

An Act

ENROLLED SENATE
BILL NO. 927

By: Pugh of the Senate

and

Osburn of the House

An Act relating to Oklahoma Real Estate License Code; amending 59 O.S. 2021, Section 858-102, which relates to definition; modifying definition; adding definition; amending 59 O.S. 2021, Section 858-201, as amended by Section 1 of Enrolled House Bill No. 2955 of the 2nd Session of the 59th Oklahoma Legislature, which relates to the Oklahoma Real Estate Commission; limiting license types for membership; amending 59 O.S. 2021, Section 858-208, which relates to powers and duties of Commission; expanding definition of applicable duties; authorizing Commission to issue cease and desist orders and contract for debt collection; amending 59 O.S. 2021, Section 858-301, which relates to license requirements; including certain business entities to licensure requirements; expanding exclusions of actions as a real estate license holder; amending 59 O.S. 2021, Section 858-302, which relates to eligibility for licensure as a real estate sales associate; modifying proscribed submission fee; amending 59 O.S. 2021, Section 858-303, which relates to eligibility for licensure as a real estate sales associate or provisional sales associate; adding additional provisions for licensure requirement; amending 59 O.S. 2021, Section 858-303A, which relates to licensure for a broker associate license; adding additional provision for licensure requirement; amending 59 O.S. 2021, Section 858-312, which relates to investigation and licensure revocation; requiring written disclosure by certain person; expanding violations for revocation of license; amending 59 O.S. 2021, Section 858-307.1, which relates to issuance of license; removing

provision for prorated credit of fees for certain licenses; amending 59 O.S. 2021, Section 858-307.3, which relates to time limit for applying for a reissued license after revocation; increasing time period for application; amending 59 O.S. 2021, Section 858-313, which relates to confidential records; amending 59 O.S. 2021, Section 858-401, which relates to penalties; increasing fine; amending 59 O.S. 2021, Section 858-602, which relates to additional fees; removing provision for prorated credit of fees for certain licenses; amending 59 O.S. 2021, Section 858-605, which relates to expenditure of funds; authorizing Commission to expend certain monies toward promotion of education by implementation of certain provisions; and providing an effective date.

SUBJECT: Real estate practice

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

SECTION 1. AMENDATORY 59 O.S. 2021, 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 estate" shall include 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;

2. The term "broker" shall include any person, partnership, ~~association or corporation, foreign or domestic, who for a fee, commission or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, lists, sells or offers to sell, buys or offers to buy, exchanges, rents or leases any real estate, or who negotiates or attempts to negotiate any such activity, or solicits listings of places for rent or lease, or solicits for prospective tenants, purchasers or sellers, or who advertises or holds himself out as engaged in such activities.~~ "Broker" shall be limited to the license types of Broker Manager (BM), Proprietor Broker (BP) or Branch Broker (BB) as defined in the Code limited liability company, association, corporation, or business entity, foreign or domestic, who for a fee, commission, or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission, or other valuable consideration, performs any of the following acts:

- a. sells, exchanges, purchases, rents, or leases real estate,
- b. offers to sell, exchange, purchase, rent, or lease real estate,
- c. negotiates or attempts to negotiate the listing, sale, exchange, purchase, rent, or lease of real estate,
- d. lists or offers, attempts, or agrees to list real estate for sale, exchange, rent or lease,
- e. auctions or offers, attempts, or agrees to auction real estate,
- f. controls the acceptance or deposit of rent from a resident of a single-family residential real property unit,
- g. solicits listings of places for rent or lease,
- h. solicits for prospective tenants, purchasers, or sellers, or

- i. advertises or holds himself or herself out as engaged in such activities;

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

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

5. "Provisional sales associate" shall include any person who has been licensed after June 30, 1993, employed or engaged by, or associated as an independent contractor with, or on behalf of, a broker to do or deal in any act, acts or transactions set out in the definition of a broker and subject to an additional forty-five-clock-hour postlicensing educational requirement to be completed within the first twelve-month license term. However, the Oklahoma Real Estate Commission shall promulgate rules for those persons called into active military service for purposes of satisfying the postlicensing educational requirement. The license of a provisional sales associate shall be nonrenewable unless the postlicensing requirement is satisfied prior to the expiration date of the license. Further, the terms sales associate and provisional sales associate shall be synonymous in meaning except where specific exceptions are addressed in the Oklahoma Real Estate License Code;

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

7. The term "renewable license" shall refer to a broker, broker associate or sales associate who is a holder of such license or to a provisional sales associate who has completed the educational requirements within the required time period as stated in the Code;

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

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

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

11. The term "publicly market" shall include all advertisements and marketing conducted in a public or open manner or place;

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

~~12.~~ 13. The word "Commission" shall mean the Oklahoma Real Estate Commission;

~~13.~~ 14. The word "person" shall include and mean every individual, partnership, association or corporation, foreign or domestic;

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

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

SECTION 2. AMENDATORY 59 O.S. 2021, Section 858-201, as amended by Section 1 of Enrolled House Bill No. 2955 of the 2nd Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 858-201. A. There is hereby re-created the Oklahoma Real Estate Commission, which shall consist of seven (7) members. The Commission shall be 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.

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

C. Five members shall be licensed real estate brokers and shall have had at least five (5) years' active experience as real estate brokers prior to their appointment and be engaged full time in the real estate brokerage business. One member shall be a lay person not in the real estate business, and one member shall be an active representative of a school of real estate located within the State of Oklahoma and approved by the Oklahoma Real Estate Commission. For purposes of this paragraph, "brokers" shall be limited to the license types of managing broker, proprietor broker, or branch broker.

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

SECTION 3. AMENDATORY 59 O.S. 2021, Section 858-208, is amended to read as follows:

Section 858-208. The Oklahoma Real Estate Commission shall have the following powers and duties:

1. To promulgate rules, prescribe administrative fees by rule, and make orders as it may deem necessary or expedient in the performance of its duties;

2. To administer or cause to be administered examinations to persons who apply for the issuance of licenses;

3. To sell to other entities or governmental bodies, not limited to the State of Oklahoma, computer testing and license applications to recover expended research and development costs;

4. To issue licenses in the form the Commission may prescribe to persons who have passed examinations or who otherwise are entitled to such licenses;

5. To issue licenses to and regulate the activities of real estate brokers, provisional sales associates, sales associates, branch offices, nonresidents, associations, corporations, and partnerships;

6. Upon showing good cause as provided for in The Oklahoma Real Estate License Code, to discipline licensees, instructors and real estate school entities by:

- a. reprimand,
- b. probation for a specified period of time,
- c. requiring education in addition to the educational requirements provided by Section 858-307.2 of this title,
- d. suspending real estate licenses and approvals for specified periods of time,
- e. revoking real estate licenses and approvals,
- f. imposing administrative fines pursuant to Section 858-402 of this title, or
- g. any combination of discipline as provided by subparagraphs a through f of this paragraph;

7. Upon showing good cause, to modify any sanction imposed pursuant to the provisions of this section and to reinstate licenses;

8. To conduct, for cause, disciplinary proceedings;

9. To prescribe penalties as it may deem proper to be assessed against licensees for the failure to pay the license renewal fees as provided for in this Code;

10. To initiate the prosecution of any person who violates any of the provisions of this Code;

11. To approve instructors and organizations offering courses of study in real estate and to further require them to meet standards to remain qualified as is necessary for the administration of this Code;

12. To contract with attorneys and other professionals to carry out the functions and purposes of this Code;

13. To apply for injunctions and restraining orders to enforce the provisions of applicable laws, rules, and regulations for violations of the Code or the rules of the Commission;

14. To create an Oklahoma Real Estate Contract Form Committee by rule that will be required to draft and revise real estate purchase and/or lease contracts and any related addenda for voluntary use by real estate licensees;

15. To enter into contracts and agreements for the payment of food and other reasonable expenses as authorized in the State Travel Reimbursement Act necessary to host, conduct, or participate in meetings or training sessions as is reasonable for the administration of this Code;

16. To conduct an annual performance review of the Executive Director and submit the report to the Legislature; ~~and~~

17. To enter into reciprocal agreements with other real estate licensing regulatory jurisdictions with equivalent licensing, education and examination requirements;

18. To issue cease and desist orders to any person or business entity that is in violation of any provision of the Oklahoma Real Estate License Code or administrative rule; and

19. To contract with debt collection attorneys or debt collection entities to recover unpaid administrative fines.

SECTION 4. AMENDATORY 59 O.S. 2021, Section 858-301, is amended to read as follows:

Section 858-301. It shall be unlawful for any person to act as a real estate licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Oklahoma Real Estate License Code. For the purposes of this section, it shall be considered acting as a real estate licensee for any person, partnership, trust, association, limited liability company, or corporation, or the partners, officers or employees of any partnership, trust, association, limited liability company, or corporation, to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser. However, nothing in this section shall:

1. ~~Prevent any person, partnership, trust, association, limited liability company, or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association, limited liability company, or corporation, from acquiring real estate for its own use, nor shall anything in this section prevent any person, partnership, trust, association or corporation, or the partners, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation, as owner, lessor or lessee of real estate, from selling, renting, leasing, exchanging, or offering to sell, rent, lease or exchange, any real estate so owned or leased, or from performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership or sales of such real estate and the investment therein; however, it shall be prohibited for any person, partnership, officers or employees of any partnership, trustees or beneficiaries of any trust, association or corporation to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser without holding an active Oklahoma real estate license:~~

a. acquiring real estate for its own use,

- b. selling, renting, leasing, exchanging, or offering to sell, rent, lease, or exchange any real estate so owned or leased as the owner, lessor, or lessee, or
- c. performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership, or sales of such real estate and the investment therein; however, it shall be prohibited for any person, partnership, trust, association, limited liability company, or corporation, or the officers or employees of any partnership, trustees, or beneficiaries of any trust, association, limited liability company, or corporation to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser without holding an active real estate license;

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

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

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

5. Apply to any person who engages in such activity on behalf of a corporation or governmental body, to acquire easements, rights-of-way, leases, permits and licenses, including any and all

amendments thereto, and other similar interests in real estate, for the purpose of, or facilities related to, transportation, communication services, cable lines, utilities, pipelines, or oil, gas, and petroleum products;

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

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

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

9. Apply to employees of a licensed real estate broker who lease residential housing units only to eligible persons who qualify through a state or federal housing subsidized program to lease the property in an affordable housing development project. "Affordable housing development project" means a housing development of four or more units constructed for lease to specifically eligible persons as required by the particular federal or state housing program, including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Department Agriculture Rural Development, the U.S. Department of Treasury Internal Revenue Service, or the Oklahoma Housing Finance Agency.

SECTION 5. AMENDATORY 59 O.S. 2021, Section 858-302, is amended to read as follows:

Section 858-302. A. Any person eighteen (18) years of age or older who shall submit to the Commission evidence of successful completion of ninety (90) clock hours or its equivalent as

determined by the Commission of basic real estate instruction in a course of study approved by the Commission, may apply to the Commission to take an examination for the purpose of securing a license as a provisional sales associate. The education required in this subsection shall only be valid for a period of three (3) years from the date the school certified successful completion of the course; thereafter, the applicant shall be required to successfully complete an additional ninety (90) clock hours or its equivalent in basic real estate instruction.

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

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

D. If it shall be determined that the applicant shall have passed the examination, received final approval of the application, and paid the appropriate license fee provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a provisional sales associate license.

E. Following the issuance of a provisional sales associate license, the licensee shall then submit to the Commission, prior to the expiration of the provisional license, evidence of successful completion of forty-five (45) clock hours or its equivalent as determined by the Commission of postlicense education real estate instruction in a course(s) of study approved by the Commission. A provisional sales associate who fails to submit evidence of compliance with the postlicense education requirement pursuant to this section, prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license for another license term. However, the Commission shall promulgate rules for those persons called into active military service for purposes of satisfying the postlicense education requirement.

SECTION 6. AMENDATORY 59 O.S. 2021, Section 858-303, is amended to read as follows:

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

1. Have two (2) years' of active licensure within the previous five (5) years or its equivalent;

2. Submit to the Commission evidence of successful completion of ninety (90) clock hours or its equivalent as determined by the Commission of advanced real estate instruction in a course of study approved by the Commission and completion of the Broker in Charge course as defined in the Code. The education required in this subsection shall only be valid for a period of three (3) years from the date the school certified successful completion of the course; thereafter, the applicant shall be required to successfully complete an additional ninety (90) clock hours or its equivalent in advanced real estate instruction;

3. Provide documentation verifying ten real estate transactions within the past five (5) years or the equivalent as determined by the Commission. For the purposes of this subsection only, transaction shall be defined ~~in Section 858-351 of this title as the~~ completed sale, exchange, purchase, or lease of real estate and shall be demonstrated on forms developed by the Commission; and

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

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

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

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

1. Have two (2) years' active licensure within the previous five (5) years, or its equivalent;

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

3. Provide documentation verifying ten real estate transactions within the past five (5) years or the equivalent as determined by the Commission. For the purposes of this subsection only, transaction shall be defined ~~in Section 858-351 of this title as the completed sale, exchange, purchase, or lease of real estate and~~ shall be demonstrated on forms developed by the Commission.

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

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

SECTION 7. AMENDATORY 59 O.S. 2021, Section 858-303A, is amended to read as follows:

Section 858-303A. A. Applicants for a broker associate license shall meet the following requirements:

1. Hold a renewable broker associate or sales associate license and have two (2) years' active licensure within the previous five (5) years as a sales associate or provisional sales associate, or its equivalent;

2. Submit to the Commission evidence of successful completion of ninety (90) clock hours, or its equivalent as determined by the Commission, of advanced real estate instruction in a course of study approved by the Commission. The education required in this subsection shall only be valid for a period of three (3) years from the date the school certified successful completion of the course; thereafter, the applicant shall be required to successfully complete an additional ninety (90) clock hours or its equivalent in advanced real estate instruction; and

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

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

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

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

SECTION 8. AMENDATORY 59 O.S. 2021, Section 858-312, is amended to read as follows:

Section 858-312. The Oklahoma Real Estate Commission may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any real estate licensee, and may, upon showing good cause, impose sanctions as provided for in Section 858-208 of this title. Cause shall be established upon the showing that any licensee has performed, is performing, has attempted to perform, or is attempting to perform any of the following acts:

1. Making a materially false or fraudulent statement in an application for a license;

2. Making substantial misrepresentations or false promises in the conduct of business, or through real estate licensees, or advertising, which are intended to influence, persuade, or induce others;

3. Failing to comply with the requirements of Sections 858-351 through 858-363 of this title;

4. Accepting a commission or other valuable consideration as a real estate associate for the performance of any acts as an

associate, except from the real estate broker with whom the associate is associated;

5. Representing or attempting to represent a real estate broker other than the broker with whom the associate is associated without the express knowledge and consent of the broker with whom the associate is associated;

6. Failing, within a reasonable time, to account for or to remit any monies, documents, or other property coming into possession of the licensee which belong to others;

7. Paying a commission or valuable consideration to any person for acts or services performed in violation of the Oklahoma Real Estate License Code;

8. Any other conduct which constitutes untrustworthy, improper, fraudulent, or dishonest dealings;

9. Disregarding or violating any provision of the Oklahoma Real Estate License Code or rules promulgated by the Commission;

10. Guaranteeing or having authorized or permitted any real estate licensee to guarantee future profits which may result from the resale of real estate;

11. Advertising or offering for sale, rent or lease any real estate, or placing a sign on any real estate offering it for sale, rent or lease without the consent of the owner or the owner's authorized representative;

12. Using prizes, money, gifts or other valuable consideration as an inducement to secure customers or clients to purchase specific property; however, licensees may use prizes, money, gifts or other valuable consideration for marketing purposes provided they are not contingent or limited to individuals making an offer or purchasing a specific property;

13. Accepting employment or compensation for appraising real estate contingent upon the reporting of a predetermined value or issuing any appraisal report on real estate in which the licensee has an interest unless the licensee's interest is disclosed in the

report. All appraisals shall be in compliance with the Oklahoma real estate appraisal law, and the person performing the appraisal or report shall disclose in writing to the employer whether the person performing the appraisal or report is licensed or certified by the Oklahoma Real Estate Appraiser Board;

14. Paying a commission or any other valuable consideration to any person for performing the services of a real estate licensee as defined in the Oklahoma Real Estate License Code who has not first secured a real estate license pursuant to the Oklahoma Real Estate License Code;

15. Unworthiness to act as a real estate licensee, whether of the same or of a different character as specified in this section, or because the real estate licensee has been convicted of, or pleaded guilty or nolo contendere to, a crime involving moral turpitude;

16. Commingling with the licensee's own money or property the money or property of others which is received and held by the licensee, unless the money or property of others is received by the licensee and held in an escrow account that contains only money or property of others;

17. Conviction in a court of competent jurisdiction of having violated any provision of the federal fair housing laws, 42 U.S.C. Section 3601 et seq.;

18. Failure by a real estate broker, after the receipt of a commission, to render an accounting to and pay to a real estate licensee the licensee's earned share of the commission received;

19. Conviction in a court of competent jurisdiction in this or any other state of the crime of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, fraud, or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses;

20. Advertising to buy, sell, rent, or exchange any real estate without disclosing in writing that the licensee is a real estate licensee;

21. Paying any part of a fee, commission, or other valuable consideration received by a real estate licensee to any person not licensed;

22. Offering, loaning, paying, or making to appear to have been paid, a down payment or earnest money deposit for a purchaser or seller in connection with a real estate transaction; ~~and~~

23. Violation of the Residential Property Condition Disclosure Act;

24. Placing or causing to be placed upon the public records of any county any contract, assignment, affidavit, or other writing, which purports to affect title of or encumber any real property for the purpose of collection of a commission, or to coerce the payment of money to the individual or entity. Nothing in this paragraph shall be construed to prohibit a licensee from recording a judgment;

25. Being unworthy or incompetent to act as a real estate broker in a manner as to endanger the interest of the public;

26. Failure to provide an adequate written response to the Commission within fifteen (15) days after receiving written notice of a complaint or investigation;

27. Failure to notify the Commission in writing of the conviction or plea of guilty or nolo contendere to any felony offense within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of the judgment and sentencing as required by Section 858-301.2 of Title 59 in the Oklahoma Statutes; and

28. Soliciting, selling, or offering for sale real property by means of a deceptive practice.

SECTION 9. AMENDATORY 59 O.S. 2021, Section 858-307.1, is amended to read as follows:

Section 858-307.1. ~~A.~~ The Oklahoma Real Estate Commission shall issue every real estate license for a term of thirty-six (36) months with the exception of a provisional sales associate license whose license term shall be for twelve (12) months. License terms

shall not be altered except for the purpose of general reassignment of the terms which might be necessitated for maintaining an equitable staggered license term system. The expiration date of the license shall be the end of the twelfth or thirty-sixth month, whichever is applicable, including the month of issuance. Fees shall be promulgated by rule, payable in advance, and nonrefundable.

~~B. If a license is issued for a period of less than thirty-six (36) months, the license fee shall be prorated to the nearest dollar and month. If a real estate sales associate or a provisional sales associate shall qualify for a license as a real estate broker, then the real estate provisional sales associate's or sales associate's license fee for the remainder of the license term shall be prorated to the nearest dollar and month and credited to such person's real estate broker's license fee.~~

SECTION 10. AMENDATORY 59 O.S. 2021, Section 858-307.3, is amended to read as follows:

Section 858-307.3. A person shall not be permitted to file an application for reissuance of a license after revocation of the license within ~~three (3)~~ five (5) years of the effective date of revocation.

SECTION 11. AMENDATORY 59 O.S. 2021, Section 858-313, is amended to read as follows:

Section 858-313. The following materials of the Commission are confidential and not public records:

1. Examinations conducted by the Commission and materials related to the examinations; ~~and~~
2. Educational materials submitted to the Commission by a person or entity seeking approval and/or acceptance of a course of study; and
3. Brokerage and school records resulting from an audit performed by the Commission.

SECTION 12. AMENDATORY 59 O.S. 2021, Section 858-401, is amended to read as follows:

Section 858-401. A. In addition to any other penalties provided by law, any person unlicensed pursuant to The Oklahoma Real Estate License Code who shall willingly ~~and~~, knowingly, or negligently violate any provision of this Code, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. In addition to any civil or criminal actions authorized by law, whenever, in the judgment of the Oklahoma Real Estate Commission, any unlicensed person has engaged in any acts or practices which constitute a violation of the Oklahoma Real Estate License Code, the Commission may:

1. After notice and hearing, and upon finding a violation of the Code, impose a fine of not more than Five Thousand Dollars (\$5,000.00) or the amount of the commission or commissions earned, whichever is greater for each violation of the Code for unlicensed activity;

2. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Commission that such person has engaged in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond; or

3. Impose administrative fines pursuant to this subsection which shall be enforceable in the district courts of this state. The order of the Commission shall become final and binding on all parties unless appealed to the district court as provided in the Administrative Procedures Act. If an appeal is not made, such order may be entered on the judgment docket of the district court in a county in which the debtor has property and thereafter enforced in the same manner as an order of the district court for collection actions.

C. Notices and hearings required by this section and any appeals from orders entered pursuant to this section shall be in accordance with the Administrative Procedures Act.

D. Such funds as collected pursuant to this section shall be deposited in the Oklahoma Real Estate Education and Recovery Fund.

SECTION 13. AMENDATORY 59 O.S. 2021, Section 858-602, is amended to read as follows:

Section 858-602. A. An additional, nonrefundable fee as promulgated by rule by the Commission shall be added to and payable with the license fee for both new licenses and renewals of licenses for each licensee as provided in Section 858-307.1 of this title. Such additional fee shall be deposited in the Oklahoma Real Estate Education and Recovery Fund.

~~B. If a license is issued for a period of less than thirty-six (36) months, such additional fee shall be prorated to the nearest dollar and month.~~

~~C. If a real estate sales associate or provisional sales associate shall qualify for a license as a real estate broker, the additional fee for the remainder of the term shall be prorated to the nearest dollar and month and credited to the additional fee added to and payable with the real estate broker license fee.~~

~~D. At the close of each fiscal year, the Commission shall~~ may transfer into the Oklahoma Real Estate Commission Revolving Fund any money in excess of that amount required to be retained in the Oklahoma Real Estate Education and Recovery Fund and that amount authorized to be expended as provided within this Code that is remaining in the Oklahoma Education and Recovery Fund and unexpended.

SECTION 14. AMENDATORY 59 O.S. 2021, Section 858-605, is amended to read as follows:

Section 858-605. At any time when the total amount of monies deposited in the Oklahoma Real Estate Education and Recovery Fund exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), the Commission in its discretion may expend such excess funds each fiscal year for the following purposes:

1. To promote the advancement of education in the field of real estate for the benefit of the general public ~~and those licensed~~

~~under the Oklahoma Real Estate License Code, but such promotion shall not be construed to allow advertising of this profession;~~

2. To promote the advancement of education in the field of real estate for the benefit of those licensed under the Oklahoma Real Estate License Code; provided, such promotion shall not be construed to allow advertising of this profession;

3. To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees;

~~3.~~ 4. To establish real estate courses at institutions of higher learning located in the state and accredited by the State Regents for Higher Education for the purpose of making such courses available to licensees and the general public; and

~~4.~~ 5. To contract for a particular educational project in the field of real estate to further the purposes of the Oklahoma Real Estate License Code;

6. To implement and maintain a public registry for the benefit of real estate licensees and the general public;

7. To produce and distribute an agency newsletter available to the general public and real estate licensees; and

8. To provide education grants to institutions of higher learning located in this state and accredited by the Oklahoma State Regents for Higher Education for courses on financial management and homeownership.

SECTION 15. This act shall become effective November 1, 2024.

Passed the Senate the 23rd day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____