

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2508:

Blackburn

AS INTRODUCED

An Act relating to waters and water rights; amending 59 O.S. 2001, Section 858-102, which relates to The Oklahoma Real Estate License Code; updating language; adding definitions; requiring water brokers and water broker associates to be licensed; providing for procedures, fees, powers and duties; providing for penalties; creating the Joint Oversight Committee on Federal Environmental and Natural Resources Funds; providing for appointments, meetings and duties; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-102, is amended to read as follows:

Section 858-102. When used in ~~this~~ The Oklahoma Real Estate License Code, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. ~~The term "real~~ "Real estate" shall include means any interest or estate in real property, within or without the State of Oklahoma, whether vested, contingent or future, corporeal or incorporeal, freehold or nonfreehold, and ~~including~~ includes, but is not limited to, leaseholds, options and unit ownership estates ~~to include,~~ condominiums, time-shared ownerships and cooperatives; ~~provided, however, that the.~~ The term "real estate" shall also include any interest in surface and groundwater. 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. The provisions of this The Oklahoma Real Estate License Code shall

not apply to any oil, gas, or mineral interest or lease or the sale, purchase or exchange thereof;

2. ~~The term "real~~ "Real estate broker" ~~shall include~~ means 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 or herself out as engaged in such activities;

3. ~~The term "broker~~ "Water broker" ~~means~~ 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 surface water or ground water interest, or who negotiates or attempts to negotiate any such activity, or solicits listings of surface water or ground water leases, or solicits for prospective users, purchasers or sellers, or who advertises or holds himself or herself out as engaged in such activities;

4. "Broker associate" ~~shall include~~ means any person who has qualified for a license as a real estate broker or water broker and who is employed or engaged by, associated as an independent contractor with, or on behalf of, a real estate broker or water broker to do or deal in any act, acts or transaction set out in the definition of a real estate broker or water broker;

~~4. The term "real~~ 5. "Real estate sales associate" ~~shall include~~ means any person having a renewable license and employed or

engaged by, or associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker;

~~5.~~ 6. "Provisional sales associate" ~~shall include~~ means any person who ~~has been~~ was licensed after June 30, 1993, employed or engaged by, or associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker and subject to an additional forty-five-clock-hour postlicensing educational requirement to be completed within the first twelve-month license term. The license of a provisional sales associate shall be nonrenewable unless the postlicensing requirement is satisfied prior to the expiration date of the license. ~~Further, the~~ The term "sales associate" and "provisional sales associate" shall be synonymous in meaning except where specific exceptions are addressed in ~~the~~ The Oklahoma Real Estate License Code;

~~6.~~ ~~The term "successful~~ 7. "Successful completion" ~~shall include~~ means prelicense, postlicense, and distance education courses in which an approved public or private school entity has examined the individual, to the satisfaction of the entity and standards as established by the Oklahoma Real Estate Commission, in relation to the course material presented during the offering;

~~7.~~ ~~The term "renewable~~ 8. "Renewable license" ~~shall refer to~~ means a license held by a sales associate ~~who is a holder of such license or to~~ by a provisional sales associate who has completed both the prelicense and postlicense educational requirements within the required time period as stated in ~~the~~ The Oklahoma Real Estate License Code;

~~8.~~ ~~The term "nonrenewable~~ 9. "Nonrenewable license" ~~shall refer to~~ means a license held by a provisional sales associate and who has not completed the postlicense educational requirement;

~~9. The term "surrendered~~ 10. "Surrendered license" shall refer to means a real estate license which is surrendered, upon the request of the licensee, due to a pending investigation or disciplinary proceedings;

~~10. The term "canceled~~ 11. "Canceled license" shall refer to means a real estate license which is canceled, upon the request of the licensee and approval of the Commission, due to a personal reason or conflict;

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

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

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

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

~~15. The word "associate" shall mean~~ "Associate" means a broker associate, sales associate or provisional sales associate.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-208.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties of the Oklahoma Real Estate Commission imposed by The Oklahoma Real Estate License Code, the Commission shall have the authority to issue licenses and otherwise regulate the activities of water brokers and water broker associates.

B. To effectuate the provisions of this section, the Oklahoma Real Estate Commission shall have the power and duty to:

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

2. Administer examinations to persons who apply for the issuance of a license as a water broker or water broker associate;

3. Issue licenses in the form the Commission may prescribe to persons who meet the educational requirements, have passed examinations and who are otherwise entitled to such licenses;

4. Upon showing good cause as provided for in The Oklahoma Real Estate License Code, discipline licensees 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 Title 59 of the Oklahoma Statutes,
- d. suspending licenses and approvals for specified periods of time,
- e. revoking licenses and approvals,
- f. imposing administrative fines pursuant to Section 858-402 of Title 59 of the Oklahoma Statutes, or
- g. any combination of discipline as provided by subparagraphs a through f of this paragraph;

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

6. Conduct proceedings for discipline, for cause, of licensees and for reinstatement of licenses or modification of sanctions imposed;

7. Prescribe penalties as it may deem proper to be assessed against licensees for the failure to pay the license renewal fees as provided for in The Oklahoma Real Estate License Code;

8. Cause the prosecution of any person who violates any of the provisions of The Oklahoma Real Estate License Code;

9. Approve instructors and organizations offering courses of study in water rights or other water interests and to further require them to meet standards to remain qualified as is necessary for the administration of The Oklahoma Real Estate License Code; and

10. Apply for injunctions and restraining orders for violations of The Oklahoma Real Estate License Code or the rules of the Commission.

C. The application fee for a water broker or water broker license shall not exceed One Thousand Dollars (\$1,000.00). Any other fees shall be subject to the provisions of Section 858-307.1 of Title 59 of the Oklahoma Statutes.

D. The Oklahoma Real Estate License Code shall apply to water brokers and water broker associates.

E. It shall be unlawful for any person to act as a water broker or water broker associate or to hold himself or herself out as such unless the person has been licensed to do so under The Oklahoma Real Estate License Code.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2.1 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Joint Oversight Committee on Federal Environmental and Natural Resources Funds. The committee shall consist of twenty (20) members of the Oklahoma Legislature, ten from each house, to be appointed every two (2) years by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Chair of the House of Representatives Committee on Appropriations and Budget and the Senate Committee on Appropriations shall constitute two of the twenty members. The Chair and Vice Chair of the Joint Oversight Committee on Federal Environmental and Natural Resources Funds shall be appointed by the

Speaker of the House of Representatives and President Pro Tempore of the Senate and shall rotate between the House of Representatives and the Senate.

B. Beginning November 1, 2004, the Chair shall be from the House of Representatives until the convening of the First Regular Session of the Legislature in January, 2005, at which time the Chair shall be assumed by the Senate; thereafter, the Chair shall alternate every two (2) years between the House of Representatives and the Senate, beginning with the convening of the First Regular Session of the Legislature.

C. The Joint Oversight Committee on Federal Environmental and Natural Resources Funds shall function as a joint committee of the Oklahoma Legislature when the Legislature is in session and when the Legislature is not in session. Each appointive member of the committee shall serve until a successor is appointed.

D. Meetings of the committee shall be called by either the Chair or Vice Chair. The presence of ten members of the committee shall constitute a quorum. The committee shall not take final action upon any proposed and existing state environmental or natural resources plan or any application for federal financial assistance for environmental or natural resources unless a quorum is present and that any action taken by the committee shall be upon a majority vote of the members from each body of the Legislature present.

E. The Joint Oversight Committee on Federal Environmental and Natural Resources Funds shall have the powers and responsibilities to:

1. Review and make recommendations regarding proposed and existing state plans and applications for federal financial assistance for environmental or natural resources;

2. Recommend to the Oklahoma Legislature procedures to coordinate, report and track the effects of federal environmental or

natural resources financial assistance and federal policy on Oklahoma state government;

3. Ensure that requests and receipt of federal funds are designated to the proper state environmental agency having environmental jurisdiction in the areas for which the federal funds are received and requested; and

4. Review plans, projects and programs of state environmental agencies for which federal environmental or natural resources funds are requested, received and expended to ensure that such plans, projects and programs are designed and administered and funds expended in such a manner as will enhance and benefit the public welfare and environment.

F. Upon the request of either the Chair or Vice Chair of the Joint Oversight Committee, the Legislative Service Bureau shall perform the duties requested by the Joint Oversight Committee. Members of the committee shall be reimbursed for authorized travel and expenses in the same manner as members of the committees of the House of Representatives and the Senate.

SECTION 4. 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.

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