

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 266

By: Newberry of the Senate

and

Jordan and Echols of the
House

10 COMMITTEE SUBSTITUTE

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

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

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

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

4 1. The term "real estate" shall include any interest or estate
5 in real property, within or without the State of Oklahoma, whether
6 vested, contingent or future, corporeal or incorporeal, freehold or
7 nonfreehold, and including leaseholds, options and unit ownership
8 estates to include condominiums, time-shared ownerships and
9 cooperatives; provided, however, that the term "real estate" shall
10 not include oil, gas or other mineral interests, or oil, gas or
11 other mineral leases; and provided further, that the provisions of
12 this Code shall not apply to any oil, gas, or mineral interest or
13 lease or the sale, purchase or exchange thereof;

14 2. The term "~~real estate~~ broker" shall include any person,
15 partnership, association or corporation, foreign or domestic, who
16 for a fee, commission or other valuable consideration, or who with
17 the intention or expectation of receiving or collecting a fee,
18 commission or other valuable consideration, lists, sells or offers
19 to sell, buys or offers to buy, exchanges, rents or leases any real
20 estate, or who negotiates or attempts to negotiate any such
21 activity, or solicits listings of places for rent or lease, or
22 solicits for prospective tenants, purchasers or sellers, or who
23 advertises or holds himself out as engaged in such activities.

24 "Broker" shall be limited to the license types of Broker Manager

1 (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the
2 Code;

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

9 4. The term "real estate sales associate" shall include any
10 person having a renewable license and employed or engaged by, or
11 associated as an independent contractor with, or on behalf of, a
12 ~~real-estate~~ broker to do or deal in any act, acts or transactions
13 set out in the definition of a ~~real-estate~~ broker;

14 5. "Provisional sales associate" shall include any person who
15 has been licensed after June 30, 1993, employed or engaged by, or
16 associated as an independent contractor with, or on behalf of, a
17 ~~real-estate~~ broker to do or deal in any act, acts or transactions
18 set out in the definition of a ~~real-estate~~ broker and subject to an
19 additional forty-five-clock-hour postlicensing educational
20 requirement to be completed within the first twelve-month license
21 term. However, the Oklahoma Real Estate Commission shall promulgate
22 rules for those persons called into active military service for
23 purposes of satisfying the postlicensing educational requirement.
24 The license of a provisional sales associate shall be nonrenewable

1 unless the postlicensing requirement is satisfied prior to the
2 expiration date of the license. Further, the ~~term~~ terms sales
3 associate and provisional sales associate shall be synonymous in
4 meaning except where specific exceptions are addressed in the
5 Oklahoma Real Estate License Code;

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

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

17 8. The term "nonrenewable license" shall refer to a provisional
18 sales associate who is the holder of such license and who has not
19 completed the postlicense educational requirement within the
20 required time period as stated in the Code;

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

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

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

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

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

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

13 15. The word "associate" shall mean a broker associate, sales
14 associate or provisional sales associate.

15 SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-303, as
16 last amended by Section 1, Chapter 108, O.S.L. 2014 (59 O.S. Supp.
17 2016, Section 858-303), is amended to read as follows:

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

21 1. Be persons of good moral character, ~~who holds a renewable~~
22 ~~sales associate license and who shall have had two (2) years'~~
23 ~~experience,~~ licensure within the previous five (5) years, ~~as a~~
24

1 ~~licensed real estate sales associate or provisional sales associate,~~
2 ~~or its equivalent, and who shall submit;~~

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

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

22 4. Apply to the Commission to take an examination for the
23 purpose of securing a license as a broker.
24

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

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

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

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

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

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

21 3. Provide documentation verifying ten real estate transactions
22 within the past five (5) years or the equivalent as determined by
23 the Commission. For the purposes of this subsection, transaction
24

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

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

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

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

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

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

19 2. Submit to the Commission evidence of successful completion
20 of ninety (90) clock hours, or its equivalent as determined by the
21 Commission, of advanced real estate instruction in a course of study
22 approved by the Commission. The education required in this
23 subsection shall only be valid for a period of three (3) years from
24 the date the school certified successful completion of the course;

1 thereafter, the applicant shall be required to successfully complete
2 an additional ninety (90) clock hours or its equivalent in advanced
3 real estate instruction; and

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

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

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

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

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

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

1 in which each partner holds a license as a real estate broker, as
2 defined in this Code.

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

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

19 SECTION 5. This act shall become effective November 1, 2017.
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21 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated
22 04/12/2017 - DO PASS, As Amended and Coauthored.
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