

1 **SENATE FLOOR VERSION**

2 February 7, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 104

6 By: Rosino

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

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

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

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

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

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

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

7 4. Accepting a commission or other valuable consideration as a
8 real estate associate for the performance of any acts as an
9 associate, except from the real estate broker with whom the
10 associate is associated;

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

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

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

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

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

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

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

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

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

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1 performing the appraisal or report is licensed or certified by the
2 Oklahoma Real Estate Appraiser Board;

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

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

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

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

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

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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.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
18 February 7, 2019 - DO PASS AS AMENDED
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