HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 3345 By: Armes of the House

and

Griffin of the Senate

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 858-102 and 858-301, which relate to the Oklahoma Real Estate Code; modifying definition; defining term; modifying exception; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-102, is amended to read as follows:

Section 858-102. When used in this Code, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. The term "real estate" shall include any interest or estate in real property, within or without the State of Oklahoma, whether vested, contingent or future, corporeal or incorporeal, freehold or nonfreehold, and including leaseholds, options and unit ownership

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estates to include condominiums, time-shared ownerships and cooperatives; provided, however, that the term "real estate" shall not include oil, gas or other mineral interests, or oil, gas or other mineral leases; and provided further, that the provisions of this Code shall not apply to any oil, gas, or mineral interest or lease or the sale, purchase or exchange thereof;

2. The term "real estate broker" shall include any person, partnership, association or corporation, foreign or domestic, who for a fee, commission or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, lists, sells or offers to sell, buys or offers to buy, exchanges, rents or leases any real estate, <u>or engages in the property management of real estate for another,</u> or who negotiates or attempts to negotiate any such activity, or solicits listings of places for rent or lease, or solicits for prospective tenants, purchasers or sellers, or who advertises or holds himself out as engaged in such activities;

3. The term "broker associate" shall include any person who has qualified for a license as a broker and who is employed or engaged by, associated as an independent contractor with, or on behalf of, a broker to do or deal in any act, acts or transaction set out in the definition of a broker;

4. The term "real estate sales associate" shall include any person having a renewable license and employed or engaged by, or

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associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker;

5. "Provisional sales associate" shall include any person who has been licensed after June 30, 1993, employed or engaged by, or associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker and subject to an additional forty-five-clock-hour postlicensing educational requirement to be completed within the first twelve-month license term. However, the Oklahoma Real Estate Commission shall promulgate rules for those persons called into active military service for purposes of satisfying the postlicensing educational requirement. The license of a provisional sales associate shall be nonrenewable unless the postlicensing requirement is satisfied prior to the expiration date of the license. Further, the term sales associate and provisional sales associate shall be synonymous in meaning except where specific exceptions are addressed in the Oklahoma Real Estate License Code;

6. The term "successful completion" shall include prelicense, postlicense, and distance education courses in which an approved public or private school entity has examined the individual, to the satisfaction of the entity and standards as established by the

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Commission, in relation to the course material presented during the offering;

7. The term "renewable license" shall refer to a sales associate who is a holder of such license or to a provisional sales associate who has completed both the prelicense and postlicense educational requirements within the required time period as stated in the Code;

8. The term "nonrenewable license" shall refer to a provisional sales associate who is the holder of such license and who has not completed the postlicense educational requirement;

9. The term "surrendered license" shall refer to a real estate license which is surrendered, upon the request of the licensee, due to a pending investigation or disciplinary proceedings;

10. The term "canceled license" shall refer to a real estate license which is canceled, upon the request of the licensee and approval of the Commission, due to a personal reason or conflict;

11. "Licensee" shall include any person who performs any act, acts or transactions set out in the definition of a broker and licensed under the Oklahoma Real Estate License Code;

12. The word "Commission" shall mean the Oklahoma Real Estate Commission;

13. The word "person" shall include and mean every individual, partnership, association or corporation, foreign or domestic;

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14. Masculine words shall include the feminine and neuter, and the singular includes the plural; ~~and~~

15. The word "associate" shall mean a broker associate, sales associate or provisional sales associate; and

16. The term "property management" shall mean the act of management of real estate for another, including collection of rents and security deposits, accounting of fees received for another, advertising real estate for lease or rent, procuring prospective tenants or lessees, negotiating lease or rental terms, and executing lease, rental and property management agreements for a fee, commission or other valuable consideration.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-301, is amended to read as follows:

Section 858-301. It shall be unlawful for any person to act as a real estate licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Oklahoma Real Estate License Code. However, nothing in this section shall:

1. Prevent any person, partnership, trust, association or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation, from acquiring real estate for its own use, nor shall anything in this section prevent any person, partnership, trust, association or corporation, or the partners, officers or employees

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of any partnership, trustees or beneficiaries of any trust, association or corporation, as owner, lessor or lessee of real estate, from selling, renting, leasing, exchanging, engaging in property management of or offering to sell, rent, lease or exchange, any real estate so owned or leased, or from performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership or sales of such real estate and the investment therein;

2. Apply to persons acting as the attorney-in-fact for the owner of any real estate authorizing the final consummation by performance of any contract for the sale, lease or exchange of such real estate;

3. In any way prohibit any attorney-at-law from performing the duties of the attorney as such, nor shall this Code prohibit a receiver, trustee in bankruptcy, administrator, executor, or his or her attorney, from performing his or her duties, or any person from performing any acts under the order of any court, or acting as a trustee under the terms of any trust, will, agreement or deed of trust;

4. Apply to any person acting as the resident manager for the owner or an employee acting as the resident manager for a licensed real estate broker managing an apartment building, duplex, apartment complex or court, when such resident manager resides on the premises

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and is engaged in the leasing of property in connection with the employment of the resident manager;

5. Apply to any person who engages in such activity on behalf of a corporation or governmental body, to acquire easements, rights-of-way, leases, permits and licenses, including any and all amendments thereto, and other similar interests in real estate, for the purpose of, or facilities related to, transportation, communication services, cable lines, utilities, pipelines, or oil, gas, and petroleum products;

6. Apply to any person who engages in such activity in connection with the acquisition of real estate on behalf of an entity, public or private, which has the right to acquire the real estate by eminent domain;

7. Apply to any person who is a resident of an apartment building, duplex, or apartment complex or court, when the person receives a resident referral fee. As used in this paragraph, a "resident referral fee" means a nominal fee not to exceed One Hundred Dollars ($100.00), offered to a resident for the act of recommending the property for lease to a family member, friend, or coworker;

8. Apply to any person or entity managing a transient lodging facility. For purposes of this paragraph, "transient lodging facility" means a furnished room or furnished suite of rooms which

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is rented to a person on a daily basis, not as a principal residence, for a period less than thirty (30) days; or

9. Apply to employees of a licensed real estate broker who lease residential housing units only to eligible persons who qualify through a state or federal housing subsidized program to lease the property in an affordable housing development project. "Affordable housing development project" means a housing development of four or more units constructed for lease to specifically eligible persons as required by the particular federal or state housing program, including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Department Agriculture Rural Development, the U.S. Department of Treasury Internal Revenue Service, or the Oklahoma Housing Finance Agency.

SECTION 3. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL SERVICES, dated 02/13/2014 - DO PASS, As Coauthored.

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