

ENGROSSED

House Bill No. 2564

As Amended

ENGROSSED HOUSE BILL NO. 2564 - By: Martin (Steve) of the House and
Branan of the Senate.

[professions and occupations - Oklahoma Real Estate
Commission - modifying examination requirements for certain
persons - effective date]

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

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

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

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;

1 4. To issue licenses in the form the Commission may prescribe
2 to persons who have passed examinations or who otherwise are
3 entitled to such licenses;

4 5. To issue licenses to and regulate the activities of real
5 estate brokers, provisional sales associates, sales associates,
6 branch offices, nonresidents, associations, corporations, and
7 partnerships;

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

- 11 a. reprimand,
- 12 b. probation for a specified period of time,
- 13 c. requiring education in addition to the educational
14 requirements provided by Section 858-307.2 of this
15 title,
- 16 d. suspending real estate licenses and approvals for
17 specified periods of time,
- 18 e. revoking real estate licenses and approvals,
- 19 f. imposing administrative fines pursuant to Section 858-
20 402 of this title, or
- 21 g. any combination of discipline as provided by
22 subparagraphs a through f of this paragraph;

- 1 7. Upon showing good cause, to modify any sanction imposed
2 pursuant to the provisions of this section and to reinstate
3 licenses;
- 4 8. To conduct, for cause, disciplinary proceedings;
- 5 9. To prescribe penalties as it may deem proper to be assessed
6 against licensees for the failure to pay the license renewal fees as
7 provided for in this Code;
- 8 10. To initiate the prosecution of any person who violates any
9 of the provisions of this Code;
- 10 11. To approve instructors and organizations offering courses
11 of study in real estate and to further require them to meet
12 standards to remain qualified as is necessary for the administration
13 of this Code;
- 14 12. To contract with attorneys and other professionals to carry
15 out the functions and purposes of this Code;
- 16 13. To apply for injunctions and restraining orders for
17 violations of the Code or the rules of the Commission;
- 18 14. To create an Oklahoma Real Estate Contract Form Committee
19 by rule that will be required to draft and revise real estate
20 purchase and/or lease contracts and any related addenda for
21 voluntary use by real estate licensees;
- 22 15. To enter into contracts and agreements for the payment of
23 food and other reasonable expenses as authorized in the State Travel

1 Reimbursement Act necessary to host, conduct, or participate in
2 meetings or training sessions as is reasonable for the
3 administration of this Code; ~~and~~

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

6 17. To enter into reciprocal agreements with other real estate
7 licensing regulatory jurisdictions with equivalent licensing,
8 education and examination requirements.

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

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

20 B. A certified transcript from an institution of higher
21 education, accredited by the Oklahoma State Regents for Higher
22 Education or the corresponding accrediting agency of another state,
23 certifying to the successful completion of a three-academic-hour

1 course of real estate instruction consisting of the provisional
2 sales associate postlicensing educational requirements for which
3 college credit was given, shall be prima facie evidence of
4 successful completion of the clock hours of real estate instruction
5 for the postlicense requirement as required in Section 858-302 of
6 this title.

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

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

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

21 Section 858-306. A. Any person who desires to perform licensed
22 activities in Oklahoma but maintains a place of business outside of
23 Oklahoma may obtain an Oklahoma nonresident license by complying

1 with all applicable provisions of this Code including the successful
2 completion of the applicable Oklahoma state portion of the real
3 estate examination.

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

16 C. A broker who is duly licensed in another state and who has
17 not obtained an Oklahoma nonresident license may enter a cooperative
18 brokerage agreement with a licensed real estate broker in this
19 state. If, however, the broker desires to perform licensed
20 activities in this state, the broker must obtain an Oklahoma
21 nonresident license.

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

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

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

1 B. The continuing education courses required by this section
2 shall be satisfied by courses approved by the Commission and offered
3 by:

4 1. The Commission;

5 2. A technology center school;

6 3. A college or university;

7 4. A private school;

8 5. The Oklahoma Association of Realtors, the National
9 Association of Realtors, or any affiliate thereof;

10 6. The Oklahoma Bar Association, American Bar Association, or
11 any affiliate thereof; or

12 7. An education provider.

13 C. The Commission shall maintain a list of courses which are
14 approved by the Commission.

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

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

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

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

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

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

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

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

16 1. Making a materially false or fraudulent statement in an
17 application for a license;

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

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

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

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

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

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

15 8. Any other conduct which constitutes untrustworthy, improper,
16 fraudulent, or dishonest dealings;

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

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

22 11. Advertising or offering for sale, rent or lease any real
23 estate, or placing a sign on any real estate offering it for sale,

1 rent or lease without the consent of the owner or the owner's
2 authorized representative;

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

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

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

21 15. Unworthiness to act as a real estate licensee, whether of
22 the same or of a different character as specified in this section,
23 or because the real estate licensee has been convicted of, or

1 pleaded guilty or nolo contendere to, a crime involving moral
2 turpitude;

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

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

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

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

19 20. Advertising to buy, sell, rent, or exchange any real estate
20 without disclosing that the licensee is a real estate licensee;

21 21. Paying any part of a fee, commission, or other valuable
22 consideration received by a real estate licensee to any person not
23 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. AMENDATORY 59 O.S. 2001, Section 858-713, is**
7 **amended to read as follows:**

8 Section 858-713. A. An original certification as a state
9 certified general or a state certified residential or state licensed
10 appraiser shall not be issued to any person who does not possess the
11 equivalent of the minimum requirements of experience promulgated by
12 the Appraisal Qualifications Board of the Appraisal Foundation in
13 real property appraisal supported by adequate written reports or
14 file memoranda. Provided, there shall be no experience requirement
15 for a trainee appraiser. Provided, any state licensed appraiser who
16 becomes state licensed prior to July 1, 2001, shall not be required
17 to attain the minimum requirements of experience promulgated by the
18 Appraiser Qualifications Board to maintain certification as a state
19 licensed appraiser.

20 B. Each applicant for certification as a state certified
21 general or a state certified residential or state licensed appraiser
22 shall furnish under oath a detailed listing of the real estate
23 appraisal reports or file memoranda for each year for which

1 experience is claimed by the applicant. Upon request, the applicant
2 shall make available to the Board for examination, a sample of
3 appraisal reports which the applicant has prepared in the course of
4 that applicant's appraisal practice.

5 C. The Board shall provide to each applicant for certification
6 as a state certified general, a state certified residential or a
7 state licensed appraiser a sample format of an appraisal report that
8 contains the type of information the Board is looking for in its
9 review of such reports.

10 SECTION 7. This act shall become effective November 1, 2008.

11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-31-08 -
12 DO PASS, As Amended.