

OKLAHOMA BROKER RELATIONSHIPS ACT
TITLE 59. Oklahoma Statutes.
Sections 858-351 through 858-363
Effective November 1, 2000
Amended as of November 1, 2013.

Section 858-351. Definitions.

Unless the context clearly indicates otherwise, as used in Section 851-351 through 858-363 of the Oklahoma Real Estate Code:

1. "Broker" means a real estate broker, an associated broker associate, sales associate, or provisional sales associate authorized by a real estate broker to provide brokerage services;

2. "Brokerage services" means those services provided by a broker to a party in a transaction;

3. "Party" means a person who is a seller, buyer, landlord or tenant or a person who is involved in an option or exchange;

4. "Transaction" means an activity or process to buy, sell, lease, rent, option or exchange real estate. Such activities or processes may include, without limitation, soliciting, advertising, showing or viewing real property, presenting offers or counteroffers, entering into agreements and closing such agreements; and

5. "Firm" means a sole proprietor, corporation, association, or partnership.

Section 858-352. *Repealed by Laws 2012, HB2524, c. 251, Section 9, eff. November 1, 2013*

Section 858-353. Broker duties and responsibilities.

A. A broker shall have the following duties to all parties in a transaction, which are mandatory and may not be abrogated or waived by a broker:

1. Treat all parties with honesty and exercise reasonable skill and care;

2. Unless specifically waived in writing by a party to the transaction:

a. receive all written offers and counteroffers,

b. reduce offers or counteroffers to a written form upon request of any party to a transaction, and

c. present timely all written offers and counteroffers;

3. Timely account for all money and property received by the broker;

4. Keep confidential information received from a party or prospective party confidential. The confidential information shall not be disclosed by a firm without the consent of the party disclosing the information unless consent to the disclosure is granted in writing by the party or prospective party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the firm. The following information shall be considered confidential and shall be the only information considered confidential in a transaction:

- a. that a party or prospective party is willing to pay more or accept less than what is being offered;
- b. that a party or prospective party is willing to agree to financing terms that are different from those offered;
- c. the motivating factors of the party or prospective party purchasing, selling, leasing, optioning, or exchanging the property; and
- d. information specifically designated as confidential by a party unless such information is public.

5. Disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and

6. Comply with all requirements of The Oklahoma Real Estate License Code and all applicable statutes and rules.

B. A broker shall the following duties and responsibilities only to a party for whom the broker is providing brokerage services in a transaction which are mandatory and may not be abrogated or waived by a broker:

1. Inform the party in writing when an offer is made that the party will be expected to pay certain costs, brokerage service costs and approximate amount of costs; and

2. Keep the party informed regarding the transaction.

C. When working with both parties to a transaction, the duties and responsibilities set forth in this section shall remain in place for both parties.

Section 858-354. *Repealed by Laws 2012, HB2524, c. 251, Section 9, eff. November 1, 2013*

Section 858-355. *Repealed by Laws 2012, HB2524, c.252, Section 9, eff. November 1, 2013*

Section 858-355.1. Brokerage agreements – Services provided to both parties in a transaction – Disclosures.

A. All brokerage agreements shall incorporate as material terms the duties and responsibilities set forth in Section 858-353 of The Oklahoma Real Estate License Code.

B. A broker may provide brokerage services to one or both parties in a transaction.

C. A broker who is providing brokerage services to one or both parties shall describe and disclose in writing the broker’s duties and responsibilities set forth in Section 858-353 of The Oklahoma Real Estate License Code prior to the party or parties signing a contract to sell, purchase, lease, option, or exchange real estate.

D. A firm that provides brokerage services to both parties in a transaction shall provide written notice to both parties that the firm is providing brokerage services to both parties prior to the parties signing a contract to purchase, lease, option or exchange real estate.

E. If a broker intends to provide fewer brokerage services than those required to complete a transaction, the broker shall provide written disclosure to the party for whom the broker is providing brokerage services. Such disclosure shall include a description of those steps in the transaction for which the broker will not provide brokerage services, and also state that the broker assisting the other party in the transaction is not required to provide assistance with these steps in any manner.

Section 858-356. Disclosures – Confirmation in writing.

The written disclosure as required by subsection C of Section 858-355.1 of this title shall be confirmed by each party in writing in a separate provision, incorporated in or attached to the contract to purchase, lease, option or exchange real estate. In those cases where a broker is involved in a transaction but does not prepare the contract to purchase, lease, option, or exchange real estate, compliance with the disclosure requirements shall be documented by the broker.

Section 858-357. *Repealed by Laws 2012, HB2524, c. 251, Section 9, eff. November 1, 2013*

Section 858-358. Duties of broker following termination, expiration or completion of performance.

Except as may be provided in a written brokerage agreement between the broker and a party to a transaction, the broker owes no further duties or responsibilities to the party after termination, expiration, or completion of performance of the transaction, except:

1. To account for all monies and property relating to the transaction; and
2. To keep confidential all confidential information received by the broker during the broker's relationship with a party.

Section 858-359. Broker compensation – Determination of Relationship – Breach of Duty.

A. The payment or promise of payment or compensation by a party to a broker does not determine what relationship, if any, has been established between the broker and a party to a transaction.

B. In the event a broker receives a fee or compensation from any party to the transaction based on a selling price or lease cost of a transaction, such receipt does not constitute a breach of duty or obligation to any party to the transaction.

C. Nothing in this section requires or prohibits a broker from charging a separate fee or other compensation for each duty or other brokerage services provided during a transaction.

Section 858-360. Abrogation of common law principles of agency – Remedies Cumulative.

A. The duties and responsibilities of a broker specified in Sections 858-351 through 858-363 of The Oklahoma Real Estate License Code shall replace and

abrogate the fiduciary or other duties of a broker to a party based on common law principles of agency. The remedies at law and equity supplement the provisions of Sections 858-351 through 858-363 of The Oklahoma Real Estate License Code.

B. A broker may cooperate with other brokers in a transaction. Pursuant to Sections 858-351 through 858-363 of The Oklahoma Real Estate License Code, a broker shall not be an agent, subagent, or dual agent and an offer of subagency shall not be made to other brokers.

C. Nothing in this act shall prohibit a broker from entering into an agreement for brokerage services not enumerated herein so long as the agreement is in compliance with this act, the Oklahoma Real Estate Code and the Oklahoma Real Estate Commission Administrative Rules.

Section 858-361. Use of “agent” in trade name.

A real estate broker and the associates of a real estate broker are permitted under the provisions of this title to use the word “agent” in a trade name and as a general reference for designating themselves as real estate licensees.

Section 858-362. Vicarious liability for acts or omissions of real estate licensee.

A party to a real estate transaction shall not be vicariously liable for the acts or omissions of a real estate licensee who is providing brokerage services under Sections 858-351 through 858-363 of The Oklahoma Real Estate License Code.

Section 858-363. Associates of real estate broker - Authority.

Each broker associate, sales associate, and provisional sales associate shall be associated with a real estate broker. Associates shall not enter into a brokerage agreement with a party in the associate’s name and shall only be allowed to enter into the agreement in the name of the real estate broker. A real estate broker may authorize associates to provide brokerage services in the name of the real estate broker as permitted under The Oklahoma Real Estate License Code, which may include the execution of written agreements.