

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1274
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-2101, Arizona Revised Statutes, is amended
3 to 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. "Address of record" means any of the following:

9 (a) The address where a licensee practices or is otherwise
10 employed.

11 (b) A licensee's residential address.

12 (c) The address of a licensee's statutory agency who is registered
13 as the licensee's statutory agent with the corporation commission. This
14 subdivision applies only if notice of the statutory agent is given to the
15 department pursuant to section 32-2126.

16 3. "Advertising" means attempting by publication, dissemination,
17 exhibition, solicitation or circulation, oral or written, or for broadcast
18 on radio or television to induce directly or indirectly any person to
19 enter into any obligation or acquire any title or interest in lands
20 subject to this chapter, including the land sales contract to be used and
21 any photographs, drawings or artist's presentations of physical conditions
22 or facilities existing or to exist on the property. Advertising does not
23 include:

24 (a) Press releases or other communications delivered to newspapers,
25 periodicals or other news media for general information or public
26 relations purposes if no charge is made by the newspapers, periodicals or
27 other news media to publish or use any part of these communications.

28 (b) Communications to stockholders as follows:

29 (i) Annual reports and interim financial reports.

30 (ii) Proxy materials.

31 (iii) Registration statements.

32 (iv) Securities prospectuses.

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

34 (vi) Prospectuses.

35 (vii) Property reports.

36 (viii) Offering statements.

37 4. "Affiliate" means a person who, directly or indirectly through
38 one or more intermediaries, controls, is controlled by or is under common
39 control with the person specified.

- 1 5. "Associate broker" means a licensed broker who is employed by
2 another broker. Unless otherwise specifically provided, an associate
3 broker has the same license privileges as a salesperson.
- 4 6. "Barrier" means a natural or man-made geographic feature that
5 prevents parcels of land from being practicably, reasonably and
6 economically united or reunited and that was not caused or created by the
7 owner of the parcels.
- 8 7. "Blanket encumbrance":
9 (a) Means either:
10 (i) Any mortgage, any deed of trust or any other encumbrance or
11 lien that secures or evidences the payment of monies and that affects more
12 than one lot or parcel of subdivided land.
13 (ii) An agreement that affects more than one lot or parcel by which
14 the subdivider holds the subdivision under an option, contract to sell or
15 trust agreement.
- 16 (b) Does not include taxes and assessments that are levied by
17 public authority.
- 18 8. "Board" means the real estate advisory board.
- 19 9. "Broker", when used without modification, means a person who is
20 licensed as a broker under this chapter or who is required to be licensed
21 as a broker under this chapter.
- 22 10. "Business broker" means a real estate broker who acts as an
23 intermediary or agent between sellers or buyers, or both, in the sale or
24 purchase, or both, of businesses or business opportunities where a lease
25 or sale of real property is either a direct or incidental part of the
26 transaction.
- 27 11. "Camping site" means a space that is designed and promoted for
28 the purpose of locating any trailer, tent, tent trailer, pickup camper or
29 other similar device used for camping.
- 30 12. "Cemetery" or "cemetery property" means any one, or a
31 combination of more than one, of the following in a place that is used, or
32 intended to be used, and dedicated for cemetery purposes:
33 (a) A burial park, for earth interments.
34 (b) A mausoleum, for crypt or vault entombments.
35 (c) A crematory, or a crematory and columbarium, for cinerary
36 interments.
37 (d) A cemetery plot, including interment rights, mausoleum crypts,
38 niches and burial spaces.
- 39 13. "Cemetery broker" means a person other than a real estate
40 broker or real estate salesperson who, for another, for compensation:
41 (a) Sells, leases or exchanges cemetery property or interment
42 services of or for another, or on the person's own account.
43 (b) Offers for another or for the person's own account to buy,
44 sell, lease or exchange cemetery property or interment services.
45 (c) Negotiates the purchase and sale, lease or exchange of cemetery
46 property or interment services.
47 (d) Negotiates the purchase or sale, lease or exchange, or lists or
48 solicits, or negotiates a loan on or leasing of cemetery property or
49 interment services.

1 14. "Cemetery salesperson" means a natural person who acts on the
2 person's own behalf or through and on behalf of a professional limited
3 liability company or a professional corporation engaged by or on behalf of
4 a licensed cemetery or real estate broker, or through and on behalf of a
5 corporation, partnership or limited liability company that is licensed as
6 a cemetery or real estate broker, to perform any act or transaction
7 included in the definition of cemetery broker.

8 15. "Commissioner" means the state real estate commissioner.

9 16. "Common promotional plan" means a plan, undertaken by a person
10 or a group of persons acting in concert, to offer lots for sale or lease.
11 If the land is offered for sale by a person or group of persons acting in
12 concert, and the land is contiguous or is known, designated or advertised
13 as a common unit or by a common name, the land is presumed, without regard
14 to the number of lots covered by each individual offering, as being
15 offered for sale or lease as part of a common promotional plan. Separate
16 subdividers selling lots or parcels in separately platted subdivisions
17 within a master planned community shall not be deemed to be offering their
18 combined lots for sale or lease as part of a common promotional plan.

19 17. "Compensation" means any fee, commission, salary, monies or
20 other valuable consideration for services rendered or to be rendered as
21 well as the promise of consideration whether contingent or not.

22 18. "Contiguous":

23 (a) Means lots, parcels or fractional interests that share a common
24 boundary or point.

25 (b) Does not include lots, parcels or fractional interests that are
26 separated by either of the following:

27 (i) A barrier.

28 (ii) A road, street or highway that has been established by this
29 state or by any agency or political subdivision of this state, that has
30 been designated by the federal government as an interstate highway or that
31 has been regularly maintained by this state or by any agency or political
32 subdivision of this state and has been used continuously by the public for
33 at least the last five years.

34 19. "Control" or "controlled" means a person who, through
35 ownership, voting rights, power of attorney, proxy, management rights,
36 operational rights or other rights, has the right to make decisions
37 binding on an entity, whether a corporation, a partnership or any other
38 entity.

39 20. "Corporation licensee" means a lawfully organized corporation
40 that is registered with the corporation commission and that has an officer
41 licensed as the designated broker pursuant to section 32-2125.

42 21. "Department" means the state real estate department.

43 22. "Designated broker" means a natural person who is licensed as a
44 broker under this chapter and who is either:

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

47 (b) Doing business as a sole proprietor.

48 23. "Developer":

1 (a) Means a person who offers real property in a development for
2 sale, lease or use, either immediately or in the future, on the person's
3 own behalf or on behalf of another person, under this chapter.

4 (b) Does not include a person whose involvement with a development
5 is limited to listing property within the development for sale, lease or
6 use.

7 24. "Development" means any division, proposed division or use of
8 real property that the department has authority to regulate, including
9 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
10 membership campgrounds and stock cooperatives.

11 25. "Distance learning" means continuing education or prelicensure
12 education that is an online, planned learning experience with a geographic
13 separation that may be synchronous or asynchronous, that does not require
14 real-time interaction between a student and an instructor and that uses a
15 platform with self-paced or prerecorded lessons and materials that a
16 student can access via the internet to proceed at the student's own pace.

17 26. "Employing broker" means a person who is licensed or is
18 required to be licensed as a:

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

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

22 27. "Fractional interest" means an undivided interest in improved
23 or unimproved land, lots or parcels of any size created for the purpose of
24 sale or lease and evidenced by any receipt, certificate, deed or other
25 document conveying the interest. Undivided interests in land, lots or
26 parcels created in the names of a husband and wife as community property,
27 joint tenants or tenants in common, or in the names of other persons who,
28 acting together as part of a single transaction, acquire the interests
29 without a purpose to divide the interests for present or future sale or
30 lease shall be deemed to constitute only one fractional interest.

31 28. "Improved lot or parcel" means a lot or parcel of a subdivision
32 on which there is a residential, commercial or industrial building or
33 concerning which a contract has been entered into between a subdivider and
34 a purchaser that obligates the subdivider directly, or indirectly through
35 a building contractor, to completely construct a residential, commercial
36 or industrial building on the lot or parcel within two years after the
37 date on which the contract of sale for the lot is entered into, or for a
38 condominium as defined in section 33-1202, within four years after the
39 date on which the contract for sale is entered into.

40 29. "Inactive license" means a license that is issued pursuant to
41 article 2 of this chapter to a licensee who is on inactive status during
42 the current license period and who is not engaged by or on behalf of a
43 broker.

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

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

1 32. "Licensee" means a person to whom a license for the current
2 license period has been granted under any provision of this chapter, and,
3 for the purposes of section 32-2153, subsection A, includes original
4 license applicants.

5 33. "License period" means the two-year period beginning with the
6 date of original issue or renewal of a particular license and ending on
7 the expiration date, if any.

8 34. "Limited liability company licensee" means a lawfully organized
9 limited liability company that has a member or manager who is a natural
10 person and who is licensed as the designated broker pursuant to section
11 32-2125.

12 35. "Live classroom course" means a course or instructional segment
13 delivered in either an in-person classroom instructional format or a
14 synchronous remote instructional format that allows students to observe
15 and participate remotely in an instructional segment via livestreaming.

16 36. "Lot reservation" means an expression of interest by a
17 prospective purchaser in buying at some time in the future a subdivided or
18 unsubdivided lot, unit or parcel in this state. In all cases, a
19 subsequent affirmative action by the prospective purchaser must be taken
20 to create a contractual obligation to purchase.

21 37. "Master planned community" means a development that consists of
22 two or more separately platted subdivisions and that is either subject to
23 a master declaration of covenants, conditions or restrictions, is subject
24 to restrictive covenants sufficiently uniform in character to clearly
25 indicate a general scheme for improving or developing real property or is
26 governed or administered by a master owner's association.

27 38. "Member" means a member of the real estate advisory board.

28 39. "Membership camping broker" means a person, other than a
29 salesperson, who, for compensation:

30 (a) Sells, purchases, lists, exchanges or leases membership camping
31 contracts.

32 (b) Offers to sell, purchase, exchange or lease membership camping
33 contracts.

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

36 (d) Advertises or holds himself out as being engaged in the
37 business of selling, buying, exchanging or leasing membership camping
38 contracts or counseling or advising regarding membership camping
39 contracts.

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

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

45 40. "Membership camping contract" means an agreement that is
46 offered or sold in this state evidencing a purchaser's right or license to
47 use the camping or outdoor recreation facilities of a membership camping
48 operator and includes a membership that provides for this use.

49 41. "Membership camping operator":

1 (a) Means an enterprise, other than one that is tax exempt under
2 section 501(c)(3) of the internal revenue code of 1986, as amended, that
3 solicits membership paid for by a fee or periodic payments and has as one
4 of its purposes camping or outdoor recreation, including the use of
5 camping sites primarily by members.

6 (b) Does not include camping or recreational trailer parks that are
7 open to the general public and that contain camping sites rented for a per
8 use fee or a mobile home park.

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

17 43. "Partnership licensee" means a partnership with a managing
18 general partner who is licensed as the designated broker pursuant to
19 section 32-2125.

20 44. "Permanent access", as required under article 4 of this
21 chapter, means permanent access from the subdivision to any federal, state
22 or county highway.

23 45. "Perpetual care" or "endowed care":

24 (a) Means maintaining and caring, in all places where interments
25 have been made, for the trees, shrubs, roads, streets and other
26 improvements and embellishments contained within or forming a part of the
27 cemetery.

28 (b) Does not include maintaining or repairing monuments, tombs,
29 copings or other man-made ornaments as associated with individual burial
30 spaces.

31 46. "Perpetual or endowed-care cemetery" means a cemetery in which
32 lots or other burial spaces are sold or transferred under the
33 representation that the cemetery will receive perpetual care or endowed
34 care free of further cost to the purchaser after payment of the original
35 purchase price for the lot, burial space or interment right.

36 47. "Person" means any individual, corporation, partnership or
37 company and any other form of multiple organization for carrying on
38 business, foreign or domestic.

39 48. "Private cemetery" means a cemetery or place that is not
40 licensed under article 6 of this chapter, where burials or interments of
41 human remains are made, in which sales or transfers of interment rights or
42 burial plots are not made to the public and in which not more than ten
43 interments or burials occur annually.

44 49. "Promotion" or "promotional practice" means advertising and any
45 other act, practice, device or scheme to induce directly or indirectly any
46 person to enter into any obligation or acquire any title or interest in or
47 use of real property subject to this chapter, including meetings with
48 prospective purchasers, arrangements for prospective purchasers to visit

1 real property, travel allowances and discount, exchange, refund and
2 cancellation privileges.

3 50. "Real estate" includes leasehold-interests and any estates in
4 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
5 whether located in this state.

6 51. "Real estate broker" means a person, other than a salesperson,
7 who, for another and for compensation:

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

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

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

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

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

20 (f) Buys, sells, offers to buy or sell or otherwise deals in
21 options on real estate, businesses and business opportunities or timeshare
22 interests or improvements to real estate, businesses and business
23 opportunities or timeshare interests.

24 (g) Collects or offers, attempts or agrees to collect rent for the
25 use of real estate, businesses and business opportunities or timeshare
26 interests. This subdivision does not apply to a person who is not a
27 licensee, who works for a real estate broker or a real estate salesperson,
28 who collects in-person rent and related fees on behalf of the real estate
29 broker or real estate salesperson for the use of real estate as part of
30 the person's clerical duties and who provides a receipt when rent is paid.

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

36 (i) Assists or directs in procuring prospects that are calculated
37 to result in the sale, exchange, leasing or rental of real estate,
38 businesses and business opportunities or timeshare interests.

39 (j) Assists or directs in negotiating any transaction calculated or
40 intended to result in the sale, exchange, leasing or rental of real
41 estate, businesses and business opportunities or timeshare interests.

42 (k) Incident to the sale of real estate, businesses and business
43 opportunities negotiates or offers, attempts or agrees to negotiate a loan
44 secured or to be secured by any mortgage or other encumbrance on or
45 transfer of real estate, businesses and business opportunities or
46 timeshare interests subject to section 32-2155, subsection D. This
47 subdivision does not apply to mortgage brokers as defined in and subject
48 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 to
5 collect an advance fee in connection with any employment enumerated in
6 this section, including employment undertaken to promote the sale or lease
7 of real property by advance fee listing, by furnishing rental information
8 to a prospective tenant for a fee paid by the prospective tenant, by
9 advertising or by any other offering to sell, lease, exchange or rent real
10 property or selling kits connected therewith. This does not include the
11 activities of any communications media of general circulation or coverage
12 not primarily engaged in advertising real estate or any communications
13 media activities that are specifically exempt from applicability of this
14 article under section 32-2121.

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

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

23 (p) Acts as a business broker.

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

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

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

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

45 56. "School" means a person or entity that offers a course of study
46 toward completion of the education requirements leading to licensure or
47 renewal of licensure under this chapter.

48 57. "Stock cooperative" means a corporation to which all of the
49 following apply:

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

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

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

9 58. "Subdivider":

10 (a) Means any person who offers for sale or lease six or more lots,
11 parcels or fractional interests in a subdivision or who causes land to be
12 subdivided into a subdivision for the subdivider or for others, or who
13 undertakes to develop a subdivision.

14 (b) Does not include a public agency or officer authorized by law
15 to create subdivisions.

16 59. "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, on
41 investigation by the commissioner, there is evidence of intent to
42 subdivide.

43 60. "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
46 security unless it meets the definition of a security under section
47 44-1801.

48 61. "TIMESHARE SALESPERSON" MEANS A NATURAL PERSON WHO ACTS UNDER
49 THE SUPERVISION OF A LICENSED REAL ESTATE BROKER TO SELL OR EXCHANGE

1 ~~TIMESHARE PROPERTIES ON BEHALF OF A TIMESHARE PLAN DEVELOPER OR OTHER~~
2 ~~PERSON.~~

3 ~~61.~~ 62. "Trustee":

4 (a) Means a person who either:

5 (i) Is designated under section 32-2194.27 to act as a trustee for
6 an endowment-care cemetery fund.

7 (ii) Holds bare legal title to real property under a subdivision
8 trust.

9 (b) Does not include a developer, subdivider, broker or salesperson
10 within this chapter.

11 ~~62.~~ 63. "Unimproved lot or parcel" means a lot or parcel of a
12 subdivision that is not an improved lot or parcel.

13 ~~63.~~ 64. "Unsubdivided lands":

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

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

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

29 ~~32-2122.~~ License required of brokers and salespersons

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

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

37 7. **TIMESHARE SALESPERSON.**

38 B. It is unlawful for any person, corporation, partnership or
39 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 this
42 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
46 article is subject to the requirements of this chapter in performing any
47 acts included in the definition of a broker unless otherwise provided in
48 this chapter.

1 D. Except as otherwise provided in this subsection, any act, in
2 consideration or expectation of compensation, that is included in the
3 definition of a real estate broker, cemetery broker or membership camping
4 broker, whether the act is an incidental part of a transaction or the
5 entire transaction, constitutes the person offering or attempting to
6 perform the act of a real estate broker or real estate salesperson, a
7 cemetery broker or cemetery salesperson, A TIMESHARE SALESPERSON or a
8 membership camping broker or ~~a~~ membership camping salesperson within the
9 meaning of this chapter. A person who is not a licensee may collect
10 in-person rent and related fees for the use of real estate as part of the
11 person's clerical duties if the person works for a licensee, the rent
12 collection is on behalf of the licensee and the person provides a receipt
13 when rent is paid.

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

16 32-2124. Qualifications of licensees

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

22 1. If for an original real estate broker's license, been an active
23 licensed real estate salesperson or real estate broker for at least three
24 years during the five years immediately preceding the time of application.

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

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

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

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

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

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

11 B. All applicants other than renewal applicants under section
12 32-2130 for a real estate salesperson's license shall show evidence
13 satisfactory to the commissioner that they have completed a real estate
14 salesperson's course that is prescribed and approved by the commissioner
15 and that is at least ninety classroom hours, or the equivalent, of
16 instruction in a real estate school certified by the commissioner and have
17 satisfactorily passed an examination on the course. An applicant may
18 complete the real estate salesperson's course prescribed by this
19 subsection through a live classroom course or a distance learning course
20 if the live classroom course or distance learning course is offered by a
21 real estate school that is certified by the commissioner. The applicant
22 must complete a proctored examination on the live classroom course or the
23 distance learning course in person. An applicant may complete the
24 required course or instructional segments in any combination of in-person
25 or synchronous remote delivery methods. The real estate salesperson's
26 course completion or its equivalent may not be more than ten years before
27 the date of application unless, at the time of application, the
28 commissioner determines in the commissioner's discretion that the
29 applicant has work experience in a real estate-related field and education
30 that together are equivalent to the prelicensure education
31 requirement. Except as provided in section 32-4302, the commissioner may
32 waive all or a portion of the prelicensure course requirement, other than
33 the twenty-seven-hour Arizona-specific course, for an applicant who holds
34 a current real estate license in another state.

35 C. All applicants other than renewal applicants under section
36 32-2130 for a real estate broker's license shall show evidence
37 satisfactory to the commissioner that they have completed a real estate
38 broker's course that is prescribed and approved by the commissioner and
39 that is at least ninety classroom hours, or the equivalent, of instruction
40 in a real estate school certified by the commissioner and have
41 satisfactorily passed an examination on the course. An applicant may
42 complete the real estate broker's course prescribed by this subsection
43 through a live classroom course or a distance learning course if the live
44 classroom course or distance learning course is offered by a real estate
45 school that is certified by the commissioner. The applicant must complete
46 a proctored examination on the live classroom course or distance learning
47 course in person. An applicant may complete the required course or
48 instructional segments in any combination of in-person or synchronous
49 remote delivery methods. The real estate broker's course completion or

1 its equivalent may not be more than ten years before the date of
2 application unless, at the time of application, the commissioner
3 determines in the commissioner's discretion that the applicant has work
4 experience in a real estate-related field and education that together are
5 equivalent to the prelicensure education requirement. Except as provided
6 in section 32-4302, the commissioner may waive all or a portion of the
7 prelicensure course requirement, other than the twenty-seven-hour
8 Arizona-specific course, for an applicant who holds a current real estate
9 license in another state.

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

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

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

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

23 3. A thorough understanding of the obligations between principal
24 and agent, the principles of real estate and business opportunity
25 practice, the applicable canons of business ethics, this chapter and rules
26 adopted pursuant to this chapter.

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

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

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

34 2. A general understanding of:

35 (a) Cemetery associations, cemetery corporations and duties of
36 cemetery directors and officers.

37 (b) Plot ownership, deeds, certificates of ownership, contracts of
38 sale, liens and leases.

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

41 (d) The provisions of this chapter and rules adopted pursuant to
42 this chapter relating to the organization and regulation of cemeteries and
43 the licensing and regulation of cemetery brokers and cemetery
44 salespersons.

45 3. A general understanding of the obligations between principal and
46 agent, the principles of cemetery practice and the canons of business
47 ethics pertaining to the operation of cemeteries and the sale of cemetery
48 property.

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

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

6 2. A general understanding of:

7 (a) The general purposes and legal effect of contracts and agency
8 contracts.

9 (b) Establishing, maintaining, managing and operating a membership
10 campground.

11 (c) The provisions of this chapter and rules adopted pursuant to
12 this chapter relating to the organization and regulation of membership
13 campgrounds and the licensing and regulation of membership camping brokers
14 and membership camping salespersons.

15 3. A general understanding of the obligations between principal and
16 agent and the canons of business ethics pertaining to the operation and
17 promotion of membership campgrounds.

18 H. THE COMMISSIONER MAY ADOPT RULES THAT SPECIFY THE REQUIREMENTS
19 OF EXAMINATION PREPARATION COURSES FOR APPLICANTS FOR TIMESHARE
20 SALESPERSON LICENSES. THE EXAMINATION PREPARATION COURSE AND THE
21 TIMESHARE EXAMINATION SHALL BE LIMITED TO THOSE SPECIFIC REAL ESTATE LAWS,
22 REGULATIONS, BUSINESS PRACTICES AND CANONS OF BUSINESS ETHICS THAT ARE
23 DIRECTLY RELATED TO THE SALE OF TIMESHARE INTERESTS IN THIS STATE. THE
24 COMMISSIONER SHALL ASCERTAIN BY A WRITTEN, ELECTRONIC OR OTHER EXAMINATION
25 METHOD THAT AN APPLICANT FOR A LICENSE AS A TIMESHARE SALESPERSON MEETS
26 BOTH OF THE FOLLOWING:

27 1. HAS AN APPROPRIATE KNOWLEDGE OF ELEMENTARY ARITHMETIC AND OF THE
28 ENGLISH LANGUAGE, INCLUDING READING, WRITING AND SPELLING.

29 2. HAS A GENERAL UNDERSTANDING OF ALL OF THE FOLLOWING:

30 (a) THE PROVISIONS OF THIS CHAPTER AND THE RULES ADOPTED PURSUANT
31 TO THIS CHAPTER THAT RELATE TO THE DEVELOPMENT OF TIMESHARE PROPERTIES,
32 THE ORGANIZATION AND REGULATION OF TIMESHARE PROPERTIES, THE SALE OR
33 EXCHANGE OF TIMESHARE PROPERTIES, THE LICENSING AND REGULATION OF
34 TIMESHARE SALESPERSONS AND THE ROLE OF LICENSED REAL ESTATE BROKERS IN
35 REVIEWING AND APPROVING TIMESHARE SALES OR EXCHANGES.

36 (b) TIMESHARE OWNERSHIP METHODS, INCLUDING DEEDS, CERTIFICATES OF
37 OWNERSHIP AND CONTRACTS OF SALE, LEASES OF TIMESHARE PROPERTIES AND LIENS
38 AND FORECLOSURE OF TIMESHARE INTERESTS.

39 (c) THE CANONS OF BUSINESS ETHICS PERTAINING TO THE OPERATION OF
40 TIMESHARE PROPERTIES AND THE SALE AND EXCHANGE OF TIMESHARE PROPERTIES.

41 ~~H.~~ I. A renewal applicant for a real estate broker's, cemetery
42 broker's or membership camping broker's or real estate salesperson's,
43 cemetery salesperson's, ~~or~~ membership camping salesperson's OR TIMESHARE
44 SALESPERSON'S license is not required to submit to an examination if the
45 application is made within twelve months after the license expires and the
46 license is not canceled, terminated or suspended at the time of
47 application.

1 ~~J.~~ J. The examination for a broker's license shall be more
2 exacting and stringent and of a broader scope than the examination for a
3 salesperson's license.

4 ~~K.~~ K. An applicant for a real estate salesperson's or real estate
5 broker's license who currently holds at least an equivalent license in
6 another state is exempt from taking the national portion of the real
7 estate examination pursuant to section 32-4302.

8 ~~L.~~ L. Identification of each applicant whose licensing requirement
9 was allowed to be met by an equivalent alternative pursuant to this
10 section shall be included in the annual performance evaluation presented
11 by the board to the governor pursuant to section 32-2104.

12 ~~M.~~ M. An applicant for an original real estate salesperson's
13 license, after completing the requirements of subsection B of this
14 section, shall provide certification to the department at the time of
15 application evidencing completion of six hours of instruction in real
16 estate contract law and contract writing. This instruction shall include
17 participation by the applicant in drafting contracts to purchase real
18 property, listing agreements and lease agreements.

19 ~~N.~~ N. The commissioner shall not issue a license to a person who
20 has been convicted of a felony offense and who is currently incarcerated
21 for the conviction, paroled or under community supervision and under the
22 supervision of a parole or community supervision officer or who is on
23 probation as a result of the conviction.

24 ~~O.~~ O. The commissioner shall require an out-of-state applicant for
25 a license that is issued pursuant to section 32-4302 to pass an
26 examination specific to the laws of this state relating to this chapter
27 before the commissioner issues the license to the applicant.

28 Sec. 4. Section 32-2125.01, Arizona Revised Statutes, is amended to
29 read:

30 32-2125.01. Issuance of license; multiple licenses; use

31 A. When the requirements for application, examination and payment
32 of fees are completed to the satisfaction of the commissioner, the
33 commissioner shall issue the license applied for to the applicant. Any
34 person who has passed the state examination for broker or salesperson must
35 become licensed within one year from the date of the examination. Failure
36 to comply with this section will necessitate the submission to and passing
37 of another examination.

38 B. Not more than one license shall be issued and outstanding to or
39 in favor of a licensee at any one time, except that a person WHO IS
40 licensed as a real estate broker or real estate salesperson may engage in
41 cemetery, ~~or~~ membership camping OR TIMESHARE sales activities without
42 being separately licensed to engage in these activities. A real estate
43 licensee may have only one employing broker in each of the following
44 LICENSING categories:

- 45 1. Cemetery.
- 46 2. Membership camping.
- 47 3. Real estate.
- 48 4. TIMESHARE.

1 C. A designated or employing real estate broker may engage in
2 cemetery or membership camping sales activities and may employ cemetery
3 ~~and~~ SALESPERSONS, membership camping salespersons and associate brokers
4 without being separately licensed as a cemetery ~~or~~ BROKER, CEMETERY
5 SALESPERSON, membership camping broker or MEMBERSHIP CAMPING salesperson.

6 Sec. 5. Section 32-2130, Arizona Revised Statutes, is amended to
7 read:

8 32-2130. Renewal of licenses; education requirements; broker
9 licensee renewal as salesperson licensee

10 A. Except as provided in subsection K of this section, a license
11 may be renewed in a timely manner by filing an application for renewal in
12 the manner prescribed by the commissioner, by paying the renewal fee
13 specified in this chapter and by presenting evidence of attendance at a
14 school certified by the commissioner during the preceding license period
15 of twenty-four credit hours for salespersons and associate brokers and
16 thirty credit hours for designated brokers or for associate brokers
17 employed by a designated broker pursuant to section 32-2151.01, subsection
18 G, or a lesser number of credit hours prescribed by the commissioner, of
19 real estate oriented continuing education courses prescribed and approved
20 by the commissioner. The total number of credit hours shall be accrued at
21 a rate of twenty-four credit hours for salespersons and associate brokers
22 and thirty credit hours for designated brokers or for associate brokers
23 employed by a designated broker pursuant to section 32-2151.01, subsection
24 G during each twenty-four-month period of licensure. The department shall
25 maintain a current list of approved courses. The commissioner may waive
26 all or a portion of the continuing education requirement for good cause
27 shown. The commissioner shall determine by rule the content of the
28 renewal credit hours. The renewal credit hours may include the
29 commissioner's current topics, including short sales. For the purposes of
30 this subsection, "short sales" means real estate transactions in which the
31 sales price is insufficient to pay the loan encumbering the property in
32 addition to the costs of sale and the seller is unable to pay the
33 difference.

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

37 C. Each renewal application shall contain, as applicable, the same
38 information required in an original application pursuant to section
39 32-2123.

40 D. Cemetery brokers and salespersons and membership camping brokers
41 and salespersons are exempt from the educational requirements of this
42 section.

43 E. This section does not require a licensee to attend department
44 produced or sponsored courses if approved courses are otherwise available.

45 F. Between the expiration date of the license and the date of
46 renewal of the license, the rights of the licensee under the license
47 expire. While the license is expired it is unlawful for a person to act
48 or attempt or offer to act in a manner included in the definition of a
49 real estate BROKER OR REAL ESTATE SALESPERSON, A TIMESHARE SALESPERSON, A

1 cemetery **BROKER OR CEMETERY SALESPERSON** or A membership camping broker or
2 **MEMBERSHIP CAMPING** salesperson. If the license of an employing broker
3 expires under this subsection, the licenses of persons who are employed by
4 the employing broker shall be severed from the employing broker on the
5 license expiration date of the employing broker. These persons may be
6 rehired on renewal of the employing broker's license. The department
7 shall terminate a license that has been expired for more than one year.

8 G. Except as provided in section 32-4301, not more than one year
9 after the license expiration date, the department shall renew a license
10 without requiring the applicant to submit to an examination if the
11 applicant held a license that was not canceled or suspended at the time of
12 expiration. Except as provided in section 32-4301, the license period for
13 a license renewed pursuant to this subsection commences the day after the
14 expiration date of the expired license. Except as provided in section
15 32-2131, subsection A, paragraph 4 or 6, an applicant whose license has
16 been terminated or revoked does not qualify for license renewal.

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

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

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

41 K. A licensee with an inactive license does not need to complete
42 continuing education credit hours during the period that the license is
43 inactive. If the licensee applies with the department to change the
44 license status to active:

45 1. The commissioner may require the licensee to complete continuing
46 education credit hours before activating the license.

47 2. In addition to the continuing education requirement described in
48 paragraph 1 of this subsection, if the license has been inactive for more
49 than fifteen years, the commissioner shall require that the applicant

1 successfully pass an examination specific to the laws of this state
2 relating to this chapter before activating the license.

3 L. One year before the fifteen-year period described in subsection
4 K, paragraph 2 of this section expires, the department shall send a notice
5 to a licensee with an inactive license. The notice shall be sent to the
6 licensee's last known address of record maintained by the department and
7 shall disclose the requirements of subsection K of this section.

8 Sec. 6. Title 32, chapter 20, article 2, Arizona Revised Statutes,
9 is amended by adding section 32-2134.02, to read:

10 32-2134.02. Timeshare salesperson certificate of convenience

11 NOTWITHSTANDING ANY OTHER LICENSING REQUIREMENT PURSUANT TO THIS
12 CHAPTER, THE COMMISSIONER MAY ISSUE A ONETIME THIRTY-DAY CERTIFICATE OF
13 CONVENIENCE WITHOUT EXAMINATION TO ANY PERSON WHO HAS APPLIED AND
14 OTHERWISE QUALIFIES FOR A TIMESHARE SALESPERSON'S LICENSE. AN EMPLOYING
15 TIMESHARE PLAN DEVELOPER'S DESIGNATED BROKER SHALL CERTIFY BY AFFIDAVIT TO
16 THE COMMISSIONER THAT THE TIMESHARE SALESPERSON APPLICANT WILL BE TRAINED
17 IN APPLICABLE TIMESHARE AND CONTRACT LAWS BEFORE PARTICIPATING IN ANY
18 OFFER OR SALE.

19 Sec. 7. Section 32-2153, Arizona Revised Statutes, is amended to
20 read:

21 32-2153. Grounds for denial, suspension or revocation of
22 licenses; letters of concern; provisional license;
23 retention of jurisdiction by commissioner;
24 definitions

25 A. The commissioner may suspend or revoke a license, deny the
26 issuance of a license, issue a letter of concern to a licensee, issue a
27 provisional license or deny the renewal or the right of renewal of a
28 license issued under this chapter if it appears that the holder or
29 applicant, within five years immediately preceding, in performing or
30 attempting to perform any acts authorized by the license or by this
31 chapter, has:

32 1. Pursued a course of misrepresentation or made false promises,
33 either directly or through others, whether acting in the role of a
34 licensee or a principal in a transaction.

35 2. Acted for more than one party in a transaction without the
36 knowledge or written consent of all parties to the transaction.

37 3. Disregarded or violated any of the provisions of this chapter or
38 any rules adopted by the commissioner.

39 4. Knowingly authorized, directed, connived at or aided in the
40 publication, advertisement, distribution or circulation of any material
41 false or misleading statement or representation concerning the licensee's
42 business or any land, cemetery property, subdivision or membership
43 campground or camping contract offered for sale in this or any other
44 state.

45 5. Knowingly used the term "real estate broker", "cemetery broker"
46 or "membership camping broker" without the legal right to do so.

47 6. Employed any unlicensed salesperson or unlicensed associate
48 broker.

- 1 7. Accepted compensation as a licensee for performing any of the
2 acts specified in this chapter from any person who is not authorized to
3 provide compensation pursuant to section 32-2155.
- 4 8. Represented or attempted to represent a broker other than the
5 broker to whom the salesperson or associate broker is licensed.
- 6 9. Failed, within a reasonable time, to account for or to remit any
7 monies, to surrender to the rightful owner any documents or other valuable
8 property that comes into the licensee's possession and that belongs to
9 others, or to issue an appraisal report on real property or cemetery
10 property in which the licensee has an interest, unless the nature and
11 extent of the interest are fully disclosed in the report.
- 12 10. Paid or received any rebate, profit, compensation or commission
13 in violation of this chapter.
- 14 11. Induced any party to a contract to break the contract for the
15 purpose of substituting a new contract with the same or a different
16 principal, if the substitution is motivated by the personal gain of the
17 licensee.
- 18 12. Placed a sign on any property offering it for sale or for rent
19 without the written authority of the owner or the owner's authorized
20 agent.
- 21 13. Solicited, either directly or indirectly, prospects for the
22 sale, lease or use of real property, cemetery property or membership
23 camping contracts through a promotion of a speculative nature involving a
24 game of chance or risk or through conducting lotteries or contests that
25 are not specifically authorized under this chapter.
- 26 14. Failed to pay to the commissioner the renewal fee as specified
27 in this chapter promptly and before the time specified.
- 28 15. Failed to keep an escrow or trust account or other record of
29 monies deposited with the licensee relating to a real estate transaction.
- 30 16. Commingled the monies or other property of the licensee's
31 principal or client with the licensee's own or converted these monies or
32 property to the licensee or another.
- 33 17. Failed or refused on demand to produce any document, contract,
34 book, record, information, compilation or report that is in the licensee's
35 possession or that the licensee is required by law to maintain concerning
36 any real estate, cemetery or membership camping business, services,
37 activities or transactions involving or conducted by the licensee for
38 inspection by the commissioner or the commissioner's representative.
- 39 18. Failed to maintain a complete record of each transaction that
40 comes within this chapter.
- 41 19. Violated the federal fair housing law, the Arizona civil rights
42 law or any local ordinance of a similar nature.
- 43 20. Tendered to a buyer a wood infestation report in connection
44 with the transfer of residential real property or an interest in
45 residential real property knowing that wood infestation exists or that the
46 wood infestation report was inaccurate or false as of the date of the
47 tender or that an inspection was not done in conjunction with the
48 preparation of the wood infestation report.

1 21. As a licensed broker, failed to exercise reasonable supervision
2 over the activities of salespersons, associate brokers or others under the
3 broker's employ or failed to exercise reasonable supervision and control
4 over the activities for which a license is required of a corporation,
5 limited liability company or partnership on behalf of which the broker
6 acts as designated broker under section 32-2125.

7 22. Demonstrated negligence in performing any act for which a
8 license is required.

9 23. Sold or leased a property to a buyer or lessee that was not the
10 property represented to the buyer or lessee.

11 24. Violated any condition or term of a commissioner's order.

12 25. Signed the name of another person on any document or form
13 without the express written consent of the person.

14 26. As a licensed school, failed to exercise reasonable supervision
15 over the activities for which a license is required for an owner,
16 director, administrator or instructor in the school's employ.

17 B. The commissioner may suspend or revoke a license, deny the
18 issuance of a license, issue a letter of concern to a licensee, issue a
19 provisional license or deny the renewal or the right of renewal of a
20 license issued under this chapter if it appears that the holder or
21 applicant has:

22 1. Procured or attempted to procure a license under this chapter
23 for the holder or applicant or another by fraud, misrepresentation or
24 deceit or by filing an original or renewal application that is false or
25 misleading.

26 2. Been convicted in a court of competent jurisdiction in this or
27 any other state of a felony or of any crime of forgery, theft, extortion,
28 conspiracy to defraud, a crime of moral turpitude or any other like
29 offense.

30 3. Made any substantial misrepresentation.

31 4. Made any false promises of a character likely to influence,
32 persuade or induce.

33 5. Been guilty of any conduct, whether of the same or a different
34 character than specified in this section, that constitutes fraud or
35 dishonest dealings.

36 6. Engaged in the business of a real estate broker, cemetery broker
37 or membership camping broker or real estate salesperson, **TIMESHARE**
38 **SALESPERSON**, cemetery salesperson or membership camping salesperson
39 without holding a license as prescribed in this chapter.

40 7. Demonstrated incompetence to perform any duty or requirement of
41 a licensee under or arising from this chapter. For the purposes of this
42 paragraph, "incompetence" means a lack of basic knowledge or skill
43 appropriate to the type of license the person holds or a failure to
44 appreciate the probable consequences of the licensee's action or inaction.

45 8. Violated the terms of any criminal or administrative order,
46 decree or sentence.

47 9. Violated any federal or state law, regulation or rule that
48 relates to real estate or securities or that involves forgery, theft,
49 extortion, fraud, substantial misrepresentation, dishonest dealings or

1 violence against another person or failure to deal fairly with any party
2 to a transaction that materially and adversely affected the transaction.
3 This paragraph applies equally to violations of which the licensee was
4 convicted in any lawful federal or state tribunal and to any admissions
5 made in any settlement agreement by the licensee to violations.

6 10. Failed to respond in the course of an investigation or audit by
7 providing documents or written statements.

8 C. A judgment based on a court's finding or stipulation of fraud by
9 a licensee following a trial on the merits or a criminal conviction of a
10 licensee that results in a payment from the real estate recovery fund is
11 prima facie evidence of a violation and grounds for discipline under this
12 section.

13 D. The commissioner may deny, suspend or revoke the issuance of a
14 license on application by a corporation, a limited liability company or a
15 partnership if it appears that an owner, officer, director, member,
16 manager, partner, stockholder owning ten percent or more of the stock in
17 the corporation or limited liability company or person exercising control
18 of the entity is a current or former licensee whose license as a broker or
19 a salesperson has been denied, suspended or revoked.

20 E. The lapsing or suspension of a license by operation of law or by
21 order or decision of the commissioner or a court of law or the voluntary
22 surrender of a license by a licensee does not deprive the commissioner of
23 jurisdiction to do any of the following:

24 1. Proceed with any investigation of or action or disciplinary
25 proceeding against the licensee.

26 2. Render a decision suspending or revoking the license or denying
27 the renewal or right of renewal of the license.

28 3. Assess a civil penalty pursuant to section 32-2160.01.

29 F. For the purposes of this section:

30 1. "Letter of concern" means an advisory letter to notify a
31 licensee that, while the conduct or evidence does not warrant disciplinary
32 action, the commissioner believes that the licensee should modify or
33 eliminate certain practices and that continuation of the activities may
34 result in disciplinary action against the licensee.

35 2. "Provisional license" means a license that the department issues
36 and that allows a licensee to practice subject to either a consent order
37 as prescribed in section 32-2153.01 or the commissioner's terms,
38 conditions and restrictions.

39 Sec. 8. Legislative intent

40 The legislature intends to:

41 1. Establish a separate type of real estate license under the state
42 real estate department for individuals who are retained exclusively to
43 assist others in purchasing, selling and exchanging timeshare interests.

44 2. Narrow the scope of the training and the examination
45 requirements for applicants for timeshare salesperson licenses and thereby
46 reduce the barriers for employment while protecting the public by
47 requiring that all purchases, sales and exchanges of timeshare interests
48 be performed under the purview of a licensed real estate broker and in

House Amendments to S.B. 1274

- 1 full compliance with the specified statutory and regulatory requirements
- 2 applicable to timeshare sales.
- 3 Sec. 9. Effective date
- 4 This act is effective from and after June 30, 2027."
- 5 Amend title to conform

JEFF WENINGER

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