use of, the placement of or the indoor or outdoor display of a for sale, for rent or for lease sign and a sign rider by a unit owner on that owner's property in any combination, including a sign that indicates the unit owner is offering the property for sale by owner. The size of a sign offering a property for sale, for rent or for lease shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. This subsection applies only to a commercially produced sign and an association may prohibit using signs that are not commercially produced. With respect to real estate for sale, for rent or for lease in the condominium, an association shall not prohibit in any way other than as is specifically authorized by this section or otherwise regulate any of the following:

1. Temporary open house signs or a unit owner's for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.
2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the condominium, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common elements of the condominium.
3. An owner's or an owner's agent's for rent or for lease sign unless an association's documents prohibit or restrict leasing of a unit or units. An association shall not further regulate a for rent or for lease sign or require the use of a particular for rent or for lease sign other than the for rent or for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches and on or in the unit owner's property. If rental or leasing of a unit is allowed, the association may prohibit an open house for rental or leasing being held before 8:00 a.m. or after 6:00 p.m.

D. Notwithstanding any provision in the condominium documents, an association shall not prohibit door-to-door political activity, including solicitations of support or opposition regarding candidates or ballot issues, and shall not prohibit circulating political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property normally open to visitors within the association, except that an association may do the following:

1. Restrict or prohibit door-to-door political activity regarding candidates or ballot issues from sunset to sunrise.

2. Require the prominent display of an identification tag for each person engaged in the activity, along with the prominent identification of the candidate or ballot issue that is the subject of the support or opposition.

E. Notwithstanding any provision in the condominium documents, an association shall not prohibit the indoor or outdoor display of a political sign by a unit owner by placement of a sign on that unit owner's property, including any limited common elements for that unit that are doors, walls or patios or other limited common elements that touch the unit, other than the roof. An association may prohibit the display of political signs as follows:

1. Earlier than seventy-one days before the day of a primary election.
2. Later than fifteen days after the day of the general election.
3. For a sign for a candidate in a primary election who does not advance to the general election, later than fifteen days after the primary election.

F. An association may regulate the size and number of political signs that may be placed in the common element ground, on a unit owner's property or on a limited common element for that unit if the association's regulation is not more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall not limit the number of political signs, except that the maximum aggregate total dimensions of all political signs on a unit owner's property shall not exceed nine square feet. An association shall not make any regulations regarding the number of candidates supported, the number of public officers supported or opposed in a recall or the number of propositions supported or opposed on a political sign.

G. An association shall not require political signs to be commercially produced or professionally manufactured or prohibit the utilization of both sides of a political sign.

H. Notwithstanding any provision in the condominium documents, an association may not prohibit or unreasonably restrict the indoor or outdoor display of an association-specific political sign by a unit owner by placement of a sign on that unit owner's property, including any limited common elements for that unit that are doors, walls or patios or other limited common elements that touch the unit, other than the roof. An association may adopt reasonable rules regarding the placement, location and manner of display of association-specific political signs, except an association shall not do any of the following:

1. Prohibit the display of association-specific political signs between the date that the association provides written or absentee ballots to unit owners and three days after the condominium election.
2. Limit the number of association-specific signs, except that the association may limit the aggregate total dimensions of all association-specific signs on a unit owner's property to not more than nine square feet.
3. Require association-specific political signs to be commercially produced or professionally manufactured or prohibit using both sides of the sign.
4. Regulate the number of candidates supported or opposed or the number of board members supported or opposed in a recall or the number of ballot measures supported or opposed on an association-specific political sign.
5. Make any other regulations regarding the content of an association-specific political sign, except that the association may prohibit using profanity and discriminatory text, images or content based on race, color, religion, sex, familial status or national origin as prescribed by federal or state fair housing laws.

I. A condominium is not required to comply with subsection D of this section if the condominium restricts vehicular or pedestrian access to the condominium. This section does not require a condominium to make its common elements other than roadways and sidewalks that are normally open to visitors available for the circulation of political petitions to anyone who is not an owner or resident of the community.

J. Notwithstanding any provision in the condominium documents, an association may not prohibit or unreasonably restrict a unit owner's ability to peacefully assemble and use common elements of the condominium if done in compliance with reasonable restrictions for the use of that property adopted by the board of directors. An individual unit owner or group of unit owners may assemble to discuss matters related to the condominium, including board of director elections or recalls, potential or actual ballot issues or revisions to the condominium documents, property maintenance or safety issues or any other condominium matters. A unit owner may invite one political candidate or one non-unit owner guest to speak to an assembly of unit owners about matters related to the condominium. The association shall not prohibit a unit owner from posting notices regarding those assemblies of unit owners on bulletin boards located on the

common elements or within common element facilities. An assembly of unit owners prescribed by this subsection does not constitute an official unit owners' meeting unless the meeting is noticed and convened as prescribed in the condominium documents and this chapter.

K. An association or managing agent that violates subsection C of this section forfeits and extinguishes the lien rights authorized under section 33-1256 against that unit for a period of six consecutive months after the date of the violation.

L. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

M. An association or managing agent that violates subsection C of this section forfeits and extinguishes the lien rights authorized under section 33-1256 against that unit for a period of six consecutive months after the date of the violation.

N. For the purposes of this section:

1. "Association-specific political sign" means a sign that supports or opposes a candidate for the board of directors or the recall of a board member or a condominium ballot measure that requires a vote of the association unit owners.

2. "First responder flag" means a flag that recognizes and honors the services of any of the following:

(a) Law enforcement and that is limited to the colors blue, black and white, the words "law enforcement", "police", "officers", "first responder", "honor our", "support our" and "department" and the symbol of a generic police shield in a crest or star shape.

(b) Fire department and that is limited to the colors red, gold, black and white, the words "fire", "fighters", "F", "D", "FD", "first responder", "department", "honor our" and "support our" and the symbol of a generic maltese cross.

(c) Paramedics or emergency medical technicians and that is limited to the colors blue, black and white, the words "first responder", "paramedic", "emergency medical", "service", "technician", "honor our" and "support our" and the symbol of a generic star of life.

3. "Political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

## **Title 33, Chapter 16 PLANNED COMMUNITIES**

### **Article 1 General Provisions**

#### **33-1808. Flag display; political signs; caution signs; for sale, rent or lease signs; political and community activities; definitions**

*(Ariz. Sess. Laws Ch. 125, § 2 (2022))*

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor front yard or backyard display of any of the following:

1. The American flag or an official or replica of a flag of the uniformed services of the United States by an association member on that member's property if the American flag or a uniformed services flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. The Gadsden flag.

6. A first responder flag. A first responder flag may incorporate the design of one or two other first responder flags to form a combined flag.

7. A blue star service flag or a gold star service flag.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the flags prescribed by subsection A of this section. The association rules may regulate the location and size of flagpoles, may limit the member to displaying not more than two flags at once and may limit the height of the flagpole to not more than the height of the rooftop of the member's home but shall not prohibit installing a flagpole in the front yard or backyard of the member's property.



C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs as follows:

1. Earlier than seventy-one days before the day of a primary election.
2. Later than fifteen days after the day of the general election.
3. For a sign for a candidate in a primary election who does not advance to the general election, later than fifteen days after the primary election.

D. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is not more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall not limit the number of political signs, except that the maximum aggregate total dimensions of all political signs on a member's property shall not exceed nine square feet.

E. Notwithstanding any provision in the community documents, an association shall not prohibit using cautionary signs regarding children if the signs are used and displayed as follows:

1. The signs are displayed in residential areas only.
2. The signs are removed within one hour of children ceasing to play.
3. The signs are displayed only when children are actually present within fifty feet of the sign.
4. The temporary signs are not taller than three feet in height.
5. The signs are professionally manufactured or produced.

F. Notwithstanding any provision in the community documents, an association shall not prohibit children who reside in the planned community from engaging in recreational activity on residential roadways that are under the jurisdiction of the association and on which the posted speed limit is twenty-five miles per hour or less.

G. Notwithstanding any provision in the community documents, an association shall not prohibit or charge a fee for the use of, the placement of or the indoor or outdoor display of a for sale, for rent or for lease sign and a sign rider by an association member on that member's property in any combination, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale, for rent or for lease shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. This subsection applies only to a commercially produced sign, and an association may prohibit using signs that are not commercially produced. With respect to real estate for sale, for rent or for lease in the planned community, an association shall not prohibit in any way other than as is specifically authorized by this section or otherwise regulate any of the following:

1. Temporary open house signs or a member's for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.
2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the planned community, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common areas of the planned community.
3. An owner's or an owner's agent's for rent or for lease sign unless an association's documents prohibit or restrict leasing of a member's property. An association shall not further regulate a for rent or for lease sign or require the use of a particular for rent or for lease sign other than the for rent or for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches on or in the member's property. If rental or leasing of a member's property is not prohibited or restricted, the association may prohibit an open house for rental or leasing being held before 8:00 a.m. or after 6:00 p.m.

H. Notwithstanding any provision in the community documents, an association shall not prohibit door-to-door political activity, including solicitations of support or opposition regarding candidates or ballot issues, and shall not prohibit circulating political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property normally open to visitors within the association, except that an association may do the following:

1. Restrict or prohibit the door-to-door political activity from sunset to sunrise.



2. Require the prominent display of an identification tag for each person engaged in the activity, along with the prominent identification of the candidate or ballot issue that is the subject of the support or opposition.
- I. A planned community shall not make any regulations regarding the number of candidates supported, the number of public officers supported or opposed in a recall or the number of propositions supported or opposed on a political sign.
- J. A planned community shall not require political signs to be commercially produced or professionally manufactured or prohibit the utilization of both sides of a political sign.
- K. Notwithstanding any provision in the community documents, an association may not prohibit or unreasonably restrict the indoor or outdoor display of an association-specific political sign by a member by placement of a sign on that member's property. An association may adopt reasonable rules regarding the placement, location and manner of display of association-specific political signs, except an association shall not do any of the following:
1. Prohibit the display of association-specific political signs between the date that the association provides written or absentee ballots to members and three days after the planned community election.
  2. Limit the number of association-specific signs, except that the association may limit the aggregate total dimensions of all association-specific signs on a member's property to not more than nine square feet.
  3. Require association-specific political signs to be commercially produced or professionally manufactured or prohibit using both sides of the sign.
  4. Regulate the number of candidates supported or opposed or the number of board members supported or opposed in a recall or the number of ballot measures supported or opposed on an association-specific political sign.
  5. Make any other regulations regarding the content of an association-specific political sign except that the association may prohibit using profanity and discriminatory text, images or content based on race, color, religion, sex, familial status or national origin as prescribed by federal or state fair housing laws.
- L. A planned community is not required to comply with subsection H of this section if the planned community restricts vehicular or pedestrian access to the planned community. This section does not require a planned community to make its common elements other than roadways and sidewalks that are normally open to visitors available for the circulation of political petitions to anyone who is not an owner or resident of the community.
- M. Notwithstanding any provision in the community documents, an association may not prohibit or unreasonably restrict a member's ability to peacefully assemble and use common areas of the planned community if done in compliance with reasonable restrictions for the use of that property adopted by the board of directors. An individual member or group of members may assemble to discuss matters related to the planned community, including board elections or recalls, potential or actual ballot issues or revisions to the community documents, property maintenance or safety issues or any other planned community matters. A member may invite one political candidate or one non-member guest to speak to an assembly of members about matters related to the community. The association shall not prohibit a member from posting notices regarding those assemblies of members on bulletin boards located on the common areas or within common area facilities. An assembly of members prescribed by this subsection does not constitute an official members' meeting unless the meeting is noticed and convened as prescribed in the community documents and this chapter.
- N. An association or managing agent that violates subsection G of this section forfeits and extinguishes the lien rights authorized under section 33-1807 against that member's property for a period of six consecutive months after the date of the violation.
- O. For the purposes of this section:
1. "Association-specific political sign" means a sign that supports or opposes a candidate for the board of directors or the recall of a board member or a planned community ballot measure that requires a vote of the association members.
  2. "First responder flag" means a flag that recognizes and honors the services of any of the following:

(a) Law enforcement and that is limited to the colors blue, black and white, the words "law enforcement", "police", "officers", "first responder", "honor our", "support our" and "department" and the symbol of a generic police shield in a crest or star shape.

(b) Fire department and that is limited to the colors red, gold, black and white, the words "fire", "fighters", "F", "D", "FD", "first responder", "department", "honor our" and "support our" and the symbol of a generic maltese cross.

(c) Paramedics or emergency medical technicians and that is limited to the colors blue, black and white, the words "first responder", "paramedic", "emergency medical", "service", "technician", "honor our" and "support our" and the symbol of a generic star of life.

3. "Political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

**33-1819. Artificial turf ban; prohibition; restrictions; attorney fees; applicability**

*(Ariz. Sess. Laws Ch. 101, § 1 (2022))*

A. Except as prescribed in subsection B of this section and notwithstanding any provision in the community documents, in any planned community that allows natural grass on a member's property, after the period of declarant control, the association may not prohibit installing or using artificial turf on any member's property. An association may do all of the following:

1. Adopt reasonable rules regarding the installation and appearance of artificial turf if those rules do not prevent installing artificial turf in the same manner that natural grass would be allowed by the community documents. Those rules may regulate the location on the property and percentage of the property that may be covered with artificial turf to the same extent as natural grass and may regulate artificial turf quality.

2. Require the removal of a member's artificial turf if the artificial turf creates a health or safety issue that the member does not correct.

3. Require replacement or removal of the artificial turf if the artificial turf is not maintained in accordance with the association's standards for maintenance.

B. The association may prohibit the installation of artificial turf if the artificial turf would be installed in an area that the association is required to maintain or irrigate. If an association prohibits new installation of natural grass on a member's property, the association may also prohibit new installation of artificial turf on a member's property, except that, in that instance, an association may not prohibit a member from converting natural grass to artificial turf on the member's property.

C. Notwithstanding any provision in the community documents, in an action against the association for a violation of this section, the court shall award reasonable attorney fees and costs to any party that prevails as determined by the court.

D. This section does not:

1. Affect an association's responsibility to carry out both the express and the reasonably implied intent of a declaration that provides that the design standards of the planned community are required to be followed to protect the natural environment in which the planned community is developed.

2. Apply to a planned community that has unique vegetation and geologic characteristics that require preservation by the association and in which the viability of those characteristics is protected, supported and enhanced as a result of the continued existence of natural landscaping materials.

## **TITLE 25 CHAPTER 3 DISSOLUTION OF MARRIAGE**

### **Article 2 Dissolution of Marriage**

**25-320 (P). Child support; factors; methods of payment; additional enforcement provisions; definitions**

P. Each licensing board or agency that issues professional, recreational or occupational licenses or certificates shall record on the application the social security number of the applicant and shall enter this

information in its database in order to aid the department of economic security in locating parents or their assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an applicant to use a number other than the social security number on the face of the license or certificate while the licensing board or agency keeps the social security number on file, the licensing board or agency shall advise an applicant of this fact.

## **TITLE 32 CHAPTER 43 BOARD LICENSURE, CERTIFICATION, AND REGISTRATION**

### **Article 1 General Provisions**

#### **32-4301 License, certificate or registration expiration; military active duty; one hundred eighty-day extension**

A. Except as otherwise provided in this section, a license, certificate or registration that is issued pursuant to this title to any member of the national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member. A license, certificate or registration that is issued pursuant to this title to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member.

B. A license, certificate or registration that is issued pursuant to this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license, certificate or registration if the member both:

1. Is released from active duty service.
2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license, certificate or registration.

C. If the license, certificate or registration is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license, certificate or registration and shall not be charged any additional costs such as late fees or delinquency fees.

D. The member, or the legal representative of the member, shall present to the authority issuing the license, certificate or registration a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

E. This section does not apply to licenses that are issued pursuant to chapter 10 of this title if a person other than the person who is a member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces is authorized to renew the license.

F. A license or certificate that is issued pursuant to chapter 36 of this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall be placed in active status for ninety days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the department of insurance and financial institutions of the federal active duty status of the member.

#### **32-4302. Out-of-state applicants; residents; military spouses; licensure; certification; exceptions; notice**

A. Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of station to a military installation located in this state if all of the following apply:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.
  2. The person has been licensed or certified by another state for at least one year.
  3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state.
  4. The person previously passed an examination required for the license or certification if required by the other state.
  5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct.
  6. The person has not had discipline imposed by any other regulating entity. If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.
  7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.
  8. The person pays all applicable fees.
  9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04.
- B. This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.
- C. Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.
- D. A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.
- E. This section does not apply to:
1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title.
  2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.
  3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact.
  4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in order to access state and federal criminal records information for noncriminal justice purposes.
- F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.
- G. A regulating entity under this title shall prominently print the following notice on all license and certificate applications and regulating entity websites:  
Pursuant to section 32-4302, Arizona Revised Statutes, a person shall be granted an occupational or professional license or certificate if the person has been licensed or certified in another state for at least twelve months, the license or certificate is in the same discipline and at the same practice level as the license or certificate for which the person is applying in this state and the person meets other conditions prescribed by section 32-4302, Arizona Revised Statutes.
- H. Before any regulating entity takes any official action to deny a professional or occupational license that a person applies for pursuant to this section, the regulating entity shall submit the application and the reason

for denial to the governor for review. The regulating entity shall notify the governor of any required time frames for approval or denial of the license application by the regulating entity.

I. Beginning July 1, 2022, all regulating entities that are required to issue occupational or professional licenses pursuant to this section shall track information about applications received in the format to be determined by the governor and annually report that information to the governor.

J. For the purposes of subsections H and I of this section, "regulating entity":

1. Means all executive departments, agencies and offices and all state boards and commissions.
2. Does not include:
  - (a) A state agency that is headed by a single elected state official.
  - (b) The corporation commission.
  - (c) Any board or commission established by ballot measure at or after the November 1998 general election.
  - (d) The judiciary.

### **32-4303. Military education, training and experience**

Notwithstanding any other law, the education, training or experience requirements for a license, certificate or registration issued pursuant to this title are completely or partially satisfied, as determined by the regulating entity, on presentation of satisfactory evidence that the applicant received substantially equivalent education, training or experience as a member of the United States armed forces or any national guard or other reserve component. The regulating entity shall work in conjunction with the department of veterans' services to access information regarding the applicant's military education, training or experience.

### **32-4304. Occupational and professional licenses; websites; reporting; definition**

A. A regulating entity that issues occupational or professional licenses shall:

1. Prominently post on its website home page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using such policies. Policies that ease licensing burdens include the following:
  - (a) Universal recognition of out-of-state licenses.
  - (b) Availability of temporary licenses.
  - (c) Fee waivers.
  - (d) Examination exemptions.
  - (e) Allowing an applicant to substitute military education or experience for licensing requirements.
2. Have a designated area on its website home page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for the applicant groups to receive a license.
3. Display all information required by paragraphs 1 and 2 of this subsection in a location that is easy to locate and shall use language that is clear and concise. A website home page feature may link to an internal webpage with more information if a regulating entity deems it necessary.
4. Beginning July 1, 2022, track whether each applicant is a veteran or military spouse and shall annually report the information gathered pursuant to this paragraph to the governor.

B. For the purposes of this section, "regulating entity":

1. Means all executive departments, agencies and offices and all state boards and commissions.
2. Does not include:
  - (a) A state agency that is headed by a single elected state official.
  - (b) The corporation commission.
  - (c) Any board or commission established by ballot measure at or after the November 1998 general election.
  - (d) The judiciary.



## **TITLE 41 CHAPTER 6 ADMINISTRATIVE PROCEDURE**

### **Article 7.2 Licensing Requirements**

#### **41-1080. Licensing eligibility; authorized presence; documentation; applicability; definitions**

A. No agency may enter into or amend any delegation agreement unless the delegation agreement clearly sets forth all of the following:

1. Each function, power or duty being delegated by the agency, the term of the agreement and the procedures for terminating the agreement.
2. The standards of performance required to fulfill the agreement.
3. The types of fees that will be imposed on regulated parties and the legal authority for imposing any such fees.
4. The qualifications of the personnel of the political subdivision responsible for exercising the delegated functions, powers or duties.
5. Record keeping and reporting requirements.
6. Auditing requirements if the delegation agreement includes the transfer of funds from the delegating agency to the political subdivision.
7. A definition of the enforcement role if enforcement authority is being delegated.
8. Procedures for resolving conflicts between the parties to the delegation agreement.
9. Procedures for amending the delegation agreement.
10. The names and addresses of primary contact persons at both the delegating agency and the political subdivision.

B. An agency that seeks to delegate functions, powers or duties shall file with the secretary of state a summary of the proposed delegation agreement. The summary shall provide the name of a person to contact in the agency with questions or comments and shall state that a copy of the proposed delegation agreement may be obtained upon request from the agency. The secretary of state shall publish the summary in the next register.

C. For at least thirty days after publication of the notice of the proposed delegation agreement in the register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient public interest.

D. A public hearing on the delegation agreement shall not be held earlier than thirty days after the notice of its location and time is published in the register. The agency shall determine a location and time for the public hearing that affords a reasonable opportunity for persons to participate. At that public hearing persons may present oral argument, data and views on the proposed delegation agreement.

E. After the conclusion of the public comment period and hearing, if any, the agency shall prepare a written summary, responding to the comments received, whether oral or written. The agency shall consider the comments received from the public in determining whether to enter into the proposed delegation agreement. The agency shall give written notice to those persons who submitted comments of the agency's decision on whether to enter into the proposed delegation agreement. The delegation agreement is effective thirty days after written notice of the agency's final decision is given unless an appeal is filed and pending before the council pursuant to subsection F.

F. A person who filed written comments with the delegating agency objecting to all or part of the proposed delegation agreement may appeal to the council the delegating agency's decision to enter into the delegation agreement within thirty days after the agency gives written notice to enter into the delegation agreement pursuant to subsection E. The council shall place the appeal of the delegation agreement on its next meeting agenda if at least three council members make such a request of the council chairman within two weeks of the filing of the appeal.

G. Delegation agreements that are appealed to and considered by the council shall become effective upon council approval of the delegation agreement. Delegation agreements that are appealed to the council and not considered by the council are effective either thirty days after written notice of the agency's final decision is given pursuant to subsection E, or two weeks after an appeal is filed if at least three council members do not request council consideration of the delegation agreement pursuant to subsection F, whichever date is later.



H. The council shall not approve the delegation agreement if it does not meet the provisions set forth in subsection A or if the agency has not provided adequate notice and an opportunity for comment to the public.

**41-1080.01. Licensing fees; waiver; annual report; definitions**

A. Except for an individual who applies for a license pursuant to title 36, chapter 4, article 10 or chapter 28.1, an agency shall waive any fee charged for an initial license for any of the following individuals if the individual is applying for that specific license in this state for the first time:

1. Any individual applicant whose family income does not exceed two hundred percent of the federal poverty guidelines.
2. Any active duty military service member's spouse.
3. Any honorably discharged veteran who has been discharged not more than two years before application.

B. On or before March 1 of each year, the department of administration shall report to the president of the senate, the speaker of the house of representatives, the joint legislative budget committee and the governor's office of strategic planning and budgeting the total number of waived licensing fees by each agency. The report shall specify for which purpose the fee was waived pursuant to this section.

C. For the purposes of this section, "agency" and "license" have the same meanings prescribed in section 41-1080.

## **TITLE 41 CHAPTER 27 LEGISLATIVE REVIEW OF AGENCIES AND EXPIRATION OF NEW PROGRAMS**

### **Article 2 Termination of Agencies**

**41-3030.05. State real estate department; termination July 1, 2030**

A. The state real estate department terminates on July 1, 2030.

B. Title 32, chapter 20 and this section are repealed on January 1, 2031.

## **TITLE 44 CHAPTER 15.1 RESIDENTIAL PROPERTY**

### **Article 1 General Provisions**

**44-5101. Wholesale buyers; wholesale sellers; disclosure; unlawful practice; definitions**

A. Before the parties enter into any binding agreement:

1. A wholesale buyer of residential real property shall disclose in writing to the seller that the buyer is a wholesale buyer.
2. A wholesale seller of residential real property shall disclose in writing to the buyer that the seller is a wholesale seller that holds an equitable interest in the real property and that the wholesale seller may not be able to convey title to the property.

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

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

D. For the purposes of this section:

1. "Residential real property" means real property with fewer than five dwelling units.
2. "Wholesale buyer" means a person or entity that enters into a purchase contract for residential real property as the buyer and assigns that same contract to another person or entity.
3. "Wholesale seller" means a person or entity that enters into a purchase contract for residential real property as the seller, that does not hold legal title to that real property and that assigns that same contract to another person or entity.

