

REFERENCE TITLE: real estate education

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2110

Introduced by
Representatives Reagan: Kavanagh

AN ACT

AMENDING SECTIONS 32-2107, 32-2132, 32-2135 AND 32-2136, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2118; 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 32-2107, Arizona Revised Statutes, is amended to
3 read:

4 32-2107. Powers and duties of commissioner; compensation;
5 administration of department; seal; revolving fund

6 A. The commissioner shall have charge of the department with power to
7 administer it in accordance with the provisions of and to carry out the
8 purposes of this chapter. ~~He~~ THE COMMISSIONER shall adopt a seal which shall
9 bear the words "real estate commissioner, state of Arizona", which shall be
10 used for the authentication of proceedings of the department and the official
11 documents thereof. ~~He shall have his~~ THE COMMISSIONER'S principal office
12 SHALL BE at the state capitol. ~~but~~ THE COMMISSIONER may have branch offices
13 ~~he~~ THE COMMISSIONER deems necessary in other cities.

14 B. The commissioner shall receive compensation as determined pursuant
15 to section 38-611.

16 C. The commissioner shall prepare and cause to be produced and
17 circulated among the licensees and the general public ~~such~~ educational matter
18 ~~as he~~ THE COMMISSIONER deems helpful and proper for the guidance and
19 assistance of both licensees and the public. The commissioner may assess a
20 fee for each of these educational products that does not exceed a level
21 reasonably estimated to be sufficient to recover production and distribution
22 costs.

23 D. THE COMMISSIONER MAY DEVELOP, SPONSOR OR HOLD ONE-TIME EDUCATIONAL
24 SEMINARS AND WORKSHOPS FOR THE BENEFIT OF LICENSEES AND MAY CHARGE A FEE IN
25 AN AMOUNT REASONABLY CALCULATED TO RECOVER THE DEPARTMENT'S COST FOR THOSE
26 EDUCATIONAL ACTIVITIES.

27 ~~D-~~ E. A real estate department education revolving fund is
28 established consisting of monies received from the sale of educational matter
29 under subsection C of this section, FEES COLLECTED PURSUANT TO SUBSECTION D
30 OF THIS SECTION and grants of monies to be used in the production of
31 educational products. Monies in the fund shall be used for the printing of a
32 compilation of real estate laws and rules and other educational publications
33 and for ~~such~~ other educational efforts ~~as~~ the commissioner deems helpful and
34 proper for the guidance and assistance of licensees and the public, INCLUDING
35 SPONSORING AND HOLDING ONE-TIME EDUCATIONAL SEMINARS OR WORKSHOPS FOR
36 EDUCATORS AND OTHER LICENSEES. The department shall establish the revolving
37 fund as a separate account. The department shall make a full accounting of
38 its use to the department of administration annually or as required by the
39 department of administration. Expenditures from the fund and reimbursement
40 to the fund shall be as prescribed by rules of the department of
41 administration. Monies received in the real estate department education
42 revolving fund are not subject to reversion, except that all monies in the
43 fund in excess of twenty-five thousand dollars at the end of the fiscal year
44 revert to the state general fund.

1 ~~E.~~ F. The commissioner shall adopt rules, in accord with ~~the~~
2 ~~provisions of~~ this chapter, as the commissioner deems necessary to carry out
3 ~~the provisions of~~ this chapter.

4 ~~F.~~ G. The commissioner may approve standardized legal forms for use
5 in the sale or lease of real estate for the purpose of recognizing compliance
6 of the forms with ~~the provisions of~~ this chapter and the rules adopted
7 pursuant to this chapter.

8 Sec. 2. Title 32, chapter 20, article 1, Arizona Revised Statutes, is
9 amended by adding section 32-2118, to read:

10 32-2118. Competition with private enterprise; prohibition

11 THE DEPARTMENT SHALL NOT CREATE, ENDORSE OR SPONSOR ANY ACTIVITY THAT
12 MAY BE LEGALLY PERFORMED BY A LICENSEE IN ANY WAY THAT CONSTITUTES
13 COMPETITION WITH THE PRIVATE SECTOR. THIS SECTION DOES NOT APPLY TO LICENSE
14 APPROVAL PROCESSES OR PROCEDURES UNDER THIS CHAPTER OR TO EDUCATIONAL
15 ACTIVITIES UNDER SECTION 32-2107.

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

17 32-2132. Fees

18 A. Except as provided in subsection D, the following fees shall be
19 charged which shall not be refunded by the commissioner after issuance of a
20 receipt for payment:

21 1. A broker's examination application fee, ~~OF~~ not less than
22 thirty-five dollars and not more than one hundred twenty-five dollars.

23 2. A broker's examination fee, ~~OF~~ not less than thirty-five dollars
24 and not more than one hundred dollars.

25 3. A broker's license, ~~FEE OF~~ not less than seventy-five dollars and
26 not more than two hundred fifty dollars.

27 4. A broker's renewal fee, ~~OF~~ not less than seventy-five dollars and
28 not more than two hundred fifty dollars.

29 5. A salesperson's examination application fee, ~~OF~~ not less than
30 fifteen dollars and not more than seventy-five dollars.

31 6. A salesperson's examination fee, ~~OF~~ not less than fifteen dollars
32 and not more than fifty dollars.

33 7. A salesperson's license fee, ~~OF~~ not less than thirty-five dollars
34 and not more than one hundred twenty-five dollars.

35 8. A salesperson's renewal fee, ~~OF~~ not less than thirty-five dollars
36 and not more than one hundred twenty-five dollars.

37 9. A branch office broker's license fee or renewal ~~thereof,~~ ~~FEE OF~~ not
38 less than thirty-five dollars and not more than one hundred twenty-five
39 dollars.

40 10. A ~~FEE FOR~~ A change of name and address of licensee on records of
41 the department, ~~OF~~ not more than twenty dollars.

42 11. A duplicate license fee, ~~OF~~ five dollars.

43 12. A ~~FEE FOR~~ reinstatement of license within license period, ~~OF~~ five
44 dollars.

1 AND SHALL obtain from the commissioner a certificate of approval OR RENEWAL
2 to operate a school. A school shall also obtain a certificate of course
3 approval for each course offered for credit THAT IS NOT CURRENTLY APPROVED BY
4 ANOTHER SCHOOL. Each school is responsible for the content of any course it
5 offers AND FOR THE PROFESSIONAL ADMINISTRATION AND TEACHING OF THE COURSE.
6 LIVE CLASSROOM PRELICENSURE EDUCATION, LIVE CLASSROOM CONTINUING EDUCATION
7 AND DISTANCE LEARNING CONTINUING EDUCATION COURSES ARE SUBJECT TO APPROVAL
8 PURSUANT TO THIS SECTION.

9 B. Each approved school shall issue a certificate of real estate
10 course attendance to each person who completes an approved prelicensure or
11 continuing education course. An applicant for renewal of licensure as
12 provided by section 32-2130 shall file ~~a copy~~ EVIDENCE of the certificates
13 issued by the school with the commissioner showing the number of credit hours
14 and course of study required for renewal.

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

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

21 2. Improper certification of student attendance or performance.

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

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

25 5. Failing to attend any continuing education course required by the
26 commissioner.

27 6. Filing any false or misleading application, report or documentation
28 with the department.

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

31 1. Offer a course of study for credit that is not approved by the
32 department, EXCEPT THAT THE SCHOOL MAY ADVERTISE A COURSE AS PENDING APPROVAL
33 BEFORE ITS APPROVAL.

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

36 E. The commissioner may determine minimal CONTENT requirements for
37 approving educational courses and APPROPRIATE PROFESSIONAL QUALIFICATIONS for
38 approving instructors to teach individual educational courses. EDUCATIONAL
39 COURSE AND INSTRUCTOR APPROVALS SHALL NOT BE UNREASONABLY WITHHELD.

40 F. At least thirty days before holding a course of study for
41 completion of the education requirements leading to licensure of real estate
42 applicants or for license renewal requirements, an application AND THE FEE
43 PRESCRIBED IN SECTION 32-2132 for a certificate of course approval OR RENEWAL
44 must be ~~filed with~~ SUBMITTED TO the department. FOR A LIVE CLASSROOM COURSE,
45 THE APPLICATION SHALL INCLUDE A COURSE OUTLINE WITH SUFFICIENT DETAIL TO

1 CLEARLY IDENTIFY THE SCOPE AND CONTENT OF THE COURSE. THE OUTLINE SHALL
2 STATE A REASONABLE LEARNING OBJECTIVE FOR THE COURSE. A PRELICENSURE
3 EDUCATION COURSE OUTLINE THAT IS SUBMITTED FOR APPROVAL SHALL BE DIVIDED INTO
4 ESTIMATED FIFTY MINUTE INSTRUCTIONAL SEGMENTS. COURSE APPROVAL SHALL NOT BE
5 UNREASONABLY WITHHELD AND SHALL NOT BE ISSUED LATER THAN THIRTY DAYS AFTER
6 FILING WITH THE DEPARTMENT FOR A LIVE CLASSROOM COURSE. A CONTINUING
7 EDUCATION DISTANCE LEARNING COURSE APPROVAL SHALL NOT BE ISSUED LATER THAN
8 NINETY DAYS AFTER FILING WITH THE DEPARTMENT. IF THE APPROVALS UNDER THIS
9 SUBSECTION ARE NOT GRANTED WITHIN THE TIME FRAMES PRESCRIBED BY THIS
10 SUBSECTION, THE COURSE SHALL BE AUTOMATICALLY APPROVED UNLESS THE DEPARTMENT
11 HAS OTHERWISE NOTIFIED THE APPLICANT OF SPECIFIC DEFICIENCIES OR UNFULFILLED
12 REQUIREMENTS FOR THE COURSE SUBMISSION. Course approval shall be for a
13 period of at least ~~two~~ FOUR years ~~from the date the course was first approved~~
14 ~~for the school making application to offer the course,~~ if the contents of ~~and~~
15 ~~instructors for~~ the course remain CURRENT AND substantially unchanged. THE
16 COURSE MAY NOT BE TAUGHT IF THE CONTENT CEASES TO BE CURRENT AND
17 SUBSTANTIALLY UNCHANGED. THE DEPARTMENT MAY ESTABLISH BY RULE ADDITIONAL
18 APPROPRIATE REQUIREMENTS FOR APPROVAL OF A DISTANCE LEARNING COURSE.

19 G. For a currently approved course: ~~—~~

20 1. The school shall submit notice to the department at least fourteen
21 days ~~prior to~~ BEFORE holding the course to permit ~~the~~ department EMPLOYEES to
22 monitor the course. THE NOTICE IS NOT OTHERWISE SUBJECT TO REVIEW AND
23 APPROVAL BY THE DEPARTMENT.

24 2. WITH THE PERMISSION OF THE SCHOOL THAT RECEIVED ORIGINAL APPROVAL
25 FOR THE COURSE, ANOTHER SCHOOL THAT DESIRES TO OFFER THE COURSE IS SUBJECT
26 ONLY TO THE FOURTEEN DAY NOTICE REQUIREMENT BEFORE HOLDING THE SAME COURSE.
27 NO ADDITIONAL REVIEW AND APPROVAL BY THE DEPARTMENT IS REQUIRED.

28 ~~G.~~ H. The department shall approve for continuing education credit
29 any course of study proposed by a real estate school if the course satisfies
30 the commissioner's requirements ~~and is held in this state.~~ If the school
31 proposes to hold a course outside this state, ~~at the discretion of the~~
32 ~~commissioner~~ the school shall ~~either:~~

33 ~~1.~~ provide TO the department ~~with a videotape or videotapes~~ ON A FORM
34 APPROVED BY THE DEPARTMENT, COMPLETED STUDENT EVALUATIONS OF THE CONTENT OF
35 the course, THE TEACHING FACILITY AND THE COURSE INSTRUCTION.

36 ~~2. Make arrangements that are approved by the department for~~
37 ~~monitoring the course.~~

38 I. AN INSTRUCTOR SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION AND THE
39 FEE PRESCRIBED IN SECTION 32-2132 FOR INSTRUCTOR APPROVAL OR RENEWAL.
40 INSTRUCTOR APPROVAL IS FOR AT LEAST FOUR YEARS FROM THE DATE OF APPROVAL AND
41 IS SUBJECT TO AMENDMENT DURING THE LICENSE PERIOD ONLY IF INFORMATION
42 MATERIAL TO THE APPROVAL HAS CHANGED. A PERSON HOLDING APPROPRIATE
43 INSTRUCTOR APPROVAL TO TEACH A COURSE IS NOT SUBJECT TO ADDITIONAL OR
44 DUPLICATE APPROVAL REQUIREMENTS DURING THE ORIGINAL APPROVAL PERIOD, EXCEPT
45 THAT AN ADDITIONAL INSTRUCTOR COMPETENCY AREA MAY BE ADDED DURING THE LICENSE

1 PERIOD ON SUBMISSION BY THE INSTRUCTOR OF EVIDENCE OF COMPETENCY IN SUCH
2 ADDITIONAL COMPETENCY AREA.

3 J. THE THIRTY DAY AND FOURTEEN DAY COURSE FILING TIME FRAMES
4 PRESCRIBED IN THIS SECTION MAY BE WAIVED BY THE DEPARTMENT FOR GOOD CAUSE
5 SHOWN.

6 K. UNLESS SUBJECT TO A VIOLATION OR SUSPECTED VIOLATION LISTED IN
7 SUBSECTION C OF THIS SECTION, THE DEPARTMENT'S APPROVAL OF A SCHOOL, SCHOOL
8 OFFICIAL, INSTRUCTOR OR COURSE SHALL BE PROMPTLY PROCESSED IN A REASONABLE
9 TIME FRAME CONSISTENT WITH THE TIME FRAMES SET FORTH IN THIS SECTION.

10 L. THIS SECTION DOES NOT AFFECT THE DEPARTMENT'S ABILITY TO WITHDRAW
11 OR DENY CERTIFICATION OR APPROVAL OF REAL ESTATE SCHOOLS, EDUCATION COURSES
12 OR REAL ESTATE INSTRUCTORS FOR A VIOLATION OF THIS CHAPTER.

13 Sec. 5. Section 32-2136, Arizona Revised Statutes, is amended to read:

14 32-2136. Broker management clinics

15 A. The department shall determine the instructor qualifications for
16 teaching broker management clinics and the course content of broker
17 management clinics for persons required to attend these clinics pursuant to
18 subsection C of this section.

19 B. A broker management clinic shall include instruction on department
20 audits and on the obligations and responsibilities of designated brokers. A
21 broker management clinic shall address record keeping requirements, trust
22 fund accounts, advertising and promotions, ~~listing~~ EMPLOYMENT agreements,
23 contracts, fiduciary duties, material disclosures, department investigations,
24 ~~and~~ RISK MANAGEMENT, employee supervision and broker responsibilities AND
25 RELATED TOPICS. A broker management clinic may be designed to address
26 property management activities or sales activities, or both.

27 C. An applicant for an original real estate broker's license shall
28 attend a broker management clinic before activating the license. A broker
29 shall attend a broker management clinic before becoming a designated broker,
30 unless the broker has attended a broker management clinic during the
31 preceding twenty-three months. All active designated real estate brokers
32 shall attend a broker management clinic once during every two year licensing
33 period after their initial attendance.

34 D. Attendance at a broker management clinic constitutes ~~three~~ SIX
35 clock-hours of real estate oriented education pursuant to section 32-2130,
36 subsection A. THE BROKER MANAGEMENT CLINIC MAY BE APPROVED BY THE DEPARTMENT
37 AND ADMINISTERED AND TAUGHT BY THE SCHOOL AS A SINGLE SIX-HOUR COURSE OR MAY
38 BE APPROVED AND TAUGHT IN TWO THREE-HOUR COURSES.

39 Sec. 6. Requirements for enactment; two-thirds vote

40 Pursuant to article IX, section 22, Constitution of Arizona, this act
41 is effective only on the affirmative vote of at least two-thirds of the
42 members of each house of the legislature and is effective immediately on the
43 signature of the governor or, if the governor vetoes this act, on the
44 subsequent affirmative vote of at least three-fourths of the members of each
45 house of the legislature.