State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

CHAPTER 239

HOUSE BILL 2357

AN ACT

AMENDING SECTION 32-2130, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012,  
CHAPTER 48, SECTION 1; AMENDING SECTIONS 32-2136 AND 32-2151, ARIZONA REVISED  
STATUTES; RELATING TO REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2130, Arizona Revised Statutes, as amended by Laws 2012, chapter 48, section 1, is amended to read:

32-2130. Renewal of licenses; education requirements; broker licensee renewal as salesperson licensee

A. A license may be renewed in a timely manner by filing an application for renewal in the manner prescribed by the commissioner, by paying the renewal fee specified in this chapter and by presenting evidence of attendance at a school certified by the commissioner during the preceding license period of twenty-four credit hours FOR SALESPERSONS AND ASSOCIATE BROKERS AND THIRTY CREDIT HOURS FOR DESIGNATED BROKERS OR FOR ASSOCIATE BROKERS EMPLOYED BY A DESIGNATED BROKER PURSUANT TO SECTION 32-2151.01, SUBSECTION G, or a lesser number of credit hours prescribed by the commissioner, of real estate oriented continuing education courses prescribed and approved by the commissioner. The total number of credit hours shall be accrued at a rate of twenty-four credit hours FOR SALESPERSONS AND ASSOCIATE BROKERS AND THIRTY CREDIT HOURS FOR DESIGNATED BROKERS OR FOR ASSOCIATE BROKERS EMPLOYED BY A DESIGNATED BROKER PURSUANT TO SECTION 32-2151.01, SUBSECTION G during each twenty-four month period of licensure. The department shall maintain a current list of approved courses. The commissioner may waive all or a portion of the continuing education requirement for good cause shown. The commissioner shall determine by rule the content of the twenty-four renewal credit hours. The twenty-four renewal credit hours may include the commissioner's current topics, including short sales. For the purposes of this subsection, "short sales" means real estate transactions in which the sales price is insufficient to pay the loan encumbering the property in addition to the costs of sale and the seller is unable to pay the difference.

B. If an applicant is renewing a license within one year after it expired, the applicant may apply continuing education hours completed after the expiration toward the continuing education required for renewal.

C. Each renewal application shall contain, as applicable, the same information required in an original application pursuant to section 32-2123.

D. Cemetery brokers and salespersons and membership camping brokers and salespersons are exempt from the educational requirements of this section.

E. Nothing in this section requires a licensee to attend department produced or sponsored courses if approved courses are otherwise available.

F. Between the expiration date of the license and the date of renewal of the license, the rights of the licensee under the license expire. While the license is expired it is unlawful for a person to act or attempt or offer to act in a manner included in the definition of a real estate, cemetery or membership camping broker or salesperson. If the license of an employing broker expires under this subsection, the licenses of persons who are employed by the employing broker shall be severed from the employing broker on the license expiration date of the employing broker. These persons may be
re hired on renewal of the employing broker's license. The department shall terminate a license that has been expired for more than one year.

G. Except as provided in section 32-4301, no more than one year after the license expiration date, the department shall renew a license without requiring the applicant to submit to an examination if the applicant held a license that was not canceled or suspended at the time of expiration. Except as provided in section 32-4301, the license period for a license renewed pursuant to this subsection commences the day after the expiration date of the expired license. Except as provided in section 32-2131, subsection A, paragraph 4 or 6, an applicant whose license has been terminated or revoked does not qualify for license renewal.

H. Any employee or immediate family member of any employee of this state who, pursuant to section 32-2110 or any other law, rule or requirement, is prohibited from using a license issued under this chapter shall have, on the request of the employee or family member, the license placed on inactive status, shall have the right to renew the license and shall not be required to pay further fees until the employee or family member is again eligible to use the license. Renewal fees for the license shall not be required for only as long as the employee or family member is prohibited from using the license.

I. The department shall not renew the license of 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. This subsection does not limit the commissioner's authority and discretion to deny the renewal for any other reason pursuant to this chapter.

J. A real estate broker licensee may renew as a real estate salesperson licensee without having to meet the requirements prescribed by section 32-2124, subsection B. If a person renews as a real estate salesperson pursuant to this subsection, the person shall pay the salesperson's renewal fee as prescribed in section 32-2132. If the person subsequently wants to obtain a real estate broker license, the person must meet the requirements of this chapter, including the requirements prescribed by section 32-2124, subsection C.

Sec. 2. Section 32-2136, Arizona Revised Statutes, is amended to read:

32-2136. Broker management clinics

A. The department shall determine the instructor qualifications for teaching broker management clinics and the course content of broker management clinics for persons required to attend these clinics pursuant to subsection C of this section.

B. A broker management clinic shall consist of three courses of three hours each. The course topics shall be broker statute and rule requirements, including instruction on department audits, and the legal obligations and responsibilities of designated brokers, broker policy development and employee supervision and broker responsibilities and related...
TOPICS. A broker management clinic may address record keeping requirements, trust fund accounts, advertising and promotions, employment agreements, contracts, fiduciary duties, material disclosures, department investigations, AND risk management, employee supervision and broker responsibilities and related topics. A broker management clinic may be designed to address property management activities, A SPECIALTY FIELD OF REAL ESTATE or sales activities, or both ANY COMBINATION DESCRIBED IN THIS SUBSECTION.

C. An applicant for an original real estate broker's license shall attend a broker management clinic before activating the license. A broker shall attend a broker management clinic before becoming a designated broker, unless the broker has attended a broker management clinic during the preceding twenty-three months. All active designated real estate brokers AND ASSOCIATE BROKERS EMPLOYED BY A DESIGNATED BROKER PURSUANT TO SECTION 32-2151.01, SUBSECTION G, shall attend a broker management clinic once during each twenty-four months of licensure after their initial attendance.

D. Attendance at a broker management clinic constitutes three COURSES OF THREE HOURS EACH FOR A TOTAL OF NINE credit hours of real estate oriented education pursuant to section 32-2130, subsection A.

Sec. 3. Section 32-2151, Arizona Revised Statutes, is amended to read:

32-2151. Disposition of funds; trust money deposit requirements

A. Unless otherwise provided in writing by all parties to a transaction, any licensed real estate broker who does not immediately place all funds entrusted to the broker, in the broker's capacity as a real estate broker, in a neutral escrow depository in this state shall upon receipt place all such funds in a trust fund account in a federally insured or guaranteed account in a depository located in this state. The commissioner may adopt such rules as are necessary to provide for records to be maintained and the manner in which such trust fund account deposits may be made.

B. The following minimum requirements apply to each broker's trust fund account:

1. The broker shall make deposits to trust fund accounts by deposit slips. Receipts or other documentation shall identify each transaction, the date and the amount of each deposit and the names of parties involved in the transaction represented by the deposit and monies shall be used only for the purpose for which the monies were deposited.

2. The broker shall retain a complete record of all monies received in connection with a real estate transaction in the main or branch office of the designated broker in this state or at an off-site storage location in this state if the broker provides prior written notification of the street address of the off-site storage location to the department. A broker's records shall be kept according to generally accepted accounting principles and shall include a properly descriptive receipts and disbursement journal and client ledger. The broker shall keep any computerized records in a manner allowing reconstruction in the event of destruction of electronic data. The broker shall maintain a trust fund account bank reconciliation and client ledger.
balance on a monthly basis and shall remove any interest earned on a trust fund account at least once every twelve months. A broker shall not permit advance payment of monies belonging to others to be deposited in the broker's personal account or to be commingled with personal monies. It is not considered commingling if, when establishing a trust fund account, a broker deposits monies not exceeding five hundred THREE THOUSAND dollars to keep the account open or to avoid charges for an insufficient minimum balance.

C. An agreement to place monies entrusted to the broker in a depository that is located outside of this state is valid if all parties to the transaction agree in writing and either:

1. The monies are placed in a property management trust account established pursuant to section 32-2174 and:
   (a) The account is federally insured or guaranteed.
   (b) The property management agreement contains:
      (i) Disclosure that the department's regulatory protections of the owner's monies may be significantly hampered.
      (ii) Disclosure that the owner may not have access to or any control over the trust account, except to audit and review the status of the account.
      (iii) An addendum that has the signed authorization by an appropriately empowered official of the depository in which the trust account is placed that the trust account and all related documentation will be open to examination by the department and the owner.

2. If the monies are not deposited in a property management trust account, the broker discloses to the parties to the transaction that potential risks may accrue as the result of depositing the monies in a depository outside this state.

D. This section shall not be construed to allow a broker to commingle monies entrusted to the broker with the broker's own monies, unless the commissioner adopts rules that allow commingling.

Sec. 4. Effective date
This act is effective from and after January 1, 2013.

APPROVED BY THE GOVERNOR APRIL 11, 2012.