

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1598

By: Martin (Steve), Jackson and
Cooksey of the House

4 and

5 Jolley of the Senate

6
7
8 An Act relating to professions and occupations;
9 modifying the Oklahoma Real Estate License Code;
10 exempting licensees from certain duties; exempting
11 licensees from liability for certain information
regarding real estate; providing for codification;
and providing an effective date.

12 NOTE: Emergency failed

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

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15 "An Act relating to real property disclosures; making
16 size and area information of real property not
17 required to be investigated or verified by a
18 licensee; declaring nonwarranty of size or area
19 information provided; allowing third-party property
20 information to be disclosed and source identified;
21 defining term; limiting duties of real estate
22 licensee for certain information; granting certain
immunity from liability; allowing recovery of actual
damages for specific violation; prohibiting recovery
of exemplary or punitive damages; stating statute of
limitation to bring certain civil action; disallowing
invalidation of property transfer for certain failure
to comply; construing provisions to supplant and
abrogate all other rights, duties and remedies; and
providing for codification.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-515.1 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. In connection with any real estate transaction, the size or
5 area, in square footage or otherwise, of the subject property shall
6 not be required to be provided by any real estate licensee, and if
7 provided, shall not be considered any warranty or guarantee of the
8 size or area information, in square footage or otherwise, of the
9 subject property.

10 B. 1. If a real estate licensee provides any party to a real
11 estate transaction with third-party information concerning the size
12 or area, in square footage or otherwise, of the subject property
13 involved in the transaction, the licensee shall identify the source
14 of the information.

15 2. For the purposes of this subsection, "third-party
16 information" means:

- 17 a. an appraisal or any measurement information prepared
- 18 by a licensed appraiser,
- 19 b. a survey or developer's plan prepared by a licensed
- 20 surveyor,
- 21 c. a tax assessor's public record, or
- 22 d. a builder's plan used to construct or market the
- 23 property.

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1 C. A real estate licensee has no duty to the seller or
2 purchaser of real property to conduct an independent investigation
3 of the size or area, in square footage or otherwise, of a subject
4 property, or to independently verify the accuracy of any third-party
5 information as such term is defined in paragraph 2 of subsection B
6 of this section.

7 D. A real estate licensee who has complied with the
8 requirements of this section, as applicable, shall have no further
9 duties to the seller or purchaser of real property regarding
10 disclosed or undisclosed property size or area information, and
11 shall not be subject to liability to any party for any damages
12 sustained with regard to any conflicting measurements or opinions of
13 size or area, including exemplary or punitive damages.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 858-515.2 of Title 59, unless
16 there is created a duplication in numbering, reads as follows:

17 A. If a real estate licensee has provided any third-party
18 information, as defined in paragraph 2 of subsection B of Section 1
19 of this act, to any party to a real estate transaction concerning
20 size or area of the subject real property, a party to the real
21 estate transaction may recover damages from the licensee in a civil
22 action only when a licensee knowingly violates the duty to disclose
23 the source of the information, as required in paragraph 1 of
24 subsection B of Section 1 of this act.

1 B. The sole and exclusive civil remedy at common law or
2 otherwise for a violation of paragraph 1 of subsection B of Section
3 1 of this act by a real estate licensee shall be an action for
4 actual damages suffered by the party as a result of such violation
5 and shall not include exemplary or punitive damages.

6 C. For any real estate transaction commenced after the
7 effective date of this act, any civil action brought pursuant to
8 this section shall be commenced within two (2) years after the date
9 of transfer of the subject real property.

10 D. In any civil action brought pursuant to this section, the
11 prevailing party shall be allowed court costs and reasonable
12 attorney fees to be set by the court and collected as costs of the
13 action.

14 E. A transfer of a possessory interest in real property subject
15 to the provisions of this act may not be invalidated solely because
16 of the failure of any person to comply with the provisions of this
17 act.

18 F. The provisions of this act shall apply to, regulate and
19 determine the rights, duties, obligations and remedies, at common
20 law or otherwise, of the seller marketing his or her real property
21 for sale through a real estate licensee, and of the purchaser of
22 real property offered for sale through a real estate licensee, with
23 respect to disclosure of third-party information concerning the
24 subject real property's size or area, in square footage or

1 otherwise, and this act hereby supplants and abrogates all common
2 law liability, rights, duties, obligations and remedies of all
3 parties therefor."

4 Passed the Senate the 18th day of April, 2011.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2011.

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Presiding Officer of the House
of Representatives

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7 An Act relating to professions and occupations;
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10 licensees from liability for certain information
11 regarding real estate; providing for codification;
12 and providing an effective date.

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

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 858-515 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 A real estate licensee shall have no duty to independently
17 investigate or measure the dimension, size, or square footage of any
18 real estate or the improvements located on the real estate. A real
19 estate licensee shall have no duty to independently verify any
20 representation from any third-party source of the dimension, size,
21 or square footage of any real estate or the improvements located on
22 the real estate. A real estate licensee shall not be held liable
23 for the inaccuracy of any third-party representations so long as the
24 licensee discloses to the potential purchaser any different

1 representations actually known to the licensee from any of the
2 following sources:

3 1. An appraisal or measurement information prepared by a
4 licensed appraiser and provided by the seller of the property;

5 2. A survey prepared by a licensed surveyor and provided by the
6 seller of the property;

7 3. A tax assessor's public record; or

8 4. A builder's plan prepared by a licensed architect and
9 provided by the seller of the property.

10 SECTION 4. This act shall become effective November 1, 2011.

11 Passed the House of Representatives the 17th day of March, 2011.

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

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