

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2564

6 By: Martin (Steve)

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2001, Sections 858-208, as last
10 amended by Section 2, Chapter 42, O.S.L. 2007, 858-
11 304, 858-306, 858-307.2 and 858-312 (59 O.S. Supp.
12 2007, Section 858-208), which relate to the Oklahoma
13 Real Estate Commission; modifying powers and duties
14 of the Commission; modifying requirements for certain
15 persons licensed in multiple jurisdictions; modifying
16 academic hour requirements; modifying examination
17 requirements for certain persons; deleting obsolete
18 language; modifying cause for suspension or
19 revocation of license; and providing an effective
20 date.

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

22 SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-208, as
23 last amended by Section 2, Chapter 42, O.S.L. 2007 (59 O.S. Supp.
24 2007, 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 1. To promulgate rules, prescribe administrative fees by rule,
2 and make orders as it may deem necessary or expedient in the
3 performance of its duties;

4 2. To administer examinations to persons who apply for the
5 issuance of licenses;

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

9 4. To issue licenses in the form the Commission may prescribe
10 to persons who have passed examinations or who otherwise are
11 entitled to such licenses;

12 5. To issue licenses to and regulate the activities of real
13 estate brokers, provisional sales associates, sales associates,
14 branch offices, nonresidents, associations, corporations, and
15 partnerships;

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

19 a. reprimand,

20 b. probation for a specified period of time,

21 c. requiring education in addition to the educational
22 requirements provided by Section 858-307.2 of this
23 title,

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- d. suspending real estate licenses and approvals for specified periods of time,
- e. revoking real estate licenses and approvals,
- f. imposing administrative fines pursuant to Section 858-402 of this 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 conduct, for cause, disciplinary proceedings;

9. To 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 this Code;

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

11. To approve 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;

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

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

5 15. To enter into contracts and agreements for the payment of
6 food and other reasonable expenses as authorized in the State Travel
7 Reimbursement Act necessary to host, conduct, or participate in
8 meetings or training sessions as is reasonable for the
9 administration of this Code; ~~and~~

10 16. To conduct an annual performance review of the Executive
11 Director and submit the report to the Legislature; and

12 17. To enter into reciprocal agreements with other real estate
13 licensing regulatory jurisdictions with equivalent licensing,
14 education and examination requirements.

15 SECTION 2. AMENDATORY 59 O.S. 2001, Section 858-304, is
16 amended to read as follows:

17 Section 858-304. A. A certified transcript from an institution
18 of higher education, accredited by the Oklahoma State Regents for
19 Higher Education or the corresponding accrediting agency of another
20 state, certifying to the successful completion of a ~~three-academic-~~
21 ~~hour~~ six-academic-hour basic course of real estate instruction for
22 which college credit was given, shall be prima facie evidence of
23 successful completion of the clock hours of basic real estate
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1 instruction for a provisional sales associate applicant as required
2 in Section 858-302 of this Code.

3 B. A certified transcript from an institution of higher
4 education, accredited by the Oklahoma State Regents for Higher
5 Education or the corresponding accrediting agency of another state,
6 certifying to the successful completion of a three-academic-hour
7 course of real estate instruction consisting of the provisional
8 sales associate postlicensing educational requirements for which
9 college credit was given, shall be prima facie evidence of
10 successful completion of the clock hours of real estate instruction
11 for the postlicense requirement as required in Section 858-302 of
12 this title.

13 C. A certified transcript from an institution of higher
14 education, accredited by the Oklahoma State Regents for Higher
15 Education or the corresponding agency of another state, certifying
16 to the successful completion of ~~five academic hours~~ a six-academic-
17 hour advanced ~~courses~~ course of real estate instruction for which
18 college credit was given, shall be prima facie evidence of
19 successful completion of the clock hours of advanced real estate
20 instruction as required in Section 858-303 of this Code for a broker
21 applicant.

22 D. Each school, whether public or private other than
23 institutions of higher education, must present to the Commission its
24 syllabus of instruction, prior to approval of such school.

1 SECTION 3. AMENDATORY 59 O.S. 2001, Section 858-306, is
2 amended to read as follows:

3 Section 858-306. A. Any person who desires to perform licensed
4 activities in Oklahoma but maintains a place of business outside of
5 Oklahoma may obtain an Oklahoma nonresident license by complying
6 with all applicable provisions of this Code including the successful
7 completion of the applicable Oklahoma state portion of the real
8 estate examination.

9 B. The nonresident shall give written consent that actions and
10 suits at law may be commenced against the nonresident licensee in
11 any county in this state wherein any cause of action may arise or be
12 claimed to have arisen out of any transaction occurring in the
13 county because of any transactions commenced or conducted by the
14 nonresident or the nonresident's associates or employees in such
15 county. The nonresident shall further, in writing, appoint the
16 secretary-treasurer of said Commission as service agent to receive
17 service of summons for the nonresident in all of such actions and
18 service upon the secretary-treasurer of such Commission shall be
19 held to be sufficient to give the court jurisdiction over the
20 nonresident in all such actions.

21 C. A broker who is duly licensed in another state and who has
22 not obtained an Oklahoma nonresident license may enter a cooperative
23 brokerage agreement with a licensed real estate broker in this
24 state. If, however, the broker desires to perform licensed

1 activities in this state, the broker must obtain an Oklahoma
2 nonresident license.

3 SECTION 4. AMENDATORY 59 O.S. 2001, Section 858-307.2,
4 is amended to read as follows:

5 Section 858-307.2 A. ~~1. Beginning July 1, 1996, as a~~
6 ~~condition of renewal or reactivation of the license, each licensee,~~
7 ~~with the exception of those exempt as set out in this section, shall~~
8 ~~submit to the Commission evidence of completion of the specified~~
9 ~~number of clock hours of continuing education courses approved by~~
10 ~~the Commission, within the thirty six (36) months immediately~~
11 ~~preceding the term for which the license is to be issued. The~~
12 ~~number of hours, or its equivalent, required for each licensed term~~
13 ~~shall be determined by the Commission and promulgated by rule. Each~~
14 ~~licensee shall be required to complete and include as part of said~~
15 ~~continuing education a certain number of required subjects as~~
16 ~~prescribed by rule.~~

17 ~~2.~~ Beginning November 1, 2004, as a condition of renewal or
18 reactivation of the license, each licensee with the exception of
19 those exempt as set out in this section shall submit to the
20 Commission evidence of completion of a specified number of hours of
21 continuing education courses approved by the Commission, within the
22 thirty-six (36) months immediately preceding the term for which the
23 license is to be issued. The number of hours, or its equivalent,
24 required for each licensed term shall be determined by the

1 Commission and promulgated by rule. Each licensee shall be required
2 to complete and include as part of said continuing education a
3 certain number of required subjects as prescribed by rule.

4 B. The continuing education courses required by this section
5 shall be satisfied by courses approved by the Commission and offered
6 by:

7 1. The Commission;

8 2. A technology center school;

9 3. A college or university;

10 4. A private school;

11 5. The Oklahoma Association of Realtors, the National
12 Association of Realtors, or any affiliate thereof;

13 6. The Oklahoma Bar Association, American Bar Association, or
14 any affiliate thereof; or

15 7. An education provider.

16 C. The Commission shall maintain a list of courses which are
17 approved by the Commission.

18 D. The Commission shall not issue an active renewal license or
19 reactivate a license unless the continuing education requirement set
20 forth in this section is satisfied within the prescribed time
21 period.

22 E. The provisions of this section do not apply:

23 1. During the period a license is on inactive status;

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1 2. To a licensee who holds a provisional sales associate
2 license;

3 3. To a nonresident licensee licensed in this state if the
4 licensee maintains a current license in another state and has
5 satisfied the continuing education requirement for license renewal
6 in that state; or

7 4. To a corporation, association, partnership or branch office.

8 SECTION 5. AMENDATORY 59 O.S. 2001, Section 858-312, is
9 amended to read as follows:

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

18 1. Making a materially false or fraudulent statement in an
19 application for a license;

20 2. Making substantial misrepresentations or false promises in
21 the conduct of business, or through real estate licensees, or
22 advertising, which are intended to influence, persuade, or induce
23 others;

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

3 4. Accepting a commission or other valuable consideration as a
4 real estate associate for the performance of any acts as an
5 associate, except from the real estate broker with whom the
6 associate is associated;

7 5. Representing or attempting to represent a real estate broker
8 other than the broker with whom the associate is associated without
9 the express knowledge and consent of the broker with whom the
10 associate is associated;

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

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

17 8. Any other conduct which constitutes untrustworthy, improper,
18 fraudulent, or dishonest dealings;

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

21 10. Guaranteeing or having authorized or permitted any real
22 estate licensee to guarantee future profits which may result from
23 the resale of real estate;

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1 11. Advertising or offering for sale, rent or lease any real
2 estate, or placing a sign on any real estate offering it for sale,
3 rent or lease without the consent of the owner or the owner's
4 authorized representative;

5 12. Soliciting, selling, or offering for sale real estate by
6 offering "free lots", conducting lotteries or contests, or offering
7 prizes for the purpose of influencing a purchaser or prospective
8 purchaser of real estate;

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

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

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

1 or because the real estate licensee has been convicted of, or
2 pleaded guilty or nolo contendere to, a crime involving moral
3 turpitude;

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

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

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

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

20 20. Advertising to buy, sell, rent, or exchange any real estate
21 without disclosing that the licensee is a real estate 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 SECTION 6. This act shall become effective November 1, 2008.

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8 51-2-9858 LRB 02/05/08

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