

CS for SB 2044

THE STATE SENATE
Thursday, March 2, 2006

Committee Substitute for
Senate Bill No. 2044

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2044 - By: COATES of the Senate and CAREY of the House.

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 858-102, as amended by Section 1, Chapter 142, O.S.L. 2004 (59 O.S. Supp. 2005, Section 858-102), which relates to the Oklahoma Real Estate License Code; updating language; modifying a definition; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-102, as amended by Section 1, Chapter 142, O.S.L. 2004 (59 O.S. Supp. 2005, Section 858-102), is amended to read as follows:

Section 858-102. ~~When As used in this 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 leaseholds, options and unit ownership estates to include condominiums, time-shared ownerships and cooperatives; provided, however, that the term "real estate" shall not include oil, gas or other mineral interests,

1 or oil, gas or other mineral leases; and provided further, that the
2 provisions of this Code shall not apply to any oil, gas, or mineral
3 interest or lease or the sale, purchase or exchange thereof;

4 2. ~~The term "real~~ "Real estate broker" ~~shall include~~ means any
5 person, partnership, association or corporation, foreign or
6 domestic, who for a fee, commission or other valuable consideration,
7 or who with the intention or expectation of receiving or collecting
8 a fee, commission or other valuable consideration, lists, sells or
9 offers to sell, buys or offers to buy, exchanges, rents or leases
10 any real estate, or who negotiates or attempts to negotiate any such
11 activity, or solicits listings of places for rent or lease, or
12 solicits for prospective tenants, purchasers or sellers, or who
13 advertises or holds himself out as engaged in such activities. The
14 term real estate broker shall not include any person, partnership,
15 association or corporation, foreign or domestic, whose primary
16 service is to publish or disseminate in an electronic or written
17 form (a "publisher") information on real estate available for
18 exchange, lease, purchase, rental or sale. The publication shall be
19 through a medium, including a newspaper, periodical or internet
20 website, owned or operated by, or for the benefit of, the publisher
21 or its affiliate. Publication in media which is proprietary, not
22 accessible to the general public and available only to licensed real
23 estate brokers and their agents is prohibited. Furthermore, a

1 publisher shall not participate in the preparation or negotiation of
2 offers, counter-offers or closing documents for the real estate
3 transaction, conduct open houses or hold client trust funds;

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

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

14 5. "Provisional sales associate" ~~shall include~~ means any person
15 who has been licensed after June 30, 1993, employed or engaged by,
16 or associated as an independent contractor with, or on behalf of, a
17 real estate broker to do or deal in any act, acts or transactions
18 set out in the definition of a real estate broker and subject to an
19 additional forty-five-clock-hour postlicensing educational
20 requirement to be completed within the first twelve-month license
21 term. However, the Oklahoma Real Estate Commission shall promulgate
22 rules for those persons called into active military service for
23 purposes of satisfying the postlicensing educational requirement.

1 The license of a provisional sales associate shall be nonrenewable
2 unless the postlicensing requirement is satisfied prior to the
3 expiration date of the license. Further, the term sales associate
4 and provisional sales associate shall be synonymous in meaning
5 except where specific exceptions are addressed in the Oklahoma Real
6 Estate License Code;

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

13 7. ~~The term "renewable~~ "Renewable license" ~~shall refer to~~ means
14 a sales associate who is a holder of such license or to a
15 provisional sales associate who has completed both the prelicense
16 and postlicense educational requirements within the required time
17 period as stated in the Code;

18 8. ~~The term "nonrenewable~~ "Nonrenewable license" ~~shall refer to~~
19 means a provisional sales associate who is the holder of such
20 license and who has not completed the postlicense educational
21 requirement;

22 9. ~~The term "surrendered~~ "Surrendered license" ~~shall refer to~~
23 means a real estate license which is surrendered, upon the request

1 of the licensee, due to a pending investigation or disciplinary
2 proceedings;

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

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

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

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

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

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

19 SECTION 2. This act shall become effective November 1, 2006.

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-27-06
21 - DO PASS, As Amended and Coauthored.