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Senate: FICO DPA 6-0-1-0 | 3rd Read DPA 26-0-4-0

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SB 1171: real estate department; licensing; administration

Sponsor: Senator Shope, LD 16

Transmitted to the Governor

Overview

Amends statute pertaining to the Arizona Department of Real Estate (ADRE).

History

The ADRE was established in 1921 to protect public interest through the licensure and regulation of the real estate profession in Arizona. The Department:

- 1) issues licenses;
- 2) provides oversight for real estate brokers and salespersons, real estate schools, residential developments, timeshares, cemeteries, and membership campgrounds;
- 3) is responsible for investigations, enforcement, and compliance; and
- 4) provides a venue for homeowners and homeowners associations to resolve disputes (Laws 1921, Chapter 160, [A.R.S. § 32-2102](#)).

The ADRE is directed by the Real Estate Commissioner (Commissioner), who is appointed by and serves at the pleasure of the Governor. The responsibilities of the Commissioner include the following:

- 1) administering the department;
- 2) preparing and distributing educational materials for licensees and the public;
- 3) managing a real estate education revolving fund; and
- 4) adopting rules for chapter compliance ([A.R.S. § 32-2107](#)).

The Real Estate Advisory Board (Board) provides recommendations to the Commissioner and is also required to provide an annual evaluation to the Governor describing the performance of the Commission and the ADRE. The Board consists of 10 members, appointed by the Governor to six-year terms ([A.R.S. § 32-2104](#)).

Provisions

Commissioner

1. Clarifies that the Commissioner cannot act as a broker, salesperson or agent of *any real estate or brokerage firm*. (Sec. 3)
2. Removes the requirement that the Commissioner must issue a new license upon an employing broker's notice of a change of business location or statutory agent. (Sec. 10)
3. States that if a licensee applies to change the license status to active, the Commissioner may require the licensee to complete continuing education credit hours before activating the license. (Sec. 12)

4. Requires the Commissioner to have an applicant whose license has been inactive for more than 15 years successfully pass a state-specific examination before activating the license. (Sec. 12)

ADRE

5. Allows ADRE to suspend a license if the licensee's fingerprint clearance card is suspended and either:
 - a) the Commissioner denies the application on the basis that the licensee was convicted of the alleged crime causing the suspension; or
 - b) the licensee fails to submit sufficient evidence to prove the individual applied for a good cause exception within five business days after being notified by ADRE. (Sec. 4)
6. Removes the requirement for ADRE to contact the Arizona Military Airspace Working Group to request contact information and instead directs ADRE to post the information on their website. (Sec. 5)
7. Instructs the ADRE to send a notice to a licensee with an inactive license one year before the license becomes inactive for more than 15 years. (Sec. 12)

Board

8. Modifies the membership of the Board to include the following:
 - a) one member who has been engaged in a commercial real estate brokerage for the five years immediately preceding the appointment;
 - b) one member who has been engaged in timeshare, campground or cemetery sales for the five years immediately preceding the appointment;
 - c) one member who has been primarily engaged in subdividing real property for the five years immediately preceding the appointment; and
 - d) one member who has been an active school administrator or approved instructor for the five years immediately preceding the appointment. (Sec. 2)
9. Specifies all persons serving as members of the Board may continue to serve until the expiration of their term. (Sec. 24)

Broker Responsibilities

10. Prohibits an entity from:
 - a) assuming representation for new clients while a new license is pending or until a new designated broker is added to the entity's license; and
 - b) having a person named as the designated broker on the license if the person is or was named as a designated broker on any other license in this state or another state and if any of the specified circumstances apply. (Sec. 8)
11. Authorizes a nonresident broker to use online recordkeeping if the data is backed up and the nonresident broker provides the online recordkeeping provider's contact information to the ADRE. (Sec. 9)
12. Requires an employing broker to have and maintain a definite place of business or an active and valid statutory agent on file with the Corporation Commission. (Sec. 10)
13. Stipulates that the employing broker must notify the ADRE of the definite place of business or the valid statutory agent. (Sec. 10)
14. Adds that if a broker engages in property management activities, the broker must complete a broker management clinic that is designed to teach proficiency in property management. (Sec. 15)

15. Modifies requirements pertaining to a broker's completion of a monthly reconciliation between the trust fund account bank statements, client ledgers and trust fund account ledgers. (Sec. 16)
16. States that a variation in account balances caused by specified acts or omissions is a violation of statute. (Sec. 16)
17. Requires all property management accounts to be designated as trust accounts on the broker's records. (Sec. 20)
18. Removes the requirement that a property management account must include descriptive wording in the trust account title. (Sec. 20)

Application and Licensing Requirements

19. Strikes the requirement for a broker or salesperson's license application to include information pertaining to the applicant's employment history. (Sec. 6)
20. Removes the requirement for a licensee to have available for use, a copy of the real estate laws and rules. (Sec. 6)
21. Specifies that the examination administered for a real estate broker's license must be proctored. (Sec. 7)
22. Makes modifications to the state-specific examination requirements for a broker license applicant or salesperson license applicant who does not reside in Arizona. (Sec. 9)
23. Specifies that a licensee with an inactive license is not required to complete continuing education credit hours during the period that the license is inactive. (Sec. 12)

Miscellaneous

24. Defines pertinent terms. (Sec. 1, 4)
25. Makes technical changes. (Sec. 1-18, 21-23)
26. Makes conforming changes. (Sec. 1, 2, 6, 8, 16, 19)
27. Replaces the term *online course* with *distance learning course*. (Sec. 7, 13, 14)

<input type="checkbox"/> Prop 105 (45 votes) <input type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note
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