

1 ENGROSSED SENATE
2 BILL NO. 927

By: Pugh of the Senate

3 and

4 Osburn of the House

5
6 An Act relating to Oklahoma Real Estate License Code;
7 amending 59 O.S. 2021, Section 858-102, which relates
8 to definition; modifying definition; adding
9 definition; amending 59 O.S. 2021, Section 858-201,
10 which relates to the Oklahoma Real Estate Commission;
11 limiting license types for membership; amending 59
12 O.S. 2021, Section 858-208, which relates to powers
13 and duties of Commission; expanding definition of
14 applicable duties; authorizing Commission to issue
15 cease and desist orders and contract for debt
16 collection; amending 59 O.S. 2021, Section 858-301,
17 which relates to license requirements; including
18 certain business entities to licensure requirements;
19 expanding exclusions of actions as a real estate
20 license holder; amending 59 O.S. 2021, Section 858-
21 302, which relates to eligibility for licensure as a
22 real estate sales associate; modifying proscribe
23 submission fee; amending 59 O.S. 2021, Section 858-
24 303, which relates to eligibility for licensure as a
real estate sales associate or provisional sales
associate; adding additional provisions for licensure
requirement; amending 59 O.S. 2021, Section 858-303A,
which relates to licensure for a broker associate
license; adding additional provision for licensure
requirement; amending 59 O.S. 2021, Section 858-312,
which relates to investigation and licensure
revocation; requiring written disclosure by certain
person; expanding violations for revocation of
license; amending 59 O.S. 2021, Section 858-307.1,
which relates to issuance of license; removing
provision for prorated credit of fees for certain
licenses; amending 59 O.S. 2021, Section 858-307.3,
which relates to time limit for applying for a
reissued license after revocation; increasing time
period for application; amending 59 O.S. 2021,
Section 858-313, which relates to confidential
records; amending 59 O.S. 2021, Section 858-401,

1 which relates to penalties; increasing fine; amending
2 59 O.S. 2021, Section 858-602, which relates to
3 additional fees; removing provision for prorated
4 credit of fees for certain licenses; amending 59 O.S.
5 2021, Section 858-605, which relates to expenditure
6 of funds; authorizing Commission to expend certain
7 monies toward promotion of education by
8 implementation of certain provisions; and providing
9 an effective date.

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

11 SECTION 1. AMENDATORY 59 O.S. 2021, Section 858-102, is
12 amended to read as follows:

13 Section 858-102. When used in this Code, unless the context
14 clearly indicates otherwise, the following words and terms shall be
15 construed as having the meanings ascribed to them in this section:

16 1. The term "real estate" shall include any interest or estate
17 in real property, within or without the State of Oklahoma, whether
18 vested, contingent or future, corporeal or incorporeal, freehold or
19 nonfreehold, and including leaseholds, options and unit ownership
20 estates to include condominiums, time-shared ownerships and
21 cooperatives; provided, however, that the term real estate shall not
22 include oil, gas or other mineral interests, or oil, gas or other
23 mineral leases; and provided further, that the provisions of this
24 Code shall not apply to any oil, gas, or mineral interest or lease
or the sale, purchase or exchange thereof;

2. The term "broker" shall include any person, partnership,
~~association or corporation, foreign or domestic, who for a fee,~~

~~commission or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, lists, sells or offers to sell, buys or offers to buy, exchanges, rents or leases any real estate, or who negotiates or attempts to negotiate any such activity, or solicits listings of places for rent or lease, or solicits for prospective tenants, purchasers or sellers, or who advertises or holds himself out as engaged in such activities.~~

~~"Broker" shall be limited to the license types of Broker Manager (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the Code~~ limited liability company, association, corporation, or business entity, foreign or domestic, who for a fee, commission, or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission, or other valuable consideration, performs any of the following acts:

a. sells, exchanges, purchases, rents, or leases real estate,

b. offers to sell, exchange, purchase, rent, or lease real estate,

c. negotiates or attempts to negotiate the listing, sale, exchange, purchase, rent, or lease of real estate,

d. lists or offers, attempts, or agrees to list real estate for sale, exchange, rent or lease,

1 e. auctions or offers, attempts, or agrees to auction
2 real estate,

3 f. controls the acceptance or deposit of rent from a
4 resident of a single-family residential real property
5 unit,

6 g. solicits listings of places for rent or lease,

7 h. solicits for prospective tenants, purchasers, or
8 sellers, or

9 i. advertises or holds himself or herself out as engaged
10 in such activities;

11 3. The term "broker associate" shall include any person who has
12 qualified for a license as a broker associate, and who is employed
13 or engaged by, associated as an independent contractor with, or on
14 behalf of and with the permission of a broker to perform any act set
15 out in the definition of a broker;

16 4. The term "real estate sales associate" shall include any
17 person having a renewable license and employed or engaged by, or
18 associated as an independent contractor with, or on behalf of, a
19 broker to do or deal in any act, acts or transactions set out in the
20 definition of a broker;

21 5. "Provisional sales associate" shall include any person who
22 has been licensed after June 30, 1993, employed or engaged by, or
23 associated as an independent contractor with, or on behalf of, a
24 broker to do or deal in any act, acts or transactions set out in the

1 definition of a broker and subject to an additional forty-five-
2 clock-hour postlicensing educational requirement to be completed
3 within the first twelve-month license term. However, the Oklahoma
4 Real Estate Commission shall promulgate rules for those persons
5 called into active military service for purposes of satisfying the
6 postlicensing educational requirement. The license of a provisional
7 sales associate shall be nonrenewable unless the postlicensing
8 requirement is satisfied prior to the expiration date of the
9 license. Further, the terms sales associate and provisional sales
10 associate shall be synonymous in meaning except where specific
11 exceptions are addressed in the Oklahoma Real Estate License Code;

12 6. The term "successful completion" shall include prelicense,
13 postlicense, and distance education courses in which an approved
14 public or private school entity has examined the individual, to the
15 satisfaction of the entity and standards as established by the
16 Commission, in relation to the course material presented during the
17 offering;

18 7. The term "renewable license" shall refer to a broker, broker
19 associate or sales associate who is a holder of such license or to a
20 provisional sales associate who has completed the educational
21 requirements within the required time period as stated in the Code;

22 8. The term "nonrenewable license" shall refer to a provisional
23 sales associate who is the holder of such license and who has not
24

1 completed the postlicense educational requirement within the
2 required time period as stated in the Code;

3 9. The term "surrendered license" shall refer to a real estate
4 license which is surrendered, upon the request of the licensee, due
5 to a pending investigation or disciplinary proceedings;

6 10. The term "canceled license" shall refer to a real estate
7 license which is canceled, upon the request of the licensee and
8 approval of the Commission, due to a personal reason or conflict;

9 11. The term "publicly market" shall include all advertisements
10 and marketing conducted in a public or open manner or place;

11 12. "Licensee" shall include any person who performs any act,
12 acts or transactions set out in the definition of a broker and
13 licensed under the Oklahoma Real Estate License Code;

14 ~~12.~~ 13. The word "Commission" shall mean the Oklahoma Real
15 Estate Commission;

16 ~~13.~~ 14. The word "person" shall include and mean every
17 individual, partnership, association or corporation, foreign or
18 domestic;

19 ~~14.~~ 15. Masculine words shall include the feminine and neuter,
20 and the singular includes the plural; and

21 ~~15.~~ 16. The word "associate" shall mean a broker associate,
22 sales associate or provisional sales associate.

23 SECTION 2. AMENDATORY 59 O.S. 2021, Section 858-201, is
24 amended to read as follows:

1 Section 858-201. A. There is hereby re-created, to continue
2 until July 1, 2024, in accordance with the provisions of the
3 Oklahoma Sunset Law, the Oklahoma Real Estate Commission, which
4 shall consist of seven (7) members. The Commission shall be the
5 sole governmental entity, state, county or municipal, which shall
6 have the authority to regulate and issue real estate licenses in the
7 State of Oklahoma.

8 B. All members of the Commission shall be citizens of the
9 United States and shall have been residents of the State of Oklahoma
10 for at least three (3) years prior to their appointment.

11 C. Five members shall be licensed real estate brokers and shall
12 have had at least five (5) years' active experience as real estate
13 brokers prior to their appointment and be engaged full time in the
14 real estate brokerage business. One member shall be a lay person
15 not in the real estate business, and one member shall be an active
16 representative of a school of real estate located within the State
17 of Oklahoma and approved by the Oklahoma Real Estate Commission.
18 For purposes of this paragraph, "brokers" shall be limited to the
19 license types of managing broker, proprietor broker, or branch
20 broker.

21 D. No more than two members shall be appointed from the same
22 congressional district according to the latest congressional
23 redistricting act. However, when congressional districts are
24 redrawn, each member appointed prior to July 1 of the year in which

1 such modification becomes effective shall complete the current term
2 of office and appointments made after July 1 of the year in which
3 such modification becomes effective shall be based on the redrawn
4 districts. No appointments may be made after July 1 of the year in
5 which such modification becomes effective if such appointment would
6 result in more than two members serving from the same modified
7 district.

8 SECTION 3. AMENDATORY 59 O.S. 2021, Section 858-208, is
9 amended to read as follows:

10 Section 858-208. The Oklahoma Real Estate Commission shall have
11 the following powers and duties:

12 1. To promulgate rules, prescribe administrative fees by rule,
13 and make orders as it may deem necessary or expedient in the
14 performance of its duties;

15 2. To administer or cause to be administered examinations to
16 persons who apply for the issuance of licenses;

17 3. To sell to other entities or governmental bodies, not
18 limited to the State of Oklahoma, computer testing and license
19 applications to recover expended research and development costs;

20 4. To issue licenses in the form the Commission may prescribe
21 to persons who have passed examinations or who otherwise are
22 entitled to such licenses;

23 5. To issue licenses to and regulate the activities of real
24 estate brokers, provisional sales associates, sales associates,

1 branch offices, nonresidents, associations, corporations, and
2 partnerships;

3 6. Upon showing good cause as provided for in The Oklahoma Real
4 Estate License Code, to discipline licensees, instructors and real
5 estate school entities by:

- 6 a. reprimand,
- 7 b. probation for a specified period of time,
- 8 c. requiring education in addition to the educational
9 requirements provided by Section 858-307.2 of this
10 title,
- 11 d. suspending real estate licenses and approvals for
12 specified periods of time,
- 13 e. revoking real estate licenses and approvals,
- 14 f. imposing administrative fines pursuant to Section 858-
15 402 of this title, or
- 16 g. any combination of discipline as provided by
17 subparagraphs a through f of this paragraph;

18 7. Upon showing good cause, to modify any sanction imposed
19 pursuant to the provisions of this section and to reinstate
20 licenses;

21 8. To conduct, for cause, disciplinary proceedings;

22 9. To prescribe penalties as it may deem proper to be assessed
23 against licensees for the failure to pay the license renewal fees as
24 provided for in this Code;

- 1 10. To initiate the prosecution of any person who violates any
2 of the provisions of this Code;
- 3 11. To approve instructors and organizations offering courses
4 of study in real estate and to further require them to meet
5 standards to remain qualified as is necessary for the administration
6 of this Code;
- 7 12. To contract with attorneys and other professionals to carry
8 out the functions and purposes of this Code;
- 9 13. To apply for injunctions and restraining orders to enforce
10 the provisions of applicable laws, rules, and regulations for
11 violations of the Code or the rules of the Commission;
- 12 14. To create an Oklahoma Real Estate Contract Form Committee
13 by rule that will be required to draft and revise real estate
14 purchase and/or lease contracts and any related addenda for
15 voluntary use by real estate licensees;
- 16 15. To enter into contracts and agreements for the payment of
17 food and other reasonable expenses as authorized in the State Travel
18 Reimbursement Act necessary to host, conduct, or participate in
19 meetings or training sessions as is reasonable for the
20 administration of this Code;
- 21 16. To conduct an annual performance review of the Executive
22 Director and submit the report to the Legislature; ~~and~~
- 23
- 24

1 17. To enter into reciprocal agreements with other real estate
2 licensing regulatory jurisdictions with equivalent licensing,
3 education and examination requirements;

4 18. To issue cease and desist orders to any person or business
5 entity that is in violation of any provision of the Oklahoma Real
6 Estate License Code or administrative rule; and

7 19. To contract with debt collection attorneys or debt
8 collection entities to recover unpaid administrative fines.

9 SECTION 4. AMENDATORY 59 O.S. 2021, Section 858-301, is
10 amended to read as follows:

11 Section 858-301. It shall be unlawful for any person to act as
12 a real estate licensee, or to hold himself or herself out as such,
13 unless the person shall have been licensed to do so under the
14 Oklahoma Real Estate License Code. For the purposes of this
15 section, it shall be considered acting as a real estate licensee for
16 any person, partnership, trust, association, limited liability
17 company, or corporation, or the partners, officers or employees of
18 any partnership, trust, association, limited liability company, or
19 corporation, to publicly market for sale an equitable interest in a
20 contract for the purchase of real property between a property owner
21 and a prospective purchaser. However, nothing in this section
22 shall:

23 1. Prevent any person, partnership, trust, association, limited
24 liability company, or corporation, or the partners, officers or

1 employees of any partnership, trustees or beneficiaries of any
2 trust, association, limited liability company, or corporation, from
3 ~~acquiring real estate for its own use, nor shall anything in this~~
4 ~~section prevent any person, partnership, trust, association or~~
5 ~~corporation, or the partners, officers or employees of any~~
6 ~~partnership, trustees or beneficiaries of any trust, association or~~
7 ~~corporation, as owner, lessor or lessee of real estate, from~~
8 ~~selling, renting, leasing, exchanging, or offering to sell, rent,~~
9 ~~lease or exchange, any real estate so owned or leased, or from~~
10 ~~performing any acts with respect to such real estate when such acts~~
11 ~~are performed in the regular course of, or as an incident to, the~~
12 ~~management, ownership or sales of such real estate and the~~
13 ~~investment therein; however, it shall be prohibited for any person,~~
14 ~~partnership, officers or employees of any partnership, trustees or~~
15 ~~beneficiaries of any trust, association or corporation to publicly~~
16 ~~market for sale an equitable interest in a contract for the purchase~~
17 ~~of real property between a property owner and a prospective~~
18 ~~purchaser without holding an active Oklahoma real estate license:~~

- 19 a. acquiring real estate for its own use,
20 b. selling, renting, leasing, exchanging, or offering to
21 sell, rent, lease, or exchange any real estate so
22 owned or leased as the owner, lessor, or lessee, or
23 c. performing any acts with respect to such real estate
24 when such acts are performed in the regular course of,

1 or as an incident to, the management, ownership, or
2 sales of such real estate and the investment therein;
3 however, it shall be prohibited for any person,
4 partnership, trust, association, limited liability
5 company, or corporation, or the officers or employees
6 of any partnership, trustees, or beneficiaries of any
7 trust, association, limited liability company, or
8 corporation to publicly market for sale an equitable
9 interest in a contract for the purchase of real
10 property between a property owner and a prospective
11 purchaser without holding an active real estate
12 license;

13 2. Apply to persons acting as the attorney-in-fact for the
14 owner of any real estate authorizing the final consummation by
15 performance of any contract for the sale, lease or exchange of such
16 real estate;

17 3. In any way prohibit any attorney-at-law from performing the
18 duties of the attorney as such, nor shall this Code prohibit a
19 receiver, trustee in bankruptcy, administrator, executor, or his or
20 her attorney, from performing his or her duties, or any person from
21 performing any acts under the order of any court, or acting as a
22 trustee under the terms of any trust, will, agreement or deed of
23 trust;
24

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

7 5. Apply to any person who engages in such activity on behalf
8 of a corporation or governmental body, to acquire easements, rights-
9 of-way, leases, permits and licenses, including any and all
10 amendments thereto, and other similar interests in real estate, for
11 the purpose of, or facilities related to, transportation,
12 communication services, cable lines, utilities, pipelines, or oil,
13 gas, and petroleum products;

14 6. Apply to any person who engages in such activity in
15 connection with the acquisition of real estate on behalf of an
16 entity, public or private, which has the right to acquire the real
17 estate by eminent domain;

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

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

6 9. Apply to employees of a licensed real estate broker who
7 lease residential housing units only to eligible persons who qualify
8 through a state or federal housing subsidized program to lease the
9 property in an affordable housing development project. "Affordable
10 housing development project" means a housing development of four or
11 more units constructed for lease to specifically eligible persons as
12 required by the particular federal or state housing program,
13 including, but not limited to, the U.S. Department of Housing and
14 Urban Development, the U.S. Department Agriculture Rural
15 Development, the U.S. Department of Treasury Internal Revenue
16 Service, or the Oklahoma Housing Finance Agency.

17 SECTION 5. AMENDATORY 59 O.S. 2021, Section 858-302, is
18 amended to read as follows:

19 Section 858-302. A. Any person eighteen (18) years of age or
20 older who shall submit to the Commission evidence of successful
21 completion of ninety (90) clock hours or its equivalent as
22 determined by the Commission of basic real estate instruction in a
23 course of study approved by the Commission, may apply to the
24 Commission to take an examination for the purpose of securing a

1 license as a provisional sales associate. The education required in
2 this subsection shall only be valid for a period of three (3) years
3 from the date the school certified successful completion of the
4 course; thereafter, the applicant shall be required to successfully
5 complete an additional ninety (90) clock hours or its equivalent in
6 basic real estate instruction.

7 B. Application shall be made upon forms prescribed by the
8 Commission and shall be accompanied by an ~~examination~~ application
9 fee as provided for in this Code and all information and documents
10 the Commission may require.

11 C. The applicant shall appear in person before the Commission
12 for an examination which shall be in the form and inquire into the
13 subjects the Commission shall prescribe.

14 D. If it shall be determined that the applicant shall have
15 passed the examination, received final approval of the application,
16 and paid the appropriate license fee provided for in this Code along
17 with the Oklahoma Real Estate Education and Recovery Fund fee, the
18 Commission shall issue to the applicant a provisional sales
19 associate license.

20 E. Following the issuance of a provisional sales associate
21 license, the licensee shall then submit to the Commission, prior to
22 the expiration of the provisional license, evidence of successful
23 completion of forty-five (45) clock hours or its equivalent as
24 determined by the Commission of postlicense education real estate

1 instruction in a course(s) of study approved by the Commission. A
2 provisional sales associate who fails to submit evidence of
3 compliance with the postlicense education requirement pursuant to
4 this section, prior to the first expiration date of the provisional
5 sales associate license, shall not be entitled to renew such license
6 for another license term. However, the Commission shall promulgate
7 rules for those persons called into active military service for
8 purposes of satisfying the postlicense education requirement.

9 SECTION 6. AMENDATORY 59 O.S. 2021, Section 858-303, is
10 amended to read as follows:

11 Section 858-303. A. Applicants for a broker license who hold a
12 sales associate license or are not currently licensed shall meet the
13 following requirements:

14 1. Have two (2) years' of active licensure within the previous
15 five (5) years or its equivalent;

16 2. Submit to the Commission evidence of successful completion
17 of ninety (90) clock hours or its equivalent as determined by the
18 Commission of advanced real estate instruction in a course of study
19 approved by the Commission and completion of the Broker in Charge
20 course as defined in the Code. The education required in this
21 subsection shall only be valid for a period of three (3) years from
22 the date the school certified successful completion of the course;
23 thereafter, the applicant shall be required to successfully complete
24

1 an additional ninety (90) clock hours or its equivalent in advanced
2 real estate instruction;

3 3. Provide documentation verifying ten real estate transactions
4 within the past five (5) years or the equivalent as determined by
5 the Commission. For the purposes of this subsection only,
6 transaction shall be defined ~~in Section 858-351 of this title~~ as the
7 completed sale, exchange, purchase, or lease of real estate and
8 shall be demonstrated on forms developed by the Commission; and

9 4. Apply to the Commission to take an examination for the
10 purpose of securing a license as a broker.

11 B. Application shall be made upon forms prescribed by the
12 Commission and shall be accompanied by fees as provided for in this
13 Code and all information and documents the Commission may require.

14 C. If the applicant has passed the examination, received final
15 approval of the application, and paid the appropriate fees provided
16 for in this Code along with the Oklahoma Real Estate Education and
17 Recovery Fund fee, the Commission shall issue to the applicant a
18 broker license.

19 D. Applicants for a broker license who hold a broker associate
20 license shall meet the following requirements:

21 1. Have two (2) years' active licensure within the previous
22 five (5) years, or its equivalent;

23 2. Submit to the Commission evidence of successful completion
24 of the Broker in Charge course as defined in the Code; and

1 3. Provide documentation verifying ten real estate transactions
2 within the past five (5) years or the equivalent as determined by
3 the Commission. For the purposes of this subsection only,
4 transaction shall be defined ~~in Section 858-351 of this title~~ as the
5 completed sale, exchange, purchase, or lease of real estate and
6 shall be demonstrated on forms developed by the Commission.

7 E. Application shall be made upon forms prescribed by the
8 Commission and shall be accompanied by fees as provided for in this
9 Code and all information and documents the Commission may require.

10 F. If the applicant has received final approval of the
11 application, and paid the appropriate fee provided for in this Code
12 along with the Oklahoma Real Estate Education and Recovery Fund fee,
13 the Commission shall issue to the applicant a broker license.

14 SECTION 7. AMENDATORY 59 O.S. 2021, Section 858-303A, is
15 amended to read as follows:

16 Section 858-303A. A. Applicants for a broker associate license
17 shall meet the following requirements:

18 1. Hold a renewable broker associate or sales associate license
19 and have two (2) years' active licensure within the previous five
20 (5) years as a sales associate or provisional sales associate, or
21 its equivalent;

22 2. Submit to the Commission evidence of successful completion
23 of ninety (90) clock hours, or its equivalent as determined by the
24 Commission, of advanced real estate instruction in a course of study

1 approved by the Commission. The education required in this
2 subsection shall only be valid for a period of three (3) years from
3 the date the school certified successful completion of the course;
4 thereafter, the applicant shall be required to successfully complete
5 an additional ninety (90) clock hours or its equivalent in advanced
6 real estate instruction; and

7 3. Apply to the Commission to take an examination for the
8 purpose of securing a license as a broker associate.

9 B. Application shall be made upon forms prescribed by the
10 Commission and shall be accompanied by fees as provided for in this
11 Code and all information and documents the Commission may require.

12 C. The applicant shall appear in person for an examination
13 which shall be prescribed by the Commission.

14 D. If the applicant has passed the examination, received final
15 approval of the application, and paid the appropriate fees provided
16 for in this Code along with the Oklahoma Real Estate Education and
17 Recovery Fund fee, the Commission shall issue to the applicant a
18 broker associate license.

19 SECTION 8. AMENDATORY 59 O.S. 2021, Section 858-312, is
20 amended to read as follows:

21 Section 858-312. The Oklahoma Real Estate Commission may, upon
22 its own motion, and shall, upon written complaint filed by any
23 person, investigate the business transactions of any real estate
24 licensee, and may, upon showing good cause, impose sanctions as

1 provided for in Section 858-208 of this title. Cause shall be
2 established upon the showing that any licensee has performed, is
3 performing, has attempted to perform, or is attempting to perform
4 any of the following acts:

5 1. Making a materially false or fraudulent statement in an
6 application for a license;

7 2. Making substantial misrepresentations or false promises in
8 the conduct of business, or through real estate licensees, or
9 advertising, which are intended to influence, persuade, or induce
10 others;

11 3. Failing to comply with the requirements of Sections 858-351
12 through 858-363 of this title;

13 4. Accepting a commission or other valuable consideration as a
14 real estate associate for the performance of any acts as an
15 associate, except from the real estate broker with whom the
16 associate is associated;

17 5. Representing or attempting to represent a real estate broker
18 other than the broker with whom the associate is associated without
19 the express knowledge and consent of the broker with whom the
20 associate is associated;

21 6. Failing, within a reasonable time, to account for or to
22 remit any monies, documents, or other property coming into
23 possession of the licensee which belong to others;

1 7. Paying a commission or valuable consideration to any person
2 for acts or services performed in violation of the Oklahoma Real
3 Estate License Code;

4 8. Any other conduct which constitutes untrustworthy, improper,
5 fraudulent, or dishonest dealings;

6 9. Disregarding or violating any provision of the Oklahoma Real
7 Estate License Code or rules promulgated by the Commission;

8 10. Guaranteeing or having authorized or permitted any real
9 estate licensee to guarantee future profits which may result from
10 the resale of real estate;

11 11. Advertising or offering for sale, rent or lease any real
12 estate, or placing a sign on any real estate offering it for sale,
13 rent or lease without the consent of the owner or the owner's
14 authorized representative;

15 12. Using prizes, money, gifts or other valuable consideration
16 as an inducement to secure customers or clients to purchase specific
17 property; however, licensees may use prizes, money, gifts or other
18 valuable consideration for marketing purposes provided they are not
19 contingent or limited to individuals making an offer or purchasing a
20 specific property;

21 13. Accepting employment or compensation for appraising real
22 estate contingent upon the reporting of a predetermined value or
23 issuing any appraisal report on real estate in which the licensee
24 has an interest unless the licensee's interest is disclosed in the

1 report. All appraisals shall be in compliance with the Oklahoma
2 real estate appraisal law, and the person performing the appraisal
3 or report shall disclose in writing to the employer whether the
4 person performing the appraisal or report is licensed or certified
5 by the Oklahoma Real Estate Appraiser Board;

6 14. Paying a commission or any other valuable consideration to
7 any person for performing the services of a real estate licensee as
8 defined in the Oklahoma Real Estate License Code who has not first
9 secured a real estate license pursuant to the Oklahoma Real Estate
10 License Code;

11 15. Unworthiness to act as a real estate licensee, whether of
12 the same or of a different character as specified in this section,
13 or because the real estate licensee has been convicted of, or
14 pleaded guilty or nolo contendere to, a crime involving moral
15 turpitude;

16 16. Commingling with the licensee's own money or property the
17 money or property of others which is received and held by the
18 licensee, unless the money or property of others is received by the
19 licensee and held in an escrow account that contains only money or
20 property of others;

21 17. Conviction in a court of competent jurisdiction of having
22 violated any provision of the federal fair housing laws, 42 U.S.C.
23 Section 3601 et seq.;

1 18. Failure by a real estate broker, after the receipt of a
2 commission, to render an accounting to and pay to a real estate
3 licensee the licensee's earned share of the commission received;

4 19. Conviction in a court of competent jurisdiction in this or
5 any other state of the crime of forgery, embezzlement, obtaining
6 money under false pretenses, extortion, conspiracy to defraud,
7 fraud, or any similar offense or offenses, or pleading guilty or
8 nolo contendere to any such offense or offenses;

9 20. Advertising to buy, sell, rent, or exchange any real estate
10 without disclosing in writing that the licensee is a real estate
11 licensee;

12 21. Paying any part of a fee, commission, or other valuable
13 consideration received by a real estate licensee to any person not
14 licensed;

15 22. Offering, loaning, paying, or making to appear to have been
16 paid, a down payment or earnest money deposit for a purchaser or
17 seller in connection with a real estate transaction; ~~and~~

18 23. Violation of the Residential Property Condition Disclosure
19 Act;

20 24. Placing or causing to be placed upon the public records of
21 any county any contract, assignment, affidavit, or other writing,
22 which purports to affect title of or encumber any real property for
23 the purpose of collection of a commission, or to coerce the payment
24

1 of money to the individual or entity. Nothing in this paragraph
2 shall be construed to prohibit a licensee from recording a judgment;

3 25. Being unworthy or incompetent to act as a real estate
4 broker in a manner as to endanger the interest of the public;

5 26. Failure to provide an adequate written response to the
6 Commission within fifteen (15) days after receiving written notice
7 of a complaint or investigation;

8 27. Failure to notify the Commission in writing of the
9 conviction or plea of guilty or nolo contendere to any felony
10 offense within thirty (30) days after the plea is taken and also
11 within thirty (30) days of the entering of the judgment and
12 sentencing as required by Section 858-301.2 of Title 59 in the
13 Oklahoma Statutes; and

14 28. Soliciting, selling, or offering for sale real property by
15 means of a deceptive practice.

16 SECTION 9. AMENDATORY 59 O.S. 2021, Section 858-307.1,
17 is amended to read as follows:

18 Section 858-307.1. ~~A.~~ The Oklahoma Real Estate Commission
19 shall issue every real estate license for a term of thirty-six (36)
20 months with the exception of a provisional sales associate license
21 whose license term shall be for twelve (12) months. License terms
22 shall not be altered except for the purpose of general reassignment
23 of the terms which might be necessitated for maintaining an
24 equitable staggered license term system. The expiration date of the

1 license shall be the end of the twelfth or thirty-sixth month,
2 whichever is applicable, including the month of issuance. Fees
3 shall be promulgated by rule, payable in advance, and nonrefundable.

4 ~~B. If a license is issued for a period of less than thirty-six~~
5 ~~(36) months, the license fee shall be prorated to the nearest dollar~~
6 ~~and month. If a real estate sales associate or a provisional sales~~
7 ~~associate shall qualify for a license as a real estate broker, then~~
8 ~~the real estate provisional sales associate's or sales associate's~~
9 ~~license fee for the remainder of the license term shall be prorated~~
10 ~~to the nearest dollar and month and credited to such person's real~~
11 ~~estate broker's license fee.~~

12 SECTION 10. AMENDATORY 59 O.S. 2021, Section 858-307.3,
13 is amended to read as follows:

14 Section 858-307.3. A person shall not be permitted to file an
15 application for reissuance of a license after revocation of the
16 license within ~~three (3)~~ five (5) years of the effective date of
17 revocation.

18 SECTION 11. AMENDATORY 59 O.S. 2021, Section 858-313, is
19 amended to read as follows:

20 Section 858-313. The following materials of the Commission are
21 confidential and not public records:

22 1. Examinations conducted by the Commission and materials
23 related to the examinations; and
24

1 2. Educational materials submitted to the Commission by a
2 person or entity seeking approval and/or acceptance of a course of
3 study; and

4 3. Brokerage and school records resulting from an audit
5 performed by the Commission.

6 SECTION 12. AMENDATORY 59 O.S. 2021, Section 858-401, is
7 amended to read as follows:

8 Section 858-401. A. In addition to any other penalties
9 provided by law, any person unlicensed pursuant to The Oklahoma Real
10 Estate License Code who shall willingly ~~and,~~ knowingly, or
11 negligently violate any provision of this Code, upon conviction,
12 shall be guilty of a misdemeanor punishable by a fine of not more
13 than ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars
14 (\$5,000.00), or by imprisonment in the county jail for not more than
15 six (6) months, or by both such fine and imprisonment.

16 B. In addition to any civil or criminal actions authorized by
17 law, whenever, in the judgment of the Oklahoma Real Estate
18 Commission, any unlicensed person has engaged in any acts or
19 practices which constitute a violation of the Oklahoma Real Estate
20 License Code, the Commission may:

21 1. After notice and hearing, and upon finding a violation of
22 the Code, impose a fine of not more than Five Thousand Dollars
23 (\$5,000.00) or the amount of the commission or commissions earned,
24

1 whichever is greater for each violation of the Code for unlicensed
2 activity;

3 2. Make application to the appropriate court for an order
4 enjoining such acts or practices, and upon a showing by the
5 Commission that such person has engaged in any such acts or
6 practices, an injunction, restraining order, or such other order as
7 may be appropriate shall be granted by such court, without bond; or

8 3. Impose administrative fines pursuant to this subsection
9 which shall be enforceable in the district courts of this state.
10 The order of the Commission shall become final and binding on all
11 parties unless appealed to the district court as provided in the
12 Administrative Procedures Act. If an appeal is not made, such order
13 may be entered on the judgment docket of the district court in a
14 county in which the debtor has property and thereafter enforced in
15 the same manner as an order of the district court for collection
16 actions.

17 C. Notices and hearings required by this section and any
18 appeals from orders entered pursuant to this section shall be in
19 accordance with the Administrative Procedures Act.

20 D. Such funds as collected pursuant to this section shall be
21 deposited in the Oklahoma Real Estate Education and Recovery Fund.

22 SECTION 13. AMENDATORY 59 O.S. 2021, Section 858-602, is
23 amended to read as follows:

24

1 Section 858-602. A. An additional, nonrefundable fee as
2 promulgated by rule by the Commission shall be added to and payable
3 with the license fee for both new licenses and renewals of licenses
4 for each licensee as provided in Section 858-307.1 of this title.
5 Such additional fee shall be deposited in the Oklahoma Real Estate
6 Education and Recovery Fund.

7 ~~B. If a license is issued for a period of less than thirty-six~~
8 ~~(36) months, such additional fee shall be prorated to the nearest~~
9 ~~dollar and month.~~

10 ~~C. If a real estate sales associate or provisional sales~~
11 ~~associate shall qualify for a license as a real estate broker, the~~
12 ~~additional fee for the remainder of the term shall be prorated to~~
13 ~~the nearest dollar and month and credited to the additional fee~~
14 ~~added to and payable with the real estate broker license fee.~~

15 ~~D.~~ At the close of each fiscal year, the Commission ~~shall~~ may
16 transfer into the Oklahoma Real Estate Commission Revolving Fund any
17 money in excess of that amount required to be retained in the
18 Oklahoma Real Estate Education and Recovery Fund and that amount
19 authorized to be expended as provided within this Code that is
20 remaining in the Oklahoma Education and Recovery Fund and
21 unexpended.

22 SECTION 14. AMENDATORY 59 O.S. 2021, Section 858-605, is
23 amended to read as follows:
24

1 Section 858-605. At any time when the total amount of monies
2 deposited in the Oklahoma Real Estate Education and Recovery Fund
3 exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), the
4 Commission in its discretion may expend such excess funds each
5 fiscal year for the following purposes:

6 1. To promote the advancement of education in the field of real
7 estate for the benefit of the general public ~~and those licensed~~
8 ~~under the Oklahoma Real Estate License Code, but such promotion~~
9 ~~shall not be construed to allow advertising of this profession;~~

10 2. To promote the advancement of education in the field of real
11 estate for the benefit of those licensed under the Oklahoma Real
12 Estate License Code; provided, such promotion shall not be construed
13 to allow advertising of this profession;

14 3. To underwrite educational seminars and other forms of
15 educational projects for the benefit of real estate licensees;

16 ~~3.~~ 4. To establish real estate courses at institutions of
17 higher learning located in the state and accredited by the State
18 Regents for Higher Education for the purpose of making such courses
19 available to licensees and the general public; ~~and~~

20 ~~4.~~ 5. To contract for a particular educational project in the
21 field of real estate to further the purposes of the Oklahoma Real
22 Estate License Code;

23 6. To implement and maintain a public registry for the benefit
24 of real estate licensees and the general public;

7. To produce and distribute an agency newsletter available to
the general public and real estate licensees; and

8. To provide education grants to institutions of higher learning located in this state and accredited by the Oklahoma State Regents for Higher Education for courses on financial management and homeownership.

SECTION 15. This act shall become effective November 1, 2023.

Passed the Senate the 23rd day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2023.

Presiding Officer of the House
of Representatives