

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 129
HOUSE BILL 2451

AN ACT

AMENDING SECTION 32-2121, 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 32-2121, Arizona Revised Statutes, is amended to
3 read:

4 32-2121. Applicability of article; exceptions

5 A. ~~The provisions of~~ This article ~~do~~ DOES not apply to:

6 1. A natural person, a corporation through its officers, a
7 partnership through its partners or a limited liability company through
8 its members or managers that deals in selling, exchanging, purchasing,
9 renting, leasing, managing or pledging the person's or entity's own
10 property, including cemetery property and membership camping contracts,
11 and that does not receive special compensation for a sales transaction or
12 does not receive special compensation or other consideration, including
13 property management fees or consulting fees for any property management
14 services performed, if the majority of an officer's, partner's, member's
15 or manager's activities do not involve the acts of a real estate broker,
16 cemetery broker or membership camping broker as defined in section
17 32-2101.

18 2. A person holding a valid power of attorney that is being used
19 for a specific purpose in an isolated transaction and not as a method of
20 conducting a real estate business.

21 3. An attorney ~~in the performance of~~ PERFORMING the attorney's
22 duties as an attorney. ~~Nothing in~~ This paragraph ~~shall be construed to~~
23 DOES NOT allow an attorney to otherwise engage in any acts requiring a
24 license under this article.

25 4. Any receiver, a trustee in bankruptcy or any other person acting
26 under an order of a court.

27 5. A trustee selling under a deed of trust.

28 6. Natural persons who are acting as residential leasing agents or
29 on-site managers of residential rental property, who are performing
30 residential leasing activities on residential income property at ~~no~~ NOT
31 more than one location during the period of the agents' or on-site
32 managers' regular workday, who do not receive special compensation for the
33 acts described in subdivisions (a) through (e) of this paragraph and who
34 are employed by the owner or the owner's licensed management agent to
35 perform the duties customarily associated with that employment. A bonus
36 that is paid to a residential leasing agent or on-site manager working
37 under the supervision of a licensed real estate broker and that is based
38 on performance, that is received ~~no~~ NOT more frequently than monthly and
39 that does not exceed one-half of the agent's or on-site manager's total
40 compensation for the time period does not constitute special compensation
41 for the acts described in subdivisions (a) through (e) of this
42 paragraph. For THE purposes of this paragraph, "residential leasing
43 agents or on-site managers" means natural persons WHO ARE employed by the
44 owner or the owner's licensed management agent AND whose normal duties and
45 responsibilities include any one or a combination of the following:

1 (a) Preparing and presenting to any person a residential lease,
2 application or renewal or any amendment of the lease.

3 (b) Collecting or receiving a security deposit, a rental payment or
4 any related payment for delivery to and made payable to a property, a
5 property manager, an owner or the location.

6 (c) Showing a residential rental unit to any prospective tenant.

7 (d) Executing residential leases or rental agreements adopted under
8 title 33, chapter 10.

9 (e) Acting on behalf of the owner or the owner's licensed
10 management agent to deliver notice pursuant to title 12, chapter 8 and
11 title 33, chapters 10 and 11.

12 7. Any officer or employee of a governmental agency who is not a
13 contract or temporary employee of the agency in ~~the conduct of~~ CONDUCTING
14 the officer's or employee's official duties.

15 8. One natural person who acts as a property manager for one
16 nonresidential income property or for two or more contiguous
17 nonresidential income properties that are under common ownership and who
18 is employed by the owner or the owner's licensed management agent to
19 perform the duties customarily associated with that employment.

20 9. Natural persons who are ~~in the employ of~~ EMPLOYED BY an
21 employing broker, ~~of~~ a person otherwise licensed under this chapter or ~~of~~
22 a person or entity exempt under this section, who are unlicensed and
23 perform clerical, bookkeeping, accounting and other administrative and
24 support duties, who are not engaged in any other acts requiring a license
25 under this chapter and whose employment is not conditioned on or designed
26 to perform duties otherwise requiring a license under this chapter.

27 10. Natural persons who are ~~in the employ of~~ EMPLOYED BY an
28 employing broker and who perform telemarketing services that are limited
29 to soliciting interest in engaging the services of a licensee or broker or
30 gathering demographic information that will be used by a licensee or
31 broker to solicit prospective buyers, sellers, lessees and lessors.

32 11. Communications media or their representatives that are
33 primarily engaged in advertising real estate and that perform no other
34 acts requiring a real estate license, if:

35 (a) The communications media or their representatives do not,
36 directly or indirectly, compile or represent that they compile information
37 about specific prospective purchasers or tenants, except that general
38 information about prospective purchasers or tenants, such as demographic
39 and marketing information, may be compiled.

40 (b) The communications media or their representatives do not make
41 representations to prospective real property sellers or landlords, or
42 their representatives, concerning specific prospective purchasers or
43 tenants or specific sales or leasing leads.

44 (c) The fee charged for advertising is based solely on the
45 advertising services provided.

1 (d) The advertisements provide for direct contact between the
2 seller or landlord and the prospective buyers or tenants, or for contact
3 through a licensed real estate broker or property management firm. The
4 communications media or their representatives shall not act as
5 intermediaries or assist in any intermediary action between prospective
6 parties to a real estate transaction, except that additional information
7 about advertised properties may be provided to prospects ~~upon~~ ON request.

8 12. Persons who perform residential property management services or
9 marketing and promotional services solely for nursing care institutions as
10 defined in section 36-401 or pursuant to life care contracts as defined in
11 section 20-1801.

12 13. A person who offers to sell or lease property that constitutes
13 a security as defined in section 44-1801 and that is offered, sold or
14 leased in compliance with title 44, chapter 12 if the person is a
15 registered securities dealer or salesperson pursuant to title 44, chapter
16 12, article 9.

17 14. A person who manages a hotel, motel or recreational vehicle
18 park.

19 15. A person who, on behalf of another, solicits, arranges or
20 accepts reservations or ~~money~~ MONIES, or both, for occupancies of
21 thirty-one or fewer days in a dwelling unit ~~in a common interest~~
22 ~~development~~.

23 16. An escrow agent in ~~the performance of~~ PERFORMING the escrow
24 agent's duties as an escrow agent, a title insurer in ~~the performance of~~
25 PERFORMING the title insurer's duties as a title insurer or a title
26 insurance agent in ~~the performance of~~ PERFORMING the title insurance
27 agent's duties as a title insurance agent. ~~Nothing in~~ This paragraph
28 ~~shall be construed to~~ DOES NOT allow an escrow agent, a title insurer or a
29 title insurance agent to otherwise engage in acts requiring a license
30 under this article.

31 17. Notwithstanding paragraph 1 of this subsection, a corporation
32 through its officers and employees that purchases, sells, exchanges,
33 rents, leases, manages or pledges its property if both of the following
34 apply:

35 (a) The activity is only incidental to the business of the
36 corporation.

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

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

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

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

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

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

APPROVED BY THE GOVERNOR APRIL 24, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2019.