

Short Title: Preventing Mortgage Fraud through Disclosure

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under ARS 41-1033 for a review of the statement.

Description of Practice/Procedure:

1. This policy statement applies to real estate transactions with financing.
2. The Department considers a conviction under A.R.S. § 13-2320 to warrant disciplinary action under A.R.S. § 32-2153(8). The Department recommends that a licensee who provides a premium, credit, or rebate in a real estate transaction disclose the premium, credit, or rebate to all parties in the transaction, including the lender and third-party service providers, such as appraisers, in the purchase agreement and the closing statement.
3. A licensee is in violation of Title 32 Chapter 20 and MC Title 4 Chapter 28 if:
 - a. The licensee gives a premium, credit or rebate or otherwise pays an individual and is convicted of A.R.S. § 13-2320 (Residential Mortgage Fraud).
 - b. The licensee gives a credit, rebate, premium or otherwise pays an individual in violation of 12 U.S.C. § 2607 et seq. (RESPA's prohibitions against kickbacks, fee splitting, and unearned fees), Fannie Mae, Freddie Mac, FHA, VA, other federal and state requirements.

Authority: A.R.S. §§ 32-2151.01(A), 32-2153(A), 32-2155(A)(B), 32-2163, 32-2176, and R4-28-1101(B). A.R.S. § 32-2102 provides that the Department of Real Estate, under the direction of the Real Estate Commissioner, shall administer Title 32 Chapter 20.

Policy Program: Regulation

Effective Date: 6/18/08, Revised 12/07/18