

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 266

By: Newberry of the Senate

and

Jordan and Echols of the  
House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

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

14 2. The term "~~real estate~~ broker" shall include any person,  
15 partnership, association or corporation, foreign or domestic, who  
16 for a fee, commission or other valuable consideration, or who with  
17 the intention or expectation of receiving or collecting a fee,  
18 commission or other valuable consideration, lists, sells or offers  
19 to sell, buys or offers to buy, exchanges, rents or leases any real  
20 estate, or who negotiates or attempts to negotiate any such  
21 activity, or solicits listings of places for rent or lease, or  
22 solicits for prospective tenants, purchasers or sellers, or who  
23 advertises or holds himself out as engaged in such activities.

24 "Broker" shall be limited to the license types of Broker Manager

1 (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the  
2 Code;

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

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

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

1 unless the postlicensing requirement is satisfied prior to the  
2 expiration date of the license. Further, the ~~term~~ terms sales  
3 associate and provisional sales associate shall be synonymous in  
4 meaning except where specific exceptions are addressed in the  
5 Oklahoma Real Estate License Code;

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

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

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

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

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

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

7        12. The word "Commission" shall mean the Oklahoma Real Estate  
8 Commission;

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

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

13       15. The word "associate" shall mean a broker associate, sales  
14 associate or provisional sales associate.

15       SECTION 2.        AMENDATORY        59 O.S. 2011, Section 858-303, as  
16 last amended by Section 1, Chapter 108, O.S.L. 2014 (59 O.S. Supp.  
17 2016, Section 858-303), is amended to read as follows:

18       Section 858-303. A. ~~Any person~~ Applicants for a broker license  
19 who hold a sales associate license or are not currently licensed  
20 shall meet the following requirements:

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

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

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

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

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

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

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

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

16 1. Be persons of good moral character who have had two (2)  
17 years' licensure within the previous five (5) years, or its  
18 equivalent;

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

21 3. Provide documentation verifying ten real estate transactions  
22 within the past five (5) years or the equivalent as determined by  
23 the Commission. For the purposes of this subsection, transaction  
24

1 shall be defined in Section 858-351 of this title and shall be  
2 demonstrated on forms developed by the Commission.

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

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

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

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

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

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



1 thereafter, the applicant shall be required to successfully complete  
2 an additional ninety (90) clock hours or its equivalent in advanced  
3 real estate instruction; and

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

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

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

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

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

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

1 in which each partner holds a license as a real estate broker, as  
2 defined in this Code.

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

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

19 SECTION 5. This act shall become effective November 1, 2017.

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21 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated  
22 04/12/2017 - DO PASS, As Amended and Coauthored.

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