

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1287

By: Bastin

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 858-208, as last amended by Section 3, Chapter 43, O.S.L. 1991, and 858-401, which relate to The Oklahoma Real Estate License Code; authorizing the disciplining of real estate instructors and real estate schools; authorizing certain administrative fines and certain injunctions and restraining orders; providing certain procedures related thereto; modifying certain penalty; specifying administrative fines; authorizing certain license suspensions and revocations; specifying deposit of certain fines; specifying such fines are in addition to other actions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 858-208, as last amended by Section 3, Chapter 43, O.S.L. 1991, is amended to read as follows:

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

1. To prescribe such rules ~~and regulations~~ and to make such orders as it may deem necessary or expedient in the performance of its duties;

2. To hold examinations of persons who shall apply for the issuance of licenses to them and to promulgate such rules ~~and regulations~~ with reference to such examinations as it may deem proper;

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

4. To issue licenses in the form the Commission may prescribe to persons who shall have passed examinations or who shall otherwise be entitled to such licenses;

5. To promulgate rules ~~and regulations~~ governing the issuing of licenses to nonresidents, associations, corporations, and partnerships;

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

- a. reprimand,
- b. probation for a specified period of time,
- c. requiring education in addition to the educational requirements provided by Section 858-307.2 of this title,
- d. suspending real estate licenses for specified periods of time,
- e. revoking real estate licenses, ~~or~~
- f. imposing administrative fines pursuant to Section 3 of this act; or
- g. any combination of discipline as provided by subparagraphs a through e f of this paragraph;

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

8. To prescribe rules ~~and regulations~~ governing proceedings for discipline, for cause, of licensees and for reinstatement of licenses or modification of sanctions imposed;

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

10. To cause the prosecution of any person who shall violate any of the provisions of this Code;

11. To promulgate rules ~~and regulations~~ governing the approval of instructors and organizations offering courses of study in real estate and to further require them to meet standards

to remain qualified as is necessary for the administration of this Code;

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

13. To apply for injunctions and restraining orders for violations of the Code or the rules of the Commission.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 858-401, is amended to read as follows:

Section 858-401. ~~Any~~ A. In addition to any other penalties provided by law, any person unlicensed pursuant to The Oklahoma Real Estate License Code who shall willingly and knowingly violate any provision of this Code, upon conviction, shall be guilty of a misdemeanor ~~and, upon conviction thereof, be punished~~ punishable by a fine of not more than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. In addition to any civil or criminal actions authorized by law, the Commission, the Attorney General, or the district attorney may apply to the district court in the county in which a violation of this act has allegedly occurred for an order enjoining or restraining the unlicensed person from continuing the acts specified in the complaint. The court may grant any temporary or permanent injunction or restraining order, without bond, as it deems just and proper.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-402 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Real Estate Commission may impose administrative fines on any licensee licensed pursuant to The Oklahoma Real Estate License Code as follows:

1. Any administrative fine imposed as a result of a violation of this Code or the rules of the Commission shall not:

- a. be less than One Hundred Dollars (\$100.00) and shall not exceed Two Thousand Dollars (\$2,000.00) for each

violation of this Code or the rules of the
Commission, or

- b. exceed Five Thousand Dollars (\$5,000.00) for all
violations resulting from a single incident or
transaction;

2. All administrative fines shall be paid within thirty (30)
days of notification of the licensee by the Commission of the
order of the Commission imposing the administrative fine;

3. The license may be suspended until any fine imposed upon
the licensee by the Commission is paid;

4. If fines are not paid in full by the licensee within
thirty (30) days of the notification by the Commission of the
order, the license shall automatically be revoked; and

5. All monies received by the Commission as a result of the
imposition of the administrative fine provided for in this section
shall be deposited in the Oklahoma Real Estate Education and
Recovery Fund, created pursuant to Section 858-601 of this title.

B. The administrative fines authorized by this section may be
in addition to any other criminal penalties or civil actions
provided for by law.

SECTION 4. This act shall become effective September 1, 1993.

44-1-6317 MCD