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Oklahoma Real Estate Commission
Draft of Permanent Rules 2019
Effective November 1, 2019

CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-5. Examinations

- (a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75.00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60.00).
- (b) **Special Accommodations.** In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, on a form prescribed by the Commission, describing the disability and necessary accommodations.
- (c) **Failure to pass examination.** If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.
- (d) **Applicant request to view failed examination.** An applicant who fails the examination has the option of reviewing their missed questions at the end of their examination. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. The examination supplier will send a challenge to a question that pertains to the Oklahoma law portion of the examination to the Commission. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during a review nor will they be allowed to leave the examination area with the examination questions.
- (e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. After such date, an applicant must complete a new original application form.
- (f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker ~~or provisional sales associate/sales associate~~ examination. A

score of seventy percent (70%) or more shall be considered a passing grade on the provisional sales associate/sales associate examination.

(g) **Validity period of examination results.** The results of an examination wherein an applicant scored a passing grade shall be valid for one (1) year from the date of such examination.

(h) **Disciplinary examination fee.** A fee shall be charged for an examination that is directed by Order of the Commission as disciplinary action.

(i) **Examination voided.** A licensee or instructor applicant caught cheating during the course of a real estate examination shall:

- (1) immediately forfeit the examination,
- (2) be given a failing score,
- (3) be disqualified from retaking the examination for one year, and
- (4) be allowed to file an appeal with the Commission under Rule 605:10-1-3.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-3. Standards for Commission approved real estate courses

(a) **Approved instructor.** Each in-class course offering shall be conducted by a Commission-approved instructor. Each entity conducting a distance education course offering shall have available a Commission approved instructor. The instructor shall be available during normal business hours as posted by the instructor to answer questions about the course material and provide assistance as necessary.

(b) **Student must attend entire in-class instruction or complete all modules required for distance education instruction.** In order for an entity to certify a student as passing an approved course the student must either:

- (1) attend the required number of hours of in-class instruction; or
- (2) complete all instructional modules required for distance education instruction.

(c) **Student must successfully complete a prelicense, postlicense or distance education course offering examination.** In order for an entity to certify a student as passing an approved prelicense, postlicense or distance education course, the student must successfully complete an examination covering the contents of the course material.

(d) **Student transfers.** Except with the prior approval of the Commission, a student transferring from one course to another may not count any portion of the student's attendance or work in the former course toward passing the course. A student who enrolls in an entity which offers a Commission approved course may not transfer credit for a course or courses completed in that series

to another entity unless the receiving entity offers the identical series of courses and the receiving entity agrees to accept and examine said student throughout successful completion.

(e) **Course examinations.** Each approved prelicense provisional sales associate course and postlicense course offering shall conclude with an end-of-course examination consisting of no less than ~~two hundred (200)~~ one hundred and fifty (150) questions administered by the approved entity. Each approved prelicense broker course shall conclude with an end-of-course examination consisting of no less than ~~two hundred and fifty (250)~~ two hundred (200) questions administered by the approved entity. Each approved distance continuing education course offering shall conclude with an end-of-course examination consisting of no less than seven (7) questions for each clock hour. End-of-course examination questions may not be the same as any previously used questions covering the respective course content.

(f) **Successful completion.** In order for a student to successfully complete a prelicense, postlicense or distance education course, the entity must require that the student complete all class material and/or modules and achieve a passing score of at least eighty percent (80%) on the entity's final examination. An entity shall require the student to complete sufficient material or modules to ensure mastery of the course offering, and shall require the student to complete the end-of-course examination. An entity may allow any student who fails to achieve a passing score the opportunity to take another examination without repeating instruction.

(g) **Grading standards.** In order for an entity to certify a student as passing an approved course, the student must meet the minimum grading standards established by this Section and the entity. On graded examinations for which this Section sets specific requirements, the entity's policy shall at least equal those requirements as listed in this Section. Other grading standards shall be in accordance with generally accepted educational standards. An entity shall publish grading standards and give them to a student in a written form at the beginning of the course.

(h) **Commission may impose sanction.** The Commission may impose any sanction permitted by law or Rules of the Commission on the approval of any entity, director, and/or instructor which fails to provide proper security for their course evaluation or examination and for failing to comply with standards as set out in this Chapter.

(i) **Each entity must post notice.** Each entity must post or provide a notice that is easily observed by any person desiring to enroll in a prelicense course. The notice must at least include the following language: Oklahoma Statutes, Title 59, Section 858.301.1 "Effective November 1, 2009, state law prohibits the issuance of a real estate license to any person who has been convicted, pled guilty or pled nolo contendere to a felony for a pre-determined number of years based on the classification of said felony. For clarification, please contact the Commission and/or review the cited section of law as referenced herein. Additionally, if the applicant has delinquent unpaid child support or student loans, the applicant must check with the Real Estate Commission before enrolling in this class. The Commission will allow the applicant to seek preapproval prior to enrolling in a pre-license course."

- (j) **Additional distance education course requirements.**
- (1) Each course shall contain suitable learning objectives.
 - (2) Overview statements must be included for each course providing a quick preview of what is contained in the offering.
 - (3) A complete set of questions and an answer key must be provided to the Commission with each course application. An answer key may not be included in any course materials provided to the student.
 - (4) From the date of enrollment, the course shall have a validity period of six (6) months in which to allow successful completion to be attained.
 - (5) Entities must include information with the course material that clearly informs the student of the completion time frame, passing and examination requirements, and any other relevant information necessary to complete the course.
 - (6) Each course must include a statement that the information presented in the course should not be used as a substitute for competent legal advice.
 - (7) Course offerings must be sufficient in scope and content to justify the hours requested for approval.
- (k) Each entity shall promote the Basic Course of Real Estate as Part I of a two part series and the Provisional Postlicense Course of Real Estate as Part II of that series. Applicants are to be advised that Part II of the series is not to begin until after license issuance and shall be completed prior to their first license expiration.
- (l) All materials that are distributed to students in any class must be current and up-to-date with the License Code and Rules and state or federal laws.

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

605:10-7-2. License terms and fees; renewals; reinstatements

- (a) **License term and fees.** Each original license issued under the Code shall be issued to expire at the end of the thirty-sixth (36) month including the month of issuance. Each original provisional sales associate license issued under the Code shall be issued to expire at the end of the twelfth (12th) month including the month of issuance. Fees are non-refundable and are as follows:
- (1) For an original broker license and each subsequent license renewal, to include corporations, associations, or partnerships, the fee shall be Two Hundred and Ten Dollars (\$210.00).
 - (2) For an inactive original broker license and each subsequent inactive license renewal, with the exception of corporations, associations, or partnerships, the fee shall be One Hundred and

Twenty-five Dollars (\$125.00). In order to activate a license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Thirty Dollars (\$130.00). Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(3) For an original broker associate license and each subsequent license renewal, the fee shall be One Hundred and Eighty Dollars (\$180.00).

(4) For an inactive original broker associate license and each subsequent inactive license renewal, the fee shall be One Hundred and Ten Dollars (\$110.00). In order to activate a license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Fifteen Dollars (\$115.00). thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(5) For an active original sales associate license and each subsequent active license renewal, the fee shall be One Hundred and Fifty Dollars (\$150.00).

(6) For an inactive original sales associate license and each subsequent inactive license renewal, the fee shall be Ninety-five Dollars (\$95.00). In order to activate a sales associate license that was renewed inactive in the same license term, the licensee shall pay One Hundred Dollars (\$100.00). Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(7) For an original provisional sales associate license that is non-renewable, the fee shall be Seventy Dollars (\$70.00).

(8) For an original branch office license and each subsequent license renewal, the fee shall be One Hundred and Twenty-five Dollars (\$125.00).

(9) For each duplicate license or pocket card, where the original is lost or destroyed, and a written request is made, a fee of Seven Dollars and fifty cents (\$7.50) shall be charged.

(10) The Fifteen Dollar (\$15.00) Education and Recovery Fund fee shall be added and payable with the license fee for an original license and for each subsequent license renewal. Exceptions to this rule are: 1) a provisional sales associate license fee shall be Five Dollars (\$5.00) for their twelve (12) month license term; and, 2) a branch office shall not pay the fee.

(b) **Terms cannot be altered.** Terms shall not be altered except for purposes of general reassignment of terms that might be necessitated for maintaining an equitable staggered license term system.

(c) **Expiration date.** The actual expiration date of a license shall be midnight of the last day of the month of the designated license term. A person who allows their license to expire shall be considered an applicant and subject to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

(d) **Late penalty.** All renewals shall be filed on or before midnight of the tenth day of the month in

which said license is due to expire, except in the event that date falls on a Saturday, Sunday or holiday; in such case, the next Commission working day shall be considered the due date for all renewals except electronic online renewal wherein this exception would not apply. Any renewal application filed after that date shall be subject to a late penalty fee of Ten Dollars (\$10.00).

(e) **Actual filing of license renewal.** A license shall lapse and terminate if a renewal application and required fees have not been filed with the Commission by midnight of the date on which the license is due to expire, except in the event that date falls on a Saturday, Sunday or holiday; in which case, the next Commission working day shall be considered the due date. A renewal application and required fees are considered filed with the Commission on the date of the United States postal service postmark or the date personal delivery is made to the Commission office.

(f) **Reinstatement of license.** Any licensee whose license term has expired shall be considered for reinstatement of same such license upon payment of an amount equal to the current examination fee in addition to the license and late penalty fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

(1) **Lapsed less than one year.** In the case of a license lapsed less than one year:

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) National criminal history check.
- (D) Documents as required by the Commission.

(2) **Lapsed more than one year but less than three years.** In the case of a license lapsed more than one year but less than three years:

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) National criminal history check.
- (D) A completed reinstatement application.
- (E) Successful completion of the appropriate licensing examination.
- (F) A statement that the applicant has read a current License Code and Rules booklet.
- (G) Documents as required by the Commission.

(3) **Lapsed more than three years.** If an application is submitted more than three (3) years subsequent to the most recent year of licensure, the applicant shall be regarded as an original applicant.

(g) **Reinstatement of a provisional sales associate license wherein post-license education was completed prior to license expiration date.** An applicant who successfully completed the post-license education requirement before their first license expiration date and failed to renew their

license on or before such date shall be eligible to reinstate the license as a sales associate according to 605:10-7-2 (f), (1) through (3).

(h) **Reinstatement of a provisional sales associate license wherein post-license education was not completed prior to license expiration date.** An applicant who has not successfully completed the post- license education requirement prior to the first license expiration date shall not be eligible to reinstatesuch license and shall apply and qualify as an original applicant.

(i) **Reinstatement of revoked license.** An applicant may not apply for re-license or reinstatement of license for a minimum of three (3) years from the effective date of license revocation, except for an applicant whose license was automatically revoked pursuant to Sections 858-402 or 858-604 of Title 59, Oklahoma Statutes. Upon the passage of the three (3) year period, the applicant shall be required to comply with the requirements of an original applicant.

(j) **Reinstatement of an automatically revoked license.** An applicant who has had their license automatically revoked, pursuant to Section 858-402 or 858-604 of Title 59 of the Oklahoma Statutes, shall be required to comply with the requirements of (f) of this section. In addition, reinstatement will not be granted until all outstanding amounts due the Commission have been paid in full.

(k) **Reinstatement of a surrendered or cancelled license.** A surrendered or cancelled license applicant may be reinstated provided the applicant has received approval for re-issuance from the Commission. The following forms and fees must be submitted:

(1) **Reinstatement with term of license still current.** A surrendered or cancelled license applicant whose license term is still current:

- (A) Applicable reinstatement fee equal to the current examination fee.
- (B) Re-issuance fee equal to the transfer of license fee.
- (C) Documents as required by the Commission.
- (D) Criminal history background check.

(2) **Reinstatement with term of license expired.** A surrendered or cancelled license applicant whose license term has expired shall be required to comply with the requirements of (f) of this section.

(3) **Reinstatement of provisional sales associate with term of license expired.** A surrendered or cancelled provisional sales associate whose license term has expired shall be required to comply with the following:

- (A) If a provisional sales associate completed the post-license requirement on or before the first license expiration date, the applicant shall be eligible to reinstate the license according to 605:10-7-2 (f), (1) through (2).
- (B) If a provisional sales associate did not complete the post-license requirement on or before the first license expiration date, the applicant shall be required to apply and qualify

as an original applicant.

(l) **Continuing education requirement.** Each licensee with the exception of those as listed in Title 59, O.S., Section 858-307.2 (D) seeking renewal of a license must submit evidence that they have completed the continuing education requirements enumerated in Section 858-307.2 of Title 59. An applicant seeking active reinstatement of a lapsed license must submit evidence that all continuing education requirements have been completed for each term in which an active license is requested.

(m) **License fees prorated.** If a real estate sales associate qualifies for a license as a real estate broker associate or broker, or if a real estate broker associate qualifies for a license as a real estate broker, the unused license fee shall be credited to the new license fee. The unused license fee credit shall commence with the first full month following the month in which the broker license is to be issued.

(n) **License expires after effective date of national criminal history check.**

(1) Any licensee who allows their license to expire shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of a completed fingerprint card, application Part A, and fee as stated elsewhere in these rules for the background search. If, the Commission does not receive a completed Part A of the application and completed fingerprint card and fee within thirty (30) days from the date of request by the Commission, the license will be placed inactive and a hold placed on the license until receipt by the Commission of the aforementioned items. Thereafter, upon receipt by the Commission, the license may be reactivated so long as appropriate reactivation forms and fees, as stated elsewhere in these rules, have been received by the Commission. However, if the fingerprint card is rejected for the purposes of a national criminal history check, the Commission will provide written notice to the licensee and the licensee must submit a new and unique fingerprint card to the Commission within thirty (30) days of receipt of such notice or the license will be placed on inactive status.

(2) A provisional sales associate who completes the Provisional Post-License Course prior to their first license expiration date but fails to timely renew the license shall be eligible to apply under the requirement under the preceding paragraph. However, after a period of three (3) years from the date of the license expiration such applicant shall no longer be eligible to apply under this section.

(o) **Issuance of license from provisional sales associate to sales associate.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Post- license Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Post-license Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The

Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has submitted evidence of successful completion of the forty-five (45) clock hour post-license course requirement and submitted all required form(s) and fee(s) as required by the Commission.

(p) **Active sales associate to inactive broker associate, or sales associate and/or broker associate to inactive broker license — no remaining credit to be given.** In the event an active sales associate, within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker associate license, the Commission shall not credit the difference in license fees. In the event an active sales associate or broker associate within six (6) months of obtaining their original license, reinstatement, or license renewal qualifies for an inactive broker license, the Commission shall not credit the difference in the license fees.

(q) **Licensee on active duty as a member of the Armed Forces of the United States.**

(1) In accordance with Title 59, O.S., Section 4100.6 of the Post-Military Service Occupation, Education and Credentialing Act while a license holder is on active duty the license may be renewed without payment of the license and education and recovery fund fee and meeting the continuing education requirement. The waiver shall be requested in writing to the Commission prior to license expiration along with evidence of the order for active duty. The license issued pursuant to this rule may be continued as long as the licensee is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty. Upon discharge from active duty and a request for license activation, the licensee shall submit to the Commission evidence of successful completion of the continuing education requirement for the current license renewal term.

(2) If a licensee on active duty does not request such a waiver in writing and the license expires, the applicant may, by written request provide the Commission documentation as required in subparagraph (1) of this subsection; however, no later than one (1) year after discharge from active duty.

(3) In the event a license expires during the events as noted herein, the Commission shall waive the criminal history background check and license examination.

(4) **Member of the National Guard or reserve component of the armed forces.** In accordance with Title 72, Chapter 1, Section 48.2 Extension and Renewal of Professional Licenses, any licensee whose license expires while on active duty as a member of the National Guard or reserve component of the armed forces shall be extended until no later than one (1) year after the member is discharged from active duty status. Upon the Commission receiving a copy of the official orders calling the member or reservist to active duty and official orders discharging the member or reservist from active duty all licensee fee and continuing education shall be waived for this time period as well as the criminal history background check and license examination.

(r) **Reinstatement for corporation, association, or partnership.**

(1) A corporation, association or partnership that has lapsed for less than three (3) years that wishes to reinstate must submit:

(A) License and late penalty fees.

(B) Reinstatement forms and documents as required by the Commission.

(C) If the corporation or association has been lapsed for more than sixty (60) days, a current "Certification of Good Standing."

(2) Any corporation, association, or partnership that has lapsed for more than three (3) years must submit an original application to be considered for licensure.

(s) **Reinstatement for branch offices.**

(1) A branch office that is lapsed for less than three (3) years that wishes to reinstate must submit:

(A) License fee and late penalty fees.

(B) Reinstatement forms and documents as required by the Commission

(2) Any branch office that has lapsed for more than three (3) years must submit an original application as a new branch office.

(t) **Specific license fees waived for low-income individuals.** In accordance with Title 59, Section 4003, any applicant who can present satisfactory evidence of being a low-income individual shall receive a one-time one-year waiver of the licensure fees as outlined in 605:10-7-2 (a.) Such waiver shall be prorated for a multi-year license so that the applicant shall only receive a waiver for one year of the applicable license fees. For the purposes of this section, "low-income individual" means an individual who is enrolled in a state or federal public assistance program, or whose household adjusted gross income is below 140% of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation. Satisfactory evidence that the applicant is a low-income individual must be made upon forms provided by the Commission and must be presented upon application for original licensure.

605:10-7-7. Branch offices

(a) **Each additional office must be licensed.** If a broker desires to do business from more than one office location, the broker must license each additional office location as a branch office by submitting forms and fees as required by the Commission. The license shall be maintained in the branch office and available upon request.

(b) **Associate's license issued to branch office.** An associate's license shall be issued to and maintained in the office to which the associate is assigned.

(c) **Broker to designate a branch office broker to act.** A broker shall designate a branch office broker, other than himself or herself, to act as broker for each location, to supervise the activities of the branch office. The branch office shall be licensed in conformance with Section 858-310 of the Code. The branch office broker may be designated to perform all duties and sign documents on behalf of the broker with respect to the branch office at the discretion of the broker. The designation shall be in writing and filed with the Commission. The branch office broker assumes the responsibility in conjunction with the broker, for all associates assigned to the branch office.

(d) **Broker may act as branch office broker; restriction.** A broker may act as the branch office broker if the branch office is located at the same location as the main office upon the appropriate documents and fees being filed with the Commission.

(e) **Reappointment of branch office broker.** In the event of the death or disability of the designated branch office broker, or in the event of the retirement or cessation of employment for any reason by the designated branch office broker, and the branch office is to continue business, the main office broker shall appoint a new branch office broker and file the appropriate documents with the Commission within thirty (30) days of the occurrence of the event. ~~In the event of the retirement or cessation of employment for any reason by the designated branch office broker, and the branch office is to continue business, the main office broker shall appoint a new branch office broker and file the appropriate documents with the Commission within ten (10) days of the occurrence of the event.~~

(f) **Branch office must utilize the same name or trade name of main office.** A branch office may utilize a trade name that is different from the main office so long as the broker registers the name(s) with the Commission.

605:10-7-8. Corporation licensing procedures and requirements of good standing

(a) **Broker license requirement.** Each corporation who performs activities which require a real estate license pursuant to Title 59, O.S., Section 858-102 of the License "Code" shall apply as a real estate broker. Upon approval by the Commission, the corporation shall be granted a real estate broker license. In order to obtain a license, the corporation shall furnish to the satisfaction of the Commission, but not limited to, the following items:

- (1) Completed application form(s) and required fee(s).
- (2) Verification that the corporation is authorized to transact business as a corporation in the State of Oklahoma and that the corporation is in good standing in the State of Oklahoma.
- (3) Corporation must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code."
- (4) Corporation must have a managing corporate broker who holds a separate license as a

real estate broker.

(5) The designation of a managing corporate broker shall be established by sworn statement signed by the President of the corporation stating the date and place such action was effected.

(6) In the event of the death or disability of the managing corporate broker, or the event of the retirement or cessation of employment for any reason by the managing corporate broker, the cooperation shall be required to appoint a new managing corporate broker and such notice of change must be filed in the Commission office no later than thirty (30) days of the occurrence of the event. ~~In the event of the retirement or cessation of employment for any reason of the managing corporate broker, the corporation shall be required to appoint a new managing corporate broker and such notice of change must be filed in the Commission office no later than ten (10) working days of the occurrence of the event.~~ The notice of change in a managing corporate broker must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollar (\$25.00) change of status fee.

(7) The corporation is to notify the Commission in writing within ten (10) days of the date of a change in corporate officers.

(b) **Corporation and managing corporate broker responsible for acts.** The managing corporate broker in conjunction with the corporation is responsible for all acts of the corporation, including the acts of all associates associated with the corporation.

(c) **Corporation closing requirements or partial ceasing of real estate activities.** When a corporation discontinues a portion of real estate activities or ceases all real estate activities, the corporation is required to comply with the following:

(1) Immediately notify the Commission.

(2) Comply with Section 605:10-13-1 (n).

(d) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions requesting Licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

605:10-7-8.1. Partnership licensing procedures and requirements of good standing

(a) **Broker license requirement.** Each partnership who performs activities which require a real estate license pursuant to Title 59, O.S., Section 858-102 of the License "Code" shall apply as a real estate broker. Upon approval by the Commission, the partnership shall be granted a real estate broker license. In order to obtain a license, the partnership shall furnish to the satisfaction of the Commission, but not limited to, the following items:

(1) Completed application form(s) and required fee(s).

- (2) A written statement signed by all partners attesting to the formation of a partnership and that it is in good standing in the State of Oklahoma.
- (3) Partnership must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code."
- (4) Partnership must have a minimum of two managing partners who each hold a separate license as a real estate broker.
- (5) The designation of the managing partners shall be established by sworn statement signed by the managing partners of the partnership stating the date and place such action was effected.
- (6) In the event of the death or disability of the managing partner(s), or in the event of the retirement or cessation of employment for any reason of the managing partner(s), the partnership is dissolved unless the partnership agreement provides otherwise. If the partnership agreement provides for the continuation of the partnership after the loss of a partner, the partnership shall be required to appoint a new managing partner and such notice of change must be filed in the Commission office no later than thirty (30) working days of the occurrence of the event. ~~In the event of the retirement or cessation of employment for any reason of the managing partner(s), the partnership is dissolved unless the partnership agreement provides otherwise. If the partnership agreement provides for the continuation of the partnership after the loss of a partner, the partnership shall be required to appoint a new managing partner and such notice of change must be filed in the Commission office no later than ten (10) working days of the occurrence of the event.~~ The notice of change in managing partners must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollar (\$25.00) change of status fee.

(b) **Partnership and managing partners responsible for acts.** The managing partners in conjunction with the partnership are responsible for all acts of the partnership, including the acts of all associates associated with the partnership. If a corporation or association is a partner of the partnership a letter must be submitted by the firm acknowledging that the managing member of the association or managing broker of the corporation is responsible for all acts of the partnership, including the acts of all associates associated with the partnership.

(c) **Partnership closing requirements or partial ceasing of real estate activities.** When a partnership discontinues a portion of real estate activities or ceases all real estate activities, the partnership is required to comply with the following:

- (1) Immediately notify the Commission.
- (2) Comply with Section 605:10-13-1 (n).

(d) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions requesting licenses to be issued. To qualify, such request must be received complete and require no

further correspondence and/or documents except for the issuance of the licenses.

605:10-7-8.2. Association licensing procedures and requirements of good standing

(a) **Broker license requirement.** Each association who performs activities which require a real estate license pursuant to Title 59, O.S., Section 858-102 of the License “Code” shall apply as a real estate broker. Upon approval by the Commission, the association shall be granted a real estate broker license. In order to obtain a license, the association shall furnish to the satisfaction of the Commission, but not limited to, the following items:

- (1) Completed application form(s) and required fee(s).
- (2) Verification that the association is authorized to transact business as an association in the State of Oklahoma and that the association is in good standing in the State of Oklahoma.
- (3) Association must comply with Title 59, O.S., Section 858-312.1 of the License “Code”.
- (4) Association must have a managing member or manager who holds a separate license as a real estate broker.
- (5) The designation of a managing broker member or manager shall be established by sworn statement signed by an authorized member or manager of the association stating the date and place such action was effected.
- (6) In the event of the death or disability of the managing broker member or manager, or in the event of the retirement or cessation of employment for any reason of the managing broker member or manager, the association shall be required to appoint a new managing broker member or manager and such notice of change must be filed in the Commission office no later than thirty (30) working days of the occurrence of the event. ~~In the event of the retirement or cessation of employment for any reason of the managing broker member or manager, the association shall be required to appoint a new managing broker member or manager and such notice of change must be filed in the Commission office no later than ten (10) working days of the occurrence of the event.~~ The notice of change in a managing broker member or manager must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollar (\$25.00) change of status fee.

(b) **Association and managing broker member or manager responsible for acts.** The managing broker member or manager in conjunction with the association is responsible for all acts of the association, including the acts of all associates associated with the association.

(c) **Association closing requirements or partial ceasing of real estate activities.** When an association discontinues a portion of the real estate activities or ceases all real estate activities, the association is required to comply with the following:

- (1) Immediately notify the Commission.

- (2) Comply with Section 605:10-13-1 (n).
- (d) **Limited liability company.** A limited liability company shall be considered as an association.
- (e) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions requesting licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

605:10-9-4. Advertising

(a) Requirements and prohibitions.

- (1) A broker, when advertising, must use their registered business trade name or the name under which the broker is licensed; however, yard signs must also include the broker's office telephone number. A firm shall not register or use a trade name of another licensed firm. In addition, the advertisement must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "agency," "company," "realty," or "real estate," as the case may be. Legal abbreviations following the trade name or name under which the broker is licensed shall be acceptable as long as they are easily identifiable by the public as such.
- (2) No real estate advertisement shall show only a post office box number, telephone number, or street address.
- (3) A broker, when operating under a franchise name, shall clearly reveal in all office identification and in all advertising other than institutional type advertising designed to promote a common name, the franchise name along with the name of the broker or business trade name as registered with the Commission. A franchise name shall not be the complete business trade name. All institutional type franchise advertising shall indicate that each office is independently owned and operated.
- (4) A licensee shall not either advertise, personally or through any media, to sell, buy, exchange, rent, or lease property when such advertisement is directed at or referred to persons of a particular race, color, creed, religion, national origin, familial status, or handicap. The contents of any advertisement must be confined to information relative to the property itself, and any advertisement, which is directed at or referred to persons of any particular race, color, creed, religion, national origin, familial status, age, or handicap is prohibited.
- (5) Any advertising in any media which is misleading or inaccurate in any material fact or in any way misrepresents any property, terms, values, services, or policies is prohibited.
- (6) A licensee shall not advertise any property for sale, rent, lease, or exchange in any media unless the broker has first secured the permission of the owner or the owner's authorized

representative and said permission has a definite date of expiration.

(7) Social networking. A licensee who is engaged in licensed activities through social networking mediums must indicate their license status and include their broker's reference as required elsewhere in this rule.

(8) A licensee shall not use a yard sign at the licensee's personal residence as a marketing tool, to make it appear the real property is for sale, lease, or rent when such is not the case.

(9) A broker may, or authorize an associate to, promote a seller incentive with the consent of the seller. The publicity must clearly indicate the incentive is being offered by the seller and not by the licensee and that the promotion only applies to a seller's particular property or properties.

(b) Associates advertising.

(1) An associate is prohibited from advertising under only the associate's name.

(2) All advertising by an associate must be under the direct supervision of the associate's broker.

(3) In all advertising, the associate must include the name of the associate's broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous, and easily identifiable. For purposes of this section, "prominent, conspicuous, and easily identifiable" means that the broker's reference shall be at least fifty percent (50%) or larger than any associate reference included in the advertisement. If approved by a broker, an associate may include in the advertisement:

(A) The associate's personal insignia of which such approval is to be maintained by the broker and which cannot be construed as that of a firm's name.

(B) The associate's personal nickname or alias which must be registered at the Commission prior to its use and which cannot be construed as that of a firm's name.

(C) An associate's contact information.

(D) A slogan which cannot be construed as that of a firm's name.

(E) A domain/website name that is registered with the broker. Within this domain/website, the broker's reference shall appear on every individual page and/or frame.

(4) An associate's contact information may be added to a yard sign if the yard sign contains the registered name or trade name and office telephone number of the broker so long as it is approved by the broker.

(5) Open house or directional signs used in conjunction with broker's signs do not have to contain the name or trade name of the associate's broker and broker's telephone number.

(c) Team advertising.

- (1) A team is prohibited from advertising only under the team name.
- (2) All advertising by a team must be under the direct supervision of the team's broker.
- (3) All team advertising must include the name of the team's broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous, and easily identifiable. For the purposes of this section, "prominent, conspicuous, and easily identifiable" means that the broker's reference shall be at least fifty percent (50%) or larger than any team reference included in the advertisement. If approved by the broker, a team may include in the advertisement:
 - (A) The team's personal insignia of which such approval is to be maintained by the broker.
 - (B) The team's contact information.
 - (C) A team slogan approved by the broker.
 - (D) A domain/website name that is registered with the broker. Within this domain/website, the broker's reference shall appear on every individual page and/or frame.

(d) Licensee acting as owner, purchaser, or direct employee of owner.

- (1) When a licensee, either active or inactive, is purchasing real estate or is the owner of property that is being sold, exchanged, rented or leased and such is being handled either by the licensee or marketed through a real estate firm, the licensee is required to disclose in writing on all documents that pertain to the transaction and in all advertisements that he or she is licensed. On all purchase or lease contracts, the licensee is to include their license number.
- (2) A licensee who is not acting in the capacity of a licensee but is engaged in buying, selling, leasing, or renting real estate as a direct employee for the owner or as an officer for an entity is not required to indicate in the advertising that he or she is licensed.

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

605:10-13-1. Duty to account; broker

(a) Deposit and account of trust/escrow funds.

- (1) The obligation of a broker to remit monies, valuable documents and other property coming into his or her possession within the meaning of subparagraph six (6), Section 858-312 of the "Code" shall be construed to include, but shall not be limited to, the following:
 - (A) Shall deposit all checks and monies of whatever kind and nature belonging to others in a separate account in a financial institution wherein the deposits are insured by an

agency of the federal government.

(B) The broker is required to be a signor on ~~the~~ any brokerage account where such funds are held.

(C) ~~The~~ Any brokerage account where such funds are held must be in the name of the broker as it appears on the license or trade name as registered with the Commission and styled as a trust or escrow account and shall be maintained by the broker as a depository for deposits belonging to others.

(D) All escrow funds shall be deposited before the end of the third banking day following acceptance of an offer by an offeree or receipt of escrow funds unless otherwise agreed to in writing by all interested parties.

(E) The broker shall ~~maintain such funds~~ ensure such funds are maintained in said account until the transaction involved is consummated or terminated and proper accounting made.

(F) The broker shall at all times, maintain an accurate and detailed record thereof.

(2) Funds referred to in this subsection shall include, but are not limited to earnest money deposits, money received upon final settlements, rents, security deposits, money advanced by buyer or seller for the payment of expenses in connection with closing of real estate transactions, and money advanced by his or her principal or others for expenditures on behalf of subject principal.

(b) **Commingling prohibited.** A broker may not keep any personal funds in the trust account except amounts sufficient to insure the integrity of the account and cover any charges made by the financial institution for servicing the trust or escrow account.

(c) **Interest bearing account.** A broker shall not be prohibited from placing escrow monies in an interest bearing account; however, he or she must disclose in writing to all parties that the account bears interest and identify the party receiving the interest. The Commission does not prohibit the broker from receiving the earned interest. In the event the interest is credited to the broker, the broker should, upon final consummation of the transaction, immediately disburse the interest from the account or insure that the amount does not exceed a reasonable amount to cover normal financial institution charges. The broker is required to maintain complete and accurate records of the interest earned. The interest bearing account must be a demand type account; this prohibits the use of certificate of deposit or other types of time deposits as trust/escrow accounts.

(d) **Trust account not mandatory unless funds or items are held.** A broker shall not be required to maintain a trust or escrow account unless monies or other depositable items belonging to others are accepted by the broker and require the broker to place the monies or items in the broker's trust account.

(e) **Trust accounts must be registered with commission.** A broker shall be required to notify

the Commission in writing of all trust or escrow accounts, security deposit accounts, rental management operating accounts, and interest bearing accounts in which trust funds are held. Further, if a broker is a signor on a principal's account, the broker shall register that account as a trust account. A broker shall inform the Commission in writing of any accounts which are closed and no longer in use.

(f) **Settlement statement to be furnished.** A broker shall insure that a signed settlement statement is furnished in each real estate transaction wherein he or she acts as broker, at the time such transaction is consummated.

(g) **Payment of funds.** A broker shall pay over all sums of money held by him or her promptly after the closing of any transaction, provided, that upon any hearing to suspend or revoke his or her license under this Section, the failure to pay over any sums of money held by him or her within three (3) days after a closing shall be prima facie evidence of a violation by such person under the provisions of this Section.

(h) **Return of earnest money or items.** In the event a transaction does not consummate, a broker shall promptly disburse the earnest money or items to the proper party in accordance with the terms of the contract. In the event a dispute arises prior to the disbursement, the broker shall follow rule 605:10-13-3 or may file an interpleader action with the appropriate court.

(i) **Documents, items, or monies furnished to all parties.** A broker shall insure the timely delivery or return of all documents, items or monies to a party to a transaction wherein the broker or the broker's associate have provided services.

(j) **Inform all parties pertaining to escrow being held.** A broker shall insure that all parties of each transaction are informed of the details relating to the escrow including, but not limited to, a statement as to the nature of a non-depositable item, the value of the item, and in whose custody the item is being placed.

(k) **Bookkeeping system required.** A broker shall maintain a bookkeeping system i.e., canceled checks, check book, deposit receipts, general accounts ledger, etc. which will accurately and clearly disclose full compliance with the Law relating to the maintaining of trust accounts.

(l) **Record retention.** A broker shall maintain all records and files for a minimum of five (5) years after consummation or termination of a transaction. In the case of trust account records, the five years shall commence with the date of disbursal of funds. Records as referenced in this paragraph shall be destroyed in a secure manner.

(m) **Requirements for storage of records on alternative media.** The Real Estate Commission establishes the following requirements for storage of trust account and transaction records stored on alternative media. Alternative media is defined as media that uses an electronic device to store or retrieve the information that pertains to the trust account and transaction documentation. This requirement applies to any computer technology utilized by the broker to create, store or retrieve the aforementioned documentation, whether the computerized device is internal or external to the

broker's computer equipment. If a broker utilizes his own equipment or a third party vendor to create, store or retrieve this information, the broker shall ensure that the documentation is maintained and able to be retrieved for the five (5) year period as required by the Commission.

(1) Trust account records shall be maintained by the broker in their original format for a minimum of two (2) years. Trust account records may then be transferred to an alternative media for the remaining required record retention time.

(2) Records, with the exception of trust account records, may be transferred at any time to an alternative media for the remaining required retention time.

(3) After documents are converted to alternative media, a quality assurance check shall be done to ensure that every document was imaged and can be reproduced in a legible and readable condition on a display device.

(4) After the quality assurance check is completed, the original documents may be destroyed.

(5) A broker shall maintain the alternative media and a means of viewing and retrieving records, and shall provide a true, correct, and legible paper copy to the Commission upon request.

(6) A broker shall store copies of the alternative media and the equipment used to read the media in an environment and at a level of quality conducive to maintain the ability to reproduce the media throughout the retention period. Reproduce means a process in which a document can be converted from the alternative media to a paper copy that is legible and able to be read.

(n) **Cessation of real estate activities.** Upon a firm ceasing a portion of real estate activities or ceasing all real estate activities the broker shall:

(1) Notify the Commission in writing of the effective date of the action and advise as to the location where records will be stored and comply with the following:

(A) Return the broker's license certificate and pocket identification card and all license certificates of those associated with the broker to the Commission and advise the Commission as to the circumstances involving any not returned.

(B) Release forms must be filed for all licensees affiliated with the firm.

(C) The broker must either transfer to a new firm or place his or her license on inactive status.

(2) Notify in writing all listing and management clients, as well as parties and co-brokers to existing contracts advising them of the date of cessation of real estate activities.

(3) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of cessation of real estate activities.

(4) Funds in trust accounts and pending contracts must be maintained by the responsible

broker until consummation of transaction and final proper disbursement of funds. Upon final disbursements of funds the broker is required to close the account and notify the Commission in writing that the account is closed.

(5) In the event the responsible broker is unable to continue to maintain the funds and/or pending contracts, funds and/or pending contracts may be transferred to another authorized broker, entity, or legal representative until consummation and proper disbursement of funds. In this event, the broker must submit a request in writing to the Commission for approval to transfer the contracts and/or funds. Upon written approval by the Commission, the broker must secure approval and obtain new agreements from all parties for transfer of the contracts and/or funds.

(6) If funds, items and/or contracts are transferred to another authorized broker, entity or legal representative and approved by the Commission, the broker transferring such shall be required to compile a record of the following, retain a copy for his or her file and give a copy to the receiving authorized broker, entity or legal representative:

(A) A copy of the written approval from the Commission authorizing the transfer of the contracts and/or funds.

(B) The name and address of the authorized broker, entity, or legal representative.

(C) A trust account reconciliation sheet indicating ledger balance and financial institution balance at time of transfer to include the name of each depositor, amount of deposit, date, and purpose of the deposit.

(D) A statement indicating that written agreements were obtained from all parties to each transaction agreeing to the transfer of the funds and/or contracts to another responsible broker, authorized entity or legal representative and that each depositor was notified of the effective date of transfer, and the name of the responsible person or entity.

(7) Any firm merger shall have a thirty (30) day time period in which to provide the Commission the documentation as referenced in subparagraph (n) of this rule. Firm merger means that a licensed firm has been acquired by another licensed firm and the firm that was acquired is ceasing a portion or all of its licensed activities.

(o) **Security breach of personal information.**

(1) Security breach of personal information as defined in Title 24, Oklahoma Statutes, Sections 161- 166 means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by a licensee as part of a database of personal information regarding multiple persons. Personal information means the first name or first initial and last name in combination with and linked to any one or more of the following data elements:

(A) social security number,

- (B) driver license number or state identification card number issued in lieu of a driver license, or
 - (C) financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to the financial accounts.
- (2) The breach of information would not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the public.
- (3) In the event personal information is breached, the licensee is required to send notice to the Commission and to all concerned persons whose information was breached by an unauthorized person or source as required in Title 24, O.S., Section 162. The licensee is required to comply with all requirements within the Security Breach Notification Act or be subject to disciplinary action by the Commission.

SUBCHAPTER 17. CAUSES FOR INVESTIGATION – HEARING PROCESS – PROHIBITED ACTS – DISCIPLINE

605:10-17-4. Prohibited dealings

Within the meaning of Subsection 8 of Section 858-312 of the “Code,” untrustworthy, improper, fraudulent, or dishonest dealing shall include, but not be limited to, the following:

- (1) The making of a brokerage service contract without a date of termination.
- (2) Purchasing of property by a licensee for himself, herself, or another entity in which the licensee has an interest as defined in 605:10-15-1 (c), if the property is listed with the broker or the broker’s firm, without first making full disclosure thereof and obtaining the approval of the owner, or the failure by the licensee to exert their best effort in order to later purchase or acquire the property for themselves or another entity in which they have an interest as defined in 605:10-15-1 (c).
- (3) Repeated misrepresentations, even though not fraudulent, which occur as a result of the failure by the licensee to inform himself or herself of pertinent facts concerning property, as to which he or she is performing services.
- (4) Procuring the ~~signature~~ signature(s) and dates of the signature(s) to a purchase offer or contract or to any lease or lease proposal which has no definite purchase price or lease rental, or no method of payment, termination date, possession date or property description.
- (5) The payment of any fees or amounts due the Commission with a check that is dishonored upon presentation to the bank on which the check is drawn.
- (6) Lending a broker’s license to an associate; permitting an associate to operate as a broker;

or failure of a broker to properly supervise the activities of an associate. A broker permitting the use of the broker's license to enable an associate licensed with the broker to, in fact, establish, and conduct a brokerage business wherein the broker's only interest is the receipt of a fee for the use of the broker's sponsorship.

(7) Failure to make known in writing to any purchaser any interest the licensee has in the property they are selling.

(8) Failure of the licensee to inform the buyer and seller in writing at the time the offer is presented that the buyer and seller will be expected to pay certain closing costs, brokerage service costs, and approximate amount of said costs.

(9) Failure, upon demand in writing, to respond to a complaint in writing, or to disclose any information within licensee's knowledge, or to produce any document, book or record in licensee's possession or under licensee's control that is real estate related and under the jurisdiction of the Real Estate Commission, for inspection to a member of the Commission staff or any other lawful representative of the Commission.

(10) Failure to reduce an offer to writing, when a proposed purchaser requests such offer to be submitted.

(11) Failure to submit all bona fide offers to an owner when such offers are received prior to the seller accepting an offer in writing.

(12) Any conduct in a real estate transaction that demonstrates bad faith or incompetency.

(13) Failure to act, in marketing the licensee's own property, with the same good faith as when acting in the capacity of a real estate licensee.

(14) An associate who does not possess the license of a broker or branch office broker as defined in the rules, but is intentionally acting in the capacity of a broker or branch office broker.

(15) Discouraging a party from obtaining an inspection on a property.

(16) Allowing access to or control of, real property without the owner's authorization.

(17) Knowingly providing false or misleading information to the Commission during the course of an investigation.

(18) Interfering with an investigation by means of persuading, intimidating or threatening any party or witness, or tampering with or withholding evidence relating to the investigation.

(19) Knowingly cooperating with an unlicensed person or entity to perform licensed real estate activities as required by Title 59 O.S. Section 858-301.

(20) Failing to disclose any known immediate family relationship to a party to the transaction for which the broker is providing brokerage services.

- (21) Failure by a broker to ensure all persons performing real estate licensed activities under the broker are properly licensed.
- (22) An associate shall not perform licensed activities outside their broker's supervision.
- (23) Failing to maintain documents relating to a trust account or real estate transaction for the time as required by Rule 605:10-13-1.

