

1 **SENATE FLOOR VERSION**

2 February 13, 2023

3 SENATE BILL NO. 927

By: Pugh

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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, subpoenas, citations for
16 violations, and contract for debt collection;
17 amending 59 O.S. 2021, Section 858-301, which relates
18 to license requirements; including certain business
19 entities to licensure requirements; expanding
20 exclusions of actions as a real estate license
21 holder; amending 59 O.S. 2021, Section 858-302, which
22 relates to eligibility for licensure as a real estate
23 sales associate; modifying proscribe submission fee;
24 amending 59 O.S. 2021, Section 858-303, 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

1 records; amending 59 O.S. 2021, Section 858-401,
2 which relates to penalties; increasing fine; amending
3 59 O.S. 2021, Section 858-602, which relates to
4 additional fees; removing provision for prorated
5 credit of fees for certain licenses; amending 59 O.S.
6 2021, Section 858-605, which relates to expenditure
7 of funds; authorizing Commission to expend certain
8 monies toward promotion of education by
9 implementation of certain provisions; and providing
10 an effective date.

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

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

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

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

1 2. The term "broker" shall include any person, partnership,
2 ~~association or corporation, foreign or domestic, who for a fee,~~
3 ~~commission or other valuable consideration, or who with the~~
4 ~~intention or expectation of receiving or collecting a fee,~~
5 ~~commission or other valuable consideration, lists, sells or offers~~
6 ~~to sell, buys or offers to buy, exchanges, rents or leases any real~~
7 ~~estate, or who negotiates or attempts to negotiate any such~~
8 ~~activity, or solicits listings of places for rent or lease, or~~
9 ~~solicits for prospective tenants, purchasers or sellers, or who~~
10 ~~advertises or holds himself out as engaged in such activities.~~
11 ~~"Broker" shall be limited to the license types of Broker Manager~~
12 ~~(BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the~~
13 ~~Code~~ limited liability company, association, corporation, or
14 business entity, foreign or domestic, who for a fee, commission, or
15 other valuable consideration, or who with the intention or exception
16 of receiving or collecting a fee, commission, or other valuable
17 consideration, performs any of the following acts:

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

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

22 c. negotiates or attempts to negotiate the listing, sale,
23 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,
- e. auctions or offers, attempts, or agrees to auction real estate,
- f. controls the acceptance or deposit of rent from a resident of a single-family residential real property unit,
- g. solicits listings of places for rent or lease,
- h. solicits for prospective tenants, purchasers, or sellers, or
- i. advertises or holds himself or herself out as engaged in such activities;

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

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

5. "Provisional sales associate" shall include any person who has been licensed after June 30, 1993, employed or engaged by, or

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

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

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

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1 8. The term "nonrenewable license" shall refer to a provisional
2 sales associate who is the holder of such license and who has not
3 completed the postlicense educational requirement within the
4 required time period as stated in the Code;

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

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

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

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

16 ~~12.~~ 13. The word "Commission" shall mean the Oklahoma Real
17 Estate Commission;

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

21 ~~14.~~ 15. Masculine words shall include the feminine and neuter,
22 and the singular includes the plural; and

23 ~~15.~~ 16. The word "associate" shall mean a broker associate,
24 sales associate or provisional sales associate.

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

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

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

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

23 D. No more than two members shall be appointed from the same
24 congressional district according to the latest congressional

1 redistricting act. However, when congressional districts are
2 redrawn, each member appointed prior to July 1 of the year in which
3 such modification becomes effective shall complete the current term
4 of office and appointments made after July 1 of the year in which
5 such modification becomes effective shall be based on the redrawn
6 districts. No appointments may be made after July 1 of the year in
7 which such modification becomes effective if such appointment would
8 result in more than two members serving from the same modified
9 district.

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

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

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

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

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

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

1 5. To issue licenses to and regulate the activities of real
2 estate brokers, provisional sales associates, sales associates,
3 branch offices, nonresidents, associations, corporations, and
4 partnerships;

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

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

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

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

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

4 10. To initiate the prosecution of any person who violates any
5 of the provisions of this Code;

6 11. To approve instructors and organizations offering courses
7 of study in real estate and to further require them to meet
8 standards to remain qualified as is necessary for the administration
9 of this Code;

10 12. To contract with attorneys and other professionals to carry
11 out the functions and purposes of this Code;

12 13. To apply for injunctions and restraining orders to enforce
13 the provisions of applicable laws, rules, and regulations for
14 violations of the Code or the rules of the Commission;

15 14. To create an Oklahoma Real Estate Contract Form Committee
16 by rule that will be required to draft and revise real estate
17 purchase and/or lease contracts and any related addenda for
18 voluntary use by real estate licensees;

19 15. To enter into contracts and agreements for the payment of
20 food and other reasonable expenses as authorized in the State Travel
21 Reimbursement Act necessary to host, conduct, or participate in
22 meetings or training sessions as is reasonable for the
23 administration of this Code;

1 16. To conduct an annual performance review of the Executive
2 Director and submit the report to the Legislature; ~~and~~

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

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

9 19. To contract with debt collection attorneys or debt
10 collection entities to recover unpaid administrative fines;

11 20. To issue subpoenas for the attendance of witnesses and the
12 production of records, which shall be effective in any part of this
13 state; and

14 21. To issue citations for advertising compliance violations
15 that may be appealed at an individual proceeding as provided in
16 Section 309 of Title 75 of the Oklahoma Statutes.

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

19 Section 858-301. It shall be unlawful for any person to act as
20 a real estate licensee, or to hold himself or herself out as such,
21 unless the person shall have been licensed to do so under the
22 Oklahoma Real Estate License Code. For the purposes of this
23 section, it shall be considered acting as a real estate licensee for
24 any person, partnership, trust, association, limited liability

1 company, or corporation, or the partners, officers or employees of
2 any partnership, trust, association, limited liability company, or
3 corporation, to publicly market for sale an equitable interest in a
4 contract for the purchase of real property between a property owner
5 and a prospective purchaser. However, nothing in this section
6 shall:

7 1. Prevent any person, partnership, trust, association, limited
8 liability company, or corporation, or the partners, officers or
9 employees of any partnership, trustees or beneficiaries of any
10 trust, association, limited liability company, or corporation, from
11 ~~acquiring real estate for its own use, nor shall anything in this~~
12 ~~section prevent any person, partnership, trust, association or~~
13 ~~corporation, or the partners, officers or employees of any~~
14 ~~partnership, trustees or beneficiaries of any trust, association or~~
15 ~~corporation, as owner, lessor or lessee of real estate, from~~
16 ~~selling, renting, leasing, exchanging, or offering to sell, rent,~~
17 ~~lease or exchange, any real estate so owned or leased, or from~~
18 ~~performing any acts with respect to such real estate when such acts~~
19 ~~are performed in the regular course of, or as an incident to, the~~
20 ~~management, ownership or sales of such real estate and the~~
21 ~~investment therein; however, it shall be prohibited for any person,~~
22 ~~partnership, officers or employees of any partnership, trustees or~~
23 ~~beneficiaries of any trust, association or corporation to publicly~~
24 ~~market for sale an equitable interest in a contract for the purchase~~

1 ~~of real property between a property owner and a prospective~~
2 ~~purchaser without holding an active Oklahoma real estate license:~~

3 a. acquiring real estate for its own use,

4 b. selling, renting, leasing, exchanging, or offering to
5 sell, rent, lease, or exchange any real estate so

6 owned or leased as the owner, lessor, or lessee, or

7 c. performing any acts with respect to such real estate

8 when such acts are performed in the regular course of,

9 or as an incident to, the management, ownership, or

10 sales of such real estate and the investment therein;

11 however, it shall be prohibited for any person,

12 partnership, trust, association, limited liability

13 company, or corporation, or the officers or employees

14 of any partnership, trustees, or beneficiaries of any

15 trust, association, limited liability company, or

16 corporation to publicly market for sale an equitable

17 interest in a contract for the purchase of real

18 property between a property owner and a prospective

19 purchaser without holding an active real estate

20 license;

21 2. Apply to persons acting as the attorney-in-fact for the
22 owner of any real estate authorizing the final consummation by
23 performance of any contract for the sale, lease or exchange of such
24 real estate;

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

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

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

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

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

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

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

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

3 Section 858-302. A. Any person eighteen (18) years of age or
4 older who shall submit to the Commission evidence of successful
5 completion of ninety (90) clock hours or its equivalent as
6 determined by the Commission of basic real estate instruction in a
7 course of study approved by the Commission, may apply to the
8 Commission to take an examination for the purpose of securing a
9 license as a provisional sales associate. The education required in
10 this subsection shall only be valid for a period of three (3) years
11 from the date the school certified successful completion of the
12 course; thereafter, the applicant shall be required to successfully
13 complete an additional ninety (90) clock hours or its equivalent in
14 basic real estate instruction.

15 B. Application shall be made upon forms prescribed by the
16 Commission and shall be accompanied by an ~~examination~~ application
17 fee as provided for in this Code and all information and documents
18 the Commission may require.

19 C. The applicant shall appear in person before the Commission
20 for an examination which shall be in the form and inquire into the
21 subjects the Commission shall prescribe.

22 D. If it shall be determined that the applicant shall have
23 passed the examination, received final approval of the application,
24 and paid the appropriate license fee provided for in this Code along

1 with the Oklahoma Real Estate Education and Recovery Fund fee, the
2 Commission shall issue to the applicant a provisional sales
3 associate license.

4 E. Following the issuance of a provisional sales associate
5 license, the licensee shall then submit to the Commission, prior to
6 the expiration of the provisional license, evidence of successful
7 completion of forty-five (45) clock hours or its equivalent as
8 determined by the Commission of postlicense education real estate
9 instruction in a course(s) of study approved by the Commission. A
10 provisional sales associate who fails to submit evidence of
11 compliance with the postlicense education requirement pursuant to
12 this section, prior to the first expiration date of the provisional
13 sales associate license, shall not be entitled to renew such license
14 for another license term. However, the Commission shall promulgate
15 rules for those persons called into active military service for
16 purposes of satisfying the postlicense education requirement.

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

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

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

24

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

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

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

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

22 C. If the applicant has passed the examination, received final
23 approval of the application, and paid the appropriate fees provided
24 for in this Code along with the Oklahoma Real Estate Education and

1 Recovery Fund fee, the Commission shall issue to the applicant a
2 broker license.

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

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

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

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

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

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

22 SECTION 7. AMENDATORY 59 O.S. 2021, Section 858-303A, is
23 amended to read as follows:
24

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

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

7 2. Submit to the Commission evidence of successful completion
8 of ninety (90) clock hours, or its equivalent as determined by the
9 Commission, of advanced real estate instruction in a course of study
10 approved by the Commission. The education required in this
11 subsection shall only be valid for a period of three (3) years from
12 the date the school certified successful completion of the course;
13 thereafter, the applicant shall be required to successfully complete
14 an additional ninety (90) clock hours or its equivalent in advanced
15 real estate instruction; and

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

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

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

23 D. If the applicant has passed the examination, received final
24 approval of the application, and paid the appropriate fees provided

1 for in this Code along with the Oklahoma Real Estate Education and
2 Recovery Fund fee, the Commission shall issue to the applicant a
3 broker associate license.

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

6 Section 858-312. The Oklahoma Real Estate Commission may, upon
7 its own motion, and shall, upon written complaint filed by any
8 person, investigate the business transactions of any real estate
9 licensee, and may, upon showing good cause, impose sanctions as
10 provided for in Section 858-208 of this title. Cause shall be
11 established upon the showing that any licensee has performed, is
12 performing, has attempted to perform, or is attempting to perform
13 any of the following acts:

14 1. Making a materially false or fraudulent statement in an
15 application for a license;

16 2. Making substantial misrepresentations or false promises in
17 the conduct of business, or through real estate licensees, or
18 advertising, which are intended to influence, persuade, or induce
19 others;

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

22 4. Accepting a commission or other valuable consideration as a
23 real estate associate for the performance of any acts as an
24

1 associate, except from the real estate broker with whom the
2 associate is associated;

3 5. Representing or attempting to represent a real estate broker
4 other than the broker with whom the associate is associated without
5 the express knowledge and consent of the broker with whom the
6 associate is associated;

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

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

13 8. Any other conduct which constitutes untrustworthy, improper,
14 fraudulent, or dishonest dealings;

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

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

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

24

1 12. Using prizes, money, gifts or other valuable consideration
2 as an inducement to secure customers or clients to purchase specific
3 property; however, licensees may use prizes, money, gifts or other
4 valuable consideration for marketing purposes provided they are not
5 contingent or limited to individuals making an offer or purchasing a
6 specific property;

7 13. Accepting employment or compensation for appraising real
8 estate contingent upon the reporting of a predetermined value or
9 issuing any appraisal report on real estate in which the licensee
10 has an interest unless the licensee's interest is disclosed in the
11 report. All appraisals shall be in compliance with the Oklahoma
12 real estate appraisal law, and the person performing the appraisal
13 or report shall disclose in writing to the employer whether the
14 person performing the appraisal or report is licensed or certified
15 by the Oklahoma Real Estate Appraiser Board;

16 14. Paying a commission or any other valuable consideration to
17 any person for performing the services of a real estate licensee as
18 defined in the Oklahoma Real Estate License Code who has not first
19 secured a real estate license pursuant to the Oklahoma Real Estate
20 License Code;

21 15. Unworthiness to act as a real estate licensee, whether of
22 the same or of a different character as specified in this section,
23 or because the real estate licensee has been convicted of, or
24

1 pleaded guilty or nolo contendere to, a crime involving moral
2 turpitude;

3 16. Commingling with the licensee's own money or property the
4 money or property of others which is received and held by the
5 licensee, unless the money or property of others is received by the
6 licensee and held in an escrow account that contains only money or
7 property of others;

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

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

14 19. Conviction in a court of competent jurisdiction in this or
15 any other state of the crime of forgery, embezzlement, obtaining
16 money under false pretenses, extortion, conspiracy to defraud,
17 fraud, or any similar offense or offenses, or pleading guilty or
18 nolo contendere to any such offense or offenses;

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

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

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

4 23. Violation of the Residential Property Condition Disclosure
5 Act;

6 24. Placing or causing to be placed upon the public records of
7 any county any contract, assignment, affidavit, or other writing,
8 which purports to affect title of or encumber any real property for
9 the purpose of collection of a commission, or to coerce the payment
10 of money to the individual or entity. Nothing in this paragraph
11 shall be construed to prohibit a licensee from recording a judgment;

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

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

17 27. Failure to notify the Commission in writing of the
18 conviction or plea of guilty or nolo contendere to any felony
19 offense within thirty (30) days after the plea is taken and also
20 within thirty (30) days of the entering of the judgment and
21 sentencing as required by Section 858-301.2 of Title 59 in the
22 Oklahoma Statutes; and

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

SECTION 9. AMENDATORY 59 O.S. 2021, Section 858-307.1,

is amended to read as follows:

Section 858-307.1. ~~A.~~ The Oklahoma Real Estate Commission shall issue every real estate license for a term of thirty-six (36) months with the exception of a provisional sales associate license whose license term shall be for twelve (12) months. License terms shall not be altered except for the purpose of general reassignment of the terms which might be necessitated for maintaining an equitable staggered license term system. The expiration date of the license shall be the end of the twelfth or thirty-sixth month, whichever is applicable, including the month of issuance. Fees shall be promulgated by rule, payable in advance, and nonrefundable.

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

SECTION 10. AMENDATORY 59 O.S. 2021, Section 858-307.3,

is amended to read as follows:

Section 858-307.3. A person shall not be permitted to file an application for reissuance of a license after revocation of the

1 license within ~~three (3)~~ five (5) years of the effective date of
2 revocation.

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

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

7 1. Examinations conducted by the Commission and materials
8 related to the examinations; ~~and~~

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

12 3. Brokerage and school records resulting from an audit
13 performed by the Commission.

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

16 Section 858-401. A. In addition to any other penalties
17 provided by law, any person unlicensed pursuant to The Oklahoma Real
18 Estate License Code who shall willingly ~~and~~, knowingly, or
19 negligently violate any provision of this Code, upon conviction,
20 shall be guilty of a misdemeanor punishable by a fine of not more
21 than ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars
22 (\$5,000.00), or by imprisonment in the county jail for not more than
23 six (6) months, or by both such fine and imprisonment.

24

1 B. In addition to any civil or criminal actions authorized by
2 law, whenever, in the judgment of the Oklahoma Real Estate
3 Commission, any unlicensed person has engaged in any acts or
4 practices which constitute a violation of the Oklahoma Real Estate
5 License Code, the Commission may:

6 1. After notice and hearing, and upon finding a violation of
7 the Code, impose a fine of not more than Five Thousand Dollars
8 (\$5,000.00) or the amount of the commission or commissions earned,
9 whichever is greater for each violation of the Code for unlicensed
10 activity;

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

16 3. Impose administrative fines pursuant to this subsection
17 which shall be enforceable in the district courts of this state.
18 The order of the Commission shall become final and binding on all
19 parties unless appealed to the district court as provided in the
20 Administrative Procedures Act. If an appeal is not made, such order
21 may be entered on the judgment docket of the district court in a
22 county in which the debtor has property and thereafter enforced in
23 the same manner as an order of the district court for collection
24 actions.

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

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

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

8 Section 858-602. A. An additional, nonrefundable fee as
9 promulgated by rule by the Commission shall be added to and payable
10 with the license fee for both new licenses and renewals of licenses
11 for each licensee as provided in Section 858-307.1 of this title.
12 Such additional fee shall be deposited in the Oklahoma Real Estate
13 Education and Recovery Fund.

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

17 ~~C. If a real estate sales associate or provisional sales~~
18 ~~associate shall qualify for a license as a real estate broker, the~~
19 ~~additional fee for the remainder of the term shall be prorated to~~
20 ~~the nearest dollar and month and credited to the additional fee~~
21 ~~added to and payable with the real estate broker license fee.~~

22 ~~D.~~ At the close of each fiscal year, the Commission ~~shall~~ may
23 transfer into the Oklahoma Real Estate Commission Revolving Fund any
24 money in excess of that amount required to be retained in the

1 Oklahoma Real Estate Education and Recovery Fund and that amount
2 authorized to be expended as provided within this Code that is
3 remaining in the Oklahoma Education and Recovery Fund and
4 unexpended.

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

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

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

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

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

22 ~~3.~~ 4. To establish real estate courses at institutions of
23 higher learning located in the state and accredited by the State
24

1 Regents for Higher Education for the purpose of making such courses
2 available to licensees and the general public; ~~and~~

3 ~~4.~~ 5. To contract for a particular educational project in the
4 field of real estate to further the purposes of the Oklahoma Real
5 Estate License Code;

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
16 February 13, 2023 - DO PASS
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