

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3104

By: Osburn

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to professions and occupations;
10 creating the Predatory Real Estate Wholesaler
11 Prohibition Act; amending 59 O.S. 2011, Section 858-
12 301, which relates to Oklahoma Real Estate License
13 Code; prohibiting certain contracts for sale of real
14 property; providing for noncodification; and
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 This act shall be known and may be cited as the "Predatory Real
20 Estate Wholesaler Prohibition Act".

21 SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-301, is
22 amended to read as follows:

23 Section 858-301. It shall be unlawful for any person to act as
24 a real estate licensee, or to hold himself or herself out as such,
 unless the person shall have been licensed to do so under the

Oklahoma Real Estate License Code. However, nothing in this section shall:

1. Prevent any person, partnership, trust, association or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation, from acquiring real estate for its own use, nor shall anything in this section prevent any person, partnership, trust, association or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation, as owner, lessor or lessee of real estate, from selling, renting, leasing, exchanging, or offering to sell, rent, lease or exchange, any real estate so owned or leased, or from performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership or sales of such real estate and the investment therein; however, it shall be prohibited for any person, partnership, trust, association or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser;

2. Apply to persons acting as the attorney-in-fact for the owner of any real estate authorizing the final consummation by

1 performance of any contract for the sale, lease or exchange of such
2 real estate;

3 3. In any way prohibit any attorney-at-law from performing the
4 duties of the attorney as such, nor shall this Code prohibit a
5 receiver, trustee in bankruptcy, administrator, executor, or his or
6 her attorney, from performing his or her duties, or any person from
7 performing any acts under the order of any court, or acting as a
8 trustee under the terms of any trust, will, agreement or deed of
9 trust;

10 4. Apply to any person acting as the resident manager for the
11 owner or an employee acting as the resident manager for a licensed
12 real estate broker managing an apartment building, duplex, apartment
13 complex or court, when such resident manager resides on the premises
14 and is engaged in the leasing of property in connection with the
15 employment of the resident manager;

16 5. Apply to any person who engages in such activity on behalf
17 of a corporation or governmental body, to acquire easements, rights-
18 of-way, leases, permits and licenses, including any and all
19 amendments thereto, and other similar interests in real estate, for
20 the purpose of, or facilities related to, transportation,
21 communication services, cable lines, utilities, pipelines, or oil,
22 gas, and petroleum products;

23 6. Apply to any person who engages in such activity in
24 connection with the acquisition of real estate on behalf of an

1 entity, public or private, which has the right to acquire the real
2 estate by eminent domain;

3 7. Apply to any person who is a resident of an apartment
4 building, duplex, or apartment complex or court, when the person
5 receives a resident referral fee. As used in this paragraph, a
6 "resident referral fee" means a nominal fee not to exceed One
7 Hundred Dollars (\$100.00), offered to a resident for the act of
8 recommending the property for lease to a family member, friend, or
9 coworker;

10 8. Apply to any person or entity managing a transient lodging
11 facility. For purposes of this paragraph, "transient lodging
12 facility" means a furnished room or furnished suite of rooms which
13 is rented to a person on a daily basis, not as a principal
14 residence, for a period less than thirty (30) days; or

15 9. Apply to employees of a licensed real estate broker who
16 lease residential housing units only to eligible persons who qualify
17 through a state or federal housing subsidized program to lease the
18 property in an affordable housing development project. "Affordable
19 housing development project" means a housing development of four or
20 more units constructed for lease to specifically eligible persons as
21 required by the particular federal or state housing program,
22 including, but not limited to, the U.S. Department of Housing and
23 Urban Development, the U.S. Department Agriculture Rural

24

1 Development, the U.S. Department of Treasury Internal Revenue
2 Service, or the Oklahoma Housing Finance Agency.

3

4 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/25/2020 - DO PASS,
5 As Amended.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24