

An Act

ENROLLED SENATE
BILL NO. 266

By: Newberry of the Senate

and

Jordan and Echols of the
House

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 858-102, 858-303, as last amended by Section 1, Chapter 108, O.S.L. 2014, and 858-305 (59 O.S. Supp. 2016, Section 858-303), which relate to the Oklahoma Real Estate License Code; modifying definitions; modifying requirements for broker license; providing for broker associate license requirements; providing for registration of certain affiliate groups; stating purpose of registration; setting fee; providing for codification; and providing an effective date.

SUBJECT: Real estate licensing procedures

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 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, 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. "Broker" shall be limited to the license types of Broker Manager (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the Code;

3. The term "broker associate" shall include any person who has qualified for a license as a broker associate, and who is employed or engaged by, associated as an independent contractor with, or on behalf of, and with the permission of a broker to do or deal in perform 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 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~~ terms 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 Commission, in relation to the course material presented during the offering;

7. The term "renewable license" shall refer to a broker, broker associate or 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 within the required time period as stated in the Code;

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;

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.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-303, as last amended by Section 1, Chapter 108, O.S.L. 2014 (59 O.S. Supp. 2016, Section 858-303), is amended to read as follows:

Section 858-303. A. Any person Applicants for a broker license who hold a sales associate license or are not currently licensed shall meet the following requirements:

1. Be persons of good moral character, ~~who holds a renewable sales associate license and who shall have had two (2) years' experience, licensure within the previous five (5) years, ~~as a licensed real estate sales associate or provisional sales associate, or its equivalent, and who shall submit;~~~~

2. Submit to the Commission evidence of successful completion of ninety (90) clock hours or its equivalent as determined by the Commission of advanced real estate instruction in a course of study approved by the Commission, ~~which instruction shall be in addition to any instruction required for securing a license as a real estate sales associate, may apply to the Commission to take an examination for the purpose of securing a license as a real estate broker or broker associate and completion of the Broker in Charge course as defined in the Code.~~ The education required in this subsection shall only be valid for a period of three (3) years from the date the school certified successful completion of the course; thereafter, the applicant shall be required to successfully complete an additional ninety (90) clock hours or its equivalent in advanced real estate instruction;

3. Provide documentation verifying ten real estate transactions within the past five (5) years or the equivalent as determined by the Commission. For the purposes of this subsection, transaction

shall be defined in Section 858-351 of this title and shall be demonstrated on forms developed by the Commission; and

4. Apply to the Commission to take an examination for the purpose of securing a license as a broker.

B. Application shall be made upon forms prescribed by the Commission and shall be accompanied by ~~an examination fee~~ fees as provided for in this Code and all information and documents the Commission may require.

~~C. The applicant shall appear in person before the Commission for an examination which shall be in the form and shall inquire into the subjects which the Commission shall prescribe.~~

~~D. If it shall be determined that the applicant shall have has~~ passed the examination, received final approval of the application, and paid the appropriate ~~license fee~~ fees provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a broker ~~or broker~~ associate license.

D. Applicants for a broker license who hold a broker associate license shall meet the following requirements:

1. Be persons of good moral character who have had two (2) years' licensure within the previous five (5) years, or its equivalent;

2. Submit to the Commission evidence of successful completion of the Broker in Charge course as defined in the Code; and

3. Provide documentation verifying ten real estate transactions within the past five (5) years or the equivalent as determined by the Commission. For the purposes of this subsection, transaction shall be defined in Section 858-351 of this title and shall be demonstrated on forms developed by the Commission.

E. Application shall be made upon forms prescribed by the Commission and shall be accompanied by fees as provided for in this Code and all information and documents the Commission may require.

F. If the applicant has received final approval of the application, and paid the appropriate fee provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a broker license.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-303A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Applicants for a broker associate license shall meet the following requirements:

1. Be persons of good moral character who hold a renewable broker associate or sales associate license and who have had two (2) years' licensure within the previous five (5) years as a sales associate or provisional sales associate, or its equivalent;

2. Submit to the Commission evidence of successful completion of ninety (90) clock hours, or its equivalent as determined by the Commission, of advanced real estate instruction in a course of study approved by the Commission. The education required in this subsection shall only be valid for a period of three (3) years from the date the school certified successful completion of the course; thereafter, the applicant shall be required to successfully complete an additional ninety (90) clock hours or its equivalent in advanced real estate instruction; and

3. Apply to the Commission to take an examination for the purpose of securing a license as a broker associate.

B. Application shall be made upon forms prescribed by the Commission and shall be accompanied by fees as provided for in this Code and all information and documents the Commission may require.

C. The applicant shall appear in person for an examination which shall be prescribed by the Commission.

D. If the applicant has passed the examination, received final approval of the application, and paid the appropriate fees provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a broker associate license.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 858-305, is amended to read as follows:

Section 858-305. A. The Oklahoma Real Estate Commission may license as a ~~real estate~~ broker any association or corporation in which the managing member or managing officer holds a license as a real estate broker, as defined in this Code, and in which every member, officer or employee who acts as a real estate broker or real estate sales associate holds a license for that purpose, as defined in this Code. The Commission may license as a real estate broker any partnership in which each partner holds a license as a real estate broker, as defined in this Code.

B. The Oklahoma Real Estate Commission shall require the registration of all teams affiliated under a brokerage for the purpose of allowing the Commission to better align and track the teams within each brokerage. For the purposes of this section, a team shall mean any two or more licensees who work under the supervision of the same broker, work together on real estate transactions to provide brokerage services, represent themselves to the public as being part of a team, and are designated by a team name. Such registration shall occur before a team performs any licensed activities, and the broker shall notify the Commission when any team name is no longer being used. The Commission may charge a registration fee for each team not to exceed the administrative costs of the registration process.

C. Application for licenses and registrations described in this section shall be made on forms prescribed by the Commission and shall be issued pursuant to rules promulgated by the Commission.

SECTION 5. This act shall become effective November 1, 2017.

Passed the Senate the 4th day of May, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2017.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____