

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO S.B. 1215  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-2101, Arizona Revised Statutes, is amended to  
3 read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acting in concert" means evidence of collaborating to pursue a  
7 concerted plan.

8 2. "Advertising" means the attempt by publication, dissemination,  
9 exhibition, solicitation or circulation, oral or written, or for broadcast on  
10 radio or television to induce directly or indirectly any person to enter into  
11 any obligation or acquire any title or interest in lands subject to this  
12 chapter including the land sales contract to be used and any photographs,  
13 drawings or artist's presentations of physical conditions or facilities  
14 existing or to exist on the property. Advertising does not include:

15 (a) Press releases or other communications delivered to newspapers,  
16 periodicals or other news media for general information or public relations  
17 purposes if no charge is made by the newspapers, periodicals or other news  
18 media for the publication or use of any part of these communications.

19 (b) Communications to stockholders as follows:

20 (i) Annual reports and interim financial reports.

21 (ii) Proxy materials.

22 (iii) Registration statements.

23 (iv) Securities prospectuses.

24 (v) Applications for listing of securities on stock exchanges.

25 (vi) Prospectuses.

26 (vii) Property reports.

27 (viii) Offering statements.

1           3. "Affiliate" means a person who, directly or indirectly through one  
2 or more intermediaries, controls, is controlled by or is under common control  
3 with the person specified.

4           4. "Associate broker" means a licensed broker employed by another  
5 broker. Unless otherwise specifically provided, an associate broker has the  
6 same license privileges as a salesperson.

7           5. "Barrier" means a natural or man-made geographical feature that  
8 prevents parcels of land from being practicably, reasonably and economically  
9 united or reunited and that was not caused or created by the owner of the  
10 parcels.

11           6. "Blanket encumbrance" means any mortgage, any deed of trust or any  
12 other encumbrance or lien securing or evidencing the payment of money and  
13 affecting more than one lot or parcel of subdivided land, or an agreement  
14 affecting more than one lot or parcel by which the subdivider holds the  
15 subdivision under an option, contract to sell or trust agreement. Blanket  
16 encumbrance does not include taxes and assessments levied by public  
17 authority.

18           7. "Board" means the state real estate advisory board.

19           8. "Broker", when used without modification, means a person who is  
20 licensed as a broker under this chapter or who is required to be licensed as  
21 a broker under this chapter.

22           9. "Business broker" means a real estate broker who acts as an  
23 intermediary or agent between sellers or buyers, or both, in the sale or  
24 purchase, or both, of businesses or business opportunities where a lease or  
25 sale of real property is either a direct or incidental part of the  
26 transaction.

27           10. "Camping site" means a space designed and promoted for the purpose  
28 of locating any trailer, tent, tent trailer, pickup camper or other similar  
29 device used for camping.

30           11. "Cemetery" or "cemetery property" means any one, or a combination  
31 of more than one, of the following in a place used, or intended to be used,  
32 and dedicated for cemetery purposes:

33           (a) A burial park, for earth interments.

34           (b) A mausoleum, for crypt or vault entombments.

35           (c) A crematory, or a crematory and columbarium, for cinerary  
36 interments.

1 (d) A cemetery plot, including interment rights, mausoleum crypts,  
2 niches and burial spaces.

3 12. "Cemetery broker" means a person other than a real estate broker or  
4 real estate salesperson who, for another, for compensation:

5 (a) Sells, leases or exchanges cemetery property or interment services  
6 of or for another, or on the person's own account.

7 (b) Offers for another or for the person's own account to buy, sell,  
8 lease or exchange cemetery property or interment services.

9 (c) Negotiates the purchase and sale, lease or exchange of cemetery  
10 property or interment services.

11 (d) Negotiates the purchase or sale, lease or exchange, or lists or  
12 solicits, or negotiates a loan on or leasing of cemetery property or  
13 interment services.

14 13. "Cemetery salesperson" means a natural person who acts on the  
15 person's own behalf or through and on behalf of a professional limited  
16 liability company or a professional corporation engaged by or on behalf of a  
17 licensed cemetery or real estate broker, or through and on behalf of a  
18 corporation, partnership or limited liability company that is licensed as a  
19 cemetery or real estate broker, to perform any act or transaction included in  
20 the definition of cemetery broker.

21 14. "Commissioner" means the state real estate commissioner.

22 15. "Common promotional plan" means a plan, undertaken by a person or a  
23 group of persons acting in concert, to offer lots for sale or lease. If the  
24 land is offered for sale by a person or group of persons acting in concert,  
25 and the land is contiguous or is known, designated or advertised as a common  
26 unit or by a common name, the land is presumed, without regard to the number  
27 of lots covered by each individual offering, as being offered for sale or  
28 lease as part of a common promotional plan. Separate subdividers selling  
29 lots or parcels in separately platted subdivisions within a master planned  
30 community shall not be deemed to be offering their combined lots for sale or  
31 lease as part of a common promotional plan.

32 16. "Compensation" means any fee, commission, salary, money or other  
33 valuable consideration for services rendered or to be rendered as well as the  
34 promise of consideration whether contingent or not.

1           17. "Contiguous" means lots, parcels or fractional interests that share  
2 a common boundary or point. Lots, parcels or fractional interests are not  
3 contiguous if they are separated by either of the following:

4           (a) A barrier.

5           (b) A road, street or highway that has been established by this state  
6 or by any agency or political subdivision of this state, that has been  
7 designated by the federal government as an interstate highway or that has  
8 been regularly maintained by this state or by any agency or political  
9 subdivision of this state and has been used continuously by the public for at  
10 least the last five years.

11           18. "Control" or "controlled" means a person who, through ownership,  
12 voting rights, power of attorney, proxy, management rights, operational  
13 rights or other rights, has the right to make decisions binding on an entity,  
14 whether a corporation, a partnership or any other entity.

15           19. "Corporation licensee" means a lawfully organized corporation that  
16 is registered with the Arizona corporation commission and that has an officer  
17 licensed as the designated broker pursuant to section 32-2125.

18           20. "Department" means the state real estate department.

19           21. "Designated broker" means the natural person who is licensed as a  
20 broker under this chapter and who is either:

21           (a) Designated to act on behalf of an employing real estate, cemetery  
22 or membership camping entity.

23           (b) Doing business as a sole proprietor.

24           22. "Developer" means a person who offers real property in a  
25 development for sale, lease or use, either immediately or in the future, on  
26 the person's own behalf or on behalf of another person, under this chapter.  
27 Developer does not include a person whose involvement with a development is  
28 limited to the listing of property within the development for sale, lease or  
29 use.

30           23. "Development" means any division, proposed division or use of real  
31 property that the department has authority to regulate, including subdivided  
32 and unsubdivided lands, cemeteries, condominiums, timeshares, membership  
33 campgrounds and stock cooperatives.

34           24. "Employing broker" means a person who is licensed or is required to  
35 be licensed as a:

36           (a) Broker entity pursuant to section 32-2125, subsection A.

1           (b) Sole proprietorship if the sole proprietor is a broker licensed  
2 pursuant to this chapter.

3           25. "Fractional interest" means an undivided interest in improved or  
4 unimproved land, lots or parcels of any size created for the purpose of sale  
5 or lease and evidenced by any receipt, certificate, deed or other document  
6 conveying the interest. Undivided interests in land, lots or parcels created  
7 in the names of a husband and wife as community property, joint tenants or  
8 tenants in common, or in the names of other persons who, acting together as  
9 part of a single transaction, acquire the interests without a purpose to  
10 divide the interests for present or future sale or lease shall be deemed to  
11 constitute only one fractional interest.

12           26. "Improved lot or parcel" means a lot or parcel of a subdivision  
13 upon which lot or parcel there is a residential, commercial or industrial  
14 building or concerning which a contract has been entered into between a  
15 subdivider and a purchaser that obligates the subdivider directly, or  
16 indirectly through a building contractor, to complete construction of a  
17 residential, commercial or industrial building on the lot or parcel within  
18 two years from the date on which the contract of sale for the lot is entered  
19 into.

20           27. "Inactive license" means a license issued pursuant to article 2 of  
21 this chapter to a licensee who is on inactive status during the current  
22 license period and who is not engaged by or on behalf of a broker.

23           28. "Lease" or "leasing" includes any lease, whether it is the sole,  
24 the principal or any incidental part of a transaction.

25           29. "License" means the whole or part of any agency permit,  
26 certificate, approval, registration, public report, charter or similar form  
27 of permission required by this chapter.

28           30. "License period" means the two year period beginning with the date  
29 of original issue or renewal of a particular license and ending on the  
30 expiration date, if any.

31           31. "Licensee" means a person to whom a license for the current license  
32 period has been granted under any provision of this chapter, and, for  
33 purposes of section 32-2153, subsection A, shall include original license  
34 applicants.

35           32. "Limited liability company licensee" means a lawfully organized  
36 limited liability company that has a member or manager who is a natural

1 person and who is licensed as the designated broker pursuant to section  
2 32-2125.

3 33. "Lot reservation" means an expression of interest by a prospective  
4 purchaser in buying at some time in the future a subdivided or unsubdivided  
5 lot, unit or parcel in this state. In all cases, a subsequent affirmative  
6 action by the prospective purchaser must be taken to create a contractual  
7 obligation to purchase.

8 34. "Master planned community" means a development that consists of two  
9 or more separately platted subdivisions and that is either subject to a  
10 master declaration of covenants, conditions or restrictions, is subject to  
11 restrictive covenants sufficiently uniform in character to clearly indicate a  
12 general scheme for improvement or development of real property or is governed  
13 or administered by a master owner's association.

14 35. "Member" means a member of the real estate advisory board.

15 36. "Membership camping broker" means a person, other than a  
16 salesperson, who, for compensation:

17 (a) Sells, purchases, lists, exchanges or leases membership camping  
18 contracts.

19 (b) Offers to sell, purchase, exchange or lease membership camping  
20 contracts.

21 (c) Negotiates or offers, attempts or agrees to negotiate the sale,  
22 purchase, exchange or lease of membership camping contracts.

23 (d) Advertises or holds himself out as being engaged in the business  
24 of selling, buying, exchanging or leasing membership camping contracts or  
25 counseling or advising regarding membership camping contracts.

26 (e) Assists or directs in the procuring of prospects calculated or  
27 intended to result in the sale, purchase, listing, exchange or lease of  
28 membership camping contracts.

29 (f) Performs any of the foregoing acts as an employee or on behalf of  
30 a membership camping operator or membership contract owner.

31 37. "Membership camping contract" means an agreement offered or sold in  
32 this state evidencing a purchaser's right or license to use the camping or  
33 outdoor recreation facilities of a membership camping operator and includes a  
34 membership that provides for this use.

35 38. "Membership camping operator" means an enterprise, other than one  
36 that is tax exempt under section 501(c)(3) of the internal revenue code of

1 1986, as amended, that solicits membership paid for by a fee or periodic  
2 payments and has as one of its purposes camping or outdoor recreation  
3 including the use of camping sites primarily by members. Membership camping  
4 operator does not include camping or recreational trailer parks that are open  
5 to the general public and that contain camping sites rented for a per use fee  
6 or a mobile home park.

7 39. "Membership camping salesperson" means a natural person who acts on  
8 the person's own behalf or through and on behalf of a professional limited  
9 liability company or a professional corporation engaged by or on behalf of a  
10 licensed membership camping or real estate broker, or by or on behalf of a  
11 corporation, partnership or limited liability company that is licensed as a  
12 membership camping or real estate broker, to perform any act or participate  
13 in any transaction in a manner included in the definition of membership  
14 camping broker.

15 40. "Partnership licensee" means a partnership with a managing general  
16 partner who is licensed as the designated broker pursuant to section 32-2125.

17 41. "Permanent access", as required under article 4 of this chapter,  
18 means permanent access from the subdivision to any federal, state or county  
19 highway.

20 42. "Perpetual or endowed-care cemetery" means a cemetery wherein lots  
21 or other burial spaces are sold or transferred under the representation that  
22 the cemetery will receive "perpetual" or "endowed" care as defined in this  
23 section free of further cost to the purchaser after payment of the original  
24 purchase price for the lot, burial space or interment right.

25 43. "Perpetual-care" or "endowed-care" means the maintenance and care  
26 of all places where interments have been made of the trees, shrubs, roads,  
27 streets and other improvements and embellishments contained within or forming  
28 a part of the cemetery. This shall not include the maintenance or repair of  
29 monuments, tombs, copings or other man-made ornaments as associated with  
30 individual burial spaces.

31 44. "Person" means any individual, corporation, partnership or company  
32 and any other form of multiple organization for carrying on business, foreign  
33 or domestic.

34 45. "Private cemetery" means a cemetery or place that is not licensed  
35 under article 6 of this chapter, where burials or interments of human remains  
36 are made, in which sales or transfers of interment rights or burial plots are

1 not made to the public and in which not more than ten interments or burials  
2 occur annually.

3 46. "Promotion" or "promotional practice" means advertising and any  
4 other act, practice, device or scheme to induce directly or indirectly any  
5 person to enter into any obligation or acquire any title or interest in or  
6 use of real property subject to this chapter, including meetings with  
7 prospective purchasers, arrangements for prospective purchasers to visit real  
8 property, travel allowances and discount, exchange, refund and cancellation  
9 privileges.

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

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

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

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

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

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

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

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

31 (g) Collects or offers, attempts or agrees to collect rent for the use  
32 of real estate, businesses and business opportunities or timeshare interests.

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



1 regarding real estate, businesses and business opportunities or timeshare  
2 interests.

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

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

9 (k) Incident to the sale of real estate, businesses and business  
10 opportunities negotiates or offers, attempts or agrees to negotiate a loan  
11 secured or to be secured by any mortgage or other encumbrance upon or  
12 transfer of real estate, businesses and business opportunities or timeshare  
13 interests subject to section 32-2155, subsection C. This subdivision does  
14 not apply to mortgage brokers as defined in and subject to title 6, chapter  
15 9, article 1.

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

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

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

34 (o) Performs any of the acts listed in subdivisions (a) through (m) of  
35 this paragraph as an employee of, or in behalf of, the owner of real estate,

1 or interest in the real estate, or improvements affixed on the real estate,  
2 for compensation.

3 (p) Acts as a business broker.

4 49. "Real estate sales contract" means an agreement in which one party  
5 agrees to convey title to real estate to another party upon the satisfaction  
6 of specified conditions set forth in the contract.

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

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

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

24 53. "School" means a person or entity that offers a course of study  
25 towards completion of the education requirements leading to licensure or  
26 renewal of licensure under this chapter.

27 54. "Stock cooperative" means a corporation to which all of the  
28 following apply:

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

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

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

1           55. "Subdivider" means any person who offers for sale or lease six or  
2 more lots, parcels or fractional interests in a subdivision or who causes  
3 land to be subdivided into a subdivision for the subdivider or for others, or  
4 who undertakes to develop a subdivision, but does not include a public agency  
5 or officer authorized by law to create subdivisions.

6           56. "Subdivision" or "subdivided lands":

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

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

13           (c) Does not include:

14           (i) Leasehold offerings of one year or less.

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

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

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

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

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

1           58. "Trustee" means:

2           (a) A person designated under section 32-2194.27 to act as a trustee  
3 for an endowment-care cemetery fund.

4           (b) A person holding bare legal title to real property under a  
5 subdivision trust. A trustee shall not be deemed to be a developer,  
6 subdivider, broker or salesperson within this chapter.

7           59. "Unimproved lot or parcel" means a lot or parcel of a subdivision  
8 that is not an improved lot or parcel.

9           60. "Unsubdivided lands":

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

16          (b) INCLUDES ANY LAND THAT IS SOLD THAT WOULD OTHERWISE CONSTITUTE THE  
17 SIXTH LOT, PARCEL OR FRACTIONAL INTEREST IF THE SALE OCCURS TEN OR MORE YEARS  
18 AFTER THE EARLIEST OF THE PREVIOUS FIVE SALES AND IF ALL OF THE SALES CONSIST  
19 OF PROPERTY THAT WAS ORIGINALLY CONTAINED WITHIN THE SAME LOT, PARCEL OR  
20 FRACTIONAL INTEREST THAT IS THIRTY-SIX ACRES OR MORE AND LESS THAN ONE  
21 HUNDRED SIXTY ACRES."

22 Amend title to conform

GAIL GRIFFIN

1215gg2.doc  
02/13/2014  
4:34 PM  
C: mu