

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 1598

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

6 and

7 Jolley of the Senate

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9 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

21 C. A real estate licensee has no duty to the seller or
22 purchaser of real property to conduct an independent investigation
23 of the size or area, in square footage or otherwise, of a subject
24 property, or to independently verify the accuracy of any third-party

1 information as such term is defined in paragraph 2 of subsection B
2 of this section.

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

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

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

21 B. The sole and exclusive civil remedy at common law or
22 otherwise for a violation of paragraph 1 of subsection B of Section
23 1 of this act by a real estate licensee shall be an action for
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1 actual damages suffered by the party as a result of such violation
2 and shall not include exemplary or punitive damages.

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

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

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

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

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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