

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2201

By: Bastin

AS INTRODUCED

An Act relating to professions and occupations;
amending 59 O.S. 1991, Sections 858-208, as amended
by Section 1, Chapter 54, O.S.L. 1993, 858-209 and
858-304, as amended by Section 4, Chapter 94,
O.S.L. 1992 (59 O.S. Supp. 1993, Sections 858-208
and 858-304), which relate to the Oklahoma Real
Estate License Code; modifying certain powers and
duties of the Oklahoma Real Estate Commission;
authorizing the employment of certain
administrative judges instead of hearing examiners;
authorizing private school credits to be considered
by the Commission under certain conditions;
providing an effective date; and declaring an
emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 858-208, as
amended by Section 1, Chapter 54, O.S.L. 1993 (59 O.S. Supp. 1993,
Section 858-208), 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 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 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 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,
- f. imposing administrative fines pursuant to Section 858-402 of this ~~act~~ title, or
- g. any combination of discipline as provided by subparagraphs a through 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 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 governing the approval of instructors and organizations, both public and private, 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 858-209, is amended to read as follows:

Section 858-209. In the exercise of all powers and the performance of all duties provided in this Code, the Commission shall comply with the procedures provided in the Administrative Procedures Act. Appeals shall be taken as provided in said act. The Commission may designate and employ ~~a hearing examiner or examiners~~ an administrative judge or judges who shall have the power and authority to conduct such hearings in the name of the Commission at any time and place subject to the provisions of this section and any applicable rules, ~~regulations~~ or orders of the Commission. No person shall serve as ~~a hearing examiner~~ an administrative judge in any proceeding in which any party to the proceeding is, or at any time has been, a client of the ~~hearing examiner~~ administrative judge or of any firm, partnership or corporation with which the ~~hearing~~

~~examiner~~ administrative judge is, or at any time has been, associated; and, provided further, that no person who acts as a ~~hearing examiner~~ an administrative judge shall act as attorney for the Commission in any court proceeding arising out of any hearing in which he acted as ~~hearing examiner~~ the administrative judge. In any hearing before the Commission, the burden of proof shall be upon the moving party.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 858-304, as amended by Section 4, Chapter 94, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-304), is amended to read as follows:

Section 858-304. A. A certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding accrediting agency of another state, or a certified transcript from a private institution of higher education if approved by the Commission, certifying to the successful completion of a three-academic-hour basic course of real estate instruction for which college credit was given, shall be prima facie evidence of successful completion of the clock hours of basic real estate instruction as required in Section 858-302 of this Code; and, in such case, no further evidence shall be required of a provisional sales associate applicant, except the successful completion of the provisional sales associate's examination.

B. The same three-academic-hour procedural requirements found in subsection A of this section are applicable in fulfilling the post-provisional sales associates' education requirements.

C. A certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding agency of another state, or a certified transcript from a private institution of higher education if approved by the Commission, certifying to the successful completion of five-academic-hours advanced courses of real estate instruction for which college credit was given, shall be prima facie

evidence of successful completion of the clock hours of advanced real estate instruction as required in Section 858-303 of this Code; and, in such case, no further evidence shall be required of the applicant, except the completion of two (2) years' experience within the previous five (5) years as a licensed real estate sales associate or provisional sales associate who holds a renewable sales associate license, or a combination thereof, and the successful completion of the broker's examination.

D. The Commission shall furnish to every approved real estate school, whether public or private, a syllabus outline of each pre-license and post-license course to be taught. Each school, whether public or private other than institutions of higher education, must present the Commission ~~their~~ its syllabus of instruction, prior to approval of such school.

SECTION 4. This act shall become effective July 1, 1994.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-8184

MCD