

day following the day the purchaser or lessee executed the agreement.

- C. An opportunity to exercise the seven-day right of rescission shall be provided by conspicuously disclosing the complete current name, address, and telephone number of the seller on the face of all agreements and contracts.

Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-22 renumbered without change as Section R4-28-804 (Supp. 87-1). Section R4-28-804 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1886, effective May 2, 2000 (Supp. 00-2).

R4-28-805. Public Report Receipt

When a public report is required, the developer shall complete the following public report receipt and obtain the purchaser’s signature to verify that the prospective purchaser has received a copy of the public report:

PUBLIC REPORT RECEIPT

The developer shall furnish you, as a prospective customer, with a copy of the public report required by the Arizona Department of Real Estate. It is recommended that you read the report before you make any written offer to purchase or lease an interest in the development and before you pay any money or other consideration toward the purchase or lease of an interest in the development.

FOR YOUR PROTECTION, DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE HAD THE OPPORTUNITY TO READ IT. BY SIGNING THIS RECEIPT, THE BUYER HAS ACCEPTED THE PUBLIC REPORT AND ACKNOWLEDGES THE INFORMATION IT CONTAINS.

Public Report Registration No. Development Name and Lot No.

I understand the report is not a recommendation or endorsement of the development by the Arizona Department of Real Estate, but is for information only.

Buyer’s Name Address

Date

Historical Note

New Section R4-28-805 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

ARTICLE 9. REPEALED

R4-28-901. Repealed

Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Amended by adding subsection (E) effective August 28, 1986 (Supp. 864). Former Section R4-28-23 renumbered without change as Section R4-28-901 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

R4-28-902. Repealed

Historical Note

Adopted effective May 1, 1980 (Supp. 90-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-24 renumbered without change as Section R4-28-

902 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

ARTICLE 10. REPEALED

R4-28-1001. Repealed

Historical Note

Adopted effective May 31, 1980 (Supp. 80-3). Amended subsection (A) effective August 1, 1986 (Supp. 864). Former Section R4-28-26 renumbered without change as Section R4-28-1001 (Supp. 87-1). Section R4-28-1001 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 506, effective March 5, 2005 (Supp. 05-1).

R4-28-1002. Expired

Historical Note

New Section R4-28-1002 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1893, effective February 29, 2004 (Supp. 04-2).

ARTICLE 11. PROFESSIONAL CONDUCT

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:
 1. Any information that the seller or lessor is or may be unable to perform;
 2. Any information that the buyer or lessee is, or may be, unable to perform;
 3. Any material defect existing in the property being transferred; and
 4. 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 salesperson’s or broker’s employing broker; or
 4. 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.

Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-27 renumbered without change as Section R4-28-1101 (Supp. 87-1). Section R4-28-1101 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 3640, effective August 6, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 506, effective March 5, 2005 (Supp. 05-1).

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, and
2. No licensed representative of the broker is available for 24 hours.

Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-28 renumbered without change as Section R4-28-1102 (Supp. 87-1). Section R4-28-1102 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

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, salespersons, 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.
- G. If an employing broker maintains one office and employs a designated broker, no more than one other licensed person, and no more than one unlicensed person, the employing broker and designated broker are not required to develop and maintain written policies, procedures, and systems as described in subsection (A).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3640, effective August 6, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 506, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 1496, effective June 4, 2005 (Supp. 05-2).