

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   HOUSE BILL 1148

By: Osburn of the House

5   and

6   **Rosino** of the Senate

7  
8  
9                                       AS INTRODUCED

10           An Act relating to professions and occupations;  
11           creating the Predatory Real Estate Wholesaler  
12           Prohibition Act; amending 59 O.S. 2011, Section 858-  
13           301, which relates to the Oklahoma Real Estate  
          License Code; prohibiting certain contracts for sale  
          of real property; providing for noncodification; and  
          providing an effective date.

14  
15  
16   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17           SECTION 1.       NEW LAW       A new section of law not to be  
18   codified in the Oklahoma Statutes reads as follows:

19           This act shall be known and may be cited as the "Predatory Real  
20   Estate Wholesaler Prohibition Act".

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

23           Section 858-301. It shall be unlawful for any person to act as  
24   a real estate licensee, or to hold himself or herself out as such,

1 unless the person shall have been licensed to do so under the  
2 Oklahoma Real Estate License Code. For the purposes of this  
3 section, it shall be considered acting as a real estate licensee for  
4 any person, partnership, trust, association or corporation, or the  
5 partners, officers or employees of any partnership, trust,  
6 association or corporation, to publicly market for sale an equitable  
7 interest in a contract for the purchase of real property between a  
8 property owner and a prospective purchaser. However, nothing in this  
9 section shall:

10 1. Prevent any person, partnership, trust, association or  
11 corporation, or the partners, officers or employees of any  
12 partnership, trustees or beneficiaries of any trust, association or  
13 corporation, from acquiring real estate for its own use, nor shall  
14 anything in this section prevent any person, partnership, trust,  
15 association or corporation, or the partners, officers or employees  
16 of any partnership, trustees or beneficiaries of any trust,  
17 association or corporation, as owner, lessor or lessee of real  
18 estate, from selling, renting, leasing, exchanging, or offering to  
19 sell, rent, lease or exchange, any real estate so owned or leased,  
20 or from performing any acts with respect to such real estate when  
21 such acts are performed in the regular course of, or as an incident  
22 to, the management, ownership or sales of such real estate and the  
23 investment therein; however, it shall be prohibited for any person,  
24 partnership, officers or employees of any partnership, trustees or

1 beneficiaries of any trust, association or corporation to publicly  
2 market for sale an equitable interest in a contract for the purchase  
3 of real property between a property owner and a prospective  
4 purchaser without holding an active Oklahoma Real Estate License;

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

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, 2021.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/16/2021 - DO PASS,  
As Coauthored.