

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HOUSE BILL 2655

AN ACT

AMENDING SECTIONS 32-2101, 32-2124, 32-2132, 32-2135 AND 32-2163, 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 32-2101, 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
10 on radio or television to induce directly or indirectly any person to
11 enter into any obligation or acquire any title or interest in lands
12 subject to this chapter including the land sales contract to be used and
13 any photographs, drawings or artist's presentations of physical conditions
14 or facilities existing or to exist on the property. Advertising does not
15 include:

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

21 (b) Communications to stockholders as follows:

22 (i) Annual reports and interim financial reports.

23 (ii) Proxy materials.

24 (iii) Registration statements.

25 (iv) Securities prospectuses.

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

27 (vi) Prospectuses.

28 (vii) Property reports.

29 (viii) Offering statements.

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

33 4. "Associate broker" means a licensed broker WHO IS employed by
34 another broker. Unless otherwise specifically provided, an associate
35 broker has the same license privileges as a salesperson.

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

40 6. "Blanket encumbrance" means any mortgage, any deed of trust or
41 any other encumbrance or lien securing or evidencing the payment of money
42 and affecting more than one lot or parcel of subdivided land, or an
43 agreement affecting more than one lot or parcel by which the subdivider
44 holds the subdivision under an option, contract to sell or trust

1 agreement. Blanket encumbrance does not include taxes and assessments
2 THAT ARE levied by public authority.

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

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

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

12 10. "Camping site" means a space THAT IS designed and promoted for
13 the purpose of locating any trailer, tent, tent trailer, pickup camper or
14 other similar device used for camping.

15 11. "Cemetery" or "cemetery property" means any one, or a
16 combination of more than one, of the following in a place THAT IS used, or
17 intended to be used, and dedicated for cemetery purposes:

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

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

20 (c) A crematory, or a crematory and columbarium, for cinerary
21 interments.

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

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

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

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

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

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

35 13. "Cemetery salesperson" means a natural person who acts on the
36 person's own behalf or through and on behalf of a professional limited
37 liability company or a professional corporation engaged by or on behalf of
38 a licensed cemetery or real estate broker, or through and on behalf of a
39 corporation, partnership or limited liability company that is licensed as
40 a cemetery or real estate broker, to perform any act or transaction
41 included in the definition of cemetery broker.

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

43 15. "Common promotional plan" means a plan, undertaken by a person
44 or a group of persons acting in concert, to offer lots for sale or
45 lease. If the land is offered for sale by a person or group of persons

1 acting in concert, and the land is contiguous or is known, designated or
2 advertised as a common unit or by a common name, the land is presumed,
3 without regard to the number of lots covered by each individual offering,
4 as being offered for sale or lease as part of a common promotional
5 plan. Separate subdividers selling lots or parcels in separately platted
6 subdivisions within a master planned community shall not be deemed to be
7 offering their combined lots for sale or lease as part of a common
8 promotional plan.

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

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

15 (a) A barrier.

16 (b) A road, street or highway that has been established by this
17 state or by any agency or political subdivision of this state, that has
18 been designated by the federal government as an interstate highway or that
19 has been regularly maintained by this state or by any agency or political
20 subdivision of this state and has been used continuously by the public for
21 at least the last five years.

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

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

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

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

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

34 (b) Doing business as a sole proprietor.

35 22. "Developer" means a person who offers real property in a
36 development for sale, lease or use, either immediately or in the future,
37 on the person's own behalf or on behalf of another person, under this
38 chapter. Developer does not include a person whose involvement with a
39 development is limited to the listing of property within the development
40 for sale, lease or use.

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

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

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

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

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

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

23 27. "Inactive license" means a license THAT IS issued pursuant to
24 article 2 of this chapter to a licensee who is on inactive status during
25 the current license period and who is not engaged by or on behalf of a
26 broker.

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

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

32 ~~30.~~ 30. "Licensee" means a person to whom a license for the current
33 license period has been granted under any provision of this chapter, and,
34 for purposes of section 32-2153, subsection A, shall include original
35 license applicants.

36 ~~30.~~ 31. "License period" means the ~~two-year~~ TWO-YEAR period
37 beginning with the date of original issue or renewal of a particular
38 license and ending on the expiration date, if any.

39 32. "Limited liability company licensee" means a lawfully organized
40 limited liability company that has a member or manager who is a natural
41 person and who is licensed as the designated broker pursuant to section
42 32-2125.

43 33. "Lot reservation" means an expression of interest by a
44 prospective purchaser in buying at some time in the future a subdivided or
45 unsubdivided lot, unit or parcel in this state. In all cases, a

1 subsequent affirmative action by the prospective purchaser must be taken
2 to create a contractual obligation to purchase.

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

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

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

12 (a) Sells, purchases, lists, exchanges or leases membership camping
13 contracts.

14 (b) Offers to sell, purchase, exchange or lease membership camping
15 contracts.

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

18 (d) Advertises or holds himself out as being engaged in the
19 business of selling, buying, exchanging or leasing membership camping
20 contracts or counseling or advising regarding membership camping
21 contracts.

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

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

27 37. "Membership camping contract" means an agreement **THAT IS** offered
28 or sold in this state evidencing a purchaser's right or license to use the
29 camping or outdoor recreation facilities of a membership camping operator
30 and includes a membership that provides for this use.

31 38. "Membership camping operator" means an enterprise, other than
32 one that is tax exempt under section 501(c)(3) of the internal revenue
33 code of 1986, as amended, that solicits membership paid for by a fee or
34 periodic payments and has as one of its purposes camping or outdoor
35 recreation, including the use of camping sites primarily by
36 members. Membership camping operator does not include camping or
37 recreational trailer parks that are open to the general public and that
38 contain camping sites rented for a per use fee or a mobile home park.

39 39. "Membership camping salesperson" means a natural person who acts
40 on the person's own behalf or through and on behalf of a professional
41 limited liability company or a professional corporation engaged by or on
42 behalf of a licensed membership camping or real estate broker, or by or on
43 behalf of a corporation, partnership or limited liability company that is
44 licensed as a membership camping or real estate broker, to perform any act

1 or participate in any transaction in a manner included in the definition
2 of membership camping broker.

3 40. "ONLINE COURSE" MEANS PRELICENSURE EDUCATION THAT IS A PLANNED
4 LEARNING EXPERIENCE WITH A GEOGRAPHIC SEPARATION THAT MAY BE SYNCHRONOUS
5 OR ASYNCHRONOUS, THAT DOES NOT REQUIRE REAL-TIME INTERACTION BETWEEN A
6 STUDENT AND AN INSTRUCTOR AND THAT USES A PLATFORM WITH SELF-PACED OR
7 PRERECORDED LESSONS AND MATERIALS THAT A STUDENT CAN ACCESS VIA THE
8 INTERNET TO PROCEED AT THE STUDENT'S OWN PACE.

9 ~~40.~~ 41. "Partnership licensee" means a partnership with a managing
10 general partner who is licensed as the designated broker pursuant to
11 section 32-2125.

12 ~~41.~~ 42. "Permanent access", as required under article 4 of this
13 chapter, means permanent access from the subdivision to any federal, state
14 or county highway.

15 ~~43.~~ ~~"Perpetual-care PERPETUAL CARE"~~ or ~~"endowed-care ENDOWED CARE"~~
16 means the maintenance and care of all places where interments have been
17 made of the trees, shrubs, roads, streets and other improvements and
18 embellishments contained within or forming a part of the cemetery. ~~This~~
19 ~~shall~~ BUT DOES not include the maintenance or repair of monuments, tombs,
20 copings or other man-made ornaments as associated with individual burial
21 spaces.

22 ~~42.~~ 44. "Perpetual or endowed-care cemetery" means a cemetery
23 wherein lots or other burial spaces are sold or transferred under the
24 representation that the cemetery will receive ~~"perpetual"~~ CARE
25 or ~~"endowed"~~ care ~~as defined in this section~~ free of further cost to the
26 purchaser after payment of the original purchase price for the lot, burial
27 space or interment right.

28 ~~44.~~ 45. "Person" means any individual, corporation, partnership or
29 company and any other form of multiple organization for carrying on
30 business, foreign or domestic.

31 ~~45.~~ 46. "Private cemetery" means a cemetery or place that is not
32 licensed under article 6 of this chapter, where burials or interments of
33 human remains are made, in which sales or transfers of interment rights or
34 burial plots are not made to the public and in which not more than ten
35 interments or burials occur annually.

36 ~~46.~~ 47. "Promotion" or "promotional practice" means advertising and
37 any other act, practice, device or scheme to induce directly or indirectly
38 any person to enter into any obligation or acquire any title or interest
39 in or use of real property subject to this chapter, including meetings
40 with prospective purchasers, arrangements for prospective purchasers to
41 visit real property, travel allowances and discount, exchange, refund and
42 cancellation privileges.

43 ~~47.~~ 48. "Real estate" includes leasehold-interests and any estates
44 in land as defined in title 33, chapter 2, articles 1 and 2, regardless of
45 whether located in this state.

1 ~~48-~~ 49. "Real estate broker" means a person, other than a
2 salesperson, who, for another and for compensation:

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

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

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

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

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

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

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

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

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

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

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

41 (l) Engages in the business of assisting or offering to assist
42 another in filing an application for the purchase or lease of, or in
43 locating or entering ~~upon~~ ON, lands owned by the state or federal
44 government.

1 (m) Claims, demands, charges, receives, collects or contracts for
2 the collection of an advance fee in connection with any employment
3 enumerated in this section, including employment undertaken to promote the
4 sale or lease of real property by advance fee listing, by furnishing
5 rental information to a prospective tenant for a fee paid by the
6 prospective tenant, by advertisement or by any other offering to sell,
7 lease, exchange or rent real property or selling kits connected
8 therewith. This shall not include the activities of any communications
9 media of general circulation or coverage not primarily engaged in the
10 advertisement of real estate or any communications media activities that
11 are specifically exempt from applicability of this article under section
12 32-2121.

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

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

21 (p) Acts as a business broker.

22 ~~49:~~ 50. "Real estate sales contract" means an agreement in which
23 one party agrees to convey title to real estate to another party ~~अपण~~ ON
24 the satisfaction of specified conditions set forth in the contract.

25 ~~50:~~ 51. "Real estate salesperson" means a natural person who acts
26 on the person's own behalf or through and on behalf of a professional
27 limited liability company or a professional corporation engaged by or on
28 behalf of a licensed real estate broker, or by or on behalf of a limited
29 liability company, partnership or corporation that is licensed as a real
30 estate broker, to perform any act or participate in any transaction in a
31 manner included in the definition of real estate broker subject to section
32 32-2155.

33 ~~51:~~ 52. "Sale" or "lease" includes every disposition, transfer,
34 option or offer or attempt to dispose of or transfer real property, or an
35 interest, use or estate in the real property, including the offering of
36 the property as a prize or gift if a monetary charge or consideration for
37 whatever purpose is required.

38 ~~52:~~ 53. "Salesperson", when used without modification, means a
39 natural person who acts on the person's own behalf or through and on
40 behalf of a professional limited liability company or a professional
41 corporation licensed under this chapter or any person required to be
42 licensed as a salesperson under this chapter.

43 ~~53:~~ 54. "School" means a person or entity that offers a course of
44 study towards completion of the education requirements leading to
45 licensure or renewal of licensure under this chapter.

1 ~~54.~~ 55. "Stock cooperative" means a corporation to which all of the
2 following apply:

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

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

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

11 ~~55.~~ 56. "Subdivider" means any person who offers for sale or lease
12 six or more lots, parcels or fractional interests in a subdivision or who
13 causes land to be subdivided into a subdivision for the subdivider or for
14 others, or who undertakes to develop a subdivision, but does not include a
15 public agency or officer authorized by law to create subdivisions.

16 ~~56.~~ 57. "Subdivision" or "subdivided lands":

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

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

23 (c) Does not include:

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

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

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

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

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

43 ~~57.~~ 58. "Timeshare" or "timeshare property" means real property
44 ownership or right of occupancy in real property pursuant to article 9 of
45 this chapter. For the purposes of this chapter, a timeshare is not a

1 security unless it meets the definition of a security under section
2 44-1801.

3 ~~58.~~ 59. "Trustee" means:

4 (a) A person WHO IS designated under section 32-2194.27 to act as a
5 trustee for an endowment-care cemetery fund.

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

9 ~~59.~~ 60. "Unimproved lot or parcel" means a lot or parcel of a
10 subdivision that is not an improved lot or parcel.

11 ~~60.~~ 61. "Unsubdivided lands":

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

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

25 Sec. 2. Section 32-2124, Arizona Revised Statutes, is amended to
26 read:

27 ~~32-2124.~~ Qualifications of licensees

28 A. Except as otherwise provided in this chapter, the commissioner
29 shall require proof, through the application or otherwise, as the
30 commissioner deems advisable with due regard to the interests of the
31 public, as to the honesty, truthfulness, good character and competency of
32 the applicant and shall require that the applicant has:

33 1. If for an original real estate broker's license, at least three
34 years' actual experience as a licensed real estate salesperson or real
35 estate broker during the five years immediately preceding the time of
36 application.

37 2. If for an original cemetery broker's license, either a current
38 real estate broker's license, or if the applicant does not have a current
39 real estate broker's license, at least three years' actual experience as a
40 cemetery salesperson or broker or as a licensed real estate salesperson or
41 broker during the five years immediately preceding the time of
42 application.

43 3. If for an original membership camping broker's license, either a
44 current real estate broker's license, or if the applicant does not have a
45 current real estate broker's license, at least three years' actual

1 experience as a licensed membership camping salesperson or broker or as a
2 licensed real estate salesperson or broker during the five years
3 immediately preceding the time of application.

4 4. If for any type of broker's or salesperson's license, not had a
5 license denied within one year immediately preceding application in this
6 state pursuant to section 32-2153 or a similar statute in any other state.

7 5. If for any type of broker's or salesperson's license, not had a
8 license revoked within the two years immediately preceding application in
9 this state pursuant to section 32-2153 or a similar statute in any other
10 state.

11 6. If reapplying for a license that expired more than one year
12 before the date of application, met all current education and experience
13 requirements and retakes the examination the same as if the applicant were
14 applying for the license for the first time.

15 7. If for a real estate, cemetery or membership camping broker's
16 license, other than a renewal application, an equivalent amount of active
17 experience within the immediately preceding five years in the field in
18 which the applicant is applying for the broker's license, as a substitute
19 for the licensed active experience otherwise required in paragraphs 1, 2
20 and 3 of this subsection. The licensed active experience required may be
21 met if the applicant can demonstrate to the commissioner's satisfaction
22 that the applicant has an equivalent amount of experience in the past five
23 years that, if the applicant had held a license, would have been
24 sufficient to fulfill the licensed experience requirement.

25 B. All applicants other than renewal applicants under section
26 32-2130 for a real estate salesperson's license shall show evidence
27 satisfactory to the commissioner that they have completed a real estate
28 salesperson's course, ~~of~~ THAT IS prescribed and approved by the
29 commissioner, ~~of~~ AND THAT IS at least ninety classroom hours, or its
30 equivalent, of instruction in a real estate school certified by the
31 commissioner and have satisfactorily passed an examination on the course.
32 AN APPLICANT MAY COMPLETE THE REAL ESTATE SALESPERSON'S COURSE PRESCRIBED
33 BY THIS SUBSECTION THROUGH AN ONLINE COURSE IF THE ONLINE COURSE IS
34 OFFERED BY A REAL ESTATE SCHOOL THAT IS CERTIFIED BY THE COMMISSIONER, BUT
35 THE APPLICANT MUST COMPLETE AN EXAMINATION ON THE ONLINE COURSE IN
36 PERSON. In no case shall the real estate salesperson's course completion
37 or its equivalent be more than ten years before the date of application
38 unless, at the time of application, the commissioner determines in the
39 commissioner's discretion that the applicant has work experience in a real
40 ~~estate related~~ ESTATE-RELATED field and education that together are
41 equivalent to the prelicensure education requirement. The commissioner
42 may waive all or a portion of the prelicensure course requirement, other
43 than the ~~twenty-seven hour Arizona specific~~ TWENTY-SEVEN-HOUR
44 ARIZONA-SPECIFIC course, for an applicant who holds a current real estate
45 license in another state.

1 C. All applicants other than renewal applicants under section
2 32-2130 for a real estate broker's license shall show evidence
3 satisfactory to the commissioner that they have completed a real estate
4 broker's course, ~~THAT IS~~ prescribed and approved by the commissioner, ~~of~~
5 ~~AND THAT IS~~ at least ninety classroom hours, or the equivalent, of
6 instruction in a real estate school certified by the commissioner and have
7 satisfactorily passed an examination on the course. ~~AN APPLICANT MAY~~
8 ~~COMPLETE THE REAL ESTATE BROKER'S COURSE PRESCRIBED BY THIS SUBSECTION~~
9 ~~THROUGH AN ONLINE COURSE IF THE ONLINE COURSE IS OFFERED BY A REAL ESTATE~~
10 ~~SCHOOL THAT IS CERTIFIED BY THE COMMISSIONER, BUT THE APPLICANT MUST~~
11 ~~COMPLETE AN EXAMINATION ON THE ONLINE COURSE IN PERSON.~~ In no case shall
12 the real estate broker's course completion or its equivalent be more than
13 ten years before the date of application unless, at the time of
14 application, the commissioner determines in the commissioner's discretion
15 that the applicant has work experience in a real ~~estate-related~~
16 ~~ESTATE-RELATED~~ field and education that together are equivalent to the
17 prelicensure education requirement. The commissioner may waive all or a
18 portion of the prelicensure course requirement, other than the
19 ~~twenty-seven hour Arizona specific~~ ~~TWENTY-SEVEN-HOUR ARIZONA-SPECIFIC~~
20 course, for an applicant who holds a current real estate license in
21 another state.

22 D. ~~Prior to~~ BEFORE receiving any license provided for by this
23 chapter, an applicant ~~shall~~ MUST be at least eighteen years of age.

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

26 1. An appropriate knowledge of the English language, including
27 reading, writing and spelling, and of arithmetical computations common to
28 real estate practices.

29 2. At a minimum, an understanding of the general purpose and legal
30 effect of any real estate practices, principles and related forms,
31 including agency contracts, real estate contracts, deposit receipts,
32 deeds, mortgages, deeds of trust, security agreements, bills of sale, land
33 contracts of sale and property management, and of any other areas that the
34 commissioner deems necessary and proper.

35 3. A thorough understanding of the obligations between principal
36 and agent, the principles of real estate and business opportunity
37 practice, the applicable canons of business ethics, the provisions of this
38 chapter and rules made under this chapter.

39 4. An appropriate knowledge of other real estate practices and
40 principles as determined by the commissioner.

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

44 1. Appropriate knowledge of the English language, including
45 reading, writing and spelling, and of elementary arithmetic.

1 2. A general understanding of:
2 (a) Cemetery associations, cemetery corporations and duties of
3 cemetery directors and officers.
4 (b) Plot ownership, deeds, certificates of ownership, contracts of
5 sale, liens and leases.
6 (c) Establishing, dedicating, maintaining, managing, operating,
7 improving, preserving and conducting a cemetery.
8 (d) The provisions of this chapter and rules made under this
9 chapter relating to the organization and regulation of cemeteries and the
10 licensing and regulation of cemetery brokers and cemetery salespersons.
11 3. A general understanding of the obligations between principal and
12 agent, the principles of cemetery practice and the canons of business
13 ethics pertaining to the operation of cemeteries and the sale of cemetery
14 property.
15 G. The commissioner shall ascertain by A written, electronic or ~~any~~
16 other examination method that an applicant for a license as a membership
17 camping broker or a membership camping salesperson has:
18 1. An appropriate knowledge of the English language, including
19 reading, writing and spelling, and of elementary arithmetic.
20 2. A general understanding of:
21 (a) The general purposes and legal effect of contracts and agency
22 contracts.
23 (b) Establishing, maintaining, managing and operating a membership
24 campground.
25 (c) The provisions of this chapter and rules adopted under this
26 chapter relating to the organization and regulation of membership
27 campgrounds and the licensing and regulation of membership camping brokers
28 and membership camping salespersons.
29 3. A general understanding of the obligations between principal and
30 agent and the canons of business ethics pertaining to the operation and
31 promotion of membership campgrounds.
32 H. ~~No~~ A renewal applicant for a real estate, cemetery or membership
33 camping broker's or salesperson's license ~~shall be~~ IS NOT required to
34 submit to an examination if the application is made within twelve months
35 after the license expires and the license is not cancelled, terminated or
36 suspended at the time of application.
37 I. The examination for a broker's license shall be more exacting
38 and stringent and of a broader scope than the examination for a
39 salesperson's license.
40 J. An applicant for a real estate salesperson's or broker's license
41 who currently holds at least an equivalent license in another state may be
42 exempt from taking the national portion of the real estate examination if
43 the applicant can demonstrate ~~having previously passed~~ PASSING a national
44 examination within the past five years that is satisfactorily similar to
45 the one administered by the department.

1 K. Identification of each applicant whose licensing requirement was
2 allowed to be met by an equivalent alternative pursuant to this section
3 shall be included in the annual performance report presented by the board
4 to the governor pursuant to section 32-2104.

5 L. An applicant for an original real estate salesperson's license,
6 after completion of the requirements of subsection B of this section,
7 shall provide certification to the department at the time of application
8 evidencing completion of six hours of instruction in real estate contract
9 law and contract writing. This instruction shall include participation by
10 the applicant in the drafting of contracts to purchase real property,
11 listing agreements and lease agreements.

12 M. The commissioner shall not issue a license to a person who has
13 been convicted of a felony offense and who is currently incarcerated for
14 the conviction, paroled or under community supervision and under the
15 supervision of a parole or community supervision officer or who is on
16 probation as a result of the conviction.

17 Sec. 3. Section 32-2132, Arizona Revised Statutes, is amended to
18 read:

19 32-2132. Fees

20 A. Except as provided in subsection D of this section, the
21 following fees shall be charged and shall not be refunded by the
22 commissioner after issuance of a receipt for payment:

23 1. A broker's examination application fee of not less than
24 thirty-five dollars and not more than one hundred twenty-five dollars.

25 2. A broker's examination fee of not less than thirty-five dollars
26 and not more than one hundred dollars.

27 3. A broker's license fee of not less than seventy-five dollars and
28 not more than two hundred fifty dollars.

29 4. A broker's renewal fee of not less than one hundred dollars and
30 not more than four hundred dollars.

31 5. A salesperson's examination application fee of not less than
32 fifteen dollars and not more than seventy-five dollars.

33 6. A salesperson's examination fee of not less than fifteen dollars
34 and not more than fifty dollars.

35 7. A salesperson's license fee of not less than thirty-five dollars
36 and not more than one hundred twenty-five dollars.

37 8. A salesperson's renewal fee of not less than sixty dollars and
38 not more than two hundred dollars.

39 9. A branch office broker's license fee or renewal fee of not less
40 than sixty dollars and not more than two hundred dollars.

41 10. A fee for a change of name and address of licensee on records of
42 the department of not more than twenty dollars.

43 11. A duplicate license fee of five dollars.

1 12. A fee for reinstatement of license within license period of five
2 dollars.

3 13. A fee for each certificate of correctness of copy of records or
4 documents on file with the department of one dollar, plus the cost to the
5 department for reproducing the records or documents.

6 14. A temporary broker's license fee of not less than fifteen
7 dollars and not more than fifty dollars.

8 15. A temporary cemetery salesperson's license fee of not less than
9 fifteen dollars and not more than fifty dollars.

10 16. A membership camping salesperson certificate of convenience fee
11 of not less than fifteen dollars and not more than fifty dollars.

12 17. Fees in an amount to be determined by the commissioner by rule
13 for the following:

14 (a) A certificate of approval or renewal to operate a school.

15 (b) An instructor or other school official approval or renewal fee.

16 (c) A live classroom continuing education course approval or
17 renewal fee.

18 (d) A live classroom prelicensure education course **OR PRELICENSURE**
19 **ONLINE COURSE** approval or renewal fee.

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

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

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

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

33 Sec. 4. Section 32-2135, Arizona Revised Statutes, is amended to
34 read:

35 **32-2135. Real estate schools; courses of study; instructors;**
36 **certification**

37 A. Except as provided in section 32-4301, before offering a course
38 of study towards completion of the education requirement for real estate
39 licensure or renewal of licensure, a school shall obtain from the
40 commissioner a certificate of approval or renewal to operate a school for
41 a period of at least four years. A school shall also obtain a certificate
42 of course approval for each course offered for credit that is not
43 currently approved for another school. Each school is responsible for the
44 content of any course it offers and for the professional administration
45 and teaching of the course. Live classroom prelicensure education

1 COURSES, live classroom continuing education COURSES, ONLINE COURSES and
2 distance learning continuing education courses are subject to approval
3 pursuant to this section.

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

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

13 1. The commission of or the failure to report a violation by an
14 approved school or instructor of any provision of this chapter or rules
15 adopted pursuant to this chapter.

16 2. Improper certification of student attendance or performance.

17 3. Any act that is grounds for discipline under section 32-2153.

18 4. Teaching information or using course materials that have not
19 been approved by the commissioner.

20 5. Failing to attend any continuing education course required by
21 the commissioner.

22 6. Filing any false or misleading application, report or
23 documentation with the department.

24 7. Teaching course content that is not current or that has
25 substantially changed from the course as approved.

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

28 1. Offer a course of study for credit that is not approved by the
29 department, except that the school may advertise a course as pending
30 approval before its approval.

31 2. Promote or advertise the school using false or misleading
32 statistics or testimonials or any other form of deceptive advertisement.

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

36 F. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, at least
37 thirty days before holding a course of study for completion of the
38 education requirements leading to licensure of real estate applicants or
39 for license renewal requirements, an application for a certificate of
40 course approval or renewal must be filed with the department. For a live
41 classroom course, the application shall include a course outline with
42 sufficient detail to clearly identify the scope and content of the
43 course. The outline shall state a desired instructional outcome for the
44 course. A prelicensure education course outline that is submitted for
45 approval shall be divided into estimated ~~fifty minute~~ FIFTY-MINUTE

1 instructional segments. Course approval shall not be unreasonably
2 withheld and shall not be issued later than thirty days after filing with
3 the department for a live classroom course. A continuing education
4 distance learning course approval shall not be issued later than ninety
5 days after filing with the department. If the approvals under this
6 subsection are not granted within the time frames prescribed by this
7 subsection, the course shall be automatically approved on a provisional
8 basis for one hundred eighty days, unless the department has otherwise
9 notified the applicant of specific deficiencies or unfulfilled
10 requirements for the course submission. A provisional approval may be
11 withdrawn by the department upon fifteen days' advance notice if the
12 department's review of the course subsequently reveals course deficiencies
13 or unfulfilled course requirements. If not withdrawn, the course approval
14 shall remain approved for the entire course approval period. Course
15 approval shall be for a period of at least four years if the contents of
16 the course remain current and substantially unchanged. The course may not
17 be taught if the content ceases to be current or is substantially changed.
18 The department may establish by rule additional appropriate requirements
19 for approval of a distance learning course.

20 G. AT LEAST NINETY DAYS BEFORE HOLDING AN ONLINE COURSE OF STUDY FOR
21 COMPLETION OF THE EDUCATION REQUIREMENTS LEADING TO LICENSURE OF REAL
22 ESTATE APPLICANTS, AN APPLICATION FOR A CERTIFICATE OF ONLINE COURSE
23 APPROVAL MUST BE FILED WITH THE DEPARTMENT. AN ONLINE COURSE OUTLINE THAT
24 IS SUBMITTED FOR APPROVAL SHALL BE DIVIDED INTO ESTIMATED FIFTY-MINUTE
25 INSTRUCTIONAL SEGMENTS. ONLINE COURSE APPROVAL SHALL NOT BE UNREASONABLY
26 WITHHELD AND SHALL BE ISSUED NOT LATER THAN NINETY DAYS AFTER FILING WITH
27 THE DEPARTMENT. IF THE APPROVALS UNDER THIS SUBSECTION ARE NOT GRANTED
28 WITHIN THE TIME FRAMES PRESCRIBED BY THIS SUBSECTION, THE ONLINE COURSE
29 SHALL BE AUTOMATICALLY APPROVED ON A PROVISIONAL BASIS FOR ONE HUNDRED
30 EIGHTY DAYS, UNLESS THE DEPARTMENT HAS OTHERWISE NOTIFIED THE APPLICANT OF
31 SPECIFIC DEFICIENCIES OR UNFULFILLED REQUIREMENTS FOR THE ONLINE COURSE
32 SUBMISSION. A PROVISIONAL APPROVAL MAY BE WITHDRAWN BY THE DEPARTMENT ON
33 FIFTEEN DAYS' ADVANCE NOTICE IF THE DEPARTMENT'S REVIEW OF THE ONLINE
34 COURSE SUBSEQUENTLY REVEALS COURSE DEFICIENCIES OR UNFULFILLED COURSE
35 REQUIREMENTS. IF NOT WITHDRAWN, THE ONLINE COURSE APPROVAL SHALL REMAIN
36 APPROVED FOR THE ENTIRE ONLINE COURSE APPROVAL PERIOD. ONLINE COURSE
37 APPROVAL SHALL BE FOR A PERIOD OF AT LEAST FOUR YEARS IF THE CONTENTS OF
38 THE ONLINE COURSE REMAIN CURRENT AND SUBSTANTIALLY UNCHANGED. THE ONLINE
39 COURSE MAY NOT BE TAUGHT IF THE CONTENT CEASES TO BE CURRENT OR IS
40 SUBSTANTIALLY CHANGED. APPROVED ONLINE COURSES MUST PROVIDE FOR STUDENT
41 PARTICIPATION, FEEDBACK AND REMEDIAL INSTRUCTION. THE DEPARTMENT MAY
42 ESTABLISH BY RULE ADDITIONAL APPROPRIATE REQUIREMENTS FOR APPROVAL OF AN
43 ONLINE COURSE.

1 ~~G.~~ H. For a currently approved course OR ONLINE COURSE:

2 1. The school shall submit notice to the department at least
3 fourteen days before holding the course to permit department employees to
4 monitor the course. The notice is not otherwise subject to review and
5 approval by the department.

6 2. With the permission of the school that received original
7 approval for the course, another school that desires to offer the course
8 is subject only to the ~~fourteen-day~~ FOURTEEN-DAY notice requirement before
9 holding the same course. No additional review and approval by the
10 department is required.

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

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

18 1. Provide the department with a videotape or videotapes of the
19 course.

20 2. Make arrangements that are approved by the department for
21 monitoring the course.

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

32 ~~K.~~ L. Beginning January 1, 2012, in the twenty-four months before
33 application, each instructor original or renewal applicant, other than a
34 panelist, guest speaker, ~~an~~ attorney or out-of-state instructor, shall
35 attend at least a ~~three-hour~~ THREE-HOUR professional seminar or workshop,
36 approved by the department, emphasizing instruction methods, techniques
37 and skills. At the discretion of the commissioner this requirement may be
38 waived based on individual request review.

39 ~~L.~~ M. The ~~thirty day and fourteen day~~ course filing time frames
40 prescribed in this section may be waived by the department for good cause
41 shown.

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

1 ~~N~~ 0. This section does not affect the department's ability to
2 withdraw or deny certification or approval of real estate schools,
3 education courses or real estate instructors for a violation of this
4 chapter.

5 Sec. 5. Section 32-2163, Arizona Revised Statutes, is amended to
6 read:

7 32-2163. Unlawful acts; out-of-state broker; cooperation
8 agreement

9 A. It is unlawful for any licensed broker in this state to employ
10 or compensate, directly or indirectly, any person for performing any of
11 the acts within the scope of this chapter if the person is not also a
12 licensed broker in this state, or a salesperson licensed under the broker
13 employing or compensating ~~from~~ THE SALESPERSON, except that a licensed
14 broker in this state may pay compensation to and receive compensation from
15 a broker WHO IS lawfully operating in another state.

16 B. Notwithstanding that pursuant to subsection A of this section a
17 licensed broker in this state may pay to and receive compensation from an
18 out-of-state broker, this authority ~~shall~~ DOES not ~~be construed to permit~~
19 ALLOW an out-of-state broker to conduct activity in this state that would
20 otherwise require a broker's license issued by the department.

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

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

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

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

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

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

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

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

43 D. The offering of real estate brokerage services specified by
44 section 32-2101, paragraph ~~48~~ 49 for compensation or any other thing of
45 value pertaining to real property located in this state through an

1 internet ~~web site~~ WEBSITE constitutes activity that requires a broker's
2 license issued by the department.

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

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

10 Sec. 6. Effective date

11 This act is effective from and after December 31, 2018.