

ARIZONA STATE LAND DEPARTMENT
CLIENT/BROKER INFORMATION and ELIGIBILITY REQUIREMENTS
BROKER FORMS AVAILABLE ON DEPARTMENT'S WEB SITE AT:
www.land.state.az.us

1. COMMISSIONS may be paid to any person holding an active Arizona real estate broker's license if such broker is the procuring cause of a sale or long-term commercial lease of state trust land at public auction. The following exceptions shall apply.

- A. The potential purchaser or lessee (hereafter referred to as potential bidder) at a public auction is not eligible to receive a commission.
- B. The potential bidder is registered with another broker for the same auction.
- C. The potential bidder is another governmental agency.

2. THE commission shall only be paid to the broker representing the successful bidder upon delivery of the certificate of purchase or patent or lease or after final disposition of any protests or appeals resulting from the auction, whichever occurs later.

3. SELLING and Administrative Fees shall be payable at the discretion of the Commissioner on the final sale value for a qualified sale, or the cumulative base rent for the first 15 years of the lease plus bonus bid, if any, for a qualified long-term commercial lease of state trust land at public auction, as follows:

1) Up to but not exceeding \$10 million		3.00%
2) Over \$10 million and up to but not exceeding \$25 million	Greater of \$300,000.00 or	2.50%
3) Over \$25 million	Greater of \$625,000.00 or	2.00%

A single commission may be paid from the Selling and Administrative Fees at an amount determined by the Commissioner. The maximum commission payable shall be \$500,000.00 (five hundred thousand dollars)

4. THE payment of a Broker Commission and/or a Selling and Administrative fee is within the Commissioner's discretion. No commission shall be paid to a real estate broker by the Department when the successful bidder at auction is the beneficiary of the land trust.

5. NO commission shall be paid to a broker representing any party or entity who, in the opinion of the Department, is affiliated in any way with the successful bidder, other than as a broker.

6. IF the applicant is represented by a broker, the broker must be named on the DEPARTMENT'S Broker Registration/Bidder Certification form (hereafter referred to as Registration/Certification) which must be filed with application as evidenced by the Department's time stamp.

7. A broker representing a potential bidder other than the applicant shall submit the completed Registration/Certification form no later than three (3) business days prior to the date of the auction either by mail or hand delivery to:

Arizona State Land Department
Public Records, Room 150
1616 West Adams Street
Phoenix, Arizona 85007

8. THE Department's Public Records Section is open Monday through Friday from 8:00 a.m. to 4:30 p.m. exclusive of holidays and weekends.

9. IN the event of a dispute between the Department and the broker, the dispute shall be resolved through arbitration but only to the extent required by A.R.S. § 12-1518.

10. BROKER shall defend, indemnify and hold Department harmless from and against any and all liability, obligations, losses, damages, penalties, claims, fines, actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature imposed on, incurred by, or reserved against Department in any way relating or arising out of services rendered by the broker in connection with the sale or long-term lease of the property to the successful bidder.

11. ORIGINAL signatures of broker, salesperson and potential bidder must all appear on one Client Registration/Bidder Certification form. No facsimile copies will be accepted by the Department.

STATE LAND DEPARTMENT POLICY MEMO NO. P88-1

DATE ISSUED: 07/07/88
AMENDED: 08/27/10

TO: DIVISION DIRECTORS

**FROM: MARIA BAIER /s/
STATE LAND COMMISSIONER**

**SUBJECT: ADJUSTABLE SELLING AND ADMINISTRATIVE FEES AND BROKER
COMMISSION RATES FOR LAND SALES AND LONG-TERM LEASES**

A.R.S. § 37-132(B)(2), allows the use of private real estate brokers to assist in any sale or long-term lease of state land and the payment of a commission to a broker that is licensed pursuant to title 32, chapter 20 that provides the purchaser or lessee at auction from fees collected under A.R.S. § 37-107 (B)(1).

A.R.S. § 37-107, subsection B, paragraph 1, deals with the Department's ability to charge a selling and administrative fee of up to 3% of the consideration paid for all lands and improvements sold or long-term leased.

The payment of a Broker Commission and/or a Selling and Administrative fee is within the Commissioner's discretion. No Selling and Administrative fee or Broker Commission fee shall be collected by the Department or paid to a real estate broker if the successful bidder at auction is the beneficiary of the land trust.

Selling and Administrative fees shall be a percentage of the final sale value, or the cumulative base rent for the first fifteen (15) years of the lease plus the bonus bid, if any, at public auction. The Broker Commission, if paid, shall be at an amount determined by the Commissioner and shall be paid from the Selling and Administrative Fees collected. A single commission rate shall be applied to the final sale value, or the cumulative base rent for the first fifteen (15) years of the lease plus the bonus bid, if any, at public auction. The maximum commission payable shall be \$500,000.00 (five hundred thousand dollars).

Any fee collected in excess of a brokerage commission paid shall be collected by the Department for deposit in the Trust Land Management Fund.

Selling and Administrative fees for land sales and long-term leases shall be calculated as follows:

Total Sales Price or Cumulative Base Rent for the First Fifteen (15) Years of the Lease Plus Bonus Bid, if any

- 1) Up to but not exceeding \$10 million..... 3.00%
- 2) Over \$10 million and up to but not exceeding \$25 million Greater of \$300,000.00 or 2.50%
- 3) Over \$25 million..... Greater of \$625,000.00 or 2.00%

Selling and administrative fees for improvements shall be 2% of the appraised value of the improvement with a maximum fee of \$5,000.

Amended:	
text:	08/10/98; 06/19/03; 03/22/05; 07/16/08 (% fee change); 08/27/10 statute & fund change + improvements clauses
form:	08/25/99
Re-Issued:	Formerly issued as Policy Memo No. 45. Re-Issued as P88-1, 09/25/96.

ARIZONA ADMINISTRATIVE CODE

TITLE 12. NATURAL RESOURCES

CHAPTER 5. STATE LAND DEPARTMENTARTICLE 4. SALES

Historical Note

Editor's Note: The following Section was amended by emergency rulemaking effective December 20, 2002 to November 18, 2003. The State Land Department filed a rulemaking package for the permanent Section October 8, 2003, without requesting an immediate effective date. The effective date of the permanent rule would have been December 7, 2003, creating a three-week "window" during which neither the emergency rule nor the amended permanent rule would have been in effect. To avoid this, the Department refiled the permanent rule with the Governor's Regulatory Review Council, this time requesting an immediate effective date. G.R.R.C. approved the refiled rule and filed it with the Secretary of State November 4, 2003, thereby resolving the issue (Supp. 03-4).

R12-5-413. Real Estate Broker Commissions

- A. The Commissioner may offer a commission for the sale or long-term commercial lease of state land at public auction. In determining whether to offer a commission for the sale or long-term commercial lease of state land at public auction, the Commissioner shall consider the following factors:
1. The appraised value of the parcel being offered,
 2. The location and size of the parcel being offered,
 3. The terms of the sale or lease,
 4. The marketability of the land, and
 5. The best interest of the State Trust.
- B. If a commission is offered for the sale or long-term commercial lease of state land at public auction, the Department shall pay the commission from the fees collected under A.R.S. § 37-108(A)(10)(a).
- C. The Department shall publish the decision of the Commissioner to pay or not pay a commission for the sale or long-term commercial lease of state land and the amount and terms of the commission offered, if any, in the public notice of the auction.
- D. Upon determination by the Commissioner that a commission will be offered on a sale or long-term commercial lease, a person holding an active real estate broker license in this state is eligible to receive the commission, from the Department, by registering with the Department the successful purchaser or lessee at public auction. A broker shall register himself or herself and the potential purchaser or lessee with the Department no later than three business days before the auction. The broker shall register in writing and include the following:
1. Name and address of the brokerage;
 2. Name and real estate license number of the broker and any real estate salesperson acting as an agent for the broker at the public auction;
 3. Name and address of the potential purchaser or lessee;
 4. Auction number, location, and parcel number of the land to be auctioned for sale or lease; and
 5. Signature of the broker or salesperson and the potential purchaser or lessee verifying that the broker or salesperson represents the potential purchaser or lessee and that together they have inspected the land to be auctioned for sale or lease.
- E. A broker shall submit registration meeting the requirements of subsection (D) by mail or hand-delivery to the Department's public counter, Phoenix, Arizona 85007. The Department deems registration received on the date postmarked if mailed or time-stamped if hand-delivered. A broker shall not register the following:
1. A potential purchaser or lessee who is registered with another broker for the same auction, or
 2. A governmental agency.
- F. The Department shall pay the commission to the broker representing the successful purchaser or long-term commercial lessee at the time of delivery of the certificate of purchase or patent, or lease, or after final disposition of any protests or appeals resulting from the auction, whichever occurs later.

G. The Department shall not pay a commission to a broker if the Commissioner determines that the broker has violated this Section.

H. For the purpose of this Section, the following definitions apply:

1. "Long-term commercial lease" means a lease granted on state land for commercial purposes to the highest and best bidder at public auction for a term in excess of 10 years, but not more than 99 years.
2. "Commercial lease" means an agreement by which an owner of real property (lessor) gives the right of possession to another (lessee) for a specified period of time (term) and for a specified consideration (rent).

Historical Note

Adopted effective February 9, 1996 (Supp. 96-1). Section R12-5-413 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5151, effective December 20, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1963, effective May 23, 2003 for a period of 180 days (Supp. 03-2). Emergency rule repealed under A.R.S. § 41-1026(E); replaced by permanent Section R12-5-413 amended by final rulemaking at 9 A.A.R. 5038, effective November 4, 2003. For more information, see the Editor's Note preceding this Section (Supp. 03-4).

