

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3255

By: Osburn

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6 AS INTRODUCED

7 An Act relating to property; amending 60 O.S. 2021,
8 Section 852, which relates to owners associations;
9 requiring an owners association to adopt and comply
10 with a document retention policy; providing minimum
11 requirements; amending 59 O.S. 2021, Section 858-301,
12 which relates to exemptions for license requirements;
13 providing license requirement to engage in the
14 management of an owners association; and effective
15 date.

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

17 SECTION 1. AMENDATORY 60 O.S. 2021, Section 852, is
18 amended to read as follows:

19 Section 852. A. An "owners association" may be formed by the
20 owner or owners of real estate development for the purpose of:

21 1. providing management, maintenance, preservation and control
22 of commonly owned areas or any portion of or interest in them,
23 and/or

24 2. enforcing all mutual, common or reciprocal interests in or
-- restrictions upon all or portions of such separately owned lots,
parcels, or areas, or both.

1 B. An owners association shall be formed by the execution of an
2 instrument signed and acknowledged by all owners of the real
3 property included. Such instrument shall set forth in detail the
4 nature of the obligations of the members and shall be filed of
5 record in the office of the county clerk of the county wherein the
6 real property is located. The instrument shall include a
7 description of said real property.

8 C. The owners association shall have the power to enforce any
9 obligation in connection with membership in the owners association
10 by means of a levy or assessment which may become a lien upon the
11 separately or commonly owned lots, parcels or areas of defaulting
12 owners or members, which said lien may be foreclosed in any manner
13 provided by law for the foreclosure of mortgages or deeds of trust,
14 with or without a power of sale. In an action brought to enforce
15 any lien authorized pursuant to the provisions of this section, the
16 prevailing party shall be entitled to recover reasonable attorney's
17 fees to be fixed by the court, which shall be taxed as costs in the
18 action. No lien may be placed or mortgage foreclosed unless the
19 homeowner was informed in writing upon joining the owners
20 association of the existence and content of the owners association
21 restrictions and rules, and of the potential for financial liability
22 to the individual owner by joining said owners association.
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1 D. An owners association shall adopt and comply with a document
2 retention policy that includes, at a minimum, the following
3 requirements:

4 1. Real estate development instruments, declaration, covenants,
5 deed of dedication, owner's certificate, bylaws, articles of
6 incorporation, easements, and deeds, however designated or titled,
7 relating to the real estate development common areas and owners
8 association, and all amendments thereto shall be retained
9 permanently;

10 2. Corporate minutes, resolutions, meeting notices, and agendas
11 shall be retained permanently;

12 3. Account records of current owners association members shall
13 be retained for five (5) years;

14 4. Contracts with a term of one (1) year or more shall be
15 retained for five (5) years after the expiration of the contract
16 term;

17 5. Tax returns and audit records shall be retained for seven
18 (7) years; and

19 6. Financial books and records shall be retained for seven (7)
20 years.

21 SECTION 2. AMENDATORY 59 O.S. 2021, 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,
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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. For purposes of this
9 section, it shall be considered acting as a real estate licensee for
10 any person, partnership, trust, association or corporation, or the
11 partners, officers or employees of any partnership, trust,
12 association or corporation, to engage in the management of an owners
13 association. However, nothing in this section shall:

14 1. Prevent any person, partnership, trust, association or
15 corporation, or the partners, officers or employees of any
16 partnership, trustees or beneficiaries of any trust, association or
17 corporation, from acquiring real estate for its own use, nor shall
18 anything in this section prevent any person, partnership, trust,
19 association or corporation, or the partners, officers or employees
20 of any partnership, trustees or beneficiaries of any trust,
21 association or corporation, as owner, lessor or lessee of real
22 estate, from selling, renting, leasing, exchanging, or offering to
23 sell, rent, lease or exchange, any real estate so owned or leased,
24 or from performing any acts with respect to such real estate when

1 such acts are performed in the regular course of, or as an incident
2 to, the management, ownership or sales of such real estate and the
3 investment therein; however, it shall be prohibited for any person,
4 partnership, officers or employees of any partnership, trustees or
5 beneficiaries of any trust, association or corporation to publicly
6 market for sale an equitable interest in a contract for the purchase
7 of real property between a property owner and a prospective
8 purchaser without holding an active Oklahoma real estate license;

9 2. Apply to persons acting as the attorney-in-fact for the
10 owner of any real estate authorizing the final consummation by
11 performance of any contract for the sale, lease or exchange of such
12 real estate;

13 3. In any way prohibit any attorney-at-law from performing the
14 duties of the attorney as such, nor shall this Code prohibit a
15 receiver, trustee in bankruptcy, administrator, executor, or his or
16 her attorney, from performing his or her duties, or any person from
17 performing any acts under the order of any court, or acting as a
18 trustee under the terms of any trust, will, agreement or deed of
19 trust;

20 4. Apply to any person acting as the resident manager for the
21 owner or an employee acting as the resident manager for a licensed
22 real estate broker managing an apartment building, duplex, apartment
23 complex or court, when such resident manager resides on the premises
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1 and is engaged in the leasing of property in connection with the
2 employment of the resident manager;

3 5. Apply to any person who engages in such activity on behalf
4 of a corporation or governmental body, to acquire easements, rights-
5 of-way, leases, permits and licenses, including any and all
6 amendments thereto, and other similar interests in real estate, for
7 the purpose of, or facilities related to, transportation,
8 communication services, cable lines, utilities, pipelines, or oil,
9 gas, and petroleum products;

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

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

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

3 9. Apply to employees of a licensed real estate broker who
4 lease residential housing units only to eligible persons who qualify
5 through a state or federal housing subsidized program to lease the
6 property in an affordable housing development project. "Affordable
7 housing development project" means a housing development of four or
8 more units constructed for lease to specifically eligible persons as
9 required by the particular federal or state housing program,
10 including, but not limited to, the U.S. Department of Housing and
11 Urban Development, the U.S. Department Agriculture Rural
12 Development, the U.S. Department of Treasury Internal Revenue
13 Service, or the Oklahoma Housing Finance Agency.

14 SECTION 3. This act shall become effective November 1, 2024.

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