

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

# HOUSE BILL 2399

AN ACT

AMENDING SECTIONS 32-2101, 32-2124, 32-2132, 32-2135 AND 32-2163, ARIZONA  
REVISED STATUTES; RELATING TO REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

21 (b) Communications to stockholders as follows:

22 (i) Annual reports and interim financial reports.

23 (ii) Proxy materials.

24 (iii) Registration statements.

25 (iv) Securities prospectuses.

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

27 (vi) Prospectuses.

28 (vii) Property reports.

29 (viii) Offering statements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) A barrier.

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

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

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

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

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

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

34 (b) Doing business as a sole proprietor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

21 (p) Acts as a business broker.

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

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

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

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

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

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

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

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

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

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

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

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

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

23       (c) Does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 32-2132. Fees

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

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

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

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

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

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

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

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

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

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

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

43 11. A duplicate license fee of five dollars.

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

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

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

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

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

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

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

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

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

(d) A live classroom prelicensure education course [OR PRELICENSURE ONLINE COURSE](#) approval or renewal fee.

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

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

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

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

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

[32-2135. Real estate schools; courses of study; instructors; certification](#)

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



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

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

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

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

16 2. Improper certification of student attendance or performance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Sec. 6. Effective date

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