

1 **SENATE FLOOR VERSION**

2 February 21, 2019

3 SENATE BILL NO. 737

By: Leewright

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5
6 An Act relating to real estate appraisers; amending
7 18 O.S. 2011, Sections 803, as amended by Section 1,
8 Chapter 42, O.S.L. 2012, and 819 (18 O.S. Supp. 2018,
9 Section 803), which relate to the Professional Entity
Act; modifying definition; conforming language;
updating statutory language; updating statutory
references; and providing an effective date.

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

13 SECTION 1. AMENDATORY 18 O.S. 2011, Section 803, as
14 amended by Section 1, Chapter 42, O.S.L. 2012 (18 O.S. Supp. 2018,
15 Section 803), is amended to read as follows:

16 Section 803. A. As used in the Professional Entity Act, unless
17 the context clearly indicates that a different meaning is intended:

18 1. "Associated act" means the Oklahoma General Corporation Act,
19 in the case of a corporation; the Oklahoma Revised Uniform Limited
20 Partnership Act, in the case of a limited partnership; or the
21 Oklahoma Limited Liability Company Act, in the case of a limited
22 liability company;

1 2. "Interest" means a share of stock in a corporation, a
2 partnership interest in a limited partnership or a membership
3 interest in a limited liability company;

4 3. "Owner" means a shareholder in the case of a corporation, a
5 general or limited partner in the case of a limited partnership or a
6 member in the case of a limited liability company;

7 4. "Manager" means a director or officer in the case of a
8 corporation, a general partner in the case of a limited partnership
9 or a manager in the case of a limited liability company;

10 5. "Professional entity" means a domestic corporation, limited
11 partnership or limited liability company formed for the purpose of
12 rendering professional service;

13 6. "Professional service" means the personal service rendered
14 by:

15 a. a physician, surgeon or doctor of medicine pursuant to
16 a license under Sections 481 through 524 of Title 59
17 of the Oklahoma Statutes, and any subsequent laws
18 regulating the practice of medicine,

19 b. an osteopathic physician or surgeon pursuant to a
20 license under Sections 620 through 645 of Title 59 of
21 the Oklahoma Statutes, and any subsequent laws
22 regulating the practice of osteopathy,

23 c. a chiropractic physician pursuant to a license under
24 Sections 161.1 through 161.20 of Title 59 of the

1 Oklahoma Statutes, and any subsequent laws regulating
2 the practice of chiropractic,

3 d. a podiatric physician pursuant to a license under
4 Sections 135.1 through 160.2 of Title 59 of the
5 Oklahoma Statutes, and any subsequent laws regulating
6 the practice of podiatric medicine,

7 e. an optometrist pursuant to a license under Sections
8 581 through 606 of Title 59 of the Oklahoma Statutes,
9 and any subsequent laws regulating the practice of
10 optometry,

11 f. a veterinarian pursuant to a license under Sections
12 698.1 through 698.30b of Title 59 of the Oklahoma
13 Statutes, and any subsequent laws regulating the
14 practice of veterinary medicine,

15 g. an architect pursuant to a license under Sections 46.1
16 through 46.41 of Title 59 of the Oklahoma Statutes,
17 and any subsequent laws regulating the practice of
18 architecture,

19 h. an attorney pursuant to his authority to practice law
20 granted by the Supreme Court of the State of Oklahoma,

21 i. a dentist pursuant to a license under Sections 328.1
22 through 328.53 of Title 59 of the Oklahoma Statutes,
23 and any subsequent laws regulating the practice of
24 dentistry,

- 1 j. a certified public accountant or a public accountant
2 pursuant to his or her authority to practice
3 accounting under Sections 15.1 through 15.38 of Title
4 59 of the Oklahoma Statutes, and any subsequent laws
5 regulating the practice of public accountancy,
6 k. a psychologist pursuant to a license under Sections
7 1351 through 1376 of Title 59 of the Oklahoma
8 Statutes, and any subsequent laws regulating the
9 practice of psychology,
10 l. a physical therapist pursuant to a license under
11 Sections 887.1 through 887.18 of Title 59 of the
12 Oklahoma Statutes, and any subsequent laws regulating
13 the practice of physical therapy,
14 m. a registered nurse pursuant to a license under
15 Sections 567.1 through 567.19 of Title 59 of the
16 Oklahoma Statutes, and any other subsequent laws
17 regulating the practice of nursing,
18 n. a professional engineer pursuant to a license under
19 Sections 475.1 through 475.22a of Title 59 of the
20 Oklahoma Statutes, and any subsequent laws relating to
21 the practice of engineering,
22 o. a land surveyor pursuant to a license under Sections
23 475.1 through 475.22a of Title 59 of the Oklahoma
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1 Statutes, and any subsequent laws relating to the
2 practice of land surveying,

3 p. an occupational therapist pursuant to Sections 888.1
4 through 888.15 of Title 59 of the Oklahoma Statutes
5 and any subsequent law regulating the practice of
6 occupational therapy,

7 q. a speech pathologist or speech therapist pursuant to
8 Sections 1601 through 1622 of Title 59 of the Oklahoma
9 Statutes, and any subsequent law regulating the
10 practice of speech pathology,

11 r. an audiologist pursuant to Sections 1601 through 1622
12 of Title 59 of the Oklahoma Statutes, and any
13 subsequent law regulating the practice of audiology,

14 s. a registered pharmacist pursuant to Sections 353
15 through 366 of Title 59 of the Oklahoma Statutes, and
16 any subsequent law regulating the practice of
17 pharmacy,

18 t. a licensed perfusionist pursuant to Sections 2051
19 through 2071 of Title 59 of the Oklahoma Statutes, and
20 any subsequent laws regulating the practice of
21 perfusionists,

22 u. a licensed professional counselor pursuant to Sections
23 1901 through 1920 of Title 59 of the Oklahoma
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- 1 Statutes, and any subsequent law regulating the
2 practice of professional counseling,
- 3 v. a licensed marital and family therapist pursuant to
4 Sections 1925.1 through 1925.18 of Title 59 of the
5 Oklahoma Statutes, and any subsequent law regulating
6 the practice of marital and family therapy,
- 7 w. a dietitian licensed pursuant to Sections 1721 through
8 1739 of Title 59 of the Oklahoma Statutes and any
9 subsequent laws regulating the practice of dietitians,
- 10 x. a social worker licensed pursuant to Sections 1250
11 through 1273 of Title 59 of the Oklahoma Statutes, and
12 any subsequent laws regulating the practice of social
13 work,
- 14 y. a licensed alcohol and drug counselor pursuant to
15 Sections 1870 through 1885 of Title 59 of the Oklahoma
16 Statutes, and any subsequent laws regulating the
17 practice of alcohol and drug counseling, ~~or~~
- 18 z. a licensed behavioral practitioner pursuant to
19 Sections 1930 through 1949.1 of Title 59 of the
20 Oklahoma Statutes, and any subsequent laws regulating
21 the practice of behavioral health services, or
- 22 aa. a certified real estate appraiser licensed pursuant to
23 Sections 858-700 through 858-732 of Title 59 of the
24 Oklahoma Statutes or listed on the National Registry

1 of Appraisers by the Appraisal Subcommittee in
2 compliance with Title XI of the Financial Institutions
3 Reform, Recovery, and Enforcement Act (FIRREA) of
4 1989, and any subsequent laws regulating the practice
5 of real estate appraisal;

6 7. "Related professional services" means those services which
7 are combined for professional entity purposes as follows:

8 a. any combination of the following professionals:

9 (1) a physician, surgeon or doctor of medicine
10 pursuant to a license under Sections 481 through
11 524 of Title 59 of the Oklahoma Statutes, and any
12 subsequent laws regulating the practice of
13 medicine,

14 (2) an osteopathic physician or surgeon pursuant to a
15 license under Sections 620 through 645 of Title
16 59 of the Oklahoma Statutes, and any subsequent
17 laws relating to the practice of osteopathy,

18 (3) a dentist pursuant to a license under Sections
19 328.1 through 328.53 of Title 59 of the Oklahoma
20 Statutes, and any subsequent laws regulating the
21 practice of dentistry,

22 (4) a chiropractic physician pursuant to a license
23 under Sections 161.1 through 161.20 of Title 59
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1 of the Oklahoma Statutes, and any subsequent laws
2 regulating the practice of chiropractic,

3 (5) a psychologist pursuant to a license under
4 Sections 1351 through 1376 of Title 59 of the
5 Oklahoma Statutes, and any subsequent laws
6 regulating the practice of psychology,

7 (6) an optometrist pursuant to a license under
8 Sections 581 through 606 of Title 59 of the
9 Oklahoma Statutes, and any subsequent laws
10 regulating the practice of optometry,

11 (7) a podiatric physician pursuant to a license under
12 Sections 135.1 through 160.2 of Title 59 of the
13 Oklahoma Statutes, and any subsequent laws
14 regulating the practice of podiatric medicine,

15 (8) a dietitian licensed pursuant to Sections 1721
16 through 1739 of Title 59 of the Oklahoma Statutes
17 and subsequent laws regulating the practice of
18 dietitians, or

19 (9) an occupational therapist pursuant to Sections
20 888.1 through 888.15 of Title 59 of the Oklahoma
21 Statutes and any subsequent law regulating the
22 practice of occupational therapy, or

23 b. any combination of the following professions:
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- 1 (1) an architect pursuant to a license under Sections
2 46.1 through 46.41 of Title 59 of the Oklahoma
3 Statutes, and any subsequent laws regulating the
4 practice of architecture,
- 5 (2) a professional engineer pursuant to a license
6 under Sections 475.1 through 475.22a of Title 59
7 of the Oklahoma Statutes, and any subsequent laws
8 relating to the practice of engineering, or
- 9 (3) a land surveyor pursuant to a license under
10 Sections 475.1 through 475.22a of Title 59 of the
11 Oklahoma Statutes, and any subsequent laws
12 relating to the practice of land surveying;

13 8. "Regulating board" means the board which is charged with the
14 licensing and regulation of the practice of the profession which the
15 professional entity is organized to render;

16 9. "Individual", "incorporator" and "shareholder" each include
17 the trustee of an express trust created by a person duly licensed to
18 render a professional service who has the right to revoke ~~said~~ the
19 trust and who is serving as the trustee of ~~said~~ the trust. Any
20 certificate required by the Professional Entity Act to be issued to
21 an individual incorporator or shareholder may be issued to the
22 grantor on behalf of a trust. All references in the Professional
23 Entity Act to death and incapacity of a shareholder shall include
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1 the death and incapacity of the grantor of a trust which own stock
2 in a professional corporation;

3 10. "Incapacity" of a shareholder means a determination by a
4 court of competent jurisdiction, or otherwise by two independent
5 licensed physicians, that the ~~share holder~~ shareholder is fully
6 incapacitated or is partially incapacitated to the extent that the
7 shareholder is not capable of rendering the professional service for
8 which the professional corporation was organized; and

9 11. "Other personal representative" includes the successor
10 trustee of an express trust owning stock in a professional
11 corporation, which trust was created by a person duly licensed to
12 render the professional service for which the professional
13 corporation was organized who has the right to revoke the trust and
14 who is the original trustee of the trust.

15 B. The definitions of the applicable associated act shall apply
16 to ~~this act~~ the Professional Entity Act, unless the context clearly
17 indicates that a different meaning is intended.

18 SECTION 2. AMENDATORY 18 O.S. 2011, Section 819, is
19 amended to read as follows:

20 Section 819. All laws and rules and parts of laws and rules in
21 conflict with any of the provisions of ~~this act~~ the Professional
22 Entity Act or otherwise restricting the forms of organization
23 available to persons providing professional services shall be
24 inapplicable to professional entities formed under ~~this act~~ the

1 Professional Entity Act; provided, however, that nothing in ~~this act~~
2 the Professional Entity Act shall be construed to supersede the
3 provisions of 59 O.S. 1951, Sections 581 through 592, both
4 inclusive, Sections 601 through 606, both inclusive, Sections 858-
5 700 through 858-732, both inclusive, or Sections 941 through 947, of
6 Title 59 of the Oklahoma Statutes, both inclusive, as amended. In
7 the event of the conflict of any of the provisions of ~~this act~~ the
8 Professional Entity Act with any of the above cited sections, then
9 cited sections shall take precedence over ~~this act~~ the Professional
10 Entity Act and ~~this act~~ the Professional Entity Act shall be
11 construed accordingly.

12 SECTION 3. This act shall become effective November 1, 2019.

13 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
14 February 21, 2019 - DO PASS
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