

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 3345

By: Armes

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5
6 AS INTRODUCED

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

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

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

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

18 1. The term "real estate" shall include any interest or estate
19 in real property, within or without the State of Oklahoma, whether
20 vested, contingent or future, corporeal or incorporeal, freehold or
21 nonfreehold, and including leaseholds, options and unit ownership
22 estates to include condominiums, time-shared ownerships and
23 cooperatives; provided, however, that the term "real estate" shall
24 not include oil, gas or other mineral interests, or oil, gas or

1 other mineral leases; and provided further, that the provisions of
2 this Code shall not apply to any oil, gas, or mineral interest or
3 lease or the sale, purchase or exchange thereof;

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

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

20 4. The term "real estate sales associate" shall include any
21 person having a renewable license and employed or engaged by, or
22 associated as an independent contractor with, or on behalf of, a
23 real estate broker to do or deal in any act, acts or transactions
24 set out in the definition of a real estate broker;

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

17 6. The term "successful completion" shall include prelicense,
18 postlicense, and distance education courses in which an approved
19 public or private school entity has examined the individual, to the
20 satisfaction of the entity and standards as established by the
21 Commission, in relation to the course material presented during the
22 offering;

23 7. The term "renewable license" shall refer to a sales
24 associate who is a holder of such license or to a provisional sales

1 associate who has completed both the prelicense and postlicense
2 educational requirements within the required time period as stated
3 in the Code;

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

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

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

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

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

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

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

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

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

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

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

15 1. Prevent any person, partnership, trust, association or
16 corporation, or the partners, officers or employees of any
17 partnership, trustees or beneficiaries of any trust, association or
18 corporation, from acquiring real estate for its own use, nor shall
19 anything in this section prevent any person, partnership, trust,
20 association or corporation, or the partners, officers or employees
21 of any partnership, trustees or beneficiaries of any trust,
22 association or corporation, as owner, lessor or lessee of real
23 estate, from selling, renting, leasing, exchanging, engaging in
24 property management of or offering to sell, rent, lease or exchange,

1 any real estate so owned or leased, or from performing any acts with
2 respect to such real estate when such acts are performed in the
3 regular course of, or as an incident to, the management, ownership
4 or sales of such real estate and the investment therein;

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

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

16 4. Apply to any person acting as the resident manager for the
17 owner or an employee acting as the resident manager for a licensed
18 real estate broker managing an apartment building, duplex, apartment
19 complex or court, when such resident manager resides on the premises
20 and is engaged in the leasing of property in connection with the
21 employment of the resident manager;

22 5. Apply to any person who engages in such activity on behalf
23 of a corporation or governmental body, to acquire easements, rights-
24 of-way, leases, permits and licenses, including any and all

1 amendments thereto, and other similar interests in real estate, for
2 the purpose of, or facilities related to, transportation,
3 communication services, cable lines, utilities, pipelines, or oil,
4 gas, and petroleum products;

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

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

16 8. Apply to any person or entity managing a transient lodging
17 facility. For purposes of this paragraph, "transient lodging
18 facility" means a furnished room or furnished suite of rooms which
19 is rented to a person on a daily basis, not as a principal
20 residence, for a period less than thirty (30) days; or

21 9. Apply to employees of a licensed real estate broker who
22 lease residential housing units only to eligible persons who qualify
23 through a state or federal housing subsidized program to lease the
24 property in an affordable housing development project. "Affordable

1 housing development project" means a housing development of four or
2 more units constructed for lease to specifically eligible persons as
3 required by the particular federal or state housing program,
4 including, but not limited to, the U.S. Department of Housing and
5 Urban Development, the U.S. Department Agriculture Rural
6 Development, the U.S. Department of Treasury Internal Revenue
7 Service, or the Oklahoma Housing Finance Agency.

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

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10 54-2-9102 LRB 12/26/13

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