



# Arizona Department of Real Estate



## Bulletin

Volume 2019 • Issue 1

### UPHOLDING THE ARIZONA STANDARD...



**Judy Lowe**  
Commissioner

#### COMMISSIONER'S CORNER

# T E A M

The Arizona Department of Real Estate (ADRE) has provided a “Focus on Education” for the past ten years, with a purpose of continuing to “raise the bar” of the Arizona real estate professional, by increasing the standards for content and deliverance of real estate education in Arizona. Recent accomplishments include:

**Updating Real Estate Pre Licensing Education** - Under the expertise of several “Arizona real estate educator icons”, and input from many educator stakeholders, the Salesperson Pre Licensing education curriculum has been updated for the first time since 1995, reflecting Arizona’s specific and unique real estate laws. That same process is being followed to deliver an updated Broker Pre Licensing curriculum and State Exam to be rolled out no later than the summer of 2019. Online Pre Licensing education courses are now being approved by ADRE according to the new Substantive Policy Statement provided by ADRE.

**Arizona Real Estate State Exam** - Thanks to a very special group of Arizona real estate professionals who serve as “Subject Matter Experts” (SME’s) the Arizona Pre Licensing Salesperson Exam has been rewritten to conform to the revised curriculum, with a new bank of test questions specific to the practice of real estate in Arizona. It is one exam, containing 180 questions, with a required pass rate of 75%. Exam questions are currently being written for the Arizona Pre Licensing Broker Exam. ADRE is now publishing a quarterly report of the Salesperson and Broker exam’s pass/fail rate of all Arizona approved real estate schools on [www.azre.gov](http://www.azre.gov), [click here](#) to view.

**Continuing Education (CE) Courses** - As the majority of the required and completed continuing education course hours (24 hours every two years) being uploaded by those licensees renewing their real estate license, are being reported as Distance Learning CE hours, a Distance Learning Stakeholder Group delivered a recommendation paper to ADRE. Those recommendations are being considered as ADRE addresses changes to the Distance Learning Courses approval criteria.

Kathy Howe, an Arizona real estate educator in Sedona, reminded me recently, that all Arizona real estate professionals must remember that Arizona law grants great privilege and responsibility, including the right for licensees to draft and create contracts according to Article 26 of the Arizona Constitution. **Article 26 states:** “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.”

Serving on the Board of Directors of the international Association of Real Estate License Law Officials (ARELLO), I have found that Arizona is the only state that grants this privilege to the real estate professional in the state constitution. It is the Arizona consumer who places their confidence and trust in the Arizona real estate professional for their largest financial investment. As I say when traveling around the state, and to my counterparts around the country, “Arizona is the best state to buy and sell real estate, and Arizona is the best state in which to practice real estate”. It is evident that Arizonans continue to see opportunity in the real estate profession. As of March 30, 2019, the number of Arizona real estate licensees total 87,579, with active “in the trenches” licensees growing to 66,117, working in nearly 7,500 entities. An approximate average of 1,300 students taking the State Exam, and 600 new licensees activating their license each month. Consider the fact that in 2008, the Arizona real estate licensee total count (including inactive) peaked over 96,000, while during the recession that number dropped to a low count of 78,000. The Department posts license trends, and monthly numbers each month to [www.azre.gov](http://www.azre.gov), [click here](#) to view.

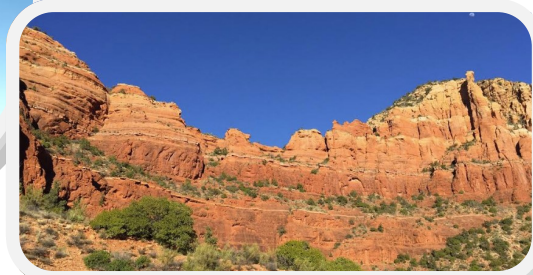
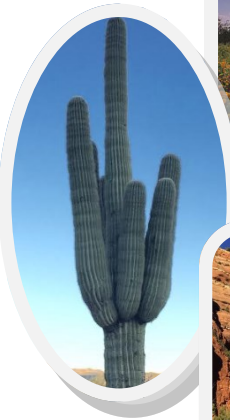
Real estate professionals provide an important contribution to Arizona’s economic growth and success. We as a profession look forward to opportunities to improve licensees abilities in providing exceptional knowledge and service excellence to serve the real estate needs of our Arizona constituents.

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**Q: What percentage of land in Arizona is federal?**



For more info please check page 5  
 Answer: Nearly 42 percent—



# COMMISSIONER'S CORNER



“A Packed House” Prime Lending Event



Commissioner Lowe at West Valley Commercial Real Estate Group



Commissioner Lowe visits Homesmart



Commissioner Lowe at the Weichert – Peak Performance  
Joint Brokerage Meeting



Power Lunch For Team Leaders

**PLANNING A COMPANY EVENT?**  
To stay up-to-date with what is happening in real estate, and to hear “What’s Making the Phone Ring at ADRE?”, invite Commissioner Lowe to speak to your group. For scheduling, contact Abby Hansen at [ahansen@azre.gov](mailto:ahansen@azre.gov)



# COMMISSIONER'S CORNER



"Commissioner Connection" at the Tucson Association of Realtors



Women's Council of REALTORS®



Arizona Mexico Commission Real Estate Committee Inter-plenary Planning Meeting in Tucson

## Update: VA Adds “Cash Out” Provisions to Refinance “Churning Rules”

Excerpted from the *Arelllo Boundaries Magazine*



**The U.S. Department of Veterans Affairs (VA) has issued a new “interim final rule” imposing “cash-out” VA mortgage loan refinance requirements that are designed to enhance existing protections for U.S. military veterans\* against predatory “loan churning” practices.**

According to the VA and other federal agencies, veterans with VA-guaranteed mortgage loans continue to be inundated with unsolicited and often questionable refinance offers that promise extremely low interest rates, thousands of dollars in cash back, skipped mortgage payments, no out-of-pocket costs, no waiting periods and other “come-ons” that entice borrowers to enter into successive refinance transactions. The VA says that the transactions often provide limited benefits to borrowers and artificially increase existing VA mortgage loan balances, thus placing veterans at a higher financial risk. There are also concerns that “loan churning” practices disrupt the secondary VA mortgage market, and result in higher interest rates to veterans and lower returns to investors.

VA-guaranteed or -insured refinance loans have historically fallen into two broad categories: Interest rate reduction refinancing loans (“IRRRLs,” also known as “VA streamline” refinances) and “cash-out” refinances, as respectively permitted by federal law. In 2018, federal legislation was enacted that addresses VA refinance loan churning by, among other things, imposing loan cost recoupment requirements and disclosures, “net tangible benefit” standards, and a 210 days “seasoning period” during which VA-guaranteed loans cannot be refinanced [See, “New Mortgage Loan ‘Churning’ Laws Protect U.S. Veterans,” July 2018 *Boundaries*]. The VA also now requires lenders to provide borrowers with a break-even analysis that compares the existing mortgage loan against the proposed refinance, so that borrowers can clearly understand the financial impact of the transaction.

The VA’s recently promulgated “interim final rules” deal specifically with “cash-out” refinances, and will take effect on February 15, 2019. The VA determined that some lenders “seem to continue to exploit legislative and regulatory gaps related to seasoning, recoupment, and net tangible benefit standards,” and also that “perhaps more than 50 percent of cash-out refinances remain vulnerable to predatory terms and conditions.” The new rules provide that, for the two types of statutorily recognized “cash-out” VA

refinance loans:

- The amount of the new loan must not exceed an amount equal to 100 percent of the reasonable value of the subject property, as determined by the VA;
- A statutorily-defined “funding fee” may be included in the new loan amount, but any portion that would cause

*“The VA says that the transactions often provide limited benefits to borrowers and artificially increase existing VA mortgage loan balances ...”*

- the new loan amount to exceed 100 percent of the reasonable value of the property must be paid in cash at the loan closing;
- The new loan must provide a “net tangible benefit,” meaning that it must be in the financial interest of the borrower in accordance with specified criteria;
- The dollar amount of any loan discount to be paid by the borrower must be reasonable, as determined by the VA; and
- The loan must otherwise be eligible for VA guaranty in accordance with applicable laws and regulations.

The rules also clarify the application of the VA loan refinance requirements to Type I and Type II cash-out refinances; a statutory distinction that depends on whether the amount of the principal for the new loan is equal to or less than, or exceeds, the payoff amount of the refinanced loan. [\*The term “veteran” as used in this article, includes active-duty service personnel and other persons eligible for VA-guaranteed mortgage loans.

### *Do you have a Bulletin Article Idea?*

**If you would like to submit an article to be considered for inclusion in a future Bulletin, you can send your submission via email to [ldetorre@azre.gov](mailto:ldetorre@azre.gov). Guest articles may not necessarily reflect the views of the Department, but may be included for information.**



# FOLLOW ADRE ON TWITTER



@AZDeptRE

Follow the Department on Twitter to receive updates, notices, and other Arizona related Information!

ADRE Retweeted

**Arizona-Mexico Commission** @AzMxCom · Mar 29

That's a wrap on a successful 2019 AMC-CSA Inter-Plenary! We look forward to seeing everyone June 26-28 at the @JWDesertRidge as #AMCCELEBRATES60!

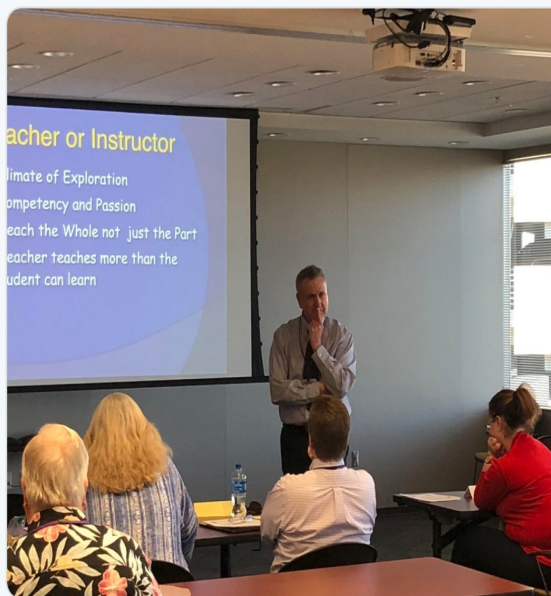
Juan Ciscomani, Luis Ramirez Thomas, Daniel Palm and 7 others

2 11 26



ADRE @AZDeptRE

Thanks to the newest Volunteer Course Monitor Program participants for attending the Department's orientation this week, and to Bill Gray for leading the orientation! RE licensees interested in learning more can contact ADRE on the Message Center - [bit.ly/2VZlgaD](https://bit.ly/2VZlgaD).



ADRE @AZDeptRE

Follow

Thanks to the many development services and builder professionals who attended today's ADRE Learn & Lunch. These meetings continue to be a productive opportunity to collaborate on important topics!

12:14 PM - 29 Jan 2019



ADRE Retweeted

**Doug Ducey** @dougducey · Mar 18

Arizona women leaders are celebrating #WomensHistoryMonth by reflecting on the women who have influenced, inspired and empowered them most #WomenLeadAZ



**Women Lead AZ: Who Has Inspired You?**

In honor of Women's History Month, 10 women leading Arizona agencies share about the women who inspire them most #WomenLeadAZ #WomensHistoryMonth

5 23 61



# From the Customer Service TEAM

The following information can easily be obtained from our website with a click on the FAQs icon: **FAQs**

- ◆ *How do I renew online :* <https://www.azre.gov/Lic/LicFaqs.aspx#FAQ61>
- \* Visit <https://az.gov/webapp/dre/>.
- \* Enter the license number. If license number is not known, click on the "[Public Database](#)" link at the end of the line that begins "To log in...". Select "search by name" then enter the last name and click "submit". Find the correct licensee's name on the list that appears and the license number will be listed. Any licensee's license information may be researched using this tool. Do not cut and paste the license number from the Public Database into the Online System. The system will give an error message.
- \* Click on "Login".
- \* Next, if not done already, select "Manage my Continuing Education" and enter all CE classes. **SIMPLY ENTERING THE CONTINUING EDUCATION DOES NOT RENEW THE LICENSE; THE RENEWAL FORMS MUST BE COMPLETED AND THE RENEWAL FEE MUST BE PAID.**
- \* Next, if not done already, select "Manage my Legal Presence" and upload the required documentation (click here for more information).
- \* Follow the prompts to renew the license before the license expiration date. Also access Online Services to change any personal information (address, phone number, email address) or request employment by a Broker. Further instructions are given with each page. It's fast and easy!

- ◆ *How do I locate my license number:* This may also be found by visiting our website at [www.azre.gov](http://www.azre.gov) and going to the "[Online Services](#)" tab, then clicking on "[Public Database](#)" or going to your online account by clicking on "Online Licensing & Renewal System".

**Public Database**  
 - Licensee Search  
 - Education School Search  
 - Development Search

- ◆ *Password Reset :* <https://ptl.az.gov/app/dre/>

Login for the first time, or password reset

Real Estate License Number:  
 Example: SA123456789

Social Security Number:  
 (last four digits only)

Date of Birth:  
 (mm/dd/yyyy)

- \* From the Login Screen ensure both fields on the left side where you "Login with a password" are blank, then go to the right side of the Login Screen "Login for the first time or password reset" enter the License Number, Social Security Suffix and Date of Birth (in the format displayed)
- \* From the Password Already Created screen click the link in the third bulleted item to answer the secret question
- \* From the Password Reset screen answer the Security Question
- \* After successfully answering the Security Question click the Return Home button to navigate to the Home page where a new password can be created by click the Change Password Quick Link.
- \* If you are still unable to reset your password, you may contact ADRE through the message center (blue button in the middle of the home page) directing the message to the first link under licensing "Questions about the status of an application for a real estate license or license renewal." Please provide your license number.

### Cont'd... from Trivia Question Page

Q :What percentage of land in Arizona is federal?  
 A: Nearly 42 percent

- ⇒ Five federal agencies manage 42.1 percent of Arizona's land
- ⇒ Arizona state trust land make up 12.7 percent
- ⇒ About 27.1 percent of Arizona is Tribal land.
- ⇒ This leaves just 18.1 percent of all Arizona land to private owners

## ***Consumer Advocacy Group Slams Dual Agency, Agency Disclosures and Enforcement*** *Excerpted from the Arello Boundaries Magazine*

**The Consumer Federation of America (CFA) recently released a report asserting that home buyers and sellers are confused about agency/brokerage relationships and are harmed by dual agency and other in-house transactions, inadequate agency disclosures, and ineffective state enforcement.**

The CFA report, [\*The Agency Mess\*](#), indicates that, while a large majority of home buyers and sellers work with real estate agents, many do not understand whose interests those agents represent. The CFA cites a nationwide survey conducted by ORC International, which concludes that “two-thirds of consumers believe that real estate agents are always or almost always required to represent the interests of the home buyer or seller with whom they are working.” However, says the CFA, “Many agents working with consumers represent the interests of the other party or the interests of neither party.”

The CFA notes that nearly 55 percent of responders to the 2018 survey said that they did not understand the differences between, and implications of, the agency/ brokerage relationships that are commonly recognized by state license/ brokerage relationship laws; e.g., single agent, designated agent, subagent, dual agent and non-fiduciary transaction agent (sometimes called transaction broker, facilitator or intermediary). The CFA attributes this confusion to “proximate causes” that include diverse and complex state laws, differences in terminology and practices (e.g., terms such as “transaction broker” and “facilitator” can mean different things in different states), and consumer disclosure requirements that exist in all states but are not uniformly required to be made early in a transaction, or in writing, and may not be contentiously followed by agents.

The report also blames state real estate regulators for consumer confusion about agency/brokerage relationships, claiming that state disclosure laws are ineffective, at least in part because “state officials have made little effort to enforce the disclosure laws” and “real estate commissions ... do not make agency disclosure enforcement a priority. Violations usually only come to light when agent practices are so egregious that they lead to litigation.” Also, according to the report, “over half of state real estate commissions do not provide information about agent roles and responsibilities on their websites.”

The CFA also takes aim at “structural conflicts” within state laws that allow real estate agents to act as the fiduciary of both parties to a transaction, of “only the other party,” or as a fiduciary of neither party, and asserts that these roles often do not serve the interests of home buyers or sellers. For example, the report says that consumers are harmed by

the conflicts of interest that are inherent to inhouse transactions, dual agency in particular. Noting that a fiduciary agent for a seller seeks a reliable buyer at the highest sale price and a fiduciary agent for a buyer seeks to find a desirable house for the lowest sale price, the CFA concludes that “No agent can act as a true fiduciary for both a seller and buyer of the same house.” The report also points to conflicts of interests, though “less egregious but still troubling,” in designated agency relationships in which the buyer and seller in a transaction are represented by different agents within the same brokerage firm. The report also observes that non-fiduciary transaction brokers, as provided for by the license laws of about 25 states, “face fewer conflicts of interest, have less related legal liability, and have more flexibility to negotiate sales than do fiduciary agents.”



The report concludes that consumers would be better served by agency relationship models that allow real estate agents and their firms to act as fiduciaries of only a buyer or seller in the same transaction, not both, or by “greatly accelerating” the non-fiduciary transaction broker model. However, the CFA acknowledges that nationwide modification of agency laws is unlikely, and thus recommends several “opportunities” to sort out the current “mess of agency and non-agency relationships” to make them easier for consumers to understand. These include:

- Prohibiting dual agency, and the alteration of agents’ roles during the course of a transaction;
- Developing clear written and verbal communications from agent to consumer at the “first substantive contact” regarding the agent’s role as a fiduciary agent, transaction broker, etc.;
- Development of an effective agency/brokerage relationship disclosure document that is uniform among states if possible, but if not at least similar, and effective enforcement of its use; and
- Development of rules to minimize conflicts of interest when the same real estate firm represents both a seller and a buyer.

The CFA also advises buyers and sellers to, among other things, be aware of whose interests agents are representing, ask for a completed agency/brokerage relationship form, be careful about disclosing to a non-fiduciary agent the minimum price they will, respectively, pay or accept, and consider hiring an attorney to represent their disparate interests.



## *There's a New Classroom Standard*

Each Arizona approved real estate school is responsible for the content of any course it offers and for the professional administration and teaching of the course, pursuant to A.R.S. § 32-2135(A). Most real estate schools have practiced professional administration of pre licensing and continuing education courses for many years, and continue to do so.

The ADRE Education Advisory Committee (EAC) addressed an industry concern regarding the location that schools were holding education courses at (ie. restaurant open areas, etc.). After careful consideration, the EAC adopted the following classroom standard for all live real estate education courses, effective March 12, 2019:

**Classroom Standard:** "A classroom shall have a live instructor and provide for an active learning atmosphere. A classroom shall be suitable for all real estate course credit hours and held in a room where other business is not being conducted simultaneously. A classroom shall comply with applicable, local, state and federal regulations regarding safety, health and disabilities."



In the interest of "best practices", Commissioner Lowe expects all schools to adhere to the new standard, which will establish/maintain/encourage a professional environment for a positive learning experience for the student, as well as the instructor.

### ***500,000 Reasons why RESPA Compliant AAFBA Disclosures are a Good Idea***

[Click here](#) to view the federal **Real Estate Settlement Procedures Act**. Real estate brokerage firms across the U.S. have likely taken note of the well-publicized Consent Order issued recently by the Consumer Financial Protection Bureau (CFPB), which requires Alabama's largest real estate brokerage company to pay a \$500,000 civil penalty for failing to meet federal affiliated business arrangement standards. According to the Consent Order, brokerage company RealtySouth, Inc. is affiliated with TitleSouth, LLC, which provides title examination and insurance services. A division of TitleSouth, TitleSouth Closing Center, provides transaction closing services. TitleSouth and RealtySouth are owned by the same parent holding company and their earnings are consolidated such that

whenever TitleSouth is profitable, the parent company also profits. Real estate brokerage firms across the U.S. have likely taken note of the well-publicized Consent Order issued recently by the Consumer Financial Protection Bureau (CFPB), which requires Alabama's largest real estate brokerage company to pay a \$500,000 civil penalty for failing to meet federal affiliated business arrangement standards. According to the Consent Order, brokerage company RealtySouth, Inc. is affiliated with TitleSouth, LLC, which provides title examination and insurance services. A division of TitleSouth, TitleSouth Closing Center, provides transaction closing services. Section 8(a) of the Real Estate Settlement Procedures Act (RESPA) prohibits giving or accepting a "fee, kickback, or thing of value" pursuant to an agreement or understanding to refer business related to real estate settlement services for a federally related mortgage loan [12 U.S.C. section 2607 (a)]. Implementing federal regulations ("Regulation X" define a "thing of value" to include, "without limitation... increased equity in a parent or subsidiary entity" [12 C.F.S.R. section 1024.14(d)]. However, RESPA contains a "safe harbor" exception that permits certain "affiliated business arrangements" (AfBAs) if the person making the referral has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in the settlement service provider receiving the referral, but only if: (1) The referrer discloses the arrangement in writing; (2) the consumer remains free to reject the referral; and (3) the referrer does not receive any "...thing of value from the arrangement..." other than "...a return on the ownership interest..." [12 U.S.C.S. section 2607 (c)(4)]. Under the federal regulations, the written disclosure must, among other things, describe the affiliated business relationship (s) and the potential financial benefit of the referral(s) to the referring party, list an estimated charge or range of charges for the referred service, and contain specifically formatted language advising consumers that they are not required to use the listed providers and that they should "shop around" to determine that they are receiving the best services at the best rates. [12 C.F.R. 1024, Appendix D]. According to the administrative Consent Order, the CFPB determined that RealtySouth "strongly encouraged" and, in some instances, required its agents to use RealtySouth affiliates, in particular TitleSouth. Also, from March 2011 until May 2012, the brokerage company's preprinted real estate purchase contracts explicitly directed title and closing services to its affiliates. In 2012, RealtySouth changed the contract forms to include a "check-off" item that allowed consumers to select either RealtySouth affiliates or "other" providers. RealtySouth also provided consumers with a separate AfBA disclosure form that was not formatted in accordance with the regulations. In addition, the required disclosure language informing consumers that they can "shop around" was not set apart, but rather incorporated into the end of a list of descriptions of seven affiliated businesses, and was hidden in what appeared to be a second description of RealtySouth.

*Excerpted from Arello*

# ADRE CALENDAR OF EVENTS

**The ADRE office will be closed on the following holidays:**

**Memorial Day - Monday, May 27, 2019**  
**Independence Day - Thursday, July 4, 2019**

## ADVISORY BOARD MEETING

**The next Real Estate Advisory Board Meeting will be held on April 24, 2019 in the Commissioner's Conference Room or Training Room from 10 a.m. - 12 noon**

Arizona Department of Real Estate  
100 N. 15th Ave., Suite 201  
Phoenix, AZ 85007

*All members of the public are welcome to attend*

## EDUCATION ADVISORY COMMITTEE

**The next Education Advisory Committee will be held on June 11, 2019 in the Commissioner's Conference Room from 10 a.m. - 12 noon**

Arizona Department of Real Estate  
100 N. 15th Ave., Suite 201  
Phoenix, AZ 85007

*All members of the public are welcome to attend*

## LUNCH AND LEARN FOR DEVELOPMENT SERVICES

**The next Lunch and Learn meeting will be April 25 & July 25, 2019**

Arizona Department of Real Estate  
100 N. 15th Ave., First Floor  
Phoenix, AZ 85007

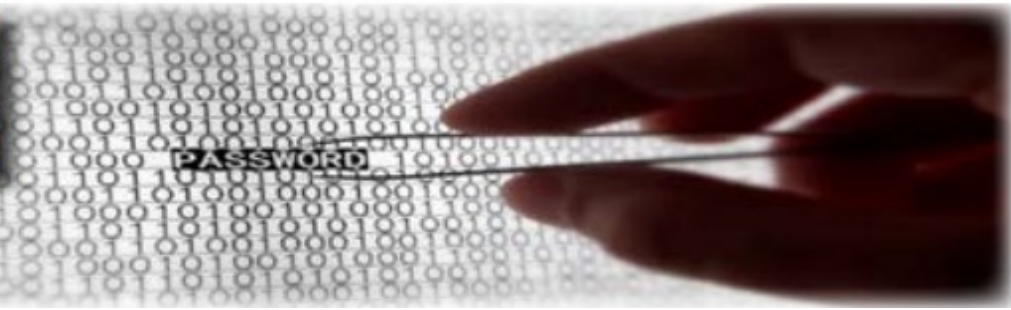
*[Pre-register through the ADRE Message Center - Development Services at www.azre.gov](http://www.azre.gov)*

## REAL ESTATE ADVISORY BOARD

Nedra M. Halley, 2019 Chair, Phoenix  
Charles Bowles, 2019 Vice Chair, Tucson  
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Kimberly S. Clifton, Tucson  
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Justin W. Rollins, Scottsdale  
D. Christopher Ward, Phoenix





*Excerpted from the Arello Boundaries Magazine*

## **The enactment of legislation enhancing Colorado’s data privacy and protection laws has prompted the Colorado Real Estate Commission to revise its position statement regarding licensee office policy**

Colorado’s real estate license laws employ a “brokeronly” model under which salesperson licenses are not issued. However, new licensees are not permitted to practice independently until they have actively served under the supervision of an employing broker for at least two years, and meet other requirements. The license laws and Commission rules impose a variety of supervisory responsibilities on employing broker-level licensees, such as providing a specifically defined “high level of supervision” of new licensees and “reasonable supervision” of those with more experience. Among those provisions, employing brokers are required to “develop an office policy manual and periodically review office policies with all employees” (Commission Rule E-30).

The license laws and rules dictate several specific matters that must be addressed in a written office policy manual; such as procedures for identifying brokerage relationships and handling confidential information (Commission Rule E-39), and procedures regarding designated representation (Rule E-38). However, the Commission’s non-binding “CP-21 Commission Position on Office Policy Manuals” suggests many additional matters that office policies should address “at a minimum”; such as procedures for property listings and releases, typical real estate transactions, guaranteed buyouts, licensee purchase and sale of real estate, property management, and many others.

During its 2018 session, the Colorado General Assembly enacted HB 18-1128, which amended and clarified the state’s Consumer Protection Act (§§6-1-713, 713.5, 716, C.R.S., et seq.) and other laws requiring the protection of personal identifying information by governmental agencies, and by any “covered entity” that “maintains, owns, or licenses personal identifying information in the course of a

person’s business, vocation, or occupation.” The new and amended statutes require covered entities to develop and maintain a written policy regarding the destruction and disposal of personal identifying information, implement reasonable security procedures, and comply with the statute’s expanded data breach notification requirements.

In accordance with HB 18-1128, the Commission’s amended CP-21 suggests that real estate licensee office policy manuals should also include:

- Procedures and practices for the reasonably secure maintenance and protection of personal identifying information (required by 6-1-713.5, C.R.S.);
- Procedures for the destruction or proper disposal of paper or electronic records by shredding, erasing, or otherwise modifying the following information to make it unreadable or indecipherable through any means:
  - a social security number;
  - a personal identification number;
  - a password;
  - a pass code;
  - an official state or government-issued driver’s license or identification card;
  - a government passport number;
  - biometric data, as defined in 6-1-716(1)(a), C.R.S.;
  - an employer, student or military identification number; or
  - a financial transaction device, as defined in 18-5-701, C.R.S.; and
- Procedures and practices for the identification and notification of a security breach of personal identifying information (required by 6-1-716, C.R.S.).

Amended Commission position statement CP-21 was issued on December 4, 2018. [\*Colorado regulatory agencies are authorized to promulgate binding and enforceable rules through adherence with the rulemaking requirements of the state’s Administrative Procedure Act (APA). However, the notice, publication, and other rulemaking requirements of the APA generally do not apply to “interpretative rules or general statements of policy, which are not meant to be binding as rules, or rules of agency organization” [Colo. Rev. Stat. §24-4-103(1)].



## Choice-of-Law Analysis Blocks Finder's Fee in New Hampshire Interstate Transaction

**A** federal district court recently denied a “finder’s fee” to a California-resident healthcare industry mergers and acquisitions facilitator who contracted to act as a “finder” in the potential sale of New Hampshire healthcare business owned by the company of a Texas resident. In the absence of a “choice-of-law” or “place-of-performance clause” in the agreements at issue, the court applied New Hampshire’s real estate license laws prohibiting the payment of commissions to unlicensed persons, instead of California’s license laws that contain a finder’s fee exemption.

According to the decision of the U.S. District Court for the District of New Hampshire, the facilitator alleged that he entered into a finder’s fee agreement with the seller of traumatic brain injury facilities in New Hampshire, and a confidentiality agreement with the buyer; both of which allegedly entitled him to a finder’s fee [The lawsuit includes the parties’ respective d/b/a and business entities, which for convenience are referred to herein as “facilitator,” “buyer” and “seller”]. However, the facilitator alleged that the buyer and seller “went behind his back” and entered into a lease agreement for the facilities, which included a purchase option that was subsequently exercised by the buyer.



The facilitator sued the buyer and seller in a Los Angeles County trial court, seeking on various grounds to recover the finder’s fee. The case was “removed” to a U.S. District Court in California under federal “diversity” jurisdiction [where parties to a lawsuit are citizens of different states] and then was transferred to the U.S. District Court for the District of New Hampshire. The buyer moved to dismiss the case, asserting among other things that the New Hampshire Real Estate Practice Act (“NHREPA”) bars the finder’s fee claim because the facilitator was not a licensed broker in New Hampshire [N.H. Rev. Stat. Ann. §331-A:1, *et seq.*]. The facilitator argued that California law governs the confidentiality agreement with the buyer and that California courts have long recognized a “finder’s” exception to the state’s broker regulations, where the finder “simply finds and introduces two parties to a real estate transaction ....” [Citations omitted]. At the time the U.S. District Court decision was issued, the seller defendants supported the buyer defendants’ motion but had not filed such a motion on their own behalf.

Since the confidentiality agreement between the facilitator and the buyer did not contain a place-of-performance

or a choice-of-laws provision, the federal court turned to California’s choice-of-law rules to determine which state’s substantive real estate license laws would apply to the claimed fee. After a detailed analysis of differing statutory and common law principles, the court found that New Hampshire’s substantive real estate license law would apply; largely because it is the forum with the most significant relationship to the transaction (the business at issue is in New Hampshire) and because to find otherwise would most significantly impair New Hampshire’s interest in enforcing its license laws. The court observed that, by comparison, California’s interests are “far more attenuated” because its license laws and finder’s fee exception apply only to real estate transactions occurring “within this state” [Cal. Bus. & Prof. Code §10130].

The U.S. District Court granted the buyer’s motion to dismiss the case, relying on New Hampshire Supreme Court precedent establishing that the NHREPA broadly defines “real estate” to include “business opportunities which involve any interest in real estate,” and extends the licensing requirements to any transaction involving real estate “regardless of whether real estate is ‘incidental’ to the transaction” and “no matter how *de minimis* the real estate interest” [N.H. Rev. Stat. Ann. §331-A:2, IX; Citation omitted, *emphasis added*]. The court acknowledged that the NHREPA does contain a licensing exemption for “those who receive a fee from a client based on site searching services ... rather than on completion of any particular transaction, and who do not hold themselves out as real estate brokers” [N.H. Rev. Stat. Ann. § 331-A:4, VIII]. However, the court ruled that the exemption does not apply because the claimed payment became due to the facilitator on “a particular transaction” pursuant to the terms of the relevant agreements.

Therefore, since it was undisputed that the facilitator does not hold a New Hampshire real estate license, the court held that the confidentiality agreement is unenforceable and granted the buyer’s motion to dismiss.

[*Eskenazi v. Slover*, 2018 U.S. Dist. LEXIS 209463 (D.N.H. Dec. 12, 2018). \*This decision was rendered on a pre-trial motion to dismiss. In accordance with applicable rules of procedure, the court accepted the recited factual allegations in the plaintiff’s complaint as true and drew reasonable inferences in favor of the plaintiff. This decision may be subject to post-judgment litigation and judicial review.]



## HUD Boosts 2019 Loan Limits

Excerpted from the Arello Boundaries Magazine

**Citing robust increases in median U.S. home prices, the U.S. Department of Housing and Urban Development (HUD) announced recently that most areas of the country would experience increased limits on Federal Housing Administration (FHA) insured mortgage loans. The increased limits took effect on January 1, 2019.**

The FHA provides mortgage insurance on single- and multi-family mortgage loans made by approved lenders to borrowers who meet FHA qualification criteria. FHA insurance promotes the availability of mortgage credit because it pays lender claims in the event of homeowner defaults, up to the applicable loan limit. The FHA says that it is the largest mortgage insurer in the world, having insured over 47.5 million properties since its inception in 1934. The FHA is required by the National Housing Act, as amended by the Housing and Economic Recovery Act of 2008 (HERA), to set single-family forward loan limits at 115 percent of median home prices, subject to “floor” and “ceiling” thresholds that the FHA calculates by Metropolitan Statistical Area (MSA) and county. In accordance with those provisions, the FHA establishes its floor and ceiling limits based on the “conforming” loan limits set by the Federal Housing

Finance Agency (FHFA) for conventional mortgages owned or guaranteed by government-sponsored enterprises Fannie Mae and Freddie Mac. The FHA’s 2019 minimum national loan limit, or floor, of \$314,827 (up from \$294,515 in 2018) is set at 65 percent of the FHFA’s national conforming loan limit of \$484,350. This floor applies to areas where 115 percent of the median home price is less than the floor limit. Any area in which the loan limit exceeds this floor is considered a “highcost area.” In high-cost areas, FHA’s loan limit ceiling increased to \$726,525 (up from \$679,650 in 2018).

Additionally, the national limit for FHA-insured Home Equity Conversion Mortgages (HECMs), or “reverse mortgages,” will increase to \$726,525 (up from \$679,650), regardless of where the property is located. FHA regulations do not allow HECM limits to vary by MSA or county as they do for other FHA-insured mortgage loans. For more information and access to area loan limit search tools, please go to the FHA’s loan limits page.

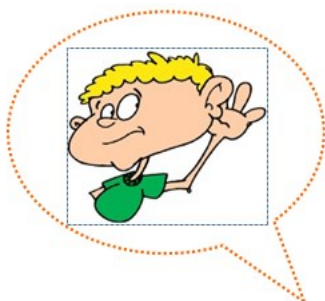


### WE’D LIKE TO HEAR FROM YOU!

Your opinion as a Real Estate licensee means a lot to us. We invite you to provide comments, suggestions and feedback about your experience with the Department. We’re always looking for “Opportunities for Improvement”. If you have a moment, please share your thoughts.

**How are we doing? Please take a moment to answer a few questions.**

<https://www.surveymonkey.com/r/ADREcustomersurvey>



### VOLUNTEER MONITOR PROGRAM RECRUITMENT INFORMATION

If you have a background and awareness of Arizona requirements and real estate educational processes then you are a good candidate to be a Volunteer Monitor.

**PURPOSE:** The Volunteer Monitor Program utilizes volunteer real estate licensees to provide feedback to the ADRE by attending courses at an Arizona approved real estate schools. The purpose of monitoring real estate education is to ensure that approved schools and instructors are in compliance with Arizona Revised Statutes and Commissioner’s Rules.

**Volunteer Monitors shall not be an ADRE license educator affiliated with an ADRE approved school.**

**INFORMATION:** Click on the link [Volunteer Monitor Program](#) or visit the ADRE website at [www.azre.gov](http://www.azre.gov) for more information.

# LICENSING STATISTICS

## Arizona Department of Real Estate Licensed Individuals & Entities April 2, 2019

	Active	Inactive	Total Current	In Grace Period	Current + Grace Period
<b>Individuals</b>					
Broker	12,085	1,077	13,162	571	13,733
Salesperson	46,595	14,195	60,790	4,497	65,287
<b>Total Individuals</b>	<b>58,680</b>	<b>15,272</b>	<b>73,952</b>	<b>5,068</b>	<b>79,020</b>
<b>Last month</b>	<b>58,905</b>	<b>14,902</b>	<b>73,807</b>	<b>5,021</b>	<b>78,828</b>
<b>% change from last month</b>	<b>-0.38%</b>	<b>2.48%</b>	<b>0.20%</b>	<b>0.94%</b>	<b>0.24%</b>
<b>Same month last year</b>	<b>57,567</b>	<b>13,652</b>	<b>71,219</b>	<b>4,948</b>	<b>76,167</b>
<b>% change from last year</b>	<b>1.93%</b>	<b>11.87%</b>	<b>3.84%</b>	<b>2.43%</b>	<b>3.75%</b>
<b>Entities</b>					
Branch, corp	170	41	211	38	249
Branch, liability	432	78	510	41	551
Branch, Partnership	1	0	1	0	1
Branch, Self-Employed	20	2	22	4	26
Corporation	1,371	72	1,443	72	1,515
Limited Liability	3,449	187	3,636	229	3,865
Partnership	27	2	29	3	32
Self-Employed Broker	1,967	104	2,071	249	2,320
<b>Total Entities</b>	<b>7,437</b>	<b>486</b>	<b>7,923</b>	<b>636</b>	<b>8,559</b>
<b>Last month</b>	<b>7,439</b>	<b>470</b>	<b>7,909</b>	<b>656</b>	<b>8,565</b>
<b>% change from last month</b>	<b>-0.03%</b>	<b>3.40%</b>	<b>0.18%</b>	<b>-3.05%</b>	<b>-0.07%</b>
<b>Same month last year</b>	<b>7,487</b>	<b>508</b>	<b>7,995</b>	<b>647</b>	<b>8,642</b>
<b>% change from last year</b>	<b>-0.67%</b>	<b>-4.33%</b>	<b>-0.90%</b>	<b>-1.70%</b>	<b>-0.96%</b>
<b>Individuals &amp; Entities</b>					
<b>Total - this month</b>	<b>66,117</b>	<b>15,758</b>	<b>81,875</b>	<b>5,704</b>	<b>87,579</b>
<b>Total - previous month</b>	<b>66,344</b>	<b>15,372</b>	<b>81,716</b>	<b>5,677</b>	<b>87,393</b>
<b>% change from last month</b>	<b>-0.3%</b>	<b>2.5%</b>	<b>0.2%</b>	<b>0.5%</b>	<b>0.2%</b>
<b>Total - this month</b>	<b>66,117</b>	<b>15,758</b>	<b>81,875</b>	<b>5,704</b>	<b>87,579</b>
<b>Total - same month last year</b>	<b>65,054</b>	<b>14,160</b>	<b>79,214</b>	<b>5,595</b>	<b>84,809</b>
<b>% change from last year</b>	<b>1.6%</b>	<b>11.3%</b>	<b>3.4%</b>	<b>1.9%</b>	<b>3.3%</b>

*\* Arizona Real Estate licensing statistics are updated monthly and posted to the Department's website at [www.azre.gov](http://www.azre.gov). Access by clicking the link on the homepage titled "Monthly License and Exam Stats".*



## ***California Court: “Willful” License Law Violation Doesn’t Require “Specific Intent*** ***Excerpted from the Arello Boundaries Magazine***

**Occupational and Professional license laws and/or administrative procedure statutes in many jurisdictions, including those impacting the real estate brokerage industry, commonly provide for the imposition of disciplinary sanctions for “willful” violations. A California appellate court recently ruled that an alleged “willful” violation only requires proof of a general intent to perform an act; not the “specific intent” to violate the license law, bad faith, or “blameworthiness.”**

The case involved a \$500 civil penalty imposed by the California Contractors State License Board (the “Board”) against a licensed company that allegedly replaced a boiler at a commercial building without obtaining required permits. The Board



cited the company for violation of California Business and Professional Code §7110, a license law provision stating that “Willful or deliberate disregard and violation of the building laws ... constitutes a cause for disciplinary action.” During the administrative disciplinary proceedings, the company attributed the unpermitted boiler work to an employee who had been instructed to, but did not, check with the company’s building permit expert regarding whether a permit was required. The administrative law judge (ALJ) who heard the case concluded that the company’s failure to obtain a permit was not “deliberate,” but was “willful” within the meaning of §7110.

The company petitioned for judicial review of the administrative decision in a Los Angeles County trial court, arguing that the ALJ should have interpreted “willful” in §7110 to require “a showing of specific intent to disregard and violate the building laws.” The trial court rejected the argument and denied the petition. The company appealed the matter to the Court of Appeal of California. As in the previous proceedings, the company argued on appeal that absent any proof of specific intent to violate the law, the low-level employee’s inadvertent mistake could not be deemed a “willful” violation. The Court of Appeal rejected the argument and affirmed the trial court judgment. The appellate court acknowledged that the contractor license laws do not define the term “willful,” and turned to rules of statutory construction and applicable case precedents to resolve the issue in accordance with the California Penal Code. The Penal Code definition of “willful” does not require proof of a specific intent to violate the law but, rather, states: “The word ‘willfully’, when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage” [Cal. Pen. Code §7(1)].

The court reasoned that its interpretation of §7110 as requiring only proof of general intent as defined by the Penal Code, and not specific intent, is consistent with other contractor license law provisions that require licensees to demonstrate knowledge of building laws and other state laws, impose penalties for failing to exercise direct supervision and control over construction operations to ensure compliance with applicable rules and regulations, and also create a rebuttable presumption that “construction performed without a permit is a willful and deliberate violation.” The court also rejected the argument that its interpretation would render the term “willful” to be meaningless, and convert §7110 into “a strict liability statute where every violation of a building requirement would be subject to disciplinary action,” despite the statutory “willful” element. The court disagreed and provided hypothetical scenarios in which requiring only proof of general intent would not result in strict liability for licensees accused of a §7110 building code violation; such as a contractor who attempts but is unable to obtain a permit because the local permitting authority incorrectly believes no permit is required, or where a city’s permitting requirements are ambiguous or subject to interpretation.

In addition, the court rebuffed the company’s argument that “willful” license law liability under §7110 is precluded where a licensee acts in good faith, relying on case law establishing that “moral blameworthiness is not a necessary element of willful conduct” and the Penal Code definition of “willfully” [Citations omitted].

The Court of Appeal also found substantial evidence to support the administrative judge’s determination that the company willfully violated the applicable building laws, holding that “The fact that an individual employee may not have been aware of a specific local permit requirement does not excuse a corporate licensee from complying with the building laws.”

[ACCO Engineered Systems, Inc. v. Contractors’ State License Board, 2018 Cal. App. LEXIS 1152]

# EDUCATION UPDATE

Now available online is the Real Estate Exam Performance Summary by School (first time test taker pass/fail rates) for National and State Specific performance areas.

Click [here](#) to view the summary on the ADRE Website. The summary will be posted quarterly.

Click [here](#) to view Educator Updates on the ADRE Website.

## Reminders for All Schools:

- **Advertising:** Real Estate Schools should review the following advertising regulations and establish policies to ensure compliance with these regulations as a school and through any owner, director, administrator instructor or other agent:
- **Arizona Revised Statutes**  
Click [here](#) to view A.R.S. § 32-2135(D) and [here](#) to view A.R.S. 32-2153(A)(26).  
**Commissioner’s Rule A.A.C. § R4-28-502(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.”
- **14-Day Course Notices** – Schools must be sure to properly schedule the course event location in the 14-Day Notice pursuant to A.R.S. § 32-2135 especially if the course is held at a location other than the school location.

## EDUCATION STATS

### Average Passing Percentages for "First Time Exam Takers"

EXAM TYPE	Dec-2018	Jan-2019	Feb-2019	Mar-2019
REAL ESTATE BROKER	66%	72%	75%	67%
REAL ESTATE SALESPERSON	57%	62%	65%	67%
CEMETERY BROKER	N/A	N/A	N/A	N/A
CEMETERY SALESPERSON	100%	67%	100%	71%
MEMBERSHIP CAMPING BROKER	N/A	N/A	N/A	N/A
MEMBERSHIP CAMPING SALESPERSON	100%	N/A	100%	100%

### Total Number of Licensees (Individual and Entity) as of April 1, 2019

87,579

### Active Continuing Education (CE) Courses as of April 3, 2019

Live CE (Approximately)	2,289
Distance Learning CE (Approximately)	306

### ADRE Licensee Online Renewal CE Course Submissions December 21, 2018 through March 31, 2019

Total courses entered for Renewal	62,796
Distance Learning	38,426
Percentages Distance Learning	62%



# NATIONAL DO NOT CALL REGISTRY

**Before making calls to consumers do you or your company verify the number you're calling is not registered on the National Do Not Call Registry? FAQ's from the Federal Trade Commission (The government agency that protects consumers).**



The National Do Not Call Registry is a list of phone numbers from consumers who have indicated their preference to limit the telemarketing calls they receive. The registry is managed by the Federal Trade Commission (FTC), the nation's consumer protection agency. It is enforced by the FTC, the Federal Communications Commission (FCC), and state officials.

## **WHAT CALLS ARE COVERED?**

The do not call provisions of the FTC cover any plan, program or campaign to sell goods or services through interstate phone calls. This includes calls by telemarketers who solicit consumers, often on behalf of third party sellers. It also includes sellers who are paid to provide, offer to provide, or arrange to provide goods or services to consumers.

## **WHAT TYPES OF CALLS ARE NOT COVERED BY THE NATIONAL DO NOT CALL REGISTRY?**

The do not call provisions do not cover calls from political organizations, charities, telephone surveyors, or companies with which a consumer has an existing business relationship.

## **HOW DOES THE ESTABLISHED BUSINESS RELATIONSHIP PROVISION WORK FOR A CONSUMER WHOSE NUMBER IS ON THE REGISTRY?**

A company with which a consumer has an established business relationship may call for up to 18 months after the consumer's last purchase or last delivery, or last payment, unless the consumer asks the company not to call again. In that case, the company must honor the request not to call. If

the company calls again, it may be subject to a fine of up to \$16,000.

If a consumer makes an inquiry or submits an application to a company, the company can call for three months. Once again, if the consumer makes a specific request to that company not to call, the company may not call, even if it has an established business relationship with the consumer.

A consumer whose number is not on the national registry can still prohibit individual telemarketers from calling by asking to be put on the company's own do not call list.

## **HOW CAN I ACCESS THE REGISTRY?**

The registry can be accessed only through the fully automated and secure website [www.telemarketing.donotcall.gov](http://www.telemarketing.donotcall.gov). The first time you access the registry, you must set up a profile and provide identifying information about you and your organization. If you are a telemarketer or service provider accessing the registry on behalf of your seller-clients, you will be required to identify your seller-clients and provide their unique Subscription Account Numbers (SANs). The only consumer information available from the registry is telephone numbers. After you (or the company telemarketing on your behalf) have accessed the registry and

**Main Office:  
100 N. 15th Ave., Suite 201  
Phoenix, Arizona 85007**

**Visit our website at [www.azre.gov](http://www.azre.gov)**

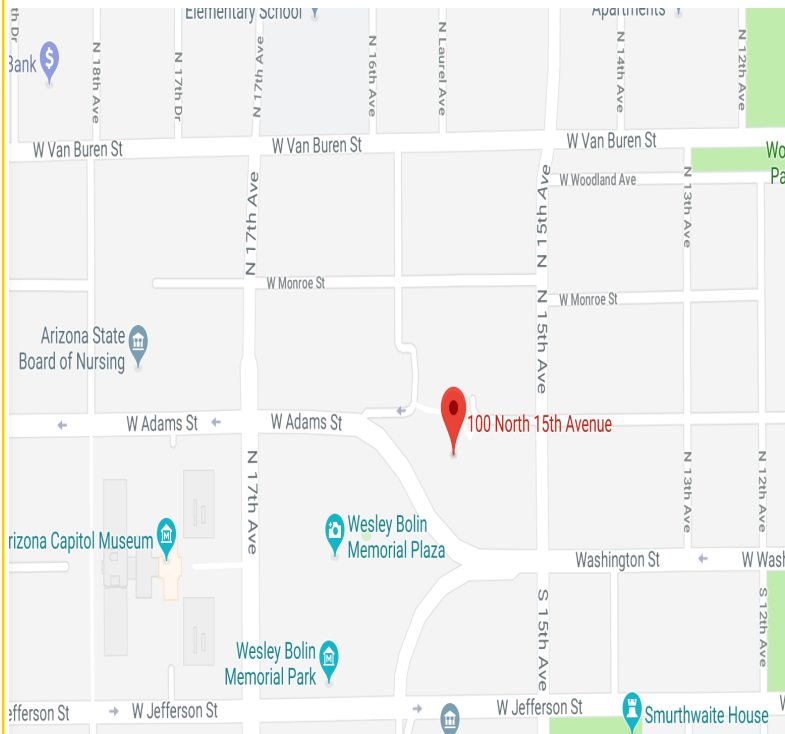
downloaded telephone numbers the first time, you'll have the option of downloading only changes in the data that have occurred since the last time you accessed the registry.



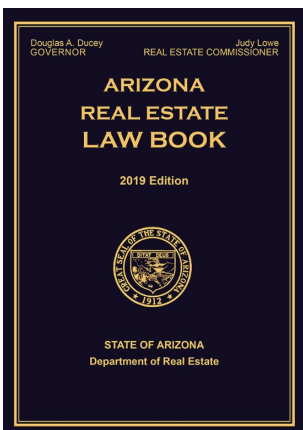
## THE ADRE HAS MOVED

The Arizona Department of Real Estate moved office locations on **June 11, 2018**

ADRE is now located at:  
**100 N. 15th Ave., Suite 201**  
**Phoenix, AZ 85007**



## HOW TO LOCATE THE ONLINE AND ORDER A HARD COPY 2019 ARIZONA REAL ESTATE LAW BOOK



- Log on to: [www.azre.gov](http://www.azre.gov)
- Select the [Laws, Rules, Policy, Statements and Advisories link](#) located on the left-hand side menu of the page.

**Laws, Rules, Policy  
Statements and Advisories**

- Law Book Order Form
- Online Law Book – PDF version

- On the right-hand side of the page, click on Online Law Book - PDF version.

- The Law Book will appear in PDF format on your screen.

*The 2019 Real Estate Law Book is available for sale.  
The link below will take you to our online order page*  
<https://www.azre.gov/LawBook/Forms/Law Book Order Form.pdf>



**BROKER AUDIT HONOR ROLL**  
**Brokers in Substantive Compliance – Dec 2018 to Mar 2019**

License No.	Broker Last Name	Broker First Name	Brokerage Name	Type of Audit	Brokerage Location
BR537864000	BENSON	CARL L.	DESERT WIND PROPERTY MANAGEMENT & REAL ESTATE	ERSA	MESA
BR578371000	BERTOLO	ORLANDO J.	DESERT VALLEY REALTY INVESTMENTS & PROPERTY MANAGEMENT, LLC	ONSITE	MESA
BR545800000	BROWN	RYAN M.	RMB PROPERTIES, LLC	ERSA	MESA
BR506346000	CLARK	CHARLES S.	CLARK REALTY HOMES AND LAND	ERSA	PRESCOTT VALLEY
BR006268000	COURTNEY	ANDREW W.	ANDY COURTNEY PROPERTIES, LTD.	ONSITE	TUCSON
BR006622000	DIAZ-RIVAS	CHARO	CHARO DIAZ-RIVAS	ONSITE	TUCSON
BR527727000	DOUGHERTY	J. MICHAEL	HOMESMART FINE HOMES AND LAND	ERSA	PRESCOTT
BR012690000	EMERSON	RANDALL "RANDY"	GRE PARTNERS, LLC	ONSITE	TUCSON
BR557020000	FOLEY	WILLIAM E.	PRESCOTT REAL ESTATE ADVISORS	ONSITE	PRESCOTT
BR554370000	GIACONIA	JOSEPH "JOE"	VALIANT REALTY	ONSITE	PRESCOTT VALLEY
BR100705000	JONES	BETH L.	BETH JONES REALTY LLC	ONSITE	TUCSON
BR557899000	KLINE	JENNIFER	VERRADO REALTY	ERSA	BUCKEYE
BR537952000	LANE	EMILY E.	LANE AND ASSOCIATES REALTY	ONSITE	PHOENIX
BR512605000	LEMORE	DEBRA	PRESCOTT PREMIER PROPERTIES, INC.	EBAR	PRESCOTT VALLEY
BR545554000	LEWIS	JOSEPH O.	THE REAL ESTATE BROKERS	ERSA	TEMPE
BR531756000	LICHTENHELD	OFELIA S.	INTEGRA GROUP REAL ESTATE	ONSITE	TUCSON
BR535645000	MACLAY	BRADLEY W.	MACLAY REAL ESTATE	ERSA	CHANDLER
BR116051000	MARRESE	JOANN M.	UNIQUE HOMES REALTY	ERSA	PRESCOTT VALLEY
BR538350000	MITCHELL	JUDY M.	MITCHELL REALTY & PROPERTY MANAGEMENT	ONSITE	APACHE JUNCTION
BR046573000	MOORE	LESLIE G.	COLDWELL BANKER YUMA FOOTHILLS REALTY	ONSITE	YUMA
BR635605000	PEDERSEN	MORTEN T.	PEDERSEN REAL ESTATE & PROPERTY MANAGEMENT	ERSA	APACHE JUNCTION
BR007248000	PETTIT	ANN L.	US SOUTHWEST	ONSITE	BULLHEAD CITY
BR655214000	PHELAN	LORI J.	TRICON AMERICAN HOMES	ONSITE	OUT-OF-STATE
BR029971000	POTTINGER	CARMEN	CARM'S REALTY LLC	ONSITE	NOGALES
BR017870000	PRESCOTT	JOHN E.	PRS PROPERTY MANAGEMENT	ONSITE	CHANDLER
BR507781000	RICKS	DAVID R.	FARNSWORTH-RICKS MANAGEMENT AND REALTY, INC.	ONSITE	MESA
BR576764000	ROSS	ROBERT J.	HOMIE	ERSA	CAVE CREEK
BR645393000	SAWHNEY	SAMIR	XCD REALTY & PROPERTY MANAGEMENT	ONSITE	PHOENIX
BR627093000	SIA	STEVEN P.	BLACKHAWK PROPERTY MANAGEMENT & REALTH	ONSITE	CAVE CREEK
BR568730000	STRATTON	NICHOLAS R.	BULLSEYE PROPERTY MANAGEMENT	ONSITE	MESA
BR528806000	SUNDERMAN	DAVID "DAVE" N.	BIG D REAL ESTATE	ONSITE	TUCSON
BR566646000	SUTO	ELIZABETH A.	CONTIGO REALTY	ONSITE	PHOENIX
BR577706000	TAYLOR	SHELBY M.	DESERT RIDGE REALTY	ERSA	CHANDLER
BR507233000	THOMPSON	LEAH C.	ARIZONA REAL ESTATE PROFESSIONALS, LLC	ERSA	MESA
BR007833000	WALLERICH	DINO P.	RELOCATION SPECIALISTS, LLC	ERSA	PRESCOTT
BR007391000	WARREN	PAUL B.	COMMERCIAL MANAGEMENT & INVESTMENTS, INC.	ERSA	CHANDLER
BR007623000	WATROUS	GEORGE M.	AZ PRIME PROPERTY MANAGEMENT	ONSITE	TEMPE
BR044398000	WERNER	JEFF S.	E-REALTY & INVESTMENTS, INC.	ERSA	MARANA
BR573784000	WISE, JR.	CHARLES "CHARLIE" E.	LOST DUTCHMAN REALTY	ONSITE	APACHE JUNCTION
BR538422000	YOUNGKER	DONALD "DON" R.	YOUNGKER REALTY	ONSITE	GLENDALE

# DISCIPLINARY ACTIONS Dec 18 2018 to March 20 2019

## ABBREVIATIONS USED IN DISCIPLINARY ACTIONS

<b>ASA = Accelerated Settlement Agreement</b>	<b>BA = Broker Acknowledgement</b>	<b>C&amp;D = Cease and Desist</b>	<b>CFO = Commissioner Final Order</b>
<b>CO = Consent Order</b>	<b>CONV = Conviction</b>	<b>CP = Civil Penalty</b>	<b>ED = Additional Education</b>
<b>FEL = Felony</b>	<b>J &amp; S = Joint &amp; Several</b>	<b>LG = License Granted</b>	<b>MISD = Misdemeanor</b>
<b>PL = Provisional License</b>	<b>PM = Practice Monitor</b>	<b>UA = Unlicensed Activity</b>	<b>COA = Certificate of Authority</b>

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Allen, Noel	BR507683000	Tradelands LLC	Mesa, AZ	Trust Irregularities	CO -\$5,000 CP, 2 yr. PL, 12 hrs. CE, Trust Accounts monthly, Affirmative Action
Arizona Vacation Getaway, LLC			Mesa, AZ	Unlicensed Activity by Unlicensed Entity	CO - \$4,000 CP, Cease and Desist
Arizona Vacation Home Rentals, LLC			Mesa, AZ	Unlicensed Activity by Unlicensed Entity	CO - \$4,000 CP, Cease and Desist
Bailey, Melissa	SA682398000 (Candidate)		Scottsdale, AZ	Convictions	CO - 2 yr. PL/PM
Batten, Sherri	BR571071000	Bloomtree Realty Arizona, LLC	Prescott, AZ	Failure to Supervise	ASA - \$3,000 CP, 12 hrs. CE
Benjamin, Cheryl	BR568924000	Realty One Group, Inc.	Glendale, AZ	Breach of Fiduciary Duty/ Failed to Deal Fairly	ASA—\$1,000 CP, 12 hrs. CE
Bensch, Tracy	SA681507000 (Candidate)		Lake Havasu City, AZ	Convictions	CFO - Denied
Bourne, Robert	BR005284000	Dallas Real Estate, Inc.	Flagstaff, AZ	Failure to Disclose-Conviction	ASA -\$1,500 CP, 12 hrs. CE
Brown, Ronald	SA639512000		Goodyear, AZ	Convictions	CFO - Order of Summary Suspension
Campbell, Robert	SA029675000		Phoenix, AZ	Late Disclosure- Convictions	ASA - \$1,500 CP, 9 hrs. CE
Castro, Josh			Phoenix, AZ	Unlicensed Activity by Unlicensed Person	Cease and Desist Order
Castro, Kristen	SA665530000	My Home Group Real Estate LLC	Tempe, AZ	Failure to Disclose	ASA - \$1,000 CP, 12 hrs. CE
Ceniceros, Michael	SA680095000 (Candidate)		Marana, AZ	Convictions	CO—2 yr. PL/PM
Chavez, Alexander Mastrangelo	BR524573000	Habitation Realty, Inc.	Tucson, AZ	Violation of rules and regulations	CO—\$2,000 CP, 12 hrs. CE, Trust Accounts monthly
Clinton, Joseph	SA675634000		Phoenix, AZ	Convictions	CFO - Order of Summary Suspension
Colton, Lanny	BR007852000	Equity Partners Realty	Tucson, AZ	Violation of rules and regulations	ASA - \$1,500 CP, 12 hrs. CE
Combs, Anna	SA665309000		Phoenix, AZ	Convictions	CFO - Order of Summary Suspension
Conner, Christopher			Phoenix, AZ	Unlicensed Activity by Unlicensed Person	Cease and Desist Order
Costa, Anthony	SA682070000 (Candidate)		Scottsdale, AZ	Convictions	CO - 3 yr. PL/PM
Creoscope Media, Inc.			Ft. Lauderdale, FL	Unlicensed Activity-Advertising	Cease and Desist Order
Culleton, James	SA682611000 (Candidate)		Glendale, AZ	Convictions	CO—2 yr. PL/PM



# DISCIPLINARY ACTIONS Dec 18 2018 to March 20 2019...CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Dominguez, Gilbert	BR034533000	Equity Realty Group, LLC	Tolleson, AZ	Violations of Rules and Regulations	CO—\$2,500 CP, 2 yr PL, 12 hrs. CE, Affirmative Action
Don Francesco, Patricia	BR011860000	Metropolitan Real Estate Company II LLC	Paradise Valley	Failure to Disclose	CO - \$4,000 CP, 15 hrs. CE
Downing, Odelma	SA654676000		Scottsdale, AZ	Late Disclosure - Convictions	ASA - \$1,000 CP, 6 hrs. CE
Dream Sweeps			Ft. Lauderdale, FL	Unlicensed Activity—Advertising	Cease and Desist Order
Duran, Angelina	SA680002000 (Candidate)		Phoenix, AZ	Convictions	CO—2 yr. PL/PM
Dwan, Matthew	SA680966000 (Candidate)		Chandler, AZ	Convictions	CO—2 yr. PL/PM,
Dziedzic, David	BR521660000		Phoenix, AZ	Convictions	CFO - Order of Summary Suspension
Elliott, Lisa	BR509308000	Keller Williams Arizona Living Realty	Lake Havasu City, AZ	Violations of Rules and Regulations	ASA—\$1,000 CP, 9 hrs. CE
Ellsbury, Spencer	SA665681000		Scottsdale, AZ	Late Disclosure - Convictions	ASA - \$750 CP, 6 hrs. CE
Equity Realty Group, LLC	LC631317000		Tolleson, AZ	Violations of Rules and Regulations	CO— \$2,5000 CP, 2 yr. PL, 12 hrs. CE, affirmative Action
Fitch, Travis	SA553563000		Prescott, AZ	Late Disclosure—Conviction	CO - \$1,500 CP, 2 yrs PM/PL, 12 hrs. CE
Foley, Kari	SA680963000 (Candidate)		Peoria, AZ	Convictions	CO - 2 yr. PL/PM
Francise, Chad	SA562461000		Phoenix, AZ	Convictions	CFO - Order of Summary Suspension
Garcia, Jonathan			Phoenix, AZ	Unlicensed Activity by Unlicensed Person	Cease and Desist Order
Gatsby, James	SA680856000 (Candidate)		Scottsdale, AZ	Convictions	CFO - License Denied
Gayman, Joshua	SA634743000	Easy Button Home Sales	Phoenix, AZ	Unlicensed Activity by Unlicensed Person/Entity	Cease and Desist Order
Greenlee, Janice	SA681283000 (Candidate)		Peoria, AZ	Conviction	CO—2 yr. PL/PM
Gregory Van Horn			Ft. Lauderdale, FL	Unlicensed Activity—Advertising	Cease and Desist Order
Gurule, Brian	SA644955000		Tucson, AZ	Late Disclosure - Conviction	ASA - \$1,500 CP, 12 hrs. CE
Habitation Realty, Inc.	CO581761000		Tucson, AZ	Violation of rules and regulations	CO—\$2,000 CP, 12 hrs. CE, Trust Accounts monthly
Hayes, Robert	SA625482000	West USA Realty Inc.	Phoenix, AZ	Failure to Disclose	CO—\$3,000 CP, 30 day Suspension, 2 yrs. PM/PL, 24 hrs CE
Hedstrom, Eric	SA102558000		Tucson, AZ	Convictions	CO - 2 yr. PL/PM
Housel, Debra	BR569635000	Sundance Real Estate	Snowflake, AZ	Violations of Rules and Regulations	ASA—\$2,000 CP, 9 hrs. CE

# DISCIPLINARY ACTIONS Dec 18 2018 to March 20 2019...CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Houston, Howard	BR114045000	ERA Brokers Nevada Inc.	Mesquite, NV	Failure to Maintain Records	CO - \$9,000 CP, Affirmative Action, 18 hrs. CE
Jacobson, Akala	SA683029000 (Candidate)		Tucson, AZ	Convictions	CO - 2 yr. PL/PM
Jaggard, Kellie	SA681918000 (Candidate)		Peoria, AZ	Convictions	CO— 2 yr. PM/PL,
Jemmett, Andrew	SA653568000		Phoenix, AZ	Failure to Disclose	CFO - Order of Summary Suspension
Judd, Chet	BR624011000	Real Property Management Rincon, Inc.	Tucson, AZ	Violations of Rules and Regulations	CO—\$5,000 CP, 18 hrs. CE, Restitution
Kohls, Steve	SA519314000		Colorado Springs, CO	Late Disclosure - Convictions	ASA—\$500 CP, 6 hrs. CE
Koury, Shane	BR515643000	Koury's Mountain Top Realty LLC	Show Low, AZ	Violation of rules and regulations	CO - \$3,000 CP, Affirmative Action, 18 hrs. CE
Larson, Stacy	SA670194000	Realty One Group, Inc.	Phoenix, AZ	Late Disclosure—Conviction	ASA - \$1,000 CP, 9 hrs. CE
Lewis, Lyndsey	SA682297000 (Candidate)		Phoenix, AZ	Convictions	CO—2 yrs. PM/PL
Lloyd, Tristan			Mesa, AZ	Unlicensed Activity by Unlicensed Person	CO - \$4,000 CP, Cease and Desist
Lovelace, Gary	BR004141000	Spectrum Real Estate Services LLC	Tucson, AZ	Property Management Irregularities	CO - \$8,000 CP, 2 yr PL/PM, 18 hrs. CE, Trust Accounts monthly, Affirmative Action
Lowe Jr, David	SA655948000		Scottsdale, AZ	Late Disclosure - Convictions	ASA - \$1,500 CP, 12 hrs. CE
Mackin, Jeanette	SA681611000 (Candidate)		Phoenix, AZ	Convictions	CO - 2 yr. PL/PM
Mayon, Rodney	SA525068000 (Candidate)		Sedona, AZ	Convictions	CO - 2 yr. PL/PM
Mcaward, Ashley	SA678571000		Phoenix, AZ	Forgery	CFO - Order of Summary Suspension
McDaniel, Lashley	SA657196000		San Clemente, CA	Convictions - Failure to comply with Commissioner's Order	CFO - Revoked
Mckinley, Gina	BR510435000	RE/MAX Fine Properties	Chandler, AZ	Failure to Disclose	ASA—\$2,000 CP, 12 hrs. CE
Meredith, John	BR008622000		Parker, AZ	Property Management Irregularities	CO—\$1,000 CP, Affirmative Action, 12 hrs. CE
Merrihew, Daniela	SA681173000 (Candidate)		Queen Creek, AZ	Convictions	CO - 2 yr. PL/PM
Metcalf, Sean	SA669942000	Property Wise Realty LLC	Safford, AZ	Late Disclosure—Conviction	ASA - \$500 CP, 9 hrs. CE
Moore, Ryan			Phoenix, AZ	Unlicensed Activity by Unlicensed Person	Cease and Desist Order
Moreira, Anthony	SA82822000 (Candidate)		Anthem, AZ	Adverse Judgment(s)	CO - 2 yr. PL/PM
Murowchick, Sandra	SA679635000 (Candidate)		San Tan Valley, AZ	Convictions	CO - 2 yr. PL/PM
Nelson, Jimmie	SA678498000 (Candidate)		Tucson, AZ	Convictions	CFO— 3 yr. PL/PM

# DISCIPLINARY ACTIONS Dec 18 2018 to March 20 2019...CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Old West Ranch Partners, LLC			Colorado Springs, CO	Illegal Subdivision	CO - \$2,000 CP, Cease and Desist
Olson, Christopher	SA644373000		Scottsdale, AZ	Late Disclosure—Conviction	ASA - \$1,500 CP, 12 hrs. CE
Oud, Davina	SA524195000	West USA Realty	Phoenix, AZ	Late Disclosure —Conviction	ASA - \$500 CP, 6 hrs. CE
Paredes, Nabile	BR585109000	The Realty Agency LLC	Yuma, AZ	Violations of Rules and Regulations	ASA—\$1,500 CP, 9 hrs. CE
Patel, Dorian	SA683060000 (Candidate)		Phoenix, AZ	Convictions	CO - 2 yr. PL/PM
Ramsay, Joshua	SA660090000 (Candidate)		Los Angeles CA	Convictions	CO- 2 yr. PL/PM
Real Property Management Rincon, Inc.	CO624116000		Tucson, AZ	Violations of Rules and Regulations	CO- \$5,000, 18 hrs. CE, Restitution
Richards, Robert	SA668722000		Scottsdale, AZ	Late Disclosure—Conviction	ASA—\$750 CP, 6 hrs. CE
Richwine, Andrew	SA681712000 (Candidate)		Phoenix, AZ	Convictions	CO—2 yrs. PM/PL
Riedel, Rex	BR039468000	Rex's Golden Eagle Realty	Golden Valley, AZ	Failure to Remit	ASA—\$1,000 CP, 9 hrs. CE
Salas, Catherine	SA669536000		Scottsdale, AZ	Late Disclosure—Conviction	ASA - \$1,000 CP, 12 hrs. CE
Sarjeant, Deborah	BR526973000	Lincoln Property Company Commercial Inc	Phoenix, AZ	Failure to Supervise	ASA - \$3,000 CP, 12 hrs. CE
Scherer, Paul			Mesa, AZ	Unlicensed Activity by Unlicensed Person	CO - \$4,000 CP, Cease and Desist
Scocos, Spyros	SA510302000		Phoenix, AZ	Forgery	CO—\$3,000 CP, 30 day Suspension, 2 yrs. PM/PL, 18 hrs. CE
Shelly, Tyson	SA683115000 (Candidate)		Sedona, AZ	Convictions	CO - 2 yr. PL/PM
Sponcel, Norma	SA107335000		Mesa, AZ	Late Disclosure—Conviction	ASA - \$1,500 CP, 9 hrs. CE
Stapley, Tara	SA680906000 (Candidate)		Apache Junction, AZ	Convictions	CO - 3 yr. PL/PM
Straub, Glennon	BR010924000	Southwest Referral Services	Cottonwood, AZ	Violations of Rules and Regulations	ASA—\$1,500 CP, 12 hrs. CE
Strickler, Daniel	SA682572000 (Candidate)		Marana, AZ	Convictions	CO - 2 yr. PL/PM
Ticknor, Steven	BR649656000	Sunstone Realty Professionals	Lake Havasu City, AZ	Violation of rules and regulations	ASA - \$1,000 CP, 12 hrs. CE
Tradelands LLC	LC625098000		Mesa, AZ	Trust Irregularities	CO—\$5,000 CP, 2 yrs. PL, 12 hrs. CE, Trust Accounts monthly, Affirmative Action
Valiant, Jason			Sun City, AZ	Unlicensed Activity by Unlicensed Entity	Cease and Desist Order
Vasquez, Mike			Phoenix, AZ	Unlicensed Activity by	Cease and Desist Order
Wayne, Jacob	SA681118000		Gilbert, AZ	Convictions	CO - 2 yr. PL/PM
Werba, Ronald	SA535411000		Goodyear, AZ	Violation of rules and regulations	ASA -\$1,500 CP, 12 hrs. CE
West Asset Realty			Phoenix, AZ	Unlicensed Activity by Unlicensed Entity	Cease and Desist Order
West, Ken	SA664971000		Prescott, AZ	Convictions	CFO - Revoked
Wold, Edwin	SA645968000	Desert 2	Mesa, AZ	Late Disclosure - Sanctions	ASA - \$500 CP, 9 hrs. CE



## When is a Subdivision Public Report (Disclosure Report) Required?

A frequently asked subdivision question is “Do I need a Subdivision Public Report (Disclosure Report)? In order to arrive at an answer, you must first understand the definition of a Subdivider A.R.S. § 32-2101(55). A Subdivider is any person (natural person or legal entity) who offers for sale or lease 6 or more lots in a subdivision or who causes land to be subdivided into a subdivision. Subdivision is defined, in part, as improved or unimproved land or lands divided or proposed to be divided for purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests. A.R.S. §32-2101(56). The majority of individuals understand that section of the Subdivider definition where the act of dividing land into 6 or more lots classifies them as a Subdivider. They are astounded when informed of their Subdivider status when offering for sale or lease individual lots in an existing subdivision when they currently own 6 or more lots or have previously owned 6 or more lots in the subdivision. The misunderstanding is a result of several factors, which include, but are not limited to:

- Someone else created the subdivision many years ago.
- A Public Report (Disclosure Report) has previously been issued.
- Lots in the subdivision have been sold and resold for years.
- The subdivision has completed infrastructure, i.e. roads and utilities.
- Lot owners have received building permits.
- Lots were acquired over a long period of time.
- The individual or entity never owned 6 lots at any one time.

The above factors do not negate the subdivider’s requirement to obtain a Public Report (Disclosure Report). A.R.S. §32-2183(F) provides that a subdivider shall not offer for sale any lots in a subdivision without first obtaining a Public Report (Disclosure Report). A.R.S. §32-2183(A) requires a subdivider to furnish each buyer a copy of the Public Report (Disclosure Report) before the buyer signs an offer to purchase. Relief from the burden of obtaining a Public Report (Disclosure Report) may be found in various exemptions provided under A.R.S. § 32-2181.02. If such an exemption is not found to be available, an owner may petition for a Special Order of Exemption under the provisions of A.R.S. § 32-2181.01. The issuance of a Special Order of Exemption is discretionary the fee is non-refundable.

## Education Advisory Committee (EAC)

The ADRE’s Education Advisory Committee’s task is to offer support to the Education Division of the ADRE to fulfill its mission of: “Protecting the public interest by raising the level of professionalism in the real estate sector without increasing barriers to entry into the sector.” Membership of the EAC is composed of 14 members that participate in public meetings at the ADRE on a quarterly basis. The EAC members are valued volunteers and are not compensated for their time, nor reimbursed for expenses. Over the past several years, the EAC has worked diligently to provide ADRE with recommendations on an array of education issues pertaining to real estate licensees and the real estate industry. Visit the ADRE website [www.azre.gov](http://www.azre.gov) to view the EAC Calendar of meeting dates, past and current minutes and meeting agendas.

The current EAC members and terms are:

### 2-year term (July 2017-July 2019)

Marti Barnewolt	Sherry Olsen
Marc Blonstein	Mary Sand
Barb Freestone	Debbie Shields
Evan Fuchs	

### 2-year term (July 2018 to July 2020)

Holly Eslinger	Debra Prevost <i>Recently Appointed!</i>
Jim Hogan	Patrick Sheahan
Jon Kichen	Kelly Zitlow
Laura Kovacs	

### VOLUME 2019 - ISSUE 1

The Periodic Bulletin from the  
Arizona Department of Real Estate

An official publication of the State of Arizona

DOUGLAS A. DUCEY  
Governor

JUDY LOWE  
Commissioner

*Note: Guest column articles do not reflect the policies or interpretations of law by the Arizona Department of Real Estate. They are meant to inform the public and provide variety to ADRE’s Bulletin.*