

House Engrossed Senate Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 150

# **SENATE BILL 1292**

AN ACT

AMENDING SECTIONS 32-2124, 32-2135 AND 32-2151.01, 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 32-2124, Arizona Revised Statutes, is amended to  
3 read:

4 32-2124. Qualifications of licensees

5 A. Except as otherwise provided in this chapter, the commissioner  
6 shall require proof, through the application or otherwise, as the  
7 commissioner deems advisable with due regard to the interests of the public,  
8 as to the honesty, truthfulness, good character and competency of the  
9 applicant and shall require that the applicant has:

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

13 2. If for an original cemetery broker's license, either a current real  
14 estate broker's license, or if the applicant does not have a current real  
15 estate broker's license, at least three years' actual experience as a  
16 cemetery salesperson or broker or as a licensed real estate salesperson or  
17 broker during the five years immediately preceding the time of application.

18 3. If for an original membership camping broker's license, either a  
19 current real estate broker's license, or if the applicant does not have a  
20 current real estate broker's license, at least three years' actual experience  
21 as a licensed membership camping salesperson or broker or as a licensed real  
22 estate salesperson or broker during the five years immediately preceding the  
23 time of application.

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

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

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

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

1           B. All applicants other than renewal applicants under section 32-2130  
2 for a real estate salesperson's license shall show evidence satisfactory to  
3 the commissioner that they have completed a real estate salesperson's course,  
4 prescribed and approved by the commissioner, of at least ninety classroom  
5 hours, or its equivalent, of instruction in a real estate school certified by  
6 the commissioner and have satisfactorily passed an examination on the  
7 course. In no case shall the real estate salesperson's course completion or  
8 its equivalent be more than ten years before the date of application unless,  
9 at the time of application, the commissioner determines in the commissioner's  
10 discretion that the applicant has work experience in a real estate related  
11 field and education that together are equivalent to the prelicensure  
12 education requirement. The commissioner may waive all or a portion of the  
13 prelicensure course requirement, other than the twenty-seven hour Arizona  
14 specific course, for an applicant who holds a current real estate license in  
15 another state.

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

31           D. Prior to receiving any license provided for by this chapter, an  
32 applicant shall be at least eighteen years of age.

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

35           1. An appropriate knowledge of the English language, including  
36 reading, writing and spelling, and of arithmetical computations common to  
37 real estate practices.

38           2. At a minimum, an understanding of the general purpose and legal  
39 effect of any real estate practices, principles and related forms, including  
40 agency contracts, real estate contracts, deposit receipts, deeds, mortgages,  
41 deeds of trust, security agreements, bills of sale, land contracts of sale  
42 and property management, and of any other areas that the commissioner deems  
43 necessary and proper.

44           3. A ~~general~~ THOROUGH understanding of the obligations between  
45 principal and agent, the principles of real estate and business opportunity

1 practice, the applicable canons of business ethics, the provisions of this  
2 chapter and rules made under this chapter.

3 4. AN APPROPRIATE KNOWLEDGE OF OTHER REAL ESTATE PRACTICES AND  
4 PRINCIPLES AS DETERMINED BY THE COMMISSIONER.

5 F. The commissioner shall ascertain by written, electronic or any  
6 other examination method that an applicant for a license as a cemetery broker  
7 or a cemetery salesperson has:

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

10 2. A general understanding of:

11 (a) Cemetery associations, cemetery corporations and duties of  
12 cemetery directors and officers.

13 (b) Plot ownership, deeds, certificates of ownership, contracts of  
14 sale, liens and leases.

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

17 (d) The provisions of this chapter and rules made under this chapter  
18 relating to the organization and regulation of cemeteries and the licensing  
19 and regulation of cemetery brokers and cemetery salespersons.

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

23 G. The commissioner shall ascertain by written, electronic or any  
24 other examination method that an applicant for a license as a membership  
25 camping broker or a membership camping salesperson has:

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

28 2. A general understanding of:

29 (a) The general purposes and legal effect of contracts and agency  
30 contracts.

31 (b) Establishing, maintaining, managing and operating a membership  
32 campground.

33 (c) The provisions of this chapter and rules adopted under this  
34 chapter relating to the organization and regulation of membership campgrounds  
35 and the licensing and regulation of membership camping brokers and membership  
36 camping salespersons.

37 3. A general understanding of the obligations between principal and  
38 agent and the canons of business ethics pertaining to the operation and  
39 promotion of membership campgrounds.

40 H. No renewal applicant for a real estate, cemetery or membership  
41 camping broker's or salesperson's license shall be required to submit to an  
42 examination if the application is made within twelve months after the license  
43 expires and the license is not cancelled, terminated or suspended at the time  
44 of application.

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

4 J. An applicant for a real estate salesperson's or broker's license  
5 who currently holds at least an equivalent license in another state may be  
6 exempt from taking the national portion of the real estate examination if the  
7 applicant can demonstrate having previously passed a national examination  
8 within the past five years that is satisfactorily similar to the one  
9 administered by the department.

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

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

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

26 Sec. 2. Section 32-2135, Arizona Revised Statutes, is amended to read:  
27 32-2135. Real estate schools; courses of study; instructors;  
28 certification

29 A. Except as provided in section 32-4301, before offering a course of  
30 study towards completion of the education requirement for real estate  
31 licensure or renewal of licensure, a school shall obtain from the  
32 commissioner a certificate of approval or renewal to operate a school for a  
33 period of at least four years. A school shall also obtain a certificate of  
34 course approval for each course offered for credit that is not currently  
35 approved for another school. Each school is responsible for the content of  
36 any course it offers and for the professional administration and teaching of  
37 the course. Live classroom prelicensure education, live classroom continuing  
38 education and distance learning continuing education courses are subject to  
39 approval pursuant to this section.

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

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

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

7 2. Improper certification of student attendance or performance.

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

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

11 5. Failing to attend any continuing education course required by the  
12 commissioner.

13 6. Filing any false or misleading application, report or documentation  
14 with the department.

15 7. TEACHING COURSE CONTENT THAT IS NOT CURRENT OR THAT HAS  
16 SUBSTANTIALLY CHANGED FROM THE COURSE AS APPROVED.

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

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

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

24 E. The commissioner may determine minimal content requirements for  
25 approving educational courses and appropriate professional qualifications for  
26 approving instructors to teach individual educational courses.

27 F. At least thirty days before holding a course of study for  
28 completion of the education requirements leading to licensure of real estate  
29 applicants or for license renewal requirements, an application for a  
30 certificate of course approval or renewal must be filed with the department.  
31 For a live classroom course, the application shall include a course outline  
32 with sufficient detail to clearly identify the scope and content of the  
33 course. The outline shall state a desired instructional outcome for the  
34 course. A prelicensure education course outline that is submitted for  
35 approval shall be divided into estimated fifty minute instructional segments.  
36 Course approval shall not be unreasonably withheld and shall not be issued  
37 later than thirty days after filing with the department for a live classroom  
38 course. A continuing education distance learning course approval shall not  
39 be issued later than ninety days after filing with the department. If the  
40 approvals under this subsection are not granted within the time frames  
41 prescribed by this subsection, the course shall be automatically approved on  
42 a provisional basis for one hundred eighty days, unless the department has  
43 otherwise notified the applicant of specific deficiencies or unfulfilled  
44 requirements for the course submission. A provisional approval may be  
45 withdrawn by the department upon fifteen days' advance notice if the

1 department's review of the course subsequently reveals course deficiencies or  
2 unfulfilled course requirements. If not withdrawn, the course approval shall  
3 remain approved for the entire course approval period. Course approval shall  
4 be for a period of at least four years if the contents of the course remain  
5 current and substantially unchanged. The course may not be taught if the  
6 content ceases to be current or is substantially changed. The department may  
7 establish by rule additional appropriate requirements for approval of a  
8 distance learning course.

9 G. For a currently approved course:

10 1. The school shall submit notice to the department at least fourteen  
11 days before holding the course to permit department employees to monitor the  
12 course. The notice is not otherwise subject to review and approval by the  
13 department.

14 2. With the permission of the school that received original approval  
15 for the course, another school that desires to offer the course is subject  
16 only to the fourteen day notice requirement before holding the same course.  
17 No additional review and approval by the department is required.

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

21 I. The department may approve for continuing education credit any  
22 course of study proposed by a real estate school if the course satisfies the  
23 commissioner's requirements and is held outside this state. Upon the  
24 commissioner's request, the school shall either:

25 1. Provide the department with a videotape or videotapes of the  
26 course.

27 2. Make arrangements that are approved by the department for  
28 monitoring the course.

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

39 K. BEGINNING JANUARY 1, 2012, IN THE TWENTY-FOUR MONTHS BEFORE  
40 APPLICATION, EACH INSTRUCTOR ORIGINAL OR RENEWAL APPLICANT, OTHER THAN A  
41 PANELIST, GUEST SPEAKER, AN ATTORNEY OR OUT-OF-STATE INSTRUCTOR, SHALL ATTEND  
42 AT LEAST A THREE HOUR PROFESSIONAL SEMINAR OR WORKSHOP, APPROVED BY THE  
43 DEPARTMENT, EMPHASIZING INSTRUCTION METHODS, TECHNIQUES AND SKILLS. AT THE  
44 DISCRETION OF THE COMMISSIONER THIS REQUIREMENT MAY BE WAIVED BASED ON  
45 INDIVIDUAL REQUEST REVIEW.



- 1 F. Sales transaction folders shall include:  
2 1. Confirmation that the earnest monies or other monies handled by or  
3 through the broker were handled according to instructions given by or agreed  
4 to by the parties to the transaction.  
5 2. A complete copy of the sales contract, any escrow account receipt,  
6 any closing or settlement statement and, if applicable, a copy of the escrow  
7 instructions, listing agreement, employment agreement and release of escrow  
8 monies.  
9 G. The designated broker shall review each listing agreement, purchase  
10 or nonresidential lease agreement or similar instrument within ~~five~~ TEN  
11 BUSINESS days of the date of execution by placing the broker's initials and  
12 the date of review on the instrument on the same page as the signatures of  
13 the parties. A designated broker may authorize in writing an associate  
14 broker who the designated broker employs to review and initial these  
15 instruments on the designated broker's behalf.  
16 H. The broker shall retain all real estate purchase and nonresidential  
17 lease contracts and employment agreements, or copies of these documents, in  
18 the employing broker's principal office or licensed branch office or at an  
19 off-site storage location in this state if the broker provides prior written  
20 notification of the street address of the off-site storage location to the  
21 department.  
22 I. The broker shall retain an original, a copy or a microfilm copy of  
23 any document evidencing a rejected offer to purchase real property as a  
24 matter of record for at least one year. In instances that result in binding  
25 contracts, the broker shall retain prior rejected offers for at least five  
26 years.  
27 J. If real property in a development is sold or leased by a developer  
28 without the services of a listing or selling broker, the developer shall keep  
29 all records required by subsections A and C of this section.  
30 K. FOR THE PURPOSES OF THIS SECTION, "BUSINESS DAY" MEANS A DAY THAT  
31 IS NOT A SATURDAY, A SUNDAY OR ANY OTHER LEGAL HOLIDAY IN THIS STATE.

APPROVED BY THE GOVERNOR APRIL 18, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2011.

Passed the House April 12, 2011,

Passed the Senate March 8, 2011,

by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

0 Nays, 1 Not Voting

0 Nays, 0 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

Cheryl Laube  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**S.B. 1292**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

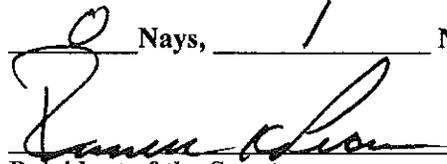
\_\_\_\_\_  
Secretary of State

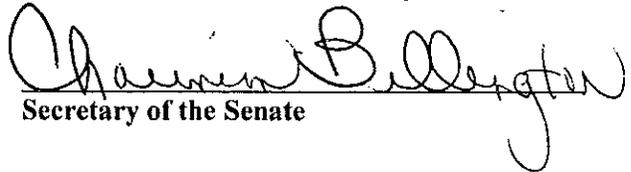
SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 13, 20 11

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

  
President of the Senate

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 20 11

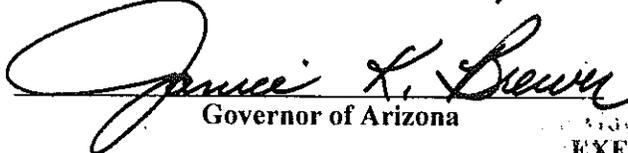
at 4:25 o'clock P. M.

  
Secretary to the Governor

Approved this 18<sup>th</sup> day of

April

at 10:48 o'clock A. M.

  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18<sup>th</sup> day of April, 20 11

S.B. 1292

at 12:19 o'clock P. M.

  
Secretary of State