

1 **SENATE FLOOR VERSION**

2 February 23, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 104

5 By: Newberry

6 An Act relating to real estate; creating the Real
7 Estate Owner's Rights Act; providing short title;
8 making certain matter of statewide concern;
9 establishing certain rights of property owners;
10 granting right for construction and repairs;
11 requiring certain permits and inspections; construing
12 requirement to hire licensed persons under certain
13 condition; authorizing certain assistance to property
14 owner without licensure; authorizing delegation of
15 certain functions without licensure; prohibiting
16 disclosure of certain agreements; allowing certain
17 services by certain persons relating to property
18 management; providing exception to real estate
19 licensure; amending 59 O.S. 2011, Sections 858-301,
20 1017 and 1692, which relate to real estate license
21 exemption, plumbing and electrical licensures;
22 providing exception to licensures of certain property
23 owners; providing an exception to mechanical
24 licensure; providing for codification; 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 to be codified
in the Oklahoma Statutes as Section 858-1000 of Title 59, unless
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Real Estate
Owner's Rights Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-1001 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 As a matter of statewide concern, an owner of real property in
5 this state has the following rights:

6 A. The right to construct, install, and repair.

7 1. Notwithstanding any provision of law or municipal ordinance
8 to the contrary, an owner of residential real property or farm
9 property who resides in this state and whose real property is
10 located in this state shall be authorized to, and have the absolute
11 right to, personally perform any construction, installation, work or
12 repairs to his or her property including, but not limited to,
13 fencing, landscaping, telephone, plumbing, electrical, roofing,
14 mechanical, carpentry, concrete, masonry, or painting, without first
15 obtaining licensure as may be required for such construction,
16 installation, work, or repair; provided, however, the owner shall be
17 required to:

18 a. obtain all applicable state and local permits and
19 inspections to satisfy the state and local building
20 code requirements, if any,

21 b. obtain the services of a qualified professional or
22 obtain applicable authority when working directly
23 with, connecting to or disconnecting from any public
24

1 utility system, public service corporation system or
2 any utility metering device or equipment, and

3 c. disclose the nature and extent of the construction,
4 installation, work, or repairs performed by the owner
5 for purposes of the sale of such property, if
6 licensure would have been required for such work.

7 2. Nothing in this subsection shall be construed to allow the
8 owner of any residential real property or farm property to avoid the
9 hire of a qualified licensed professional to perform any
10 construction, installation, work, or repairs to his or her property
11 where a valid license is required by law or municipal ordinance
12 should the work be performed by a person other than the actual owner
13 of the property or by the owner's family members, relatives, or
14 employees without such persons being licensed.

15 3. For purposes of this subsection, an owner is authorized to,
16 and shall have the absolute right to, be assisted by his or her
17 family members, relatives, or employees when performing
18 construction, installation, work, or repairs to his or her
19 residential real property or farm property.

20 B. The right to manage, rent, lease, and sell.

21 1. An owner of residential real property or farm property who
22 resides in this state and whose property is located in this state
23 shall be authorized to, and have the absolute right to, personally
24 manage, rent, and/or lease or sell his or her property without

1 obtaining a real estate license or using a licensed real estate
2 broker, sales associate or property management company for such
3 purposes, or paying any fee to, or registering such property with a
4 municipality.

5 2. Any owner of residential real property or farm property who
6 resides in-state or out-of-state and whose property is located in
7 this state may delegate, and shall have an absolute right to
8 delegate, another qualified person to manage, rent, and/or lease his
9 or her property without the owner or designated agent being required
10 to obtain a real estate license or obtain the services of a licensed
11 real estate broker, sales associate or property management company
12 if exempt under paragraph 10 of Section 858-301 of Title 59 of the
13 Oklahoma Statutes, or pay any fee to or register such property with
14 a municipality.

15 3. Notwithstanding any provision of law or municipal ordinance
16 to the contrary, an owner of residential real property or farm
17 property, or the designated agent of such owner, shall not be
18 required to disclose any rental, lease, or property management
19 agreement to a municipality as a condition of property management,
20 rental or leasing by the property owner, or his or her designated
21 agent.

22 4. Nothing in this subsection shall be construed to prohibit an
23 owner of residential real property or farm property from utilizing
24 the services of a licensed real estate broker, sales associate or

1 property management company for any purpose or service relating to
2 his or her property.

3 SECTION 3. AMENDATORY 59 O.S. 2011, Section 858-301, is
4 amended to read as follows:

5 Section 858-301. It shall be unlawful for any person to act as
6 a real estate licensee, or to hold himself or herself out as such,
7 unless the person shall have been licensed to do so under the
8 Oklahoma Real Estate License Code. However, nothing in this section
9 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;

24

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

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

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

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

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

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

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

17 9. Apply to employees of a licensed real estate broker who
18 lease residential housing units only to eligible persons who qualify
19 through a state or federal housing subsidized program to lease the
20 property in an affordable housing development project. "Affordable
21 housing development project" means a housing development of four or
22 more units constructed for lease to specifically eligible persons as
23 required by the particular federal or state housing program,
24 including, but not limited to, the U.S. Department of Housing and

1 Urban Development, the U.S. Department Agriculture Rural
2 Development, the U.S. Department of Treasury Internal Revenue
3 Service, or the Oklahoma Housing Finance Agency; or

4 10. Apply to any person acting as the designated agent for an
5 individual owner of residential real property or farm property who
6 is a family member, relative, employee, or contractor of such owner
7 and who is managing, renting, leasing, or offering to rent, lease,
8 or exchange the real estate so owned, or is performing any acts with
9 respect to such real estate when such acts are performed in the
10 regular course of, or as an incident to, the management or ownership
11 of such real estate and the investment therein; provided, however,
12 the designated agent must work exclusively for owner-family members,
13 owner-relatives, or an owner-employer to be eligible for the license
14 exemption.

15 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1017, is
16 amended to read as follows:

17 Section 1017. The provisions of The Plumbing License Law of
18 1955 shall not apply to:

19 1. Minor repairs, consisting of repairing or replacing faucets
20 or minor working parts of plumbing fixtures;

21 2. Farm buildings located outside any city or town unless such
22 buildings are connected to a public water or sewer system;

23 3. Maintenance work for state institutions and school
24 districts;

1 4. The installation, maintenance, repair, renovation of
2 automatic sprinkler systems and related mechanical appurtenances
3 beginning at a point where the pipe or piping system provides water
4 used exclusively for these automatic sprinklers and their related
5 appurtenances and to standpipes connected to automatic sprinkler
6 systems;

7 5. The construction, installation, maintenance, repair,
8 renovation, and/or removal of pipe or piping systems and related
9 mechanical appurtenances including backflow preventers, appliances
10 and/or equipment used in connection therewith, directly or
11 indirectly within or without any building or structure, from a point
12 or location in a source of potable water supply at which point or
13 location there exists any backflow preventer, provided that ~~said~~ the
14 pipe and/or piping systems are for:

- 15 a. heating, except radiant-floor heating systems as
16 defined in subparagraph d of paragraph 9 of Section
17 1003 of this title,
18 b. cooling,
19 c. air conditioning,
20 d. refrigeration, or
21 e. boilers and other pressure vessels of whatsoever kind
22 and character.

23 A "backflow preventer," as used herein, means any permanent
24 mechanical device, or combination of permanent mechanical devices,

1 of whatever material, which, after installation acts to prevent a
2 reversal of the normal directional flow of potable water within the
3 piping system in which it is installed, and shall include, but not
4 be limited to, metal checkvalves and airgaps, either naturally or
5 artificially created. Provided, further, that the exclusionary
6 provisions of this paragraph shall apply only to and within
7 governmental agencies, counties, cities and towns which now have or
8 which hereafter may adopt separate laws relating to the licensing,
9 registration and regulating of persons engaged, for business
10 purposes, in any of the areas of trade hereinbefore specified in
11 this paragraph; the exemptions herein being provided to apply only
12 to these items specifically regulated by any such local laws and
13 ordinances; and

14 6. An individual who performs plumbing work on ~~such~~
15 ~~individual's~~ residential or farm property of residence owned by the
16 individual or an owner who performs plumbing work on his or her
17 property with the assistance of his or her family members,
18 relatives, or employees as authorized by this act.

19 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1692, is
20 amended to read as follows:

21 Section 1692. A. The provisions of the Electrical License Act
22 shall not apply to:

23 1. Minor repairs, consisting of repairing or replacing outlets
24 or minor working parts of electrical fixtures;

1 2. Maintenance work for state and federal institutions;

2 3. The construction, installation, maintenance, repair, and
3 renovation by a public utility regulated by the Corporation
4 Commission;

5 4. Public service corporations, telephone ~~and telegraph~~
6 companies, rural electric associations or municipal utilities;

7 5. The construction, installation, maintenance, repair, and
8 renovation of telephone equipment or computer systems by a person,
9 firm, or corporation engaged in the telecommunications or
10 information systems industry when such activities involve work
11 exclusively for communication of data, voice, or for other signaling
12 purposes; except fire alarm systems, security systems, and
13 environmental control systems that are not an integral part of a
14 telecommunications system; or

15 6. The installation, maintenance, repair or replacement of
16 water supply pumps, provided such work is performed from the output
17 side of a fused disconnect or breaker box.

18 B. Nothing in the Electrical License Act shall be construed to
19 require:

20 1. Employment of a licensed electrical contractor, journeyman
21 electrician or electrical apprentice except as required by local
22 ordinances and resolutions;

23 2. Any regular employee of any firm or corporation to hold a
24 license before doing any electrical work on the property of the firm

1 or corporation whether or not the property is owned, leased or
2 rented except as may be required by local ordinances and
3 resolutions; or

4 3. An individual to hold a license before doing electrical work
5 on his or her own property or residence ~~except as may be required by~~
6 ~~local ordinances and resolutions~~ or an owner who performs electrical
7 work on his or her property or residence with the assistance of his
8 or her family members, relatives, or employees as authorized by this
9 act.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1850.7a of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 The provisions of the Mechanical Licensing Act shall not apply
14 to an individual who performs mechanical work on residential or farm
15 property owned by such individual or an owner of property who
16 performs mechanical work with the assistance of his or her family
17 members, relatives, or employees as authorized by the Real Estate
18 Owner's Rights Act.

19 SECTION 7. This act shall become effective November 1, 2017.

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
21 February 23, 2017 - DO PASS AS AMENDED
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