

An Act

ENROLLED SENATE
BILL NO. 104

By: Rosino of the Senate

and

Vancuren and Davis of the
House

An Act relating to the Oklahoma Real Estate License Code; amending 59 O.S. 2011, Section 858-312, which relates to cause for suspension or revocation of license; deleting language; prohibiting certain inducements to secure customers or clients; providing certain exception; and providing an effective date.

SUBJECT: Oklahoma Real Estate License Code

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

SECTION 1. AMENDATORY 59 O.S. 2011, 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. Soliciting, selling, or offering for sale real estate by offering "free lots", conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective~~

~~purchaser of real estate~~ 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 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 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.

SECTION 2. This act shall become effective November 1, 2019.

Passed the Senate the 19th day of February, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 10th day of April, 2019.

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: _____