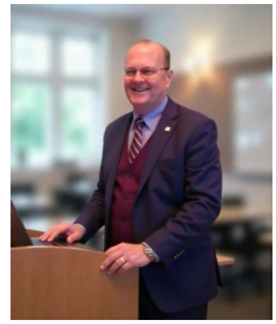
"ARIZONA COMMISSIONER'S STANARDS"

3 Hours of Commissioner's Standards Continuing Education By Internet Delivery

Approved by the Arizona Department of Real Estate

Participant Outline

JOSEPH R. FITZPATRICK



MEET JOE:

Joe Fitzpatrick graduated from The University of Nevada, Las Vegas in 1985 and began his career with Coldwell Banker in Margate, Florida, listing and selling real estate. Joe went on to manage the North Miami office and opened Century 21 Fitzpatrick Realty with family. The firm became the top-ranked Century 21 company in Broward County, Florida.

In 1991, Joe returned to Las Vegas where he began teaching and authoring real estate courses. He also continued on as Vice-President of Century 21 MoneyWorld, which was consistently ranked among the top 10 Century 21 firms in the world where he led the education division among other duties.

Joe has authored and published over 30 real estate licensing textbooks and courses available on Amazon.com and which have been approved for utilization in several states. He made a few stops along the way including being the Education Director at LVR. You may recognize his voice from other online sites. Living through sellers' markets and buyer's markets, Joe has experienced interest rate fluctuations of 17.5% and 2%. He knows what it takes to stay successful in the business no matter what the market conditions may be.

Joe opened Fitzpatrick Real Estate School in both Nevada and Arizona, and continues to practice real estate in addition to his other responsibilities. We trust you will find Mr. Fitzpatrick's courses to be informative, interesting, and entertaining too.

HOW IT WORKS
The student participant must:

- view all hour(s) of the video presentation (links are located on the website under the Internet course title).
- direct attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction and distracting.
- complete the "Online Video Worksheet" included in the course outline as you view the presentation, filling in the "Checkpoints" as they are displayed throughout the videos.
- take the quiz found in the outline.
- complete the course evaluation upon the conclusion of the course.
- submit the (1) Attestation, (2) Quiz answers, (3) Online View Worksheet, and the (4) Course Evaluation using the links provided directly above the videos.
- obtain score of 80% or more on the quiz and a score of 80% must be obtained on the Online Video Worksheet. A student, who tries to skip through the course and not devote the required hours, will not pass. The answers for the worksheet are sprinkled throughout the presentation.
- With a passing score on the quiz and worksheet, along with the submitted evaluation, a certificate will be emailed to you promptly.

ONLINE VIDEO WORKSHEET

The Arizona Department of Real Estate holds CE course sponsors, such as Fitzpatrick Real Estate School, accountable for the following regarding online/distance learning courses:

- verify that students watch the complete presentation and spend the appropriate number of hours required to earn a certificate;
- verify that students did not start the presentation and leave the presentation to run on its own without the student viewing it;
- evaluate the student mastery of the material;
- provide the student with support services and interaction;
- have a method to assess student performance during instruction.

To accomplish these goals, we have developed this “Online Video Worksheet” to accompany the videos we use to teach CE courses online. Throughout the videos, have embedded “checkpoints” that will prompt you to fill in the answers below.

In order to receive credit for the online course, you must answer the checkpoints correctly with a score of 80% and submit using the Online Video Worksheet link located above the three videos.

CHECKPOINT #1: ______________________________

CHECKPOINT #2: ______________________________

CHECKPOINT #3: ______________________________

CHECKPOINT #4: ______________________________

CHECKPOINT #5: ______________________________

CHECKPOINT #6: ______________________________

CHECKPOINT #7: ______________________________

CHECKPOINT #8: ______________________________

CHECKPOINT #9: ______________________________

CHECKPOINT #10: ______________________________

Student Name: ______________________ Date: ______________

Course Title: Arizona Commissioner’s Standards

I. OVERVIEW

Course Objectives:

- To understand the Arizona Commissioner's Rules, which govern licensee's professional conduct.
- These rules are legally enforceable and are designed to protect the public.
- This course satisfies the Commissioner's Standards 3-hour portion for continuing education requirements in Arizona.

Introduction:

- The Arizona Department of Real Estate (ADRE) is the regulatory body overseeing licensees.
- The Real Estate Commissioner enforces compliance, ensures consumer protection, and maintains the integrity of the industry.
- The Commissioner's Standards are codified in A.A.C. R4-28-101 through R4-28-1313.
- These standards govern how licensees interact with the public, clients, and one another.

"Arizona Real Estate Law Book"

- looks confusing
- code numbers in Arizona Statutes like "**32**-2197.04"
  - Title **32** Professions and Occupations
  - Chapter 20 Real Estate Law
- Commissioner's Rules fall under the Arizona Administrative Code like "R**4-28**-701"
  - Title **4**, Chapter **28**

TITLE 4, CHAPTER 28. REAL ESTATE DEPARTMENT Commissioner's Rules by Article

- **ARTICLE 1. GENERAL PROVISIONS** Contains definitions, sets fees, and describes computation of filing deadlines, time frames and procedures for processing license applications.
- **ARTICLE 3. LICENSURE** Describes requirements and procedures for applying for licensure as a salesperson or broker, changes to name, address, license status, employer; license renewal and reinstatement, and documentation in instances of unlicensed activity.
- **ARTICLE 4. EDUCATION** Provides guidelines and requirements for pre-license and continuing education instruction, including course content, administration of the state license examination, and approval of schools, courses, and instructors, and for certification as a business brokerage specialist.
- **ARTICLE 5. ADVERTISING PROVISIONS** Describes permitted, restricted, or prohibited activities pertaining to advertising and promotional activities by salespersons, brokers and developers.
- **ARTICLE 7. COMPENSATION** Disclosure requirement concerning compensation a broker may receive.
- **ARTICLE 8. DOCUMENTS** Describes requirements for providing copies of documents and when certain contract disclosures and notices are required to be made.
- **ARTICLE 11. PROFESSIONAL CONDUCT** Identifies
- specific conduct that is required or prohibited to guide salespersons and brokers in their dealings with clients and customers, and brokers' responsibilities to exercise supervision over licensed and unlicensed employees.
- **ARTICLE 12. DEVELOPMENTS** (New Developments)
- **ARTICLE 13. ADMINISTRATIVE PROCEDURES** Describes service on the Department and licensees, investigative information, response to charges, procedures for an attorney to appear for a respondent licensee, describes for consolidation of similar matters, and rehearing requests, procedures, and rulings.

II. ARTICLE 5: ADVERTISING: Advertising by a Licensee

- R4-28-502. Advertising by a Licensee
- A. A salesperson or broker acting as an agent shall not advertise property in a manner that implies [no licensees are involved] that no salesperson or broker is taking part in the offer for sale, lease, or exchange.
- B. Any salesperson or broker advertising the salesperson’s or broker’s own property for sale, lease, or exchange shall disclose the salesperson’s or broker’s status as a salesperson or broker, and as the property owner by placing the words “owner/agent” in the advertisement.
- C. A salesperson or broker shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A salesperson or broker shall not misrepresent the facts or create misleading impressions.
- D. A school shall include its name, address and telephone number in all advertising of Department-approved courses. The school owner, director, or administrator shall supervise all advertising. The school owner shall ensure that the school’s advertising is accurate.
- E. A salesperson or broker shall ensure that all advertising identifies in a clear and prominent manner the employing broker’s legal name or the dba name contained on the employing broker’s license certificate.
- F. A licensee who advertises property that is the subject of another person’s real estate employment agreement shall display the name of the listing broker in a clear and prominent manner [if advertising another broker’s listing.]
- G. The designated broker shall supervise all advertising, for real estate, cemetery, or membership camping brokerage services.
- H. A licensee shall not use the term “acre,” either alone or modified, unless referring to an area of land representing 43,560 square feet.
- I. Before placing or erecting a sign giving notice that specific property is being offered for sale, lease, rent, or exchange, a salesperson or broker shall secure the written consent of the property owner, and the sign shall be promptly removed upon request of the property owner.
- J. The provisions of subsections (E) and (G) do not apply to advertising that does not refer to specific property.
- K. Trade Names.
    - 1. Any broker using a trade name owned by another person on signs displayed at the place of business shall place the broker’s name, as licensed by the Department on the signs;
    - 2. The broker shall include the following legend, “Each (TRADE NAME or FRANCHISE) office is independently owned and operated,” or a similar legend approved by the Commissioner, in a manner to attract the attention of the public.
- L. The use of an electronic medium, such as the Internet or web site technology, that targets residents of this state with the offering of a property interest or real estate brokerage services pertaining to property located in this state constitutes the dissemination of advertising as defined in A.R.S. § 32-2101(2).
- R4-28-503. Promotional Activities: pertains to Timeshares
- R4-28-504. Development Advertising” pertains to Subdivided Land Sales

III. ARTICLE 11: PROFESSIONAL CONDUCT: Duties to Client

- **R4-28-1101. Duties to Client**
- **A.** A licensee owes a fiduciary duty to the client and shall protect and promote the client's interests. The licensee shall also deal fairly with all other parties to a transaction.
- **B.** A licensee participating in a real estate transaction shall disclose in writing to all other parties any information the licensee possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including:
  - Any information that the seller or lessor is or may be unable to perform;
  - Any information that the buyer or lessee is, or may be, unable to perform;
  - Any material defect existing in the property being transferred; and
  - The existence of a lien or encumbrance on the property being transferred.
- **C.** A licensee shall expeditiously perform all acts required by the holding of a license. A licensee shall not delay performance, either intentionally or through neglect.
- **D.** A licensee shall not allow a controversy with another licensee to jeopardize, delay, or interfere with the initiation, processing, or finalizing of a transaction on behalf of a client. This prohibition does not obligate a licensee to agree to alter the terms of any employment or compensation agreement or to relinquish the right to maintain an action to resolve a controversy.
- **E.** A real estate salesperson or broker shall not act directly or indirectly in a transaction without informing the other parties in the transaction, in writing and before the parties enter any binding agreement, of a present or prospective interest or conflict in the transaction, including that the:
  - 1. Salesperson or broker has a license and is acting as a principal;
  - 2. Purchaser or seller is a member of the salesperson's, broker's, or designated broker's immediate family;
  - 3. Purchaser or seller is the salesperson's or broker's employing broker, or owns or is employed by the sales person's or broker's employing broker;
  - 4. or Salesperson or broker, or a member of the salesperson's or broker's immediate family, has a financial interest in the transaction other than the salesperson's or broker's receipt of compensation for the real estate services.
- **F.** A salesperson or broker shall not accept compensation from or represent more than one party to a transaction without the prior written consent of all parties.
- **G.** A salesperson or broker shall not accept any compensation, including rebate or other consideration, directly or indirectly, for any goods or services provided to a person if the goods or services are related to or result from a real estate transaction, without that person's prior written acknowledgement of the compensation. This prohibition does not apply to compensation paid to a broker by a broker who represents a party in the transaction.
- **H.** The services that a salesperson or broker provides to a client or a customer shall conform to the standards of practice and competence recognized in the professional community for the specific real estate discipline in which the salesperson or broker engages. A salesperson or broker shall not undertake to provide professional services concerning a type of property or service that is outside the salesperson's or broker's field of competence without engaging the assistance of a person who is competent to provide those services, unless the salesperson's or broker's lack of expertise is first disclosed to the client in writing and the client subsequently employs the salesperson or broker.
- **I.** A salesperson or broker shall exercise reasonable care in ensuring that the salesperson or broker obtains information material to a client's interests and relevant to the contemplated transaction and accurately communicates the information to the client. A salesperson or broker is not required to have expertise in subject areas other than those required to obtain the salesperson's or broker's license. A salesperson or broker shall take reasonable steps to assist a client in confirming the accuracy of information relevant to the transaction.

- J. A salesperson or broker shall not:
    - 1. Permit or facilitate occupancy in a person's real property by a third party without prior written authorization from the person; or
    - 2. Deliver possession prior to closing unless expressly instructed to do so by the owner of the property or property interest being transferred.
- K. A salesperson or broker shall recommend to a client that the client seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of a property.

ARTICLE 11: PROFESSIONAL CONDUCT: Property Negotiations

- R4-28-1102. Property Negotiations
- Except for owner listed properties, negotiations shall be conducted exclusively through the principal's broker or the broker's representative unless:
    - 1. The principal waives this requirement in writing,
    - 2. and No licensed representative of the broker is available for 24 hours.

ARTICLE 11: PROFESSIONAL CONDUCT: Broker Supervision and Control

- R4-28-1103. Broker Supervision and Control
- A. An employing broker and a designated broker shall exercise reasonable supervision and control over the activities of brokers, salespersons, and others in the employ of the broker. Reasonable supervision and control includes the establishment and enforcement of written policies, procedures, and systems to:
    1. Review and manage:
        a. Transactions requiring a salesperson's or broker's license; and
        b. Use of disclosure forms and contracts and, if a real estate broker, real estate employment agreements under A.R.S. § 32-2151.02;
    2. Manage:
        a. Filing, storing, and maintaining documents pertaining to transactions under subsection (A)(5)(a);
        b. Handling of trust funds; and
        c. Use of unlicensed assistants by a salesperson or broker;
    3. Oversee delegation of authority to others to act on behalf of the broker;
    4. Familiarize salespersons and associate brokers with the requirements of federal, state, and local laws relating to the practice of real estate, or the sale of cemetery property or membership camping contracts; and
    5. Review and Inspect:
        a. Documents that may have a material effect upon the rights or obligations of a party to a transaction; and
        b. Advertising and marketing by the broker and by salespersons, brokers, and others in the broker's employ.
- B. A designated broker shall establish a system for monitoring compliance with statutes, rules, and the employing broker's policies, procedures, and systems.
- C. A designated broker shall supervise associate brokers, sales persons, and employees of the employing broker and shall exercise reasonable supervision and control over activities by the employing broker for which a license is required.
- D. An employing broker is responsible for the acts of all associate brokers, salespersons, and other employees acting within the scope of their employment.
- E. A designated broker may use the services of employees to assist in administering the provisions of this Section but shall not relinquish overall responsibility for supervision and control of the acts of the employing broker's employees.

- F. A designated broker who, upon learning of a violation of real estate statutes or rules by a salesperson or associate broker under the broker's supervision, immediately reports the violation to the Department is not subject to disciplinary action by the Department for failure to supervise the salesperson or broker.

IV. ARIZONA CONSTITUION: Article 26 Section 1 - Powers of real estate broker or salesman

- 1. Powers of real estate broker or salesman
    - Section 1. Any person holding a valid license as a real estate broker or a real estate salesman regularly issued by the Arizona State Real Estate Department when acting in such capacity as broker or salesman for the parties, or agent for one of the parties to a sale, exchange, or trade, or the renting and leasing of property, shall have the right to draft or fill out and complete, without charge, any and all instruments incident thereto including, but not limited to, preliminary purchase agreements and earnest money receipts, deeds, mortgages, leases, assignments, releases, contracts for sale of realty, and bills of sale.

ARIZONA REVISED STATUTES Title 44 - Trade and Commerce

- 44-1460. <u>Registration of trade name, title or designation</u>
- A. Any person, partnership, corporation, firm, association, society, foundation, federation or organization doing business in this state or any foreign corporation licensed to exercise its corporate powers in this state, may register with the secretary of state, on a form to be furnished by the secretary of state, the name, title or designation under which the applicant is operating, setting forth at least the following information:
    - 1. The name and email and business address of the applicant for such registration. If the applicant is a corporation, the state of its incorporation shall be disclosed.
    - 2. The name, title or designation to be registered.
    - 3. The general nature of the business conducted by the applicant.
- B. The applicant or a member or officer of the firm, partnership, corporation, association, society, foundation, federation or other organization shall sign the application.
- C. A single name, title or designation may be registered on each application submitted under this article.

- 44-1460.01. <u>Issuance of certificate; restrictions</u>
- A. Upon compliance by the applicant with the requirements of this article the secretary of state shall issue a certificate of registration. The certificate shall show the name and business address of the applicant, the name, title or designation registered, the date of first use claimed, the date of registration and the term of registration.
- B. The secretary of state shall not file an application for the registration of any trade name, title or designation if it is not distinguishable on the record from any other name previously filed and on record with the secretary of state.
- C. The secretary of state shall not file an application for the registration of any trade name, title or designation if it is not distinguishable on the record from an existing corporate name or a corporate name reserved pursuant to title 10, chapters 4, 19 and 24 through 40.

- 44-1460.02. <u>Effective term of registration; renewal; expiration notice</u>
- A. Registration of a name, title or designation under the terms of this article is effective for a term of five years from the date of registration. Upon application filed within six months prior to the expiration of such term, on a form furnished by the secretary of state, the registration may be renewed at the end of each five-year period for a like term.
- B. The secretary of state shall notify registrants within the sixty days next preceding the expiration of the five years from the date of registration of the necessity of renewal by writing to the last known address of the registrants.

- 44-1460.03. Assignment and recording of rights
- Any name, title or designation and its registration may be assignable by an instrument in writing duly executed and may be recorded with the secretary of state who upon recording the assignment shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal of the registration.

- 44-1460.04. Public examination of records
- The secretary of state shall keep for public examination a record of all trade names registered or renewed under the provisions of this article.

- 44-1460.05. Exclusive rights; common law rights
- A. The registration of a trade name if prior in time to the filing of articles of incorporation or the reservation of a corporate name shall give to the holder of the registered trade name exclusive right to the use of such name.
- B. Nothing in this article shall adversely affect the rights or the enforcement of rights in trade names acquired in good faith at any time at common law.

- 44-1460.06. Electronic filing; acceptance
- A. Any document that is required to be filed pursuant to this article may be filed in an electronic format that is approved by the secretary of state.
- B. Any document that is filed in accordance with this section is deemed to comply with:
    - 1. The filing requirements of this article.
    - 2. The requirement that a filing be submitted with a written signature.
    - 3. Any requirement that the filing be filed under the penalty of perjury.
- C. The secretary of state may adopt rules requiring that any person that submits a document for filing pursuant to this section also submit a written or printed copy of the document as a prerequisite to the document being deemed filed.
- D. Except as provided in this section, all civil and criminal statutes applicable to the filing of paper documents apply to all documents filed pursuant to this section.

- 44-1460.07. Trade name registration cancellation; release for use
- A. The secretary of state shall cancel a trade name registration if:
    - 1. The secretary of state receives a voluntary request for cancellation from the registrant or the assignee of record.
    - 2. The registration is not renewed in accordance with this article.
    - 3. A court of competent jurisdiction orders the cancellation on any grounds.
    - 4. The registration was obtained fraudulently by containing false or misleading information.
- B. The secretary of state may release a trade name for use pursuant to this article six months after the trade name's corporate owner has been administratively dissolved.

V. 25 WAYS TO LOSE YOUR LICENSE: ARS 32.2153

- 32-2153. Grounds for denial, suspension or revocation of licenses; letters of concern; provisional license; retention of jurisdiction by commissioner; definitions
- A. The commissioner may suspend or revoke a license, deny the issuance of a license, issue a letter of concern to a licensee, issue a provisional license or deny the renewal or the right of renewal of a license issued under this chapter if it appears that the holder or applicant, within five years immediately preceding, in performing or attempting to perform any acts authorized by the license or by this chapter, has:
  - 1. Pursued a course of misrepresentation or made false promises, either directly or through others, whether acting in the role of a licensee or a principal in a transaction.
  - 2. Acted for more than one party in a transaction without the knowledge or written consent of all parties to the transaction.
  - 3. Disregarded or violated any of the provisions of this chapter or any rules adopted by the commissioner.
  - 4. Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution or circulation of any material false or misleading statement or representation concerning the licensee's business or any land, cemetery property, subdivision or membership campground or camping contract offered for sale in this or any other state.
  - 5. Knowingly used the term "real estate broker", "cemetery broker" or "membership camping broker" without the legal right to do so.
  - 6. Employed any unlicensed salesperson or unlicensed associate broker.
  - 7. Accepted compensation as a licensee for performing any of the acts specified in this chapter from any person who is not authorized to provide compensation pursuant to section 32-2155.
  - 8. Represented or attempted to represent a broker other than the broker to whom the salesperson or associate broker is licensed.
  - 9. Failed, within a reasonable time, to account for or to remit any monies, to surrender to the rightful owner any documents or other valuable property that comes into the licensee's possession and that belongs to others, or to issue an appraisal report on real property or cemetery property in which the licensee has an interest, unless the nature and extent of the interest are fully disclosed in the report.
  - 10. Paid or received any rebate, profit, compensation or commission in violation of this chapter.
  - 11. Induced any party to a contract to break the contract for the purpose of substituting a new contract with the same or a different principal, if the substitution is motivated by the personal gain of the licensee.
  - 12. Placed a sign on any property offering it for sale or for rent without the written authority of the owner or the owner's authorized agent.
  - 13. Solicited, either directly or indirectly, prospects for the sale, lease or use of real property, cemetery property or membership camping contracts through a promotion of a speculative nature involving a game of chance or risk or through conducting lotteries or contests that are not specifically authorized under this chapter.
  - 14. Failed to pay to the commissioner the renewal fee as specified in this chapter promptly and before the time specified.
  - 15. Failed to keep an escrow or trust account or other record of monies deposited with the licensee relating to a real estate transaction.
  - 16. Commingled the monies or other property of the licensee's principal or client with the licensee's own or converted these monies or property to the licensee or another.

- 17. Failed or refused on demand to produce any document, contract, book, record, information, compilation or report that is in the licensee's possession or that the licensee is required by law to maintain concerning any real estate, cemetery or membership camping business, services, activities or transactions involving or conducted by the licensee for inspection by the commissioner or the commissioner's representative.
- 18. Failed to maintain a complete record of each transaction that comes within this chapter.
- 19. Violated the federal fair housing law, the Arizona civil rights law or any local ordinance of a similar nature.
- 20. Tendered to a buyer a wood infestation report in connection with the transfer of residential real property or an interest in residential real property knowing that wood infestation exists or that the wood infestation report was inaccurate or false as of the date of the tender or that an inspection was not done in conjunction with the preparation of the wood infestation report.
- 21. As a licensed broker, failed to exercise reasonable supervision over the activities of salespersons, associate brokers or others under the broker's employ or failed to exercise reasonable supervision and control over the activities for which a license is required of a corporation, limited liability company or partnership on behalf of which the broker acts as designated broker under section 32-2125.
- 22. Demonstrated negligence in performing any act for which a license is required.
- 23. Sold or leased a property to a buyer or lessee that was not the property represented to the buyer or lessee.
- 24. Violated any condition or term of a commissioner's order.
- 25. Signed the name of another person on any document or form without the express written consent of the person.

VI. Arizona Revised Statutes
A.R.S. Title 32, Chapter 20
REAL ESTATE

Article 1:	**Real Estate Department**
Article 2:	**Licensing**
Article 3:	**Regulation**
Article 3.1	Property Management
Article 4:	Sale of Subdivided Lands
Article 5:	Real Estate Recovery Fund
Article 6:	Organization and Regulation of Cemeteries
Article 7:	Sale of Unsubdivided Lands
Article 8:	N/A
Article 9:	Real Estate Timeshares
Article 10:	Membership Camping
Article 11:	Administrative Hearings

- 32-2102. Administration of chapter by real estatedepartment; purpose
  - This chapter shall be administered by the state real estate department under the direction of the real estate commissioner. The purpose of the department in administering this chapter is to protect the public interest through licensure and regulation of the real estate profession in this state.

- 32-2104. Real estate advisory board;
  - E. The board shall provide the commissioner with such recommendations as it deems necessary and beneficial to the best interests of the public. The board shall also provide recommendations on specific questions or proposals as the board deems necessary or as requested by the commissioner.
  - F. The board annually shall present to the governor an evaluation of the performance of the real estate commissioner and the real estate department.

- 32-2106. Real estate commissioner; appointment; qualifications
  - A. The real estate commissioner shall be appointed by the governor, pursuant to section 38-211. The real estate commissioner shall serve at the pleasure of the governor.
  - B. To be a candidate for the position of real estate commissioner a person shall have at least five years' experience in the real estate industry, title insurance industry or banking or mortgage broker industry and three years' administrative experience and shall not at the date of acceptance of appointment be financially interested in any real estate or brokerage firm or act as a broker, salesperson or agent …

- 32-2107. Powers and duties of commissioner
  - F. The commissioner shall adopt rules, in accord with this chapter, as the commissioner deems necessary to carry out this chapter.
  - G. The commissioner may approve standardized legal forms for use in the sale or lease of real estate for the purpose of recognizing compliance of the forms with this chapter and the rules adopted pursuant to this chapter.

- 32-2108. Powers and duties of commissioner to makeinvestigations and require information
  - A. The commissioner on the commissioner's own motion may, and on a verified complaint in writing shall, investigate the actions of any natural person or entity engaged in the business or acting in the capacity of a broker, salesperson or developer and may at any time examine the books and records used in connection with the business insofar as the commissioner reasonably believes the books or records pertain to the transfer, sale, rental, lease, use or management of real property.
  - B. The commissioner shall establish a certification and enforcement unit that is charged with investigative duties relevant to the rules of the commissioner and the laws of this state, including applications for certification, investigations and enforcement and other duties as the commissioner prescribes.
  - C. The commissioner may require any reasonably necessary additional information about an applicant for or holder of a license or public report or renewal or amendment of a license or public report. For the purposes of this subsection, " applicant" or " holder" means a person and, if an entity, any officer, director, member, manager, partner, owner, trust beneficiary holding ten percent or more beneficial interest, stockholder owning ten percent or more stock and person exercising control of the entity.

- 32-2111. Attorney general as legal adviser and representativeof commissioner
  - The attorney general shall act for the commissioner in all legal actions or proceedings and shall advise him upon all questions of law arising out of the administration of this chapter.

- 32-2121. Applicability of article; exceptions
  - A. This article does not apply to …

    In general, anyone who performs the services of real estate, for another person, and for the expectation of compensation must hold a valid real estate license. Section 2121 provides an extensive list of those individuals for whom this does not apply.

- 32-2122. License required of brokers and salespersons

  A. This article **applies** to any person acting in the capacity of a:
  1. Real estate broker.
  2. Real estate salesperson.
  3. Cemetery broker.
  4. Cemetery salesperson.
  5. Membership camping broker.
  6. Membership camping salesperson.

  B. It is unlawful for any person, corporation, partnership or limited liability company to engage in any business, occupation or activity listed in subsection A of this section without first obtaining a license as prescribed in this chapter and otherwise complying with this chapter.

- 32-2129. Advance payment of license fees
  - A. All license fees shall be paid in advance and shall be the same regardless of the time of the year the license is issued.
  - B. If the license fees or other fees that relate to licensure are paid with a check that is not honored by the financial institution on which it is written, the department may deny or cancel the license.
  - C. An original license shall be for a period of two years up to and including the last day of the month in which the license was granted. A renewal license shall be effective as of the date of issuance, but no earlier than the first day after the expiration of the previous license…

- 32-2130. Renewal of licenses; education requirements
  - A. Except as provided in subsection K of this section, a license may be renewed in a timely manner by filing an application for renewal in the manner prescribed by the commissioner, by paying the renewal fee specified in this chapter and by presenting evidence of attendance at a school certified by the commissioner during the preceding license period of twenty-four credit hours for salespersons and associate brokers and thirty credit hours for designated brokers or for associate brokers employed by a designated broker

- F. Between the expiration date of the license and the date of renewal of the license, the rights of the licensee under the license expire. While the license is expired it is unlawful for a person to act or attempt or offer to act in a manner included in the definition of real estate, cemetery or membership camping broker or salesperson. If the license of an employing broker expires under this subsection, the licenses of persons who are employed by the employing broker shall be severed from the employing broker on the license expiration date of the employing broker. These persons may be rehired on renewal of the employing broker's license. The department shall terminate a license that has been expired for more than one year.

- 32-2153. <u>Grounds for denial, suspension or revocation oflicenses; letters of concern; provisional license; retention of jurisdiction by commissioner; definitions</u>

  This was covered when we did the portion:
  "25 Ways to Lose Your License."

- 32-2154. <u>Cease and desist orders; hearing</u>
  - A. If it appears to the commissioner that any person has engaged, is engaging or is preparing to engage in any act, practice or transaction that constitutes a violation of this chapter or any rule adopted or order issued by the commissioner, the commissioner may issue an order directing any person to cease and desist from engaging in the act, practice or transaction or doing any act in furtherance of the act, practice or transaction, to make restitution or to take appropriate affirmative action, within a reasonable period of time as prescribed by the commissioner, to correct the conditions resulting from the act, practice or transaction.

  - B. A person aggrieved by a cease and desist order [the licensee] issued by the commissioner pursuant to this section may request a hearing pursuant to title 41, chapter 6, article 10 and the commissioner may issue the order or orders as the commissioner deems necessary to protect the public interest. The commissioner may also bring an action in any court of competent jurisdiction against the person to enjoin [stop] the person from continuing in violation of this chapter. These proceedings shall be promptly instituted and determined.

- 32-2155. <u>Restriction on employment or compensation of person as broker or salesperson</u>

  A. A broker shall employ and pay only active licensees, and a licensee shall accept employment and compensation as a licensee only from either or both of the following:

  1. The legally licensed broker to whom the licensee is licensed…

- 32-2156. <u>Real estate sales and leases; disclosure</u>

  A. No criminal, civil or administrative action may be brought against a transferor or lessor of real property or a licensee for failing to disclose that the property being transferred or leased is or has been:

  1. The site of a natural death, suicide or homicide or any other crime classified as a felony.
  2. Owned or occupied by a person exposed to the human immunodeficiency virus or diagnosed as having the acquired immune deficiency syndrome or any other disease that is not known to be transmitted through common occupancy of real estate.
  3. Located in the vicinity of a sex offender.

Arizona Commissioner's Standards Quiz

1. Every brokerage firm in Arizona must have the Arizona Law Book available:

   a. in the office as a hard copy.
   b. in the office as a hard copy or available online.
   c. for purchase by clients at the branch location.
   d. All of the above

2. An unlicensed assistant may perform which of the following acts?

   a. conduct an open house
   b. present offers and counter-offers
   c. obtain signatures on documents
   d. show properties

3. The Arizona Law Book consists of all of these EXCEPT:

   a. Arizona Statutes
   b. Commissioner's Rules
   c. Substantive Policy Statements
   d. Attorney Letters of Opinion

4. Regarding advertising on an internet website, the broker must:

   a. advertise the name of the brokerage on the homepage only.
   b. clearly identify the name of the listing brokerage when advertising another broker's listings.
   c. allow salesperson's personal websites to exclude the brokerage name.
   d. All of the above

5. What must a licensed salesperson include in an ad when selling their own home?

   a. Nothing, they are exempt.
   b. The broker's license number.
   c. A disclaimer about market conditions.
   d. The words "owner/agent."

6. Which of the following is considered a "blind ad"?

   a. an ad placed on social media
   b. an ad that includes the licensee's name and contact only
   c. an ad that does not clearly identify the brokerage name
   d. an ad for property in another state

7. When must a licensee disclose a material defect in the property?

   a. only if the buyer asks
   b. at closing
   c. when filing the purchase agreement
   d. as soon as the licensee becomes aware of the defect

8. According to the Arizona Constitution, Article 26, what may real estate licensees do?

   a. write legal contracts for a fee
   b. represent both parties without disclosure
   c. fill out and complete real estate instruments
   d. avoid using standard forms

9. A licensee must not accept compensation from more than one party to a transaction unless:

   a. both parties verbally agree.
   b. the broker approves it.
   c. all parties give prior written consent.
   d. the transaction involves only family members.

10. What action is required if a designated broker learns of a violation by a salesperson?

    a. report the violation to the Department to avoid liability
    b. terminate the salesperson immediately
    c. conduct a private mediation
    d. warn the salesperson and document the warning

