

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 104

 By: Rosino of the Senate

 and

 Vancuren of the House

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

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

16 SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-312, is
17 amended to read as follows:

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

- 1 1. Making a materially false or fraudulent statement in an
2 application for a license;
- 3 2. Making substantial misrepresentations or false promises in
4 the conduct of business, or through real estate licensees, or
5 advertising, which are intended to influence, persuade, or induce
6 others;
- 7 3. Failing to comply with the requirements of Sections 858-351
8 through 858-363 of this title;
- 9 4. Accepting a commission or other valuable consideration as a
10 real estate associate for the performance of any acts as an
11 associate, except from the real estate broker with whom the
12 associate is associated;
- 13 5. Representing or attempting to represent a real estate broker
14 other than the broker with whom the associate is associated without
15 the express knowledge and consent of the broker with whom the
16 associate is associated;
- 17 6. Failing, within a reasonable time, to account for or to
18 remit any monies, documents, or other property coming into
19 possession of the licensee which belong to others;
- 20 7. Paying a commission or valuable consideration to any person
21 for acts or services performed in violation of the Oklahoma Real
22 Estate License Code;
- 23 8. Any other conduct which constitutes untrustworthy, improper,
24 fraudulent, or dishonest dealings;

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

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

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

10 12. ~~Soliciting, selling, or offering for sale real estate by~~
11 ~~offering "free lots", conducting lotteries or contests, or offering~~
12 ~~prizes for the purpose of influencing a purchaser or prospective~~
13 ~~purchaser of real estate~~ Using prizes, money, gifts or other
14 valuable consideration as an inducement to secure customers or
15 clients to purchase specific property; however, licensees may use
16 prizes, money, gifts or other valuable consideration for marketing
17 purposes provided they are not contingent or limited to individuals
18 making an offer or purchasing a specific property;

19 13. Accepting employment or compensation for appraising real
20 estate contingent upon the reporting of a predetermined value or
21 issuing any appraisal report on real estate in which the licensee
22 has an interest unless the licensee's interest is disclosed in the
23 report. All appraisals shall be in compliance with the Oklahoma
24 real estate appraisal law, and the person performing the appraisal

1 or report shall disclose to the employer whether the person
2 performing the appraisal or report is licensed or certified by the
3 Oklahoma Real Estate Appraiser Board;

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

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

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

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

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

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

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

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

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

14 23. Violation of the Residential Property Condition Disclosure
15 Act.

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

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18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
19 03/27/2019 - DO PASS.
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