



ARIZONA
association of
REALTORS®

BROKER MANAGEMENT CLINIC #1

STATUTES & RULES

OBJECTIVES:

1. Review the Arizona Revised Statutes and Commissioner's Rules as they apply to the management of a brokerage and the oversight of licensees including disclosures, contracts, fiduciary duties, advertising, record keeping, trust account management, and employment agreements.
2. Review current compliance issues identified by the Department of Real Estate as well as current case studies including audits and investigations.
3. Analyze the management of their current risk management activities

A.R.S. Arizona Revised Statutes
(Arizona State Legislature)

A.A.C. Arizona Administrative Code
(Rules of the State of AZ/Sect. of State)
(Rules are under the AAC – R4-28-1101)

S.P.S. Substantive Policy Statement
(ADRE Internal Agency Policy Statement)

Commissioner's rules come from statutory authority given the real estate commissioner:

A.R.S. § 32-2107 Powers and duties of commissioner; compensation; administration of department; seal; revolving fund: "...The commissioner shall adopt rules, in accord with this chapter, as the commissioner deems necessary to carry out this chapter."

Part of the Commissioner's rules lives in the Arizona Administrative Code (A.A.C.). R4-28-1001 is a section of the A.A.C. addressing a licensee's duties to the client.

Arizona Administrative Code

**Title 4. Professions and Occupations
Chapter 28. State Real Estate Department
Article 11. Professional Conduct
Section R4-28-1101. Duties to Client**

BROKER'S VICARIOUS LIABILITIES

Agents are acting on behalf of the broker
Broker is bound by the agent's actions.
Brokers and/or principals should not benefit from the fraudulent, negligent,
or innocent misrepresentations of the agents.

FIDUCIARY DUTIES

RECORD KEEPING

CONTRACTS

EARNEST MONEY

EMPLOYMENT AND COMPENSATION

TRUST ACCOUNTS

ADVERTISING & PROMOTION

MATERIAL DISCLOSURES

ADRE AUDIT

ADRE INVESTIGATIONS

ARIZONA REAL ESTATE RULES
2010
TITLE 4, CHAPTER 28. REAL ESTATE DEPARTMENT

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

PART A. APPLICATION FOR PUBLIC REPORT, CERTIFICATE OF AUTHORITY, OR SPECIAL ORDER OF EXEMPTION Procedures to follow and information required to apply for a subdivision public report, to sell unsubdivided land, or exemption, or to operate a cemetery.

PART B. GENERAL INFORMATION Permitted use of an expedited process, conditional sales and subsequent owner exemptions, changes to a development or cemetery, or the owner or operator of a development or cemetery that require amendment of the license, certification of a development for filing with HUD, options and blanket

encumbrances, partial releases, restrictions on developers' handling of earnest monies, and record keeping.

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.

6/17/2010

http://www.re.state.az.us/lawbook/Documents/Rule_Directory_Summary.pdf

RESOURCE LINKS

BROKER RESOURCES – AAR

AAR website: www.AAROnline.com

Legal Information
Buyer Advisory
Legal Hotline

ARIZONA DEPARTMENT OF REAL ESTATE BROKER RESOURCES

www.azre.gov/

<http://www.re.state.az.us/Aud/AudFaqs.aspx>

<http://www.azre.gov/Aud/AgreeReqs.aspx>

[http://www.azre.gov/Lic/Documents/Duties to the Client Brochure.pdf](http://www.azre.gov/Lic/Documents/Duties_to_the_Client_Brochure.pdf)

[http://www.azre.gov/Aud/Forms/Broker Supervision Control Audit Form.pdf](http://www.azre.gov/Aud/Forms/Broker_Supervision_Control_Audit_Form.pdf)

[http://www.azre.gov/LawBook/Documents/LawBook Revised.pdf](http://www.azre.gov/LawBook/Documents/LawBook_Revised.pdf)

<https://www.azsos.gov/rules/arizona-administrative-code>

<http://www.azre.gov/LawBook/SubstantivePolicyStatements.aspx>

<http://www.azre.gov/LawBook/Advisories.aspx>

[http://www.azre.gov/Aud/Documents/Trust Account Requirements.pdf](http://www.azre.gov/Aud/Documents/Trust_Account_Requirements.pdf)

<http://www.azre.gov/Aud/TrustAccountBasics.aspx>

<http://www.azre.gov/Aud/ReqFiles.aspx>

<http://www.azre.gov/Inv/Inv.aspx>

ARIZONA SECRETARY OF STATE

http://www.azsos.gov/public_services/Title_04/4-28.htm

BROKER RESOURCES – U.S. GOVERNMENT

- ⦿ Complete Set of Arizona Statutes
www.azleg.state.az.us
- ⦿ Links to all State Agencies
www.az.gov
- ⦿ Landlord/Tenant Act:
www.azsos.gov/public_services/publications/Residential_Landlord_Tenant_Act/residential.pdf

Federal Laws that Apply to Real Estate Sales:

- ⦿ Prospecting: Do Not Call Act, Junk Fax Prevention Act, CAN-SPAM Act
- ⦿ Promoting: Mortgage Assistance Relief Services
- ⦿ Listing & Showing: Residential Lead-Based Paint Hazard Reduction Act, Title VIII of the Civil Rights Act (Fair Housing)
- ⦿ Earnest Money: USA Patriot Act
- ⦿ Appraisal: Dodd-Frank Wall Street Reform and Consumer Protection Act, Financial Institutions Reform, Recovery and Enforcement Act
- ⦿ Insurance: National Flood Insurance Program
- ⦿ Mortgage: Home Mortgage Disclosure Act
- ⦿ Loan: Mortgage Reform and Anti-Predatory Lending Act, Secure and Fair Enforcement for Mortgage Licensing Act, Community Reinvestment Act, Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Opportunity Act, Fair Credit Reporting Act, Home Ownership and Equity Protection Act.
- ⦿ Income Tax: IRS Schedule C: Profit or Loss from Business, Mortgage Interest Deductions, Capital Gains Exclusion

<http://www.realtor.org/law-and-ethics/complying-with-federal-regulations/antitrust>

<http://www.hud.gov/offices/hsg/ramh/res/respamor.cfm>