ENGROSSED SENATE
BILL NO. 379

By: Newberry and Shortey of the Senate

and

Brumbaugh of the House

An Act relating to real estate; creating the Real Estate Owner's Rights Act; providing short title; making certain matter of statewide concern; establishing certain rights of property owners; granting right for construction and repairs; requiring certain permits and inspections; construing requirement to hire licensed persons under certain condition; authorizing certain assistance to property owner without licensure; granting right for management, rental and leasing; authorizing delegation of certain functions without licensure; prohibiting disclosure of certain agreements; allowing certain services by certain persons relating to property management; providing exception to real estate licensure; amending 59 O.S. 2011, Sections 858-301, 1017 and 1692, which relate to real estate license exemption, plumbing and electrical licensures; providing exception to licensures of certain property owners; providing an exception to mechanical licensure; providing for codification; and providing an effective date.

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 858-1000 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Real Estate Owner's Rights Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-1001 of Title 59, unless there is created a duplication in numbering, reads as follows:

As a matter of statewide concern, an owner of real property in this state has the following rights:

A. The right to construct, install, and repair.

1. Notwithstanding any provision of law or municipal ordinance to the contrary, an owner of residential real property or farm property who resides in this state and whose real property is located in this state shall be authorized to, and have the absolute right to, personally perform any construction, installation, work or repairs to his or her property including, but not limited to, fencing, landscaping, telephone, plumbing, electrical, roofing, mechanical, carpentry, concrete, masonry or painting, without first obtaining licensure as may be required for such construction, installation, work or repair; provided, however, the owner shall be required to:

a. obtain all applicable state and local permits and inspections to satisfy the state and local building code requirements, if any,

b. obtain the services of a qualified professional or obtain applicable authority when working directly with, connecting to or disconnecting from any public

utility system, public service corporation system or any utility metering device or equipment, and

c. disclose the nature and extent of the construction, installation, work or repairs performed by the owner for purposes of the sale of such property, if licensure would have been required for such work.

2. Nothing in this subsection shall be construed to allow the owner of any residential real property or farm property to avoid the hire of a qualified licensed professional to perform any construction, installation, work or repairs to his or her property where a valid license is required by law or municipal ordinance should the work be performed by a person other than the actual owner of the property or by the owner's family members, relatives or employees without such persons being licensed.

3. For purposes of this subsection, an owner is authorized to, and shall have the absolute right to, be assisted by his or her family members, relatives or employees when performing construction, installation, work or repairs to his or her residential real property or farm property.

B. The right to manage, rent, lease, and sell.

1. An owner of residential real property or farm property who resides in this state and whose property is located in this state shall be authorized to, and have the absolute right to, personally manage, rent, and/or lease or sell his or her property without

obtaining a real estate license or using a licensed real estate broker, sales associate or property management company for such purposes, or paying any fee to or registering such property with a municipality.

2. Any owner of residential real property or farm property who resides in-state or out-of-state and whose property is located in this state may delegate, and shall have an absolute right to delegate, another qualified person to manage, rent, and/or lease his or her property without the owner or designated agent being required to obtain a real estate license or obtain the services of a licensed real estate broker, sales associate or property management company if exempt under paragraph 10 of Section 858-301 of Title 59 of the Oklahoma Statutes, or pay any fee to or register such property with a municipality.

3. Notwithstanding any provision of law or municipal ordinance to the contrary, an owner of residential real property or farm property, or the designated agent of such owner, shall not be required to disclose any rental, lease or property management agreement to a municipality as a condition of property management, rental or leasing by the property owner or his or her designated agent.

4. Nothing in this subsection shall be construed to prohibit an owner of residential real property or farm property from utilizing the services of a licensed real estate broker, sales associate or

property management company for any purpose or service relating to his or her property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-606 of Title 59, unless there is created a duplication in numbering, reads as follows:

Pursuant to the Real Estate Owner's Rights Act, an owner of residential real property or farm property shall not be required to obtain or hold a valid real estate broker license, sales associate license or be in the business of real property management to manage, rent, lease or sell his or her real property, and an owner's qualified designated agent shall be exempt from licensure as provided in paragraph 10 of Section 858-301 of Title 59 of the Oklahoma Statutes.

SECTION 4. 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 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, 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 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

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; or

10. Apply to any person acting as the designated agent for an individual owner of residential real property or farm property who is a family member, relative, employee or contractor of such owner and who is managing, renting, leasing, or offering to rent, lease or exchange the real estate so owned, or is 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 or ownership of such real estate and the investment therein; provided, however, the designated agent must work exclusively for owner-family members, owner-relatives or an owner-employer to be eligible for the license exemption.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 1017, is amended to read as follows:

Section 1017. The provisions of The Plumbing License Law of 1955 shall not apply to:

1. Minor repairs, consisting of repairing or replacing faucets or minor working parts of plumbing fixtures;

2. Farm buildings located outside any city or town unless such buildings are connected to a public water or sewer system;

3. Maintenance work for state institutions and school districts;

4. The installation, maintenance, repair, renovation of automatic sprinkler systems and related mechanical appurtenances beginning at a point where the pipe or piping system provides water used exclusively for these automatic sprinklers and their related appurtenances and to standpipes connected to automatic sprinkler systems;

5. The construction, installation, maintenance, repair, renovation, and/or removal of pipe or piping systems and related mechanical appurtenances including backflow preventers, appliances and/or equipment used in connection therewith, directly or indirectly within or without any building or structure, from a point or location in a source of potable water supply at which point or location there exists any backflow preventer, provided that ~~said~~ the pipe and/or piping systems are for:

a. heating, except radiant-floor heating systems as defined in subparagraph d of paragraph 9 of Section 1003 of this title,

b. cooling,

c. air conditioning,

d. refrigeration, or

e. boilers and other pressure vessels of whatsoever kind and character.

A "backflow preventer," as used herein, means any permanent mechanical device, or combination of permanent mechanical devices, of whatever material, which, after installation acts to prevent a reversal of the normal directional flow of potable water within the piping system in which it is installed, and shall include, but not be limited to, metal checkvalves and airgaps, either naturally or artificially created. Provided, further, that the exclusionary provisions of this paragraph shall apply only to and within governmental agencies, counties, cities and towns which now have or which hereafter may adopt separate laws relating to the licensing, registration and regulating of persons engaged, for business purposes, in any of the areas of trade hereinbefore specified in this paragraph; the exemptions herein being provided to apply only to these items specifically regulated by any such local laws and ordinances; and

6. An individual who performs plumbing work on ~~such individual's~~ residential or farm property ~~of residence~~ owned by the individual or an owner who performs plumbing work on his or her property with the assistance of his or her family members, relatives or employees as authorized by this act.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 1692, is amended to read as follows:

Section 1692. A. The provisions of the Electrical License Act shall not apply to:

1. Minor repairs, consisting of repairing or replacing outlets or minor working parts of electrical fixtures;

2. Maintenance work for state and federal institutions;

3. The construction, installation, maintenance, repair, and renovation by a public utility regulated by the Corporation Commission;

4. Public service corporations, telephone and telegraph companies, rural electric associations or municipal utilities;

5. The construction, installation, maintenance, repair, and renovation of telephone equipment or computer systems by a person, firm~~,~~ or corporation engaged in the telecommunications or information systems industry when such activities involve work exclusively for communication of data, voice~~,~~ or for other signaling purposes; except fire alarm systems, security systems, and

environmental control systems that are not an integral part of a telecommunications system; or

6. The installation, maintenance, repair or replacement of water supply pumps, provided such work is performed from the output side of a fused disconnect or breaker box.

B. Nothing in the Electrical License Act shall be construed to require:

1. Employment of a licensed electrical contractor, journeyman electrician or electrical apprentice except as required by local ordinances and resolutions;

2. Any regular employee of any firm or corporation to hold a license before doing any electrical work on the property of the firm or corporation whether or not the property is owned, leased or rented except as may be required by local ordinances and resolutions; or

3. An individual to hold a license before doing electrical work on his or her own property or residence ~~except as may be required by local ordinances and resolutions~~ or an owner who performs electrical work on his or her property or residence with the assistance of his or her family members, relatives or employees as authorized by this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.7a of Title 59, unless there is created a duplication in numbering, reads as follows:

The provisions of the Mechanical Licensing Act shall not apply to an individual who performs mechanical work on residential or farm property owned by such individual or an owner of property who performs mechanical work with the assistance of his or her family members, relatives or employees as authorized by the Real Estate Owner's Rights Act.

SECTION 8. This act shall become effective November 1, 2015.

Passed the Senate the 11th day of March, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House of Representatives