

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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 32-2130. Renewal of licenses: education requirements: broker
5 licensee renewal as salesperson licensee

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

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

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

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

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

39 F. Between the expiration date of the license and the date of renewal
40 of the license, the rights of the licensee under the license expire. While
41 the license is expired it is unlawful for a person to act or attempt or offer
42 to act in a manner included in the definition of a real estate, cemetery or
43 membership camping broker or salesperson. If the license of an employing
44 broker expires under this subsection, the licenses of persons who are
45 employed by the employing broker shall be severed from the employing broker
46 on the license expiration date of the employing broker. These persons may be

1 rehired on renewal of the employing broker's license. The department shall
2 terminate a license that has been expired for more than one year.

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

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

21 I. The department shall not renew the license of a person who has been
22 convicted of a felony offense and who is currently incarcerated for the
23 conviction, paroled or under community supervision and under the supervision
24 of a parole or community supervision officer or who is on probation as a
25 result of the conviction. This subsection does not limit the commissioner's
26 authority and discretion to deny the renewal for any other reason pursuant to
27 this chapter.

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

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

37 32-2136. Broker management clinics

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

42 B. A broker management clinic shall ~~include~~ **CONSIST OF THREE COURSES**
43 **OF THREE HOURS EACH. THE COURSE TOPICS SHALL BE BROKER STATUTE AND RULE**
44 **REQUIREMENTS, INCLUDING** instruction on department audits, and ~~on~~ the **LEGAL**
45 **obligations and responsibilities** of designated brokers, **BROKER POLICY**
46 **DEVELOPMENT AND EMPLOYEE SUPERVISION AND BROKER RESPONSIBILITIES AND RELATED**

1 TOPICS. A broker management clinic ~~may~~ SHALL address record keeping
2 requirements, trust fund accounts, advertising and promotions, employment
3 agreements, contracts, fiduciary duties, material disclosures, department
4 investigations, ~~AND risk management, employee supervision and broker~~
5 ~~responsibilities and related topics~~. A broker management clinic may be
6 designed to address property management activities, A SPECIALTY FIELD OF REAL
7 ESTATE or sales activities, or ~~both~~ ANY COMBINATION DESCRIBED IN THIS
8 SUBSECTION.

9 C. An applicant for an original real estate broker's license shall
10 attend a broker management clinic before activating the license. A broker
11 shall attend a broker management clinic before becoming a designated broker,
12 unless the broker has attended a broker management clinic during the
13 preceding twenty-three months. All ~~active~~ designated ~~real estate~~ brokers AND
14 ASSOCIATE BROKERS EMPLOYED BY A DESIGNATED BROKER PURSUANT TO SECTION
15 32-2151.01, SUBSECTION G, shall attend a broker management clinic once during
16 each twenty-four months of licensure after their initial attendance.

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

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

21 32-2151. Disposition of funds; trust money deposit requirements

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

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

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

37 2. The broker shall retain a complete record of all monies received in
38 connection with a real estate transaction in the main or branch office of the
39 designated broker in this state or at an off-site storage location in this
40 state if the broker provides prior written notification of the street address
41 of the off-site storage location to the department. A broker's records shall
42 be kept according to generally accepted accounting principles and shall
43 include a properly descriptive receipts and disbursement journal and client
44 ledger. The broker shall keep any computerized records in a manner allowing
45 reconstruction in the event of destruction of electronic data. The broker
46 shall maintain a trust fund account bank reconciliation and client ledger

1 balance on a monthly basis and shall remove any interest earned on a trust
2 fund account at least once every twelve months. A broker shall not permit
3 advance payment of monies belonging to others to be deposited in the broker's
4 personal account or to be commingled with personal monies. It is not
5 considered commingling if, when establishing a trust fund account, a broker
6 deposits monies not exceeding ~~five hundred~~ THREE THOUSAND dollars to keep the
7 account open or to avoid charges for an insufficient minimum balance.

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

11 1. The monies are placed in a property management trust account
12 established pursuant to section 32-2174 and:

13 (a) The account is federally insured or guaranteed.

14 (b) The property management agreement contains:

15 (i) Disclosure that the department's regulatory protections of the
16 owner's monies may be significantly hampered.

17 (ii) Disclosure that the owner may not have access to or any control
18 over the trust account, except to audit and review the status of the account.

19 (iii) An addendum that has the signed authorization by an
20 appropriately empowered official of the depository in which the trust account
21 is placed that the trust account and all related documentation will be open
22 to examination by the department and the owner.

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

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

30 Sec. 4. Effective date

31 This act is effective from and after January 1, 2013.

APPROVED BY THE GOVERNOR APRIL 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2012.