

Short Title: Unlicensed Assistants

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Description of Practice/Procedure: In looking at the issue of unlicensed assistants, various aspects must be considered, including what activities the individual will perform and how the individual is paid.

Definition: An Unlicensed Assistant is an unlicensed individual hired by an Arizona licensed real estate broker or salesperson as an assistant, who is not engaging in any activity for which a real estate license is required.

Definition: Compensation means any fee, commission, salary, money or other valuable consideration for services rendered or to be rendered as well as the promise of consideration whether contingent or not (A.R.S. § 32-2101(16)).

An unlicensed assistant cannot be compensated on any basis that relies on the ultimate sale or closing of a property. The employing broker or designated broker is responsible for addressing in its written policies and procedures who is responsible for hiring and compensating unlicensed assistants. **The employing broker is responsible for all activities of licensed individuals within the brokerage pursuant to Arizona Revised Statutes and Rule.**

All inclusions of the unlicensed assistant in advertising or marketing must indicate the individual as being “unlicensed” (A.R.S. § 32-2165(A)).

An unlicensed assistant may:

- Under the direct supervision of an Arizona licensee, perform the following tasks, which include, but are not limited to:
 - Personal errands for the licensee
 - Clerical/administrative tasks including filing, copying, mailing, scanning, answering phones, forwarding calls or transcribing callers’ information for licensee
 - Using technology as a tool to complete tasks assigned by a licensee, which are not activities otherwise requiring a real estate license
 - Preparing marketing materials approved by the Designated Broker
 - Delivering documents
 - Assist at an open house with a licensee present
 - Set or confirm appointments for:
 - A licensee to list or show property
 - A buyer with a loan officer
 - A property inspector to inspect a home
 - A repair/maintenance person to perform repairs/maintenance
 - An appraiser to appraise property
 - Transmitting only instructions or information to clients, contractors, inspectors,

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appraisers and maintenance/repair people as completed and dictated by a licensee.

- Unlocking a home for a licensee so that the licensee can show a client the property or preview the property (No discussion about the property).

An unlicensed assistant *shall not* perform the following activities:

- Originate documents
- Perform a walk-through inspection or Tenant Vacate Inspection
- Provide advice, pricing, or opinions of value to a consumer
- Provide advice or negotiate with anyone regarding a property or transaction
- Assist in the preparation of documents **with** a consumer
- Hold/host an open house without a licensee being present
- Collect or offers, attempts or agrees to collect rent for the use of real estate
- Assist or direct in the procuring of prospects calculated to result in the sale, exchange, leasing or renting of real estate pursuant to A.R.S. 32-2101(48)(i) unless exempt under A.R.S. 32-2121(A)(10). **Be advised that the exemption in A.R.S. 32-2121(A)(10) is very fact specific and limited in scope.**
- Attend closing with a consumer without a licensee being present

An unlicensed assistant *may* transfer monies or be a signatory on a property management trust account only when the unlicensed assistant:

- Is in the direct employ of the broker, and
- Is a bona fide officer, member, principal or employee of the property management firm pursuant to A.R.S. § 32-2174(C) and employing broker pursuant to A.R.S. § 32-2101(24).

An unlicensed assistant is otherwise *not* permitted to withdraw monies from the broker's trust account.

Pursuant to A.R.S. 32-2165(B) A person who performs acts that require a license under this chapter, other than a broker's or salesperson's license, without being licensed as prescribed by this chapter is guilty of a class 5 felony.

Authority: A.R.S. § 32-2101(46) defines the activities of a real estate broker for which licensure is required pursuant to A.R.S. §§ 32-2122, 32-2121, 32-2151.01(B), 32-2174(C). See also A.A.C. R4-28-1103.

Policy Program: Enforcement

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