

An Act

ENROLLED HOUSE
BILL NO. 1598

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

and

Jolley of the Senate

An Act relating to real property disclosures; making size and area information of real property not required to be investigated or verified by a licensee; declaring nonwarranty of size or area information provided; allowing third-party property information to be disclosed and source identified; defining term; limiting duties of real estate 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.

SUBJECT: Real property disclosures

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:

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

size or area information, in square footage or otherwise, of the subject property.

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

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

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

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

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

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

A. If a real estate licensee has provided any third-party information, as defined in paragraph 2 of subsection B of Section 1 of this act, to any party to a real estate transaction concerning

size or area of the subject real property, a party to the real estate transaction may recover damages from the licensee in a civil action only when a licensee knowingly violates the duty to disclose the source of the information, as required in paragraph 1 of subsection B of Section 1 of this act.

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

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

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

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

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

Passed the House of Representatives the 4th day of May, 2011.

Presiding Officer of the House
of Representatives

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

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this _____
day of _____, 20____,
at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma the _____ day of
_____, 20____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
_____ day of _____, 20____,
at _____ o'clock _____ M.

By: _____