

House Engrossed

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 123
HOUSE BILL 2067

AN ACT

AMENDING SECTION 32-2121, ARIZONA REVISED STATUTES; RELATING TO REAL
ESTATE LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2121, Arizona Revised Statutes, is amended to
3 read:

4 32-2121. Applicability of article; exemption

5 A. The provisions of this article do not apply to:

6 1. A natural person, a corporation through its officers, a
7 partnership through its partners or a limited liability company through
8 its members or managers that deals in selling, exchanging, purchasing,
9 renting, leasing, managing or pledging the person's or entity's own
10 property, including cemetery property and membership camping contracts,
11 and that does not receive special compensation for a sales transaction or
12 does not receive special compensation or other consideration including
13 property management fees or consulting fees for any property management
14 services performed, if the majority of an officer's, partner's, member's
15 or manager's activities do not involve the acts of a real estate broker,
16 cemetery broker or membership camping broker as defined in section
17 32-2101.

18 2. A person holding a valid power of attorney that is being used
19 for a specific purpose in an isolated transaction and not as a method of
20 conducting a real estate business.

21 3. An attorney in the performance of the attorney's duties as an
22 attorney. Nothing in this paragraph shall be construed to allow an
23 attorney to otherwise engage in any acts requiring a license under this
24 article.

25 4. Any receiver, a trustee in bankruptcy or any other person acting
26 under an order of a court.

27 5. A trustee selling under a deed of trust.

28 6. Natural persons who are acting as residential leasing agents or
29 on-site managers of residential rental property, who are performing
30 residential leasing activities on residential income property at no more
31 than one location during the period of the agents' or on-site managers'
32 regular workday, who do not receive special compensation for the acts
33 described in subdivisions (a) through (e) of this paragraph and who are
34 employed by the owner or the owner's licensed management agent to perform
35 the duties customarily associated with that employment. A bonus that is
36 paid to a residential leasing agent or on-site manager working under the
37 supervision of a licensed real estate broker and that is based on
38 performance, that is received no more frequently than monthly and that
39 does not exceed one-half of the agent's or on-site manager's total
40 compensation for the time period does not constitute special compensation
41 for the acts described in subdivisions (a) through (e) of this
42 paragraph. For purposes of this paragraph "residential leasing agents or
43 on-site managers" means natural persons employed by the owner or the
44 owner's licensed management agent whose normal duties and responsibilities
45 include any one or a combination of the following:

1 (a) Preparing and presenting to any person a residential lease,
2 application or renewal or any amendment of the lease.

3 (b) Collecting or receiving a security deposit, a rental payment or
4 any related payment for delivery to and made payable to a property, a
5 property manager, an owner or the location.

6 (c) Showing a residential rental unit to any prospective tenant.

7 (d) Executing residential leases or rental agreements adopted under
8 title 33, chapter 10.

9 (e) Acting on behalf of the owner or the owner's licensed
10 management agent to deliver notice pursuant to title 12, chapter 8 and
11 title 33, chapters 10 and 11.

12 7. Any officer or employee of a governmental agency who is not a
13 contract or temporary employee of the agency in the conduct of the
14 officer's or employee's official duties.

15 8. One natural person who acts as a property manager for one
16 nonresidential income property or for two or more contiguous
17 nonresidential income properties that are under common ownership and who
18 is employed by the owner or the owner's licensed management agent to
19 perform the duties customarily associated with that employment.

20 9. Natural persons who are in the employ of an employing broker, OF
21 A PERSON OTHERWISE LICENSED UNDER THIS CHAPTER or of a person or entity
22 exempt under this section, who ARE UNLICENSED AND perform clerical,
23 bookkeeping, accounting and other administrative and support duties, who
24 are not engaged in any other acts requiring a license under this chapter
25 and whose employment is not conditioned on or designed to perform duties
26 otherwise requiring a license under this chapter.

27 10. Natural persons who are in the employ of an employing broker and
28 who perform telemarketing services that are limited to soliciting interest
29 in engaging the services of a licensee or broker or gathering demographic
30 information that will be used by a licensee or broker to solicit
31 prospective buyers, sellers, lessees and lessors.

32 11. Communications media or their representatives that are primarily
33 engaged in advertising real estate and that perform no other acts
34 requiring a real estate license, if:

35 (a) The communications media or their representatives do not,
36 directly or indirectly, compile or represent that they compile information
37 about specific prospective purchasers or tenants, except that general
38 information about prospective purchasers or tenants, such as demographic
39 and marketing information, may be compiled.

40 (b) The communications media or their representatives do not make
41 representations to prospective real property sellers or landlords, or
42 their representatives, concerning specific prospective purchasers or
43 tenants or specific sales or leasing leads.

1 (c) The fee charged for advertising is based solely on the
2 advertising services provided.

3 (d) The advertisements provide for direct contact between the
4 seller or landlord and the prospective buyers or tenants, or for contact
5 through a licensed real estate broker or property management firm. The
6 communications media or their representatives shall not act as
7 intermediaries or assist in any intermediary action between prospective
8 parties to a real estate transaction, except that additional information
9 about advertised properties may be provided to prospects upon request.

10 12. Persons who perform residential property management services or
11 marketing and promotional services solely for nursing care institutions as
12 defined in section 36-401 or pursuant to life care contracts as defined in
13 section 20-1801.

14 13. A person who offers to sell or lease property that constitutes a
15 security as defined in section 44-1801 and that is offered, sold or leased
16 in compliance with title 44, chapter 12 if the person is a registered
17 securities dealer or salesperson pursuant to title 44, chapter 12,
18 article 9.

19 14. A person who manages a hotel, motel or recreational vehicle
20 park.

21 15. A person who, on behalf of another, solicits, arranges or
22 accepts reservations or money, or both, for occupancies of thirty-one or
23 fewer days in a dwelling unit in a common interest development.

24 16. An escrow agent in the performance of the escrow agent's duties
25 as an escrow agent, a title insurer in the performance of the title
26 insurer's duties as a title insurer or a title insurance agent in the
27 performance of the title insurance agent's duties as a title insurance
28 agent. Nothing in this paragraph shall be construed to allow an escrow
29 agent, a title insurer or a title insurance agent to otherwise engage in
30 acts requiring a license under this article.

31 17. Notwithstanding paragraph 1 of this subsection, a corporation
32 through its officers and employees that purchases, sells, exchanges,
33 rents, leases, manages or pledges its property if both of the following
34 apply:

35 (a) The activity is only incidental to the business of the
36 corporation.

37 (b) The officers and employees engaged in the activity do not
38 receive special compensation or other consideration for the activity.

39 18. A trust company owned by a bank holding company regulated by the
40 federal reserve board or a bank in exercising its fiduciary duties under
41 the terms of a trust agreement to which real property is subject.

42 19. A person who receives a finder fee pursuant to section 32-2176
43 or 32-2197.21.

1 B. The commissioner may grant an exemption from the licensure
2 requirements of this article to any corporation that applies for an
3 exemption on a finding that both of the following apply:

4 1. The corporation is a nonprofit corporation that provides
5 project-based housing services and operates solely as a charitable
6 organization as defined in section 44-6551.

7 2. The corporation's sole activities related to real estate involve
8 ownership or management of residential property owned or controlled by the
9 corporation.

APPROVED BY THE GOVERNOR MARCH 31, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2017.

Passed the House February 2, 20 17

Passed the Senate March 23, 20 17

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House
 Pro Tempore

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

27th day of March, 20 17

at 2:21 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 31st day of

March, 20 17

at 2:46 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 31 day of March, 20 17

at 4:47 o'clock P. M.

[Signature]
Secretary of State