

1 ENGROSSED HOUSE AMENDMENTS

TO

2 ENGROSSED SENATE BILL NO. 1123

By: David of the Senate

3 and

4 Kirby of the House

5

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7 [ Oklahoma Real Estate Code - definitions - effective

8 date ]

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11 AUTHORS: Add the following Senate Coauthors: Remove Senator David  
12 as principal Senate Author and substitute Senator Silk as  
principal Senate Author and show Senator David as Coauthor

13 AMENDMENT NO. 1. Page 1, Line 9, restore the enacting clause

14 AMENDMENT NO. 2. Page 5, Line 7, after the language "shall not  
15 apply to" insert the following language

16 "the licensing exemptions provided in Section 858-  
301 of this title, including but not limited to,"

17 Page 5, Line 8, after the word "the" and before  
18 the word "owner" insert the word "property"

19 Page 5, Line 8, after the comma "," and before the  
20 word "or" delete the words "legal representative"  
and insert in lieu thereof the words "attorney-in-  
fact for the owner"

21 Page 5, line 12 1/2, insert a new SECTION 2 to  
22 read

23 "SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-301, is

24 amended to read as follows:

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

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

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;

24

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 of Agriculture Rural  
22 Development, the U.S. Department of Treasury Internal Revenue  
23 Service, or the Oklahoma Housing Finance Agency."

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renumber subsequent section  
and amend title to conform

Passed the House of Representatives the 6th day of April, 2016.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

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Presiding Officer of the Senate

ENGROSSED SENATE  
BILL NO. 1123

By: David of the Senate

and

Kirby of the House

[ Oklahoma Real Estate Code - definitions - effective  
date ]

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-102, is amended to read as follows:

Section 858-102. When used in this Code, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. ~~The term "real~~ "Real estate" ~~shall include~~ means any interest or estate in real property, within or without the State of Oklahoma, whether vested, contingent or future, corporeal or incorporeal, freehold or nonfreehold, ~~and~~ including leaseholds, options and unit ownership estates to include condominiums, time-shared ownerships and cooperatives; provided, however, that the term "real estate" shall not include oil, gas or other mineral interests, or oil, gas or other mineral leases; and provided further, that the provisions of this Code shall not apply to any oil, gas, or mineral interest or lease or the sale, purchase or exchange thereof;

1           2. ~~The term "real~~ "Real estate broker" ~~shall include~~ means any  
2 person, partnership, association or corporation, foreign or  
3 domestic, who for a fee, commission or other valuable consideration,  
4 or who with the intention or expectation of receiving or collecting  
5 a fee, commission or other valuable consideration, lists, sells or  
6 offers to sell, buys or offers to buy, exchanges, rents or leases  
7 any real estate, or who negotiates or attempts to negotiate any such  
8 activity, or solicits listings of places for rent or lease, or  
9 solicits for prospective tenants, purchasers or sellers, or who  
10 advertises or holds himself or herself out as engaged in such  
11 activities;

12           3. ~~The term "broker~~ "Broker associate" ~~shall include~~ means any  
13 person who has qualified for a license as a broker and who is  
14 employed or engaged by, associated as an independent contractor  
15 with, or on behalf of, a broker to do or deal in any act, acts or  
16 transaction set out in the definition of a broker;

17           4. ~~The term "real~~ "Real estate sales associate" ~~shall include~~  
18 means any person having a renewable license and employed or engaged  
19 by, or associated as an independent contractor with, or on behalf  
20 of, a real estate broker to do or deal in any act, acts or  
21 transactions set out in the definition of a real estate broker;

22           5. "Provisional sales associate" ~~shall include~~ means any person  
23 who has been licensed after June 30, 1993, employed or engaged by,  
24 or associated as an independent contractor with, or on behalf of, a

1 real estate broker to do or deal in any act, acts or transactions  
2 set out in the definition of a real estate broker and subject to an  
3 additional forty-five-clock-hour postlicensing educational  
4 requirement to be completed within the first twelve-month license  
5 term. However, the Oklahoma Real Estate Commission shall promulgate  
6 rules for those persons called into active military service for  
7 purposes of satisfying the postlicensing educational requirement.  
8 The license of a provisional sales associate shall be nonrenewable  
9 unless the postlicensing requirement is satisfied prior to the  
10 expiration date of the license. Further, the term sales associate  
11 and provisional sales associate shall be synonymous in meaning  
12 except where specific exceptions are addressed in the Oklahoma Real  
13 Estate License Code;

14 6. ~~The term "successful~~ "Successful completion" ~~shall include~~  
15 means prelicense, postlicense, and distance education courses in  
16 which an approved public or private school entity has examined the  
17 individual, to the satisfaction of the entity and standards as  
18 established by the Commission, in relation to the course material  
19 presented during the offering;

20 7. ~~The term "renewable~~ "Renewable license" ~~shall refer to~~ means  
21 the license of a sales associate who is a holder of such license or  
22 ~~to~~ a provisional sales associate who has completed both the  
23 prelicense and postlicense educational requirements within the  
24 required time period as stated in the Code;



1       8. ~~The term "nonrenewable~~ "Nonrenewable license" ~~shall refer to~~  
2 means a license of a provisional sales associate who is the holder  
3 of such license and who has not completed the postlicense  
4 educational requirement;

5       9. ~~The term "surrendered~~ "Surrendered license" ~~shall refer to~~  
6 means a real estate license which is surrendered, upon the request  
7 of the licensee, due to a pending investigation or disciplinary  
8 proceedings;

9       10. ~~The term "canceled~~ "Cancelled license" ~~shall refer to~~ means  
10 a real estate license which is canceled, upon the request of the  
11 licensee and approval of the Commission, due to a personal reason or  
12 conflict;

13       11. "Licensee" ~~shall include~~ means any person who performs any  
14 act, acts or transactions set out in the definition of a broker and  
15 who is licensed under the Oklahoma Real Estate License Code;

16       12. ~~The word "Commission"~~ ~~shall mean~~ means the Oklahoma Real  
17 Estate Commission;

18       13. ~~The word "person"~~ ~~shall include and mean~~ "Person means  
19 every individual, partnership, association or corporation, foreign  
20 or domestic;

21       14. ~~Masculine words shall include the feminine and neuter, and~~  
22 ~~the singular includes the plural; and~~

23       15. ~~The word "associate"~~ ~~shall mean~~ "Associate" means a broker  
24 associate, sales associate or provisional sales associate; and

1        15. "Property management" means the act of management of real  
2 estate for another, including collection of rents and security  
3 deposits, accounting of fees received for another, advertising real  
4 estate for lease or rent, procuring prospective tenants or lessees,  
5 negotiating lease or rental terms, and executing lease, rental and  
6 property management agreements for a fee, commission or other  
7 valuable consideration; however, this definition shall not apply to  
8 the owner, legal representative or employee of the owner of real  
9 estate.

10        For purposes of these definitions and this Code, masculine words  
11 shall include the feminine and neuter, and the singular includes the  
12 plural.

13        SECTION 2. This act shall become effective November 1, 2016.

14        Passed the Senate the 9th day of March, 2016.

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\_\_\_\_\_  
Presiding Officer of the Senate

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18        Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
19 2016.

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Presiding Officer of the House  
of Representatives

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