

REFERENCE TITLE: real estate; employees; rent collection

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

## **HB 2085**

Introduced by  
Representatives Chaplik: Carroll, Toma

AN ACT

AMENDING SECTIONS 32-2101, 32-2122 AND 32-2124, 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  
25 broker 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 lease.  
45 If the land is offered for sale by a person or group of persons acting in

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

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

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

14 (a) A barrier.

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

21 18. "Control" or "controlled" means a person who, through  
22 ownership, voting rights, power of attorney, proxy, management rights,  
23 operational rights or other rights, has the right to make decisions  
24 binding on an entity, whether a corporation, a partnership or any other  
25 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  
2 required 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  
7 or 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 on which ~~lot or parcel~~ there is a residential, commercial or industrial  
17 building or concerning which a contract has been entered into between a  
18 subdivider and a purchaser that obligates the subdivider directly, or  
19 indirectly through a building contractor, to ~~complete construction of~~  
20 COMPLETELY CONSTRUCT a residential, commercial or industrial building on  
21 the lot or parcel within two years ~~from~~ AFTER the date on which the  
22 contract of sale 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  
28 sole, 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. "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 THE purposes of section 32-2153, subsection A, ~~shall include~~ INCLUDES  
35 original license applicants.

36           31. "License period" means the two-year period beginning with the  
37 date of original issue or renewal of a particular license and ending on  
38 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~~ IMPROVING or ~~development of~~  
8 DEVELOPING real property or is governed or administered by a master  
9 owner's association.

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

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

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

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

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

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

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

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

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

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

40 39. "Membership camping salesperson" means a natural person who  
41 acts on the person's own behalf or through and on behalf of a professional  
42 limited liability company or a professional corporation engaged by or on  
43 behalf of a licensed membership camping or real estate broker, or by or on  
44 behalf of a corporation, partnership or limited liability company that is  
45 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 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 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" or "endowed care" means ~~the maintenance~~  
16 MAINTAINING and ~~care of~~ CARING, IN all places where interments have been  
17 made, ~~of~~ FOR the trees, shrubs, roads, streets and other improvements and  
18 embellishments contained within or forming a part of the cemetery but does  
19 not include ~~the maintenance~~ MAINTAINING or ~~repair of~~ REPAIRING monuments,  
20 tombs, copings or other man-made ornaments as associated with individual  
21 burial spaces.

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

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

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

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

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

1           49. "Real estate broker" means a person, other than a salesperson,  
2 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. THIS SUBDIVISION DOES NOT APPLY TO A PERSON WHO IS NOT A  
22 LICENSEE, WHO WORKS FOR A REAL ESTATE BROKER OR A REAL ESTATE SALESPERSON,  
23 WHO COLLECTS IN-PERSON RENT AND RELATED FEES ON BEHALF OF THE REAL ESTATE  
24 BROKER OR REAL ESTATE SALESPERSON FOR THE USE OF REAL ESTATE AS PART OF  
25 THE PERSON'S CLERICAL DUTIES AND WHO PROVIDES A RECEIPT WHEN RENT IS PAID.

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

31          (i) Assists or directs in ~~the procuring of prospects,~~ THAT ARE  
32 calculated to result in the sale, exchange, leasing or rental of real  
33 estate, businesses and business opportunities or timeshare interests.

34          (j) Assists or directs in ~~the negotiation of~~ NEGOTIATING any  
35 transaction calculated or intended to result in the sale, exchange,  
36 leasing or rental of real estate, businesses and business opportunities or  
37 timeshare interests.

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



1 (l) Engages in the business of assisting or offering to assist  
2 another in filing an application for the purchase or lease of, or in  
3 locating or entering on, lands owned by the state or federal government.

4 (m) Claims, demands, charges, receives, collects or contracts ~~for~~  
5 ~~the collection of~~ TO COLLECT an advance fee in connection with any  
6 employment enumerated in this section, including employment undertaken to  
7 promote the sale or lease of real property by advance fee listing, by  
8 furnishing rental information to a prospective tenant for a fee paid by  
9 the prospective tenant, by advertisement or by any other offering to sell,  
10 lease, exchange or rent real property or selling kits connected therewith.  
11 This shall not include the activities of any communications media of  
12 general circulation or coverage not primarily engaged in the advertisement  
13 of real estate or any communications media activities that are  
14 specifically exempt from applicability of this article under section  
15 32-2121.

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

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

24 (p) Acts as a business broker.

25 50. "Real estate sales contract" means an agreement in which one  
26 party agrees to convey title to real estate to another party on the  
27 satisfaction of specified conditions set forth in the contract.

28 51. "Real estate salesperson" means a natural person who acts on  
29 the person's own behalf or through and on behalf of a professional limited  
30 liability company or a professional corporation engaged by or on behalf of  
31 a licensed real estate broker, or by or on behalf of a limited liability  
32 company, partnership or corporation that is licensed as a real estate  
33 broker, to perform any act or participate in any transaction in a manner  
34 included in the definition of real estate broker subject to section  
35 32-2155.

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

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

1           54. "School" means a person or entity that offers a course of study  
2 towards completion of the education requirements leading to licensure or  
3 renewal of licensure under this chapter.

4           55. "Stock cooperative" means a corporation to which all of the  
5 following apply:

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

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

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

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

19           57. "Subdivision" or "subdivided lands":

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

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

26           (c) Does not include:

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

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

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

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

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

1           58. "Timeshare" or "timeshare property" means real property  
2 ownership or right of occupancy in real property pursuant to article 9 of  
3 this chapter. For the purposes of this chapter, a timeshare is not a  
4 security unless it meets the definition of a security under section  
5 44-1801.

6           59. "Trustee" means:

7           (a) A person who is designated under section 32-2194.27 to act as a  
8 trustee for an endowment-care cemetery fund.

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

12           60. "Unimproved lot or parcel" means a lot or parcel of a  
13 subdivision that is not an improved lot or parcel.

14           61. "Unsubdivided lands":

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

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

28           Sec. 2. Section 32-2122, Arizona Revised Statutes, is amended to  
29 read:

30           32-2122. License required of brokers and salespersons

31           A. This article applies to any person acting in the capacity of a:

- 32           1. Real estate broker.
- 33           2. Real estate salesperson.
- 34           3. Cemetery broker.
- 35           4. Cemetery salesperson.
- 36           5. Membership camping broker.
- 37           6. Membership camping salesperson.

38           B. It ~~shall be~~ IS unlawful for any person, corporation, partnership  
39 or limited liability company to engage in any business, occupation or  
40 activity listed in subsection A OF THIS SECTION without first obtaining a  
41 license as prescribed in this chapter and otherwise complying with ~~the~~  
42 ~~provisions of~~ this chapter.

43           C. A person, corporation, partnership or limited liability company  
44 that is licensed as a salesperson or broker pursuant to this article or  
45 that is engaging in any work for which a license is required under this

1 article is subject to the requirements of this chapter in ~~the performance~~  
2 ~~of~~ PERFORMING any acts included in the definition of a broker unless  
3 otherwise provided in this chapter.

4 D. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, any act, in  
5 consideration or expectation of compensation, ~~which~~ THAT is included in  
6 the definition of a real estate BROKER, cemetery BROKER or membership  
7 camping broker, whether the act is an incidental part of a transaction or  
8 the entire transaction, constitutes the person offering or attempting to  
9 perform the act of a real estate broker or real estate salesperson, a  
10 cemetery broker or cemetery salesperson or a membership camping broker or  
11 a membership camping salesperson within the meaning of this chapter. A  
12 PERSON WHO IS NOT A LICENSEE MAY COLLECT IN-PERSON RENT AND RELATED FEES  
13 FOR THE USE OF REAL ESTATE AS PART OF THE PERSON'S CLERICAL DUTIES IF THE  
14 PERSON WORKS FOR A LICENSEE, THE RENT COLLECTION IS ON BEHALF OF THE  
15 LICENSEE AND THE PERSON PROVIDES A RECEIPT WHEN RENT IS PAID.

16 Sec. 3. Section 32-2124, Arizona Revised Statutes, is amended to  
17 read:

18 32-2124. Qualifications of licensees

19 A. Except as otherwise provided in this chapter, the commissioner  
20 shall require proof, through the application or otherwise, as the  
21 commissioner deems advisable with due regard to the interests of the  
22 public, as to the honesty, truthfulness, good character and competency of  
23 the applicant and shall require that the applicant has:

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

28 2. If for an original cemetery broker's license, either a current  
29 real estate broker's license, or if the applicant does not have a current  
30 real estate broker's license, at least three years' actual experience as a  
31 cemetery salesperson or broker or as a licensed real estate salesperson or  
32 broker during the five years immediately preceding the time of  
33 application.

34 3. If for an original membership camping broker's license, either a  
35 current real estate broker's license, or if the applicant does not have a  
36 current real estate broker's license, at least three years' actual  
37 experience as a licensed membership camping salesperson or broker or as a  
38 licensed real estate salesperson or broker during the five years  
39 immediately preceding the time of application.

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

43 5. If for any type of broker's or salesperson's license, not had a  
44 license revoked within the two years immediately preceding application in

1 this state pursuant to section 32-2153 or a similar statute in any other  
2 state.

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

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

17 B. All applicants other than renewal applicants under section  
18 32-2130 for a real estate salesperson's license shall show evidence  
19 satisfactory to the commissioner that they have completed a real estate  
20 salesperson's course that is prescribed and approved by the commissioner  
21 and that is at least ninety classroom hours, or its equivalent, of  
22 instruction in a real estate school certified by the commissioner and have  
23 satisfactorily passed an examination on the course. An applicant may  
24 complete the real estate salesperson's course prescribed by this  
25 subsection through an online course if the online course is offered by a  
26 real estate school that is certified by the commissioner, but the  
27 applicant must complete an examination on the online course in person. In  
28 no case shall the real estate salesperson's course completion or its  
29 equivalent be more than ten years before the date of application unless,  
30 at the time of application, the commissioner determines in the  
31 commissioner's discretion that the applicant has work experience in a real  
32 estate-related field and education that together are equivalent to the  
33 prelicensure education requirement. The commissioner may waive all or a  
34 portion of the prelicensure course requirement, other than the  
35 twenty-seven-hour Arizona-specific course, for an applicant who holds a  
36 current real estate license in another state.

37 C. All applicants other than renewal applicants under section  
38 32-2130 for a real estate broker's license shall show evidence  
39 satisfactory to the commissioner that they have completed a real estate  
40 broker's course that is prescribed and approved by the commissioner and  
41 that is at least ninety classroom hours, or the equivalent, of instruction  
42 in a real estate school certified by the commissioner and have  
43 satisfactorily passed an examination on the course. An applicant may  
44 complete the real estate broker's course prescribed by this subsection  
45 through an online course if the online course is offered by a real estate

1 school that is certified by the commissioner, but the applicant must  
2 complete an examination on the online course in person. In no case shall  
3 the real estate broker's course completion or its equivalent be more than  
4 ten years before the date of application unless, at the time of  
5 application, the commissioner determines in the commissioner's discretion  
6 that the applicant has work experience in a real estate-related field and  
7 education that together are equivalent to the prelicensure education  
8 requirement. The commissioner may waive all or a portion of the  
9 prelicensure course requirement, other than the twenty-seven-hour  
10 Arizona-specific course, for an applicant who holds a current real estate  
11 license in another state.

12 D. Before receiving any license provided for by this chapter, an  
13 applicant must be at least eighteen years of age.

14 E. The commissioner shall ascertain by a written, electronic or  
15 other examination method that an applicant for a real estate license has:

16 1. An appropriate knowledge of the English language, including  
17 reading, writing and spelling, and of arithmetical computations common to  
18 real estate practices.

19 2. At a minimum, an understanding of the general purpose and legal  
20 effect of any real estate practices, principles and related forms,  
21 including agency contracts, real estate contracts, deposit receipts,  
22 deeds, mortgages, deeds of trust, security agreements, bills of sale, land  
23 contracts of sale and property management, and of any other areas that the  
24 commissioner deems necessary and proper.

25 3. A thorough understanding of the obligations between principal  
26 and agent, the principles of real estate and business opportunity  
27 practice, the applicable canons of business ethics, the provisions of this  
28 chapter and rules ~~made under~~ ADOPTED PURSUANT TO this chapter.

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

31 F. The commissioner shall ascertain by a written, electronic or  
32 other examination method that an applicant for a license as a cemetery  
33 broker or a cemetery salesperson has:

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

36 2. A general understanding of:

37 (a) Cemetery associations, cemetery corporations and duties of  
38 cemetery directors and officers.

39 (b) Plot ownership, deeds, certificates of ownership, contracts of  
40 sale, liens and leases.

41 (c) Establishing, dedicating, maintaining, managing, operating,  
42 improving, preserving and conducting a cemetery.

43 (d) The provisions of this chapter and rules ~~made under~~ ADOPTED  
44 PURSUANT TO this chapter relating to the organization and regulation of

1 cemeteries and the licensing and regulation of cemetery brokers and  
2 cemetery salespersons.

3 3. A general understanding of the obligations between principal and  
4 agent, the principles of cemetery practice and the canons of business  
5 ethics pertaining to the operation of cemeteries and the sale of cemetery  
6 property.

7 G. The commissioner shall ascertain by a written, electronic or  
8 other examination method that an applicant for a license as a membership  
9 camping broker or a membership camping salesperson has:

10 1. An appropriate knowledge of the English language, including  
11 reading, writing and spelling, and of elementary arithmetic.

12 2. A general understanding of:

13 (a) The general purposes and legal effect of contracts and agency  
14 contracts.

15 (b) Establishing, maintaining, managing and operating a membership  
16 campground.

17 (c) The provisions of this chapter and rules adopted ~~under~~ PURSUANT  
18 TO this chapter relating to the organization and regulation of membership  
19 campgrounds and the licensing and regulation of membership camping brokers  
20 and membership camping salespersons.

21 3. A general understanding of the obligations between principal and  
22 agent and the canons of business ethics pertaining to the operation and  
23 promotion of membership campgrounds.

24 H. A renewal applicant for a real estate, cemetery or membership  
25 camping broker's or salesperson's license is not required to submit to an  
26 examination if the application is made within twelve months after the  
27 license expires and the license is not ~~cancelled~~ CANCELED, terminated or  
28 suspended at the time of application.

29 I. The examination for a broker's license shall be more exacting  
30 and stringent and of a broader scope than the examination for a  
31 salesperson's license.

32 J. An applicant for a real estate salesperson's or broker's license  
33 who currently holds at least an equivalent license in another state may be  
34 exempt from taking the national portion of the real estate examination if  
35 the applicant can demonstrate passing a national examination within the  
36 past five years that is satisfactorily similar to the one administered by  
37 the department.

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

42 L. An applicant for an original real estate salesperson's license,  
43 after completion of the requirements of subsection B of this section,  
44 shall provide certification to the department at the time of application  
45 evidencing completion of six hours of instruction in real estate contract

1 law and contract writing. This instruction shall include participation by  
2 the applicant in the drafting of contracts to purchase real property,  
3 listing agreements and lease agreements.

4 M. The commissioner shall not issue a license to a person who has  
5 been convicted of a felony offense and who is currently incarcerated for  
6 the conviction, paroled or under community supervision and under the  
7 supervision of a parole or community supervision officer or who is on  
8 probation as a result of the conviction.

9 N. THE COMMISSIONER SHALL REQUIRE AN OUT-OF-STATE APPLICANT FOR A  
10 LICENSE THAT IS ISSUED PURSUANT TO SECTION 32-4302 TO PASS AN EXAMINATION  
11 SPECIFIC TO THE LAWS OF THIS STATE RELATING TO THIS CHAPTER BEFORE THE  
12 COMMISSIONER ISSUES THE LICENSE TO THE APPLICANT.