

1 ENGROSSED SENATE
2 BILL NO. 1006

By: Rabon of the Senate

3 and

4 Martin (Steve) of the House
5
6

7 An Act relating to professions and occupations and
8 property; amending 59 O.S. 2001, Sections 858-202,
9 858-208, as amended by Section 1, Chapter 85, O.S.L.
10 2005, and Section 3, Chapter 207, O.S.L. 2006 (59
11 O.S. Supp. 2006, Sections 858-208 and 3022), which
12 relate to the Oklahoma Real Estate License Code and
13 the Elevator Safety Act; modifying terms of the
14 Oklahoma Real Estate Commission; modifying certain
15 power and duty of Commission; making certain
16 materials confidential and not public record;
17 requiring certain national criminal history record
18 check; providing for certain investigation; providing
19 for certain costs; modifying definition; amending 60
20 O.S. 2001, Section 836, which relates to duties of a
21 real estate licensee; modifying certain duty;
22 providing for codification; and providing an
23 effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-202, is
amended to read as follows:

Section 858-202. A. Members of the Oklahoma Real Estate
Commission shall be appointed by the Governor with the advice and
consent of the Senate.

1 B. Members of the Commission shall serve until their terms
2 expire. The terms of the Commission members shall be for ~~three (3)~~
3 four (4) years and until their successors are appointed and
4 qualified.

5 C. Each successor member and any vacancy which may occur in the
6 membership of the Commission shall be filled by appointment of the
7 Governor with the advice and consent of the Senate.

8 D. The Governor may select appointees from a list of at least
9 three qualified persons submitted by the Oklahoma Association of
10 Realtors, Incorporated.

11 E. Each person who shall have been appointed to fill a vacancy
12 shall serve for the remainder of the term for which the member whom
13 he will succeed was appointed and until his successor, in turn,
14 shall have been appointed and shall have qualified.

15 F. Members of the Commission may be removed from office by the
16 Governor for inefficiency, neglect of duty or malfeasance in office
17 in the manner provided by law for the removal of officers not
18 subject to impeachment.

19 SECTION 2. AMENDATORY 59 O.S. 2001, Section 858-208, as
20 amended by Section 1, Chapter 85, O.S.L. 2005 (59 O.S. Supp. 2006,
21 Section 858-208), is amended to read as follows:

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

- 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 ~~which~~ that will be required to draft and revise ~~residential~~
3 real estate purchase and/or lease contracts and any related addenda
4 for 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.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 858-313 of Title 59, unless
14 there is created a duplication in numbering, reads as follows:

15 The following materials of the Commission are confidential and
16 not public records:

17 1. Examinations conducted by the Commission and materials
18 related to the examinations; and

19 2. Educational materials submitted to the Commission by a
20 person or entity seeking approval and/or acceptance of a course of
21 study.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 858-307.4 of Title 59, unless
24 there is created a duplication in numbering, reads as follows:

1 A. Prior to the issuance of a license pursuant to this Code,
2 each applicant shall submit to a national criminal history record
3 check, as defined by Section 150.9 of Title 74 of the Oklahoma
4 Statutes.

5 B. Upon receipt by the Commission of criminal history, the
6 Commission shall conduct an investigation in accordance with rules
7 promulgated by the Commission.

8 C. The costs associated with the national criminal history
9 record check shall be paid by the applicant.

10 SECTION 5. AMENDATORY Section 3, Chapter 207, O.S.L.
11 2006 (59 O.S. Supp. 2006, Section 3022), is amended to read as
12 follows:

13 Section 3022. As used in the Elevator Safety Act:

14 1. "Agency" means the Oklahoma Department of Labor;

15 2. "Certificate of operation" means a document issued by the
16 Commissioner and affixed to an elevator that indicates that the
17 elevator has been inspected and tested and found to be in compliance
18 with all applicable standards of operation as determined by the
19 Department of Labor;

20 3. "Certificate of operation - temporary" means a document
21 issued by the Commissioner that permits temporary use of a
22 noncompliant elevator by the general public for not more than thirty
23 (30) days while minor repairs are being completed;

1 4. "Commissioner" means the Commissioner of Labor or his/her
2 authorized representative;

3 5. "Chief elevator inspector" means the chief elevator
4 inspector appointed under the Elevator Safety Act;

5 6. "Deputy inspector" means an inspector appointed by the chief
6 elevator inspector subject to the approval of the Commissioner under
7 the provisions of the Elevator Safety Act;

8 7. a. "Elevator" means any device for lifting or moving
9 people, cargo, or freight within, or adjacent and
10 connected to, a structure or excavation, and includes
11 any escalator, power-driven stairway, moving walkway
12 or stairway chair lift.

13 b. The term "elevator" does not mean any:

14 (1) amusement ride or device subject to inspection
15 and regulation under the provisions of Section
16 460 et seq. of Title 40 of the Oklahoma Statutes,

17 (2) mining equipment subject to inspection and
18 regulation by the Department of Mines,

19 (3) aircraft, railroad car, boat, barge, ship, truck,
20 or other self-propelled vehicle or component
21 thereof,

22 (4) ~~any~~ boiler grate stoker or other similar firing
23 mechanism subject to inspection under the
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provisions of the Oklahoma Boiler and Pressure
Vessel Safety Act, ~~or~~

(5) ~~a~~ dumbwaiter, conveyor, chain or bucket hoist,
construction hoist or similar devices used for
the primary purpose of elevating or lowering
materials, or

(6). elevator, conveyance, manlift or similar device
in grain elevators, grain warehouses, seed
processing facilities, feed mills and/or flour
mills which is used by employees, but is not
accessible to or used by customers or members of
the general public. This list is not exhaustive;

8. "Elevator apprentice" means an unlicensed person registered
with the Department of Labor who works under the direct supervision
of a licensed elevator mechanic, licensed elevator contractor, or
licensed elevator inspector;

9. "Licensed elevator contractor" means a person or business
entity that possesses a valid elevator contractor's license issued
by the Department of Labor pursuant to the provisions of the
Elevator Safety Act and is thus entitled to engage in the business
of erecting, constructing, installing, altering, servicing,
repairing, or maintaining elevators;

10. "Licensed elevator inspector" means a person who possesses
a valid elevator inspector's license issued by the Department of

1 Labor pursuant to the provisions of the Elevator Safety Act and is
2 thus entitled to engage in the business of inspecting elevators;

3 11. "Licensed elevator mechanic" means a person who possesses a
4 valid elevator mechanic's license issued by the Department of labor
5 in accordance with the provisions of the Elevator Safety Act and is
6 thus, when employed by a licensed elevator contractor, entitled to
7 install, construct, alter, service, repair, perform electrical work
8 on, test, and maintain elevators; and

9 12. "Private residence" means a separate dwelling or a separate
10 apartment in a multiple dwelling that is occupied by members of a
11 single-family unit.

12 SECTION 6. AMENDATORY 60 O.S. 2001, Section 836, is
13 amended to read as follows:

14 Section 836. A. A real estate licensee representing or
15 assisting a seller has the duty to obtain from the seller a
16 disclaimer statement or a disclosure statement and any amendment
17 required by ~~this act~~ the Residential Property Condition Disclosure
18 Act and to make such statement available to potential purchasers
19 prior to acceptance of an offer to purchase.

20 B. A real estate licensee representing or assisting a purchaser
21 has the duty to obtain and make available to the purchaser a
22 disclaimer statement or a disclosure statement and any amendment
23 required by ~~this act~~ the Residential Property Condition Disclosure
24 Act prior to the acceptance of an offer to purchase.

1 C. A real estate licensee has the duty to disclose to the
2 purchaser any defects in the property actually known to the licensee
3 which are not included in the disclosure statement or any amendment.

4 D. A real estate licensee who has complied with the
5 requirements of subsections A, B and C of this section, as
6 applicable, shall have no further duties to the seller or the
7 purchaser regarding any disclosures required under ~~this act~~ the
8 Residential Property Condition Disclosure Act.

9 A real estate licensee who has not complied with the
10 requirements of subsections A, B and C of this section shall be
11 subject to disciplinary action by the Oklahoma Real Estate
12 Commission as set forth in paragraph 6 of Section 858-208 of Title
13 59 of the Oklahoma Statutes.

14 E. A real estate licensee has no duty to the seller or the
15 purchaser to conduct an independent inspection of the property and
16 has no duty to independently verify the accuracy or completeness of
17 any statement made by the seller in the disclaimer statement or the
18 disclosure statement and any amendment.

19 SECTION 7. This act shall become effective January 1, 2008.
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1 Passed the Senate the 1st day of March, 2007.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2007.

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8 _____
9 Presiding Officer of the House
10 of Representatives