

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3255

By: Osburn

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8 COMMITTEE SUBSTITUTE

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

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

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

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

- 25 1. providing management, maintenance, preservation and control
- 26 of commonly owned areas or any portion of or interest in them,
- 27 and/or

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

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

11 C. The owners association shall have the power to enforce any
12 obligation in connection with membership in the owners association
13 by means of a levy or assessment which may become a lien upon the
14 separately or commonly owned lots, parcels or areas of defaulting
15 owners or members, which said lien may be foreclosed in any manner
16 provided by law for the foreclosure of mortgages or deeds of trust,
17 with or without a power of sale. In an action brought to enforce
18 any lien authorized pursuant to the provisions of this section, the
19 prevailing party shall be entitled to recover reasonable ~~attorney's~~
20 attorney fees to be fixed by the court, which shall be taxed as
21 costs in the action. No lien may be placed or mortgage foreclosed
22 unless the homeowner was informed in writing upon joining the owners
23 association of the existence and content of the owners association

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1 restrictions and rules, and of the potential for financial liability
2 to the individual owner by joining said owners association.

3 D. 1. An owners association shall adopt and comply with a
4 document retention policy that includes, at a minimum, the following
5 requirements:

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

13 b. corporate minutes, resolutions, meeting notices, and
14 agendas shall be retained permanently,

15 c. account records of current owners association members
16 shall be retained for five (5) years,

17 d. contracts with a term of one (1) year or more shall be
18 retained for five (5) years after the expiration of
19 the contract term,

20 e. tax returns and audit records shall be retained for
21 seven (7) years, and

22 f. financial books and records shall be retained for
23 seven (7) years.

1 2. An owners association, pursuant to an order from a court
2 that has jurisdiction over the owners association, shall provide any
3 requested documents that are required to be retained by an owners
4 association pursuant to this section to parties specified in the
5 court order.

6 SECTION 2. AMENDATORY 59 O.S. 2021, Section 858-301, is
7 amended to read as follows:

8 Section 858-301. It shall be unlawful for any person to act as
9 a real estate licensee, or to hold himself or herself out as such,
10 unless the person shall have been licensed to do so under the
11 Oklahoma Real Estate License Code. For the purposes of this
12 section, it shall be considered acting as a real estate licensee for
13 any person, partnership, trust, association or corporation, or the
14 partners, officers or employees of any partnership, trust,
15 association or corporation, to publicly market for sale an equitable
16 interest in a contract for the purchase of real property between a
17 property owner and a prospective purchaser. For the purposes of
18 this section, it shall be considered acting as a real estate
19 licensee for any person, partnership, trust, association or
20 corporation, or the partners, officers or employees of any
21 partnership, trust, association or corporation, to engage in the
22 management of an owners association. However, nothing in this
23 section shall:

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

20 2. Apply to persons acting as the attorney-in-fact for the
21 owner of any real estate authorizing the final consummation by
22 performance of any contract for the sale, lease or exchange of such
23 real estate;

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

8 4. Apply to any person acting as the resident manager for the
9 owner or an employee acting as the resident manager for a licensed
10 real estate broker managing an apartment building, duplex, apartment
11 complex or court, when such resident manager resides on the premises
12 and is engaged in the leasing of property in connection with the
13 employment of the resident manager;

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

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

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

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

13 9. Apply to employees of a licensed real estate broker who
14 lease residential housing units only to eligible persons who qualify
15 through a state or federal housing subsidized program to lease the
16 property in an affordable housing development project. "Affordable
17 housing development project" means a housing development of four or
18 more units constructed for lease to specifically eligible persons as
19 required by the particular federal or state housing program,
20 including, but not limited to, the U.S. Department of Housing and
21 Urban Development, the U.S. Department ~~Agriculture~~ of Agriculture's
22 Rural Development, the U.S. Department of Treasury Internal Revenue
23 Service, or the Oklahoma Housing Finance Agency;

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1 10. Apply to any person, partnership, trust, association or
2 corporation, or the partners, officers or employees of any
3 partnership, trust, association or corporation of a real estate
4 developer or declarant, or any successor declarant, in the
5 administering, operating, or managing of an owners association
6 within a real estate development, such developer or declarant
7 created or established, or in which such developer or declarant owns
8 at least one (1) parcel or additional lands intended for annexation
9 or addition to such real estate development;

10 11. Apply to any person holding themselves out as a third-party
11 owners association manager while holding, at minimum, a current
12 Association Management Specialist designation or substantially
13 similar current credential or license issued by the Community
14 Associations Institute; or

15 12. Apply to any person acting as a member of a board of
16 directors or officer of a self-managed owners association, provided
17 all such board of directors members and officers are likewise
18 mandatory members of that owners association.

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

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21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
22 02/15/2024 - DO PASS, As Amended.

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