

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 1148

By: Osburn

AS INTRODUCED

An Act relating to professions and occupations;
creating the Predatory Real Estate Wholesaler
Prohibition Act; amending 59 O.S. 2011, Section 858-
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.

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

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

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

SECTION 2. 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. For the purposes of this
section, it shall be considered acting as a real estate licensee for

1 any person, partnership, trust, association or corporation, or the
2 partners, officers or employees of any partnership, trust,
3 association or corporation, to publicly market for sale an equitable
4 interest in a contract for the purchase of real property between a
5 property owner and a prospective purchaser. However, nothing in this
6 section shall:

7 1. Prevent any person, partnership, trust, association or
8 corporation, or the partners, officers or employees of any
9 partnership, trustees or beneficiaries of any trust, association or
10 corporation, from acquiring real estate for its own use, nor shall
11 anything in this section prevent any person, partnership, trust,
12 association or corporation, or the partners, officers or employees
13 of any partnership, trustees or beneficiaries of any trust,
14 association or corporation, as owner, lessor or lessee of real
15 estate, from selling, renting, leasing, exchanging, or offering to
16 sell, rent, lease or exchange, any real estate so owned or leased,
17 or from performing any acts with respect to such real estate when
18 such acts are performed in the regular course of, or as an incident
19 to, the management, ownership or sales of such real estate and the
20 investment therein; however, it shall be prohibited for any person,
21 partnership, officers or employees of any partnership, trustees or
22 beneficiaries of any trust, association or corporation to publicly
23 market for sale an equitable interest in a contract for the purchase
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1 of real property between a property owner and a prospective
2 purchaser without holding an active Oklahoma Real Estate License;

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

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

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

20 5. Apply to any person who engages in such activity on behalf
21 of a corporation or governmental body, to acquire easements, rights-
22 of-way, leases, permits and licenses, including any and all
23 amendments thereto, and other similar interests in real estate, for
24 the purpose of, or facilities related to, transportation,

1 communication services, cable lines, utilities, pipelines, or oil,
2 gas, and petroleum products;

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

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

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

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

1 required by the particular federal or state housing program,
2 including, but not limited to, the U.S. Department of Housing and
3 Urban Development, the U.S. Department Agriculture Rural
4 Development, the U.S. Department of Treasury Internal Revenue
5 Service, or the Oklahoma Housing Finance Agency.

6 SECTION 3. This act shall become effective November 1, 2021.

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8 58-1-7159 JL 12/30/20

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