

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 266 By: Newberry of the Senate
3 and
4 Echols of the House
5

6
7 An Act relating to Oklahoma Real Estate Commission;
8 amending 59 O.S. 2011, Sections 858-201, as amended
9 by Section 1, Chapter 296, O.S.L. 2013 and 858-305
10 (59 O.S. Supp. 2016, Section 858-201), which relate
11 to re-creation of the Oklahoma Real Estate Commission
and licenses; changing Sunset Law date to re-create
the Oklahoma Real Estate Commission; providing for
registration of certain affiliate groups; stating
purpose of registration; setting fee; and providing
an effective date.

12
13 AUTHORS: Remove Echols as principal House author and substitute
14 Jordan as principal House author

15 Add Representative Echols as coauthor

16 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
17 and insert

18 "An Act relating to professions and occupations;
19 amending 59 O.S. 2011, Sections 858-102, 858-303, as
20 last amended by Section 1, Chapter 108, O.S.L. 2014,
21 and 858-305 (59 O.S. Supp. 2016, Section 858-303),
22 which relate to the Oklahoma Real Estate License
23 Code; modifying definitions; modifying requirements
for broker license; providing for broker associate
license requirements; providing for registration of
certain affiliate groups; stating purpose of
registration; setting fee; providing for
codification; and providing an effective date.

24

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

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

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

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

17 2. The term "~~real estate~~ broker" shall include any person,
18 partnership, association or corporation, foreign or domestic, who
19 for a fee, commission or other valuable consideration, or who with
20 the intention or expectation of receiving or collecting a fee,
21 commission or other valuable consideration, lists, sells or offers
22 to sell, buys or offers to buy, exchanges, rents or leases any real
23 estate, or who negotiates or attempts to negotiate any such
24 activity, or solicits listings of places for rent or lease, or

1 solicits for prospective tenants, purchasers or sellers, or who
2 advertises or holds himself out as engaged in such activities.
3 "Broker" shall be limited to the license types of Broker Manager
4 (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the
5 Code;

6 3. The term "broker associate" shall include any person who has
7 qualified for a license as a broker associate, and who is employed
8 or engaged by, associated as an independent contractor with, or on
9 behalf of, and with the permission of a broker to do or deal in
10 perform any act, acts or transaction set out in the definition of a
11 broker;

12 4. The term "real estate sales associate" shall include any
13 person having a renewable license and employed or engaged by, or
14 associated as an independent contractor with, or on behalf of, a
15 ~~real estate~~ broker to do or deal in any act, acts or transactions
16 set out in the definition of a ~~real estate~~ broker;

17 5. "Provisional sales associate" shall include any person who
18 has been licensed after June 30, 1993, employed or engaged by, or
19 associated as an independent contractor with, or on behalf of, a
20 ~~real estate~~ broker to do or deal in any act, acts or transactions
21 set out in the definition of a ~~real estate~~ broker and subject to an
22 additional forty-five-clock-hour postlicensing educational
23 requirement to be completed within the first twelve-month license
24 term. However, the Oklahoma Real Estate Commission shall promulgate

1 rules for those persons called into active military service for
2 purposes of satisfying the postlicensing educational requirement.
3 The license of a provisional sales associate shall be nonrenewable
4 unless the postlicensing requirement is satisfied prior to the
5 expiration date of the license. Further, the ~~term~~ terms sales
6 associate and provisional sales associate shall be synonymous in
7 meaning except where specific exceptions are addressed in the
8 Oklahoma Real Estate License Code;

9 6. The term "successful completion" shall include prelicense,
10 postlicense, and distance education courses in which an approved
11 public or private school entity has examined the individual, to the
12 satisfaction of the entity and standards as established by the
13 Commission, in relation to the course material presented during the
14 offering;

15 7. The term "renewable license" shall refer to a broker, broker
16 associate or sales associate who is a holder of such license or to a
17 provisional sales associate who has completed ~~both~~ the ~~prelicense~~
18 ~~and postlicense~~ educational requirements within the required time
19 period as stated in the Code;

20 8. The term "nonrenewable license" shall refer to a provisional
21 sales associate who is the holder of such license and who has not
22 completed the postlicense educational requirement within the
23 required time period as stated in the Code;

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1 9. The term "surrendered license" shall refer to a real estate
2 license which is surrendered, upon the request of the licensee, due
3 to a pending investigation or disciplinary proceedings;

4 10. The term "canceled license" shall refer to a real estate
5 license which is canceled, upon the request of the licensee and
6 approval of the Commission, due to a personal reason or conflict;

7 11. "Licensee" shall include any person who performs any act,
8 acts or transactions set out in the definition of a broker and
9 licensed under the Oklahoma Real Estate License Code;

10 12. The word "Commission" shall mean the Oklahoma Real Estate
11 Commission;

12 13. The word "person" shall include and mean every individual,
13 partnership, association or corporation, foreign or domestic;

14 14. Masculine words shall include the feminine and neuter, and
15 the singular includes the plural; and

16 15. The word "associate" shall mean a broker associate, sales
17 associate or provisional sales associate.

18 SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-303, as
19 last amended by Section 1, Chapter 108, O.S.L. 2014 (59 O.S. Supp.
20 2016, Section 858-303), is amended to read as follows:

21 Section 858-303. A. Any person Applicants for a broker license
22 who hold a sales associate license or are not currently licensed
23 shall meet the following requirements:
24

1 1. Be persons of good moral character, ~~who holds a renewable~~
2 ~~sales associate license and who shall have had two (2) years'~~
3 ~~experience,~~ licensure within the previous five (5) years, ~~as a~~
4 ~~licensed real estate sales associate or provisional sales associate,~~
5 ~~or its equivalent,~~ and who shall submit;

6 2. Submit to the Commission evidence of successful completion
7 of ninety (90) clock hours or its equivalent as determined by the
8 Commission of advanced real estate instruction in a course of study
9 approved by the Commission, ~~which instruction shall be in addition~~
10 ~~to any instruction required for securing a license as a real estate~~
11 ~~sales associate, may apply to the Commission to take an examination~~
12 ~~for the purpose of securing a license as a real estate broker or~~
13 ~~broker associate~~ and completion of the Broker in Charge course as
14 defined in the Code. The education required in this subsection
15 shall only be valid for a period of three (3) years from the date
16 the school certified successful completion of the course;
17 thereafter, the applicant shall be required to successfully complete
18 an additional ninety (90) clock hours or its equivalent in advanced
19 real estate instruction;

20 3. Provide documentation verifying ten real estate transactions
21 within the past five (5) years or the equivalent as determined by
22 the Commission. For the purposes of this subsection, transaction
23 shall be defined in Section 858-351 of this title and shall be
24 demonstrated on forms developed by the Commission; and

1 4. Apply to the Commission to take an examination for the
2 purpose of securing a license as a broker.

3 B. Application shall be made upon forms prescribed by the
4 Commission and shall be accompanied by ~~an examination fee~~ fees as
5 provided for in this Code and all information and documents the
6 Commission may require.

7 ~~C. The applicant shall appear in person before the Commission~~
8 ~~for an examination which shall be in the form and shall inquire into~~
9 ~~the subjects which the Commission shall prescribe.~~

10 ~~D. If it shall be determined that the applicant shall have~~ has
11 passed the examination, received final approval of the application,
12 and paid the appropriate ~~license fee~~ fees provided for in this Code
13 along with the Oklahoma Real Estate Education and Recovery Fund fee,
14 the Commission shall issue to the applicant a broker ~~or broker~~
15 associate license.

16 D. Applicants for a broker license who hold a broker associate
17 license shall meet the following requirements:

18 1. Be persons of goodmoral character who have had two (2)
19 years' licensure within the previous five (5) years, or its
20 equivalent;

21 2. Submit to the Commission evidence of successful completion
22 of the Broker in Charge course as defined in the Code; and

23 3. Provide documentation verifying ten real estate transactions
24 within the past five (5) years or the equivalent as determined by

1 the Commission. For the purposes of this subsection, transaction
2 shall be defined in Section 858-351 of this title and shall be
3 demonstrated on forms developed by the Commission.

4 E. Application shall be made upon forms prescribed by the
5 Commission and shall be accompanied by fees as provided for in this
6 Code and all information and documents the Commission may require.

7 F. If the applicant has received final approval of the
8 application, and paid the appropriate fee provided for in this Code
9 along with the Oklahoma Real Estate Education and Recovery Fund fee,
10 the Commission shall issue to the applicant a broker license.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858-303A of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Applicants for a broker associate license shall meet the
15 following requirements:

16 1. Be persons of good moral character who hold a renewable
17 broker associate or sales associate license and who have had two (2)
18 years' licensure within the previous five (5) years as a sales
19 associate or provisional sales associate, or its equivalent;

20 2. Submit to the Commission evidence of successful completion
21 of ninety (90) clock hours, or its equivalent as determined by the
22 Commission, of advanced real estate instruction in a course of study
23 approved by the Commission. The education required in this
24 subsection shall only be valid for a period of three (3) years from

1 the date the school certified successful completion of the course;
2 thereafter, the applicant shall be required to successfully complete
3 an additional ninety (90) clock hours or its equivalent in advanced
4 real estate instruction; and

5 3. Apply to the Commission to take an examination for the
6 purpose of securing a license as a broker associate.

7 B. Application shall be made upon forms prescribed by the
8 Commission and shall be accompanied by fees as provided for in this
9 Code and all information and documents the Commission may require.

10 C. The applicant shall appear in person for an examination
11 which shall be prescribed by the Commission.

12 D. If the applicant has passed the examination, received final
13 approval of the application, and paid the appropriate fees provided
14 for in this Code along with the Oklahoma Real Estate Education and
15 Recovery Fund fee, the Commission shall issue to the applicant a
16 broker associate license.

17 SECTION 4. AMENDATORY 59 O.S. 2011, Section 858-305, is
18 amended to read as follows:

19 Section 858-305. A. The Oklahoma Real Estate Commission may
20 license as a ~~real-estate~~ broker any association or corporation in
21 which the managing member or managing officer holds a license as a
22 real estate broker, as defined in this Code, and in which every
23 member, officer or employee who acts as a real estate broker or real
24 estate sales associate holds a license for that purpose, as defined

1 in this Code. The Commission may license as a real estate broker
2 any partnership in which each partner holds a license as a real
3 estate broker, as defined in this Code.

4 B. The Oklahoma Real Estate Commission shall require the
5 registration of all teams affiliated under a brokerage for the
6 purpose of allowing the Commission to better align and track the
7 teams within each brokerage. For the purposes of this section, a
8 team shall mean any two or more licensees who work under the
9 supervision of the same broker, work together on real estate
10 transactions to provide brokerage services, represent themselves to
11 the public as being part of a team, and are designated by a team
12 name. Such registration shall occur before a team performs any
13 licensed activities, and the broker shall notify the Commission when
14 any team name is no longer being used. The Commission may charge a
15 registration fee for each team not to exceed the administrative
16 costs of the registration process.

17 C. Application for licenses and registrations described in this
18 section shall be made on forms prescribed by the Commission and
19 shall be issued pursuant to rules promulgated by the Commission.

20 SECTION 5. This act shall become effective November 1, 2017."
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1 ENGROSSED SENATE
2 BILL NO. 266

By: Newberry of the Senate

3 and

4 Echols of the House

5
6 An Act relating to Oklahoma Real Estate Commission;
7 amending 59 O.S. 2011, Sections 858-201, as amended
8 by Section 1, Chapter 296, O.S.L. 2013 and 858-305
9 (59 O.S. Supp. 2016, Section 858-201), which relate
10 to re-creation of the Oklahoma Real Estate Commission
11 and licenses; changing Sunset Law date to re-create
12 the Oklahoma Real Estate Commission; providing for
13 registration of certain affiliate groups; stating
14 purpose of registration; setting fee; and providing
15 an effective date.

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

17 SECTION 6. AMENDATORY 59 O.S. 2011, Section 858-201, as
18 amended by Section 1, Chapter 296, O.S.L. 2013 (59 O.S. Supp. 2016,
19 Section 858-201), is amended to read as follows:

20 Section 858-201. A. There is hereby re-created, to continue
21 until ~~July 1, 2017~~ July 1, 2021, in accordance with the provisions
22 of the Oklahoma Sunset Law, the Oklahoma Real Estate Commission,
23 which shall consist of seven (7) members. The Commission shall be
24 the sole governmental entity, state, county or municipal, which
shall have the authority to regulate and issue real estate licenses
in the State of Oklahoma.

1 B. All members of the Commission shall be citizens of the
2 United States and shall have been residents of the State of Oklahoma
3 for at least three (3) years prior to their appointment.

4 C. Five members shall be licensed real estate brokers and shall
5 have had at least five (5) years' active experience as real estate
6 brokers prior to their appointment and be engaged full time in the
7 real estate brokerage business. One member shall be a lay person
8 not in the real estate business, and one member shall be an active
9 representative of a school of real estate located within the State
10 of Oklahoma and approved by the Oklahoma Real Estate Commission.

11 D. No more than two members shall be appointed from the same
12 congressional district according to the latest congressional
13 redistricting act. However, when congressional districts are
14 redrawn, each member appointed prior to July 1 of the year in which
15 such modification becomes effective shall complete the current term
16 of office and appointments made after July 1 of the year in which
17 such modification becomes effective shall be based on the redrawn
18 districts. No appointments may be made after July 1 of the year in
19 which such modification becomes effective if such appointment would
20 result in more than two members serving from the same modified
21 district.

22 SECTION 7. AMENDATORY 59 O.S. 2011, Section 858-305, is
23 amended to read as follows:
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1 Section 858-305. A. The Oklahoma Real Estate Commission may
2 license as a real estate broker any association or corporation in
3 which the managing member or managing officer holds a license as a
4 real estate broker, as defined in this Code, and in which every
5 member, officer or employee who acts as a real estate broker or real
6 estate sales associate holds a license for that purpose, as defined
7 in this Code. The Commission may license as a real estate broker
8 any partnership in which each partner holds a license as a real
9 estate broker, as defined in this Code.

10 B. The Oklahoma Real Estate Commission shall require the
11 registration of all associate groups affiliated under the same
12 brokerage for the purpose of allowing the Commission to better align
13 and track the affiliated groups within each brokerage. The
14 Commission may charge a registration fee not to exceed the
15 administrative cost of the registration process for the associate
16 groups affiliated with the brokerage.

17 C. Application for licenses and registrations described in this
18 section shall be made on forms prescribed by the Commission and
19 shall be issued pursuant to rules promulgated by the Commission.

20 SECTION 8. This act shall become effective November 1, 2017.

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1 Passed the Senate the 20th day of March, 2017.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2017.

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8 _____
9 Presiding Officer of the House
10 of Representatives