OKLAHOMA REAL ESTATE LICENSE CODE AND RULES

As of November 1, 2006

THE OKLAHOMA REAL ESTATE COMMISSION

Executive Office
Shepherd Mall
2401 N.W. 23rd Street, Suite 18
Oklahoma City, Oklahoma 73107-2431

OKLAHOMA REAL ESTATE COMMISSION

Members

Charles Barnes
Mike Cassidy
Peter Galbraith
John Mosley
Randy Saunier
Stephen Sherman
Martin VanMeter

During 2006, the License Law and Rules were again amended. This booklet reflects those changes and is so designed that it may be inserted in the back of the Oklahoma Real Estate Commission study manuals; thereby providing you with current information and a ready reference on the License Law and Rules, as amended.

This publication, printed by the University of Oklahoma Printing Services, is issued by the Oklahoma Real Estate Commission, as authorized by Anne M. Woody, Executive Director. 2,000 copies have been prepared and distributed at no cost to the taxpayers of Oklahoma. The entire cost of preparing this publication has been borne by the Real Estate Licensees through their Education and Recovery Fund Fees. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.

OKLAHOMA REAL ESTATE LICENSE CODE
Title 59, Oklahoma Statutes of 1974
Section 858-101 through 858-605
As Amended
Through November 1, 2006

GENERAL PROVISIONS

§858-101. Title and construction. This Code shall be known and cited as "The Oklahoma Real Estate License Code."

§858-102. Definitions. When used in this Code, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. The term "real estate" shall include any interest or estate in real property, within or without the State of Oklahoma, whether vested, contingent or future, corporeal or incorporeal, freehold or nonfreehold, and including leaseholds, options and unit ownership estates to include condominiums, time-shared ownerships and cooperatives; provided, however, that the term "real estate" shall not include oil, gas or other mineral interests, or oil, gas or other mineral leases; and provided further, that the provisions of this Code shall not apply to any oil, gas, or mineral interest or lease or the sale, purchase or exchange thereof;
2. The term "real estate broker" shall include any person, partnership, association or corporation, foreign or domestic, who for a fee, commission or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, lists, sells or offers to sell, buys or offers to buy, exchanges, rents or leases any real estate, or who negotiates or attempts to negotiate any such activity, or solicits listings of places for rent or lease, or solicits for prospective tenants, purchasers or sellers, or who advertises or holds himself out as engaged in such activities;
3. The term "broker associate" shall include any person who has qualified for a license as a broker and who is employed or engaged by, associated as an independent contractor with, or on behalf of, a broker to do or deal in any act, acts or transaction set out in the definition of a broker;
4. The term "real estate sales associate" shall include any person having a renewable license and employed or engaged by, or associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker;
5. "Provisional sales associate" shall include any person who has been licensed after June 30, 1993, employed or engaged by, or associated as an independent contractor with, or on behalf of, a real estate broker to do or deal in any act, acts or transactions set out in the definition of a real estate broker and subject to an additional forty-five-clock-hour postlicensing educational requirement to be completed within the twelve-month license term. However, the Oklahoma Real Estate Commission shall promulgate rules for those persons called into active military service for purposes of satisfying the postlicensing educational requirement. The license of a provisional sales associate shall be nonrenewable unless the postlicensing requirement is satisfied prior to the expiration date of the license. Further, the term sales associate and provisional sales associate shall be synonymous in meaning except where specific exceptions are addressed in the Oklahoma Real Estate License Code;
6. The term "successful completion shall include prelicense, postlicense, and distance education courses in which an approved public or private school entity has examined the individual, to the satisfaction of the entity and standards as established by the Commission, in relation to the course material presented during the offering.
7. The term "renewable license" shall refer to a sales associate who is a holder of such license or to a provisional sales associate who has completed both the prelicense and postlicense educational requirements within the required time period as stated in the Code;
8. The term "nonrenewable license" shall refer to a provisional sales associate who is the holder of such license and who has not completed the postlicense educational requirement;
9. The term "surrendered license" shall refer to a real estate license which is surrendered, upon the request of the licensee, due to a pending investigation or disciplinary proceedings;
10. The term "cancelled license" shall refer to a real estate license which is canceled, upon the request of the licensee and approval of the Commission, due to a personal reason or conflict.
11. "Licensee" shall include any person who performs any act, acts or transactions set out in the definition of a broker and licensed under the Oklahoma Real Estate License Code;
12. The word "Commission" shall mean the Oklahoma Real Estate Commission;
13. The word "person" shall include and mean every individual, partnership, association or corporation, foreign or domestic;

14. Masculine words shall include the feminine and neuter, and the singular includes the plural; and
15. The word "associate" shall mean a broker associate, sales associate or provisional sales associate.

ESTABLISHMENT OF COMMISSION

§858-201. Oklahoma Real Estate Commission.

A. There is hereby re-created, to continue until July 1, 2009, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Real Estate Commission, which shall consist of seven (7) members. The Commission shall be the sole governmental entity, state, county or municipal, which shall have the authority to regulate and issue real estate licenses in the State of Oklahoma.

B. All members of the Commission shall be citizens of the United States and shall have been residents of the State of Oklahoma for at least three (3) years prior to their appointment.

C. Five members shall be licensed real estate brokers and shall have had at least five (5) years' active experience as real estate brokers prior to their appointment and be engaged full time in the real estate brokerage business. One member shall be a lay person not in the real estate business, and one member shall be an active representative of a school of real estate located within the State of Oklahoma and approved by the Oklahoma Real Estate Commission.

D. No more than two members shall be appointed from the same congressional district according to the latest congressional redistricting act. However, when congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.

§858-202. Appointment; Tenure; Vacancies; Removal.

A. Members of the Oklahoma Real Estate Commission shall be appointed by the Governor with the advice and consent of the Senate.

B. Members of the commission shall serve until their terms expire. The terms of the Commission members shall be for three (3) years and until their successors are appointed and qualified.

C. Each successor member and any vacancy which may occur in the membership of the Commission shall be filled by appointment of the Governor with the advice and consent of the Senate.

D. The Governor may select appointees from a list of at least three qualified persons submitted by the Oklahoma Association of Realtors, Incorporated.

E. Each person who shall have been appointed to fill a vacancy shall serve for the remainder of the term for which the member whom he will succeed was appointed and until his successor, in turn, shall have been appointed and shall have qualified.

F. Members of the Commission may be removed from office by the Governor for inefficiency, neglect of duty or malfeasance in office in the manner provided by law for the removal of officers not subject to impeachment.

§858-203. Compensation of Commissioners. Each member of the Oklahoma Real Estate Commission shall be entitled to receive travel expenses essential to performing the duties of his office, as provided in the State Travel Reimbursement Act.

§858-204. Officers; Employees; Bond required.

A. The members of the Commission, within thirty (30) days after their appointment, shall organize and elect a Chairman and Vice Chairman. Annually thereafter the offices of Chairman and Vice Chairman shall be attained through election by Commission members.

B. The Commission, as soon after the election of the Chairman and Vice Chairman as practicable, shall employ a secretary-treasurer and such clerks and assistants as shall be deemed necessary to discharge the duties imposed by the provisions of this Code, and shall determine their duties and fix their compensation subject to the general laws of this state.

C. The Chairman of the Commission and in his absence the Vice Chairman, shall preside at all meetings of the Commission and shall execute such duties as the Commission, by its rules, shall prescribe.

D. The secretary-treasurer shall keep a complete and permanent record of all proceedings of the Commission and perform such other duties as the Commission shall prescribe.

§858-205. Revolving fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Real Estate Commission, to be designated the "Oklahoma Real Estate Commission Revolving Fund." The fund shall consist of all monies received by the Oklahoma Real Estate Commission other than the Oklahoma Real Estate Education and Recovery Fund fees or appropriated funds. The revolving fund shall be a continuing

fund not subject to fiscal year limitations and shall be under the control and management of the Oklahoma Real Estate Commission.

B. The Oklahoma Real Estate Commission may invest all or part of the monies of the fund in securities offered through the "Oklahoma State Treasurer's Cash Management Program". Any interest or dividends accruing from the securities and any monies generated at the time of redemption of the securities shall be deposited in the General Operating Fund of the Oklahoma Real Estate Commission. All monies accruing to the credit of the said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Real Estate Commission.

C. Expenditures from this fund shall be made pursuant to the purposes of this Code and without legislative appropriation. Warrants for expenditures shall be drawn by the State Auditor based on claims signed by an authorized employee or employees of the Oklahoma Real Estate Commission and approved for payment by the director of State Finance.

D. The revolving fund shall be audited at least once each year by the State Auditor and Inspector.

§858-206. Suits; Service; Seals; Certified copies; Location of office.

A. The Commission may sue and be sued in its official name, and service of summons upon the Secretary-Treasurer of the Commission shall constitute lawful service upon the Commission.

B. The Commission shall have a seal which shall be affixed to all licenses, certified copies of records and papers on file, and to such other instruments as the Commission may direct, and all courts shall take judicial notice of such seal.

C. Copies of records and proceedings of the Commission and all papers on file in the office, certified under the seal, shall be received as evidence in all courts of record.

D. The office of the Commission shall be at Oklahoma City, Oklahoma.

§858-207. Annual report of fees. The Commission shall at the close of each fiscal year file with the Governor and State Auditor and Inspector a true and correct report of all fees charged, collected and received during the previous fiscal year, and shall pay into the General Revenue Fund of the State Treasury ten percent (10%) of the license fees collected and received during the fiscal year.

§858-208. Powers and duties of the Commission. The Oklahoma Real Estate Commission shall have the following powers and duties:

1. To promulgate rules, prescribe administrative fees by rule, and make orders as it may deem necessary or expedient in the performance of its duties;
2. To administer examinations to persons who apply for the issuance of licenses;
3. To sell to other entities or governmental bodies, not limited to the State of Oklahoma, computer testing and license applications to recover expended research and development costs;
4. To issue licenses in the form the Commission may prescribe to persons who have passed examinations or who otherwise are entitled to such licenses;
5. To issue licenses to and regulate the activities of real estate brokers, provisional sales associates, sales associates, branch offices, nonresidents, associations, corporations, and partnerships;
6. Upon showing good cause as provided for in The Oklahoma Real Estate License Code, to discipline licensees, instructors and real estate school entities by:
   a. reprimand,
   b. probation for a specified period of time,
   c. required education in addition to the educational requirements provided by Section 858-307.2 of this title,
   d. suspending real estate licenses and approvals for specified periods of time,
   e. revoking real estate licenses and approvals,
   f. imposing administrative fines pursuant to Section 858-402 this title, or
   g. any combination of discipline as provided by subparagraphs a through f of this paragraph;
7. Upon showing good cause, to modify any sanction imposed pursuant to the provisions of this section and to reinstate licenses;
8. To conduct, for cause disciplinary proceedings;
9. To prescribe penalties as it may deem proper to be assessed against licensees for the failure to pay the license renewal fees as provided for in this Code;
10. To initiate the prosecution of any person who violates any of the provisions of this Code;
11. To approve instructors and organizations offering courses of study in real estate and to further require them to meet standards to remain qualified as is necessary for the administration of this Code;
12. To contract with attorneys and other professionals to carry out the functions and purposes of this Code;
13. To apply for injunctions and restraining orders for violations of the Code or the rules of the Commission;

14. To create an Oklahoma Real Estate Contract Form Committee by rule which will be required to draft and revise residential real estate purchase contracts and any related addenda capable of standardization for use by real estate licensees.

15. To enter into contracts and agreements for the payment of food and other reasonable expenses as authorized in the State Travel Reimbursement Act necessary to host, conduct, or participate in meetings or training sessions as is reasonable for the administration of this Code; and

16. To conduct an annual performance review of the Executive Director and submit the report to the Legislature.

§858-209. Compliance with the Administrative Procedures Act.

A. In the exercise of all powers and the performance of all duties provided in this Code, the Commission shall comply with the procedures provided in the Administrative Procedures Act. Appeals shall be taken as provided in said act.

B. The Commission may designate and employ a hearing examiner or examiners who shall have the power and authority to conduct such hearings in the name of the Commission at any time and place subject to the provisions of this section and any applicable rules or orders of the Commission. No person shall serve as a hearing examiner in any proceeding in which any party to the proceeding is, or at any time has been, a client of the hearing examiner or of any firm, partnership or corporation with which the hearing examiner is, or at any time has been, associated. No person who acts as a hearing examiner shall act as attorney for the Commission in any court proceeding arising out of any hearing in which he acted as hearing examiner.

C. In any hearing before the Commission, the burden of proof shall be upon the moving party.

LICENSING

§858-301. License required; Exceptions. It shall be unlawful for any person to act as a real estate licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under this Code. However, nothing in this section shall:

1. Prevent any person, partnership, association or corporation, or the partners, officers or employees of any partnership, association or corporation, from acquiring real estate for its own use, nor shall anything in this section prevent any person, partnership, association or corporation, or the partners, officers or employees of any person, partnership, association or corporation, as owner, lessor or lessee of real estate, from selling, renting, leasing, exchanging, or offering to sell, rent, lease or exchange, any real estate so owned or leased, or from performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership or sales of such real estate and the investment therein;

2. Apply to persons acting as the attorney-in-fact for the owner of any real estate authorizing the final consummation by performance of any contract for the sale, lease or exchange of such real estate;

3. In any way prohibit any attorney-at-law from performing the duties of the attorney as such, nor shall this Code prohibit a receiver, trustee in bankruptcy, administrator, executor, or his or her attorney, from performing his or her duties, or any person from performing any acts under the order of any court, or acting as a trustee under the terms of any trust, will agreement or deed of trust;

4. Apply to any person acting as the resident manager for the owner or an employee acting as the resident manager for a licensed real estate broker managing an apartment building, duplex, apartment complex or court, when such resident manager resides on the premises and is engaged in the leasing of property in connection with the employment of the resident manager;

5. Apply to any person who engages in such activity on behalf of a corporation or governmental body, to acquire easements, rights-of-way, leases, permits and licenses, including any and all amendments thereto, and other similar interests in real estate, for the purpose of, or facilities related to, transportation, communication services, cable lines, utilities, pipelines, or oil, gas, and petroleum products;

6. Apply to any person who engages in such activity in connection with the acquisition of real estate on behalf of an entity, public or private, which has the right to acquire the real estate by eminent domain; or

7. Apply to any person who is a resident of an apartment building, duplex, or apartment complex or court, when the person receives a resident referral fee. As used in this paragraph, a "resident referral fee" means a nominal fee not to exceed One Hundred Dollars ($100.00), offered to a resident for the act of recommending the property for lease to a family member, friend, or coworker.

§858-302. Eligibility for license as real estate provisional sales associate—Qualifications—Examination.

A. Any person of good moral character, eighteen (18) years of age or older, and who shall submit to the Commission evidence of successful completion of ninety (90) clock hours or its equivalent as determined by the Commission of basic real estate instruction in a course of study approved by the Commission, may apply to the Commission to take an examination for the purpose of securing a license as a provisional sales associate.

B. Application shall be made upon forms prescribed by the Commission and shall be accompanied by an examination fee as provided for in this Code and all information and documents the Commission may require.

C. The applicant shall appear in person before the Commission for an examination which shall be in the form and inquire into the subjects the Commission shall prescribe.

D. If it shall be determined that the applicant shall have passed the examination, received final approval of the application, and paid the appropriate license fee provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a provisional sales associate license.

E. Following the issuance of a provisional sales associate license, the licensee shall then submit to the Commission, prior to the expiration of the provisional license, evidence of successful completion of forty-five (45) clock hours or its equivalent as determined by the Commission of posteducation real estate instruction in a course(s) of study approved by the Commission. A provisional sales associate who fails to submit evidence of compliance with the posteducation requirement pursuant to this section, prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license for another license term. However, the Commission shall promulgate rules for those persons called into active military service for purposes of satisfying the posteducation requirement.

§858-303. Eligibility for license as real estate broker—Qualifications—Examination.

A. Any person of good moral character who holds a renewable sales associate license and who shall have had two (2) years' experience, within the previous five (5) years, as a licensed real estate sales associate or provisional sales associate, or its equivalent, and who shall submit to the Commission evidence of successful completion of ninety (90) clock hours or its equivalent as determined by the Commission of advanced real estate instruction in a course of study approved by the Commission, which instruction shall be in addition to any instruction required for securing a license as a real estate sales associate may apply to the Commission, to take an examination for the purpose of securing a license as a real estate broker or broker associate.

B. Application shall be made upon forms prescribed by the Commission and shall be accompanied by an examination fee as provided for in this Code and all information and documents the Commission may require.

C. The applicant shall appear in person before the Commission for an examination which shall be in the form and shall inquire into the subjects which the Commission shall prescribe.

D. If it shall be determined that the applicant shall have passed the examination, received final approval of the application, and paid the appropriate license fee provided for in this Code along with the Oklahoma Real Estate Education and Recovery Fund fee, the Commission shall issue to the applicant a broker or broker associate license.

§858-303B. Accounting of expenditure for services. Any real estate broker who charges and collects any fees in advance of the services provided by the broker shall provide a detailed accounting of expenditures to the person such services are performed for within ten (10) days after the time specified to perform such services or upon written request from person for whom services are performed for, but no longer than one (1) year from date of contract for such services.

§858-304. Certified transcript from accredited institution as evidence of successful completion of basic or advanced real estate instruction to meet eligibility for license—Courses to be taught in real estate schools.

A. A certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding accrediting agency of another state, certifying to the successful completion of a three-academic-hour basic course of real estate instruction for which college credit was given, shall be prima facie evidence of successful completion of the clock hours of basic real estate instruction for a provisional sales associate applicant as required in Section 858-302 of this Code.

B. A certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding accrediting agency of another state, certifying to the successful completion of a three-academic-hour course of real estate instruction consisting of the provi-

sional sales associate postlicensing educational requirements for which college credit was given, shall be prima facie evidence of successful completion of the clock hours of real estate instruction for the postlicense requirement as required in Section 858-302 of this title.

C. A certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding agency of another state, certifying to the successful completion of five-academic-hours advanced courses of real estate instruction for which college credit was given, shall be prima facie evidence of successful completion of the clock hours of advanced real estate instruction as required in Section 858-303 of this Code for a broker applicant.

D. Each school, whether public or private other than institutions of higher education, must present to the Commission its syllabus of instruction, prior to the approval of such school.

§858-305. Licensing of associations, Corporations and Partnerships.

A. The Oklahoma Real Estate Commission may license as a real estate broker any association or corporation in which the managing member or managing officer holds a license as a real estate broker, as defined in this Code, and in which every member, officer or employee who acts as a real estate broker or real estate sales associate holds a license for that purpose, as defined in this Code. The Commission may license as a real estate broker any partnership in which each partner holds a license as a real estate broker, as defined in this Code.

B. Application for licenses described in this section shall be made on forms prescribed by the Commission and shall be issued pursuant to rules promulgated by the Commission.

§858-306. Licensing of nonresidents.

A. Any person who desires to perform licensed activities in Oklahoma but maintains a place of business outside Oklahoma may obtain an Oklahoma nonresident license by complying with all applicable provisions of this Code.

B. The nonresident shall give written consent that actions and suits at law may be commenced against the nonresident licensee in any county in this state wherein any cause of action may arise or be claimed to have arisen out of any transaction occurring in the county because of any transactions commenced or conducted by the nonresident or the nonresident's associates or employees in such county. The nonresident shall further, in writing, appoint the secretary-treasurer of said Commission as service agent to receive service of summons for the nonresident in all of such actions and service upon the secretary-treasurer of such Commission shall be held to be sufficient to give the court jurisdiction over the nonresident in all such actions.

C. A broker who is duly licensed in another state and who has not obtained an Oklahoma nonresident license may enter a cooperative brokerage agreement with a licensed real estate broker in this state. If, however, the broker desires to perform licensed activities in this state, the broker must obtain an Oklahoma nonresident license.

§858-307.1. Issuance of License—Term—Fees.

A. The Oklahoma Real Estate Commission shall issue every real estate license for a term of thirty-six (36) months with the exception of a provisional sales associate license whose license term shall be for twelve (12) months. License terms shall not be altered except for the purpose of general reassignment of the terms which might be necessitated for maintaining an equitable staggered license term system. The expiration date of the license shall be the end of the twelfth or thirty-sixth month, whichever is applicable, including the month of issuance. Fees shall be promulgated by rule, payable in advance, and nonrefundable.

B. If a license is issued for a period of less than thirty-six (36) months, the license fee shall be prorated to the nearest dollar and month. If a real estate sales associate or a provisional sales associate shall qualify for a license as a real estate broker, then the real estate provisional sales associate's or sales associate's license fee for the remainder of the license term shall be prorated to the nearest dollar and month and credited to such person's real estate broker's license fee.

§858-307.2. Renewal of license—Continuing education requirement.

A.1. Beginning July 1, 1996, as a condition of renewal or reactivation of the license, each licensee, with the exception of those exempt as set out in this section, shall submit to the Commission evidence of completion of the specified number of clock hours of continuing education courses approved by the Commission, within the thirty-six (36) months immediately preceding the term for which the license is to be issued. The number of hours, or its equivalent, required for each licensed term shall be determined by the Commission and promulgated by rule. Each licensee shall be required to complete and include as part of said continuing education a certain number of required subjects as prescribed by rule.

2. Beginning July 1, 2004, as a condition of renewal or reactivation of the license, each licensee with the exception of those exempt as set out in this section shall submit to the Commission evidence of completion

of a specified number of hours of continuing education courses approved by the Commission, within the thirty-six (36) months immediately preceding the term for which the license is to be issued. The number of hours, or its equivalent, required for each licensed term shall be determined by the Commission and promulgated by rule. Each licensee shall be required to complete and include as part of said continuing education a certain number of required subjects as prescribed by rule.

B. The continuing education courses required by this section shall be satisfied by courses approved by the Commission and offered by:

1. The Commission;
2. An area vocational-technical school;
3. A college or university;
4. A private school;
5. The Oklahoma Association of Realtors, the National Association of Realtors, or any affiliate thereof;
6. The Oklahoma Bar Association, American Bar Association, or any affiliate thereof; or
7. An education provider.

C. The Commission shall maintain a list of courses which are approved by the Commission.

D. The Commission shall not issue an active renewal license or reactivate a license unless the continuing education requirement set forth in this section is satisfied within the prescribed time period.

E. The provisions of this section do not apply:

1. During the period a license is on inactive status;
2. To a licensee who holds a provisional sales associate license;
3. To a nonresident licensee licensed in this state if the licensee maintains a current license in another state and has satisfied the continuing education requirement for license renewal in that state; or
4. To a corporation, association partnership or branch office.

§858-307.3. Application for reissuance of license after revocation. A person shall not be permitted to file an application for reissuance of a license after revocation of the license within three (3) years of the effective date of revocation.

§858-308. Current list of licensees. In the interest of the public, the Commission shall keep a current list of the names and addresses of all licensees, and of all persons whose licenses have been suspended or revoked, together with such information relative to the enforcement of the provisions of this Code as it may deem advisable and desirable. Such listings and information shall be a matter of public record.

§858-309. Inactive status for licensees.

A. The Commission may place a license on inactive status when the request therefor is accompanied by sufficient reason; however, such status shall not relieve the licensee from paying the required fees. The request for inactive status shall be in writing, on forms furnished by the Commission.

B. During active military service, any licensee shall not be required to pay the fees but shall request the inactive status prior to each term for which the license is to be issued.

§858-310. Location of office; Licenses for branch offices.

A. A real estate broker shall maintain a specific place of business. Such place of business shall comply with all local laws and shall be available to the public during reasonable business hours.

B. If a real estate broker maintains more than one place of business and the additional location is an extension of the main office, a branch office license must be obtained for each additional location. Each branch office shall be under the direction and supervision of a separate broker and shall be considered a managing broker of the branch office. Application shall be made upon forms as prescribed by the Commission.

§858-311. Action not maintainable without allegation and proof of license. No person, partnership, association or corporation acting as a real estate licensee shall bring or maintain an action in any court in this state for the recovery of a money judgment as compensation for services rendered in listing, buying, selling, renting, leasing or exchanging of any real estate without alleging and proving that such person, partnership, association or corporation was licensed when the alleged cause of action arose.

§858-312. Investigations—Cause for suspension or revocation of license. 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 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. Disregard 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;

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 a crime involving moral turpitude;

16. Commingling with the licensee's own money or property the money or property of other 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 contendre 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 the real estate transaction; and

23. Violation of the Residential Property Condition Disclosure Act.

§858-312.1. Certain persons prohibited from participation in real estate business.

A. No person whose license is revoked or suspended shall operate directly or indirectly or have a participating interest, or act as a member, partner or officer, in any real estate business, corporation, association or partnership that is required to be licensed pursuant to this Code.

B. No person whose license is cancelled, surrendered or lapsed pending investigation or disciplinary proceedings shall operate directly or indirectly or have a participating interest, or act as a member, partner or officer, in any real estate business, corporation, association or partnership that is required to be licensed pursuant to this Code until such time as the Commission makes a determination on the pending investigation or disciplinary proceedings and approves an application for license.

BROKER RELATIONSHIPS ACT

858-351. Definitions. Unless the context clearly indicates otherwise, as used in Section 858-351 through 858-363 of this title:

1. "Broker" means a real estate broker as defined in Section 858-102 of this title, and means, further, except where the context refers only to 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. "Party" means a person who is a seller, buyer, landlord, or tenant or a person who is involved in an option or exchange;

3. "Single-party broker" means a broker who has entered into a written brokerage agreement with a party in a transaction to provide services for the benefit of that party;

4. "Transaction" means any or all of the steps that may occur by or between parties when a party seeks to buy, sell, lease, rent, option or exchange real estate and at least one party enters into a broker relationship subject to this title. Such steps may include, without limitation, soliciting, advertising, engaging a broker to list a property, showing or viewing a property, making offers or counteroffers, entering into agreements and closing such agreements; and

5. "Transaction broker" means a broker who provides services by assisting a party in a transaction without being an advocate for the benefit of that party.

858-352. Written brokerage agreement. A broker may enter into a written brokerage agreement to provide services as either a single-party broker or a transaction broker. If a broker does not enter into a written brokerage agreement with a party, the broker shall perform services only as a transaction broker. All brokerage agreements shall be deemed to incorporate as material terms the duties and responsibilities set forth in subsection A of Section 858-353 or subsection B of Section 858-354 of this title, based upon whether the relationship established by the brokerage agreement is a transaction broker relationship or single-party broker relationship.

858-353. Transaction broker—Duties and responsibilities.

A. A transaction broker shall have the following duties and responsibilities, which are mandatory and may not be abrogated or waived by transaction broker:

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

2. To be available to:

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 such written offers and counteroffers,

3. To inform in writing the party for whom the broker is providing services when an offer is made that the party will be expected to pay certain closing costs, brokerage service costs and approximate amount of said costs;

4. To account timely for all money and property received by the broker;

5. To keep confidential information received from a party confidential as required by Section 858-357 of this title

6. To disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and

7. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

B. Except as provided in Section 858-358 of this title, such duties and responsibilities set forth in this section shall be performed by a transaction broker if such duties and responsibilities relate to the steps of the transaction which occur while there is a broker relationship.

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

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

858-354. Single-party broker—Duties and responsibilities.

A. A broker shall enter into a written brokerage agreement prior to providing services as a single-party broker, which shall be deemed to include, and which may not abrogate or waive, the mandatory duties

and responsibilities set forth in this section.

B. The single-party broker shall have the following duties and responsibilities:

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

2. To be available to:

a. receive all written offers and counteroffers,

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

c. present timely all written offers and counteroffers;

3. To inform in writing the party for whom the broker is providing services when an offer is made that the party will be expected to pay certain closing costs, brokerage service costs and approximate amount of said costs;

4. To keep the party for whom the single-party broker is performing services informed regarding the transaction;

5. To account timely for all money and property received by the broker;

6. To keep confidential information received from a party confidential as required by Section 858-357 of this title;

7. To perform all brokerage activities for the benefit of the party for whom the single-party broker is performing services unless prohibited by law;

8. To disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act;

9. To obey the specific directions of the party for whom the single-party broker is performing services that are not contrary to applicable statutes and rules or contrary to the terms of a contract between the parties to the transaction; and

10. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

C. In the event a broker who is a single-party broker for a buyer or a tenant receives a fee or compensation based on a selling price or lease cost of a transaction, such receipt does not constitute a breach of duty or obligation to the buyer or tenant if fully disclosed to the buyer or tenant in the written brokerage agreement.

D. Except as provided in Section 858-358 of this title, such duties and responsibilities set forth in this section shall be performed by a single-party broker if such duties and responsibilities relate to the steps of the transaction which occur while there is a broker relationship.

E. Nothing in this section requires or prohibits a single-party broker from charging a separate fee or other compensation for each duty or other services provided during a transaction.

F. If a single-party broker intends to perform fewer services than those required to complete a transaction, written disclosure shall be provided to the party for whom the broker is providing services. Such disclosure shall include a description of those steps in the transaction for which the broker will not perform 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.

§858-355. Alternative relationships entered into where broker assists one or both parties—Written disclosure—Written consent—Contents of brokerage agreement—Withdrawal by broker—Referral fees—Cooperation with other brokers.

A. When assisting one party to a transaction, a broker shall enter into one of the following relationships:

1. As a transaction broker without a written brokerage agreement;

2. As a transaction broker through a written brokerage agreement; or

3. As a single-party broker through a written brokerage agreement.

B. When assisting both parties to a transaction, a broker may enter into the following relationships:

1. As a transaction broker for both parties;

2. As a single-party broker for one party and as a transaction broker for the other party. In this event, a broker shall disclose in writing to the party for whom the broker is providing services as a transaction broker, the difference between a transaction broker and a single-party broker, and that the broker is a single-party broker for the other party and performs services for the benefit of the other party in the transaction; or

3. As a transaction broker where the broker has previously entered into a written brokerage agreement to provide services as a single-party broker for both parties. In this event, the broker shall obtain the written consent of each party before the broker begins to perform services as a transaction broker. The written consent may be included in the written brokerage agreement or in a separate document and shall contain the following information:

a. a description of the transaction or type of transactions that might occur in which the single-party broker seeks to obtain consent to become a transaction broker,
b. a statement that in such transactions the single-party broker would perform services for more than one party whose interest could be different or even adverse and that such transactions require the broker to seek the consent of each party to such transactions to permit a change in the brokerage relationship,
c. a statement that by giving consent in such transactions:
   (1) the party will allow the broker to change the broker's relationship from performing services as a single-party broker to performing services as a transaction broker,
   (2) the broker will no longer provide services for the benefit of the party, but may only assist in such transactions,
   (3) the broker will not be obligated to obey the specific directions of the party but will assist all parties to such transactions,
   (4) the party will not be vicariously liable for the acts of the broker and associated associates, and
   (5) the broker's obligation to keep confidential information received from the party confidential is not affected,
d. a statement that the party is not required to consent to the change in the brokerage relationships in such transactions and may seek independent advice,
e. a statement that the consent of the party to change the brokerage relationship in such transactions has been given voluntarily and that the written consent has been read and understood by the party, and
f. a statement that the party authorizes the broker to change the brokerage relationship in such transactions and to assist all parties to such transactions as a transaction broker.

C. 1. If neither party gives consent as described in paragraph 3 of subsection B of this section, the broker shall withdraw from providing services to all but one party to a transaction. If the broker refers the party for whom the broker is no longer providing services to another broker, the broker shall not receive a fee for referring the party unless written disclosure is made to all parties.

2. If only one party gives consent as described in paragraph 3 of subsection B of this section, the broker may act as a transaction broker for the consenting party and continue to act as a single-party broker for the nonconsenting party. In this event, the broker shall disclose in writing to the consenting party that the broker remains a single-party broker for the nonconsenting party and performs services for the benefit of the nonconsenting party.

D. A broker may cooperate with other brokers in a transaction. Under Sections 858-351 through 858-363 of this act, a broker shall not be an agent, subagent, or dual agent and an offer of subagency shall not be made to other brokers.

858-356. Disclosures—Confirmation in writing.

A. Prior to the signing by a party of a contract to purchase, lease, option or exchange real estate, a broker who is performing services as a transaction broker without a written brokerage agreement shall describe and disclose in writing the broker's role to the party.

B. Prior to entering into a written brokerage agreement as either a transaction broker or single-party broker, the broker shall describe and disclose in writing the broker's relationship to the party.

C. A transaction broker shall disclose to the party for whom the transaction broker is providing services that the party is not vicariously liable for the acts or omissions of the transaction broker.

D. A single-party broker shall disclose to the party for whom the single-party broker is providing services that the party may be vicariously liable for the acts or omissions of a single-party broker.

E. The disclosure required by this section and the consent required by Section 858-355 of this act must 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 must be documented by the broker.

858-357. Confidential information. The following information shall be considered confidential and shall not be disclosed by a broker without the consent of the party disclosing the information unless consent to disclosure is granted by the 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 broker:

1. That a party is willing to pay more or accept less than what is being offered;
2. That a party is willing to agree to financing terms that are different from those offered; and

3. The motivating factors of the party purchasing, selling, leasing, optioning, or exchanging the property.

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.

858-359. Payment to broker not determinative of relationship. 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.

858-360. Abrogation of common law principles of agency—Remedies cumulative. The duties and responsibilities of a broker specified in Sections 858-351 through 858-363 of this act 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 this act.

858-361. Use of word "agent" in trade name. A real estate broker and the associates of the real estate broker are permitted under the provisions of Sections 858-351 through 858-363 of this title to use the word "agent" in a trade name and as a general reference for designating themselves as real estate licensees.

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 services as a transaction broker under Section 858-351 through 858-363 of this act.

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. 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; however, such associates shall not refer to themselves as a broker.

PENALTIES

§858-401. Punishment for violations.

A. In addition to any other penalties provided by law, any person unlicensed pursuant to The Oklahoma Real Estate License Code who shall willingly and knowingly violate any provision of this Code, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. In addition to any civil or criminal actions authorized by law, whenever, in the judgment of the Oklahoma Real Estate Commission, any unlicensed person has engaged in any acts or practices which constitute a violation of the Oklahoma Real Estate License Code, the Commission may:

1. After notice and hearing, and upon finding a violation of the Code, impose a fine of not more than Five Thousand Dollars ($5,000.00) or the amount of the commission or commissions earned, whichever is greater for each violation of the Code for unlicensed activity;
2. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Commission that such person has engaged in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond; or
3. Impose administrative fines pursuant to this subsection which shall be enforceable in the district courts of this state.

C. Notices and hearings required by this section and any appeals from orders entered pursuant to this section shall be in accordance with Administrative Procedures Act.

D. Such funds as collected pursuant to this section shall be deposited in the Oklahoma Real Estate Education and Recovery Fund.

§858-402. Administrative Fines.

A. The Oklahoma Real Estate Commission may impose administrative fines on any licensee licensed pursuant to The Oklahoma Real Estate License Code as follows:

1. Any administrative fine imposed as a result of a violation of this Code or the rules of the Commission shall not:
   a. be less than One Hundred Dollars ($100.00) and shall not exceed Two Thousand Dollars

($2,000.00) for each violation of this Code or the rules of the Commission, or

b. exceed Five Thousand Dollars ($5,000.00) for all violations resulting from a single incident or transaction;

2. All administrative fines shall be paid within thirty (30) days of notification of the licensee by the Commission of the order of the Commission imposing the administrative fine;

3. The license may be suspended until any fine imposed upon the licensee by the Commission is paid;

4. If fines are not paid in full by the licensee within thirty (30) days of the notification by the Commission of the order, the fines shall double and the licensee shall have an additional thirty-day period. If the doubled fine is not paid within the additional thirty-day period, the license shall automatically be revoked; and

5. All monies received by the Commission as a result of the imposition of the administrative fine provided for in this section shall be deposited in the Oklahoma Real Estate Education and Recovery Fund, created pursuant to Section 858-601 of this title.

B. The administrative fines authorized by this section may be in addition to any other criminal penalties or civil actions provided for by law.

MISCELLANEOUS

§858-513. Psychologically impacted real estate—Factors included—Nondisclosure of facts—Certain actions prohibited—Disclosure in certain circumstances.

A. The fact or suspicion that real estate might be or is psychologically impacted, such impact being the result of facts or suspicions, including but not limited to:

1. that an occupant of the real estate is, or was at any time suspected to be infected, or has been infected, with Human Immunodeficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome, or other disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupancy of a dwelling place; or

2. that the real estate was, or was at any time suspected to have been the site of a suicide, homicide or other felony,

is not a material fact that must be disclosed in a real estate transaction.

B. No cause of action shall arise against an owner of real estate or any licensee assisting the owner for the failure to disclose to the purchaser or lessee of such real estate or any licensee assisting the purchaser or lessee that such real estate was psychologically impacted as provided for in subsection A of this section.

C. Notwithstanding the fact that this information is not a material defect or fact, in the event that a purchaser or lessee, who is in the process of making a bona fide offer, advises the licensee assisting the owner, in writing, that knowledge of such factor is important to the person's decision to purchase or lease the property, the licensee shall make inquiry of the owner and report any findings to the purchaser or lessee with the consent of the owner and subject to and consistent with applicable laws of privacy; provided further, if the owner refuses to disclose, the licensee assisting the owner shall so advise the purchaser or lessee.

§858-514. Registered sex offenders—No duty to provide notice regarding.

The provisions of the Sex Offenders Registration Act, Section 581 et seq. of Title 57 of the Oklahoma Statutes, shall not be construed as imposing a duty upon a person licensed under the Oklahoma Real Estate License Code to disclose any information regarding an offender required to register under such provision.

EDUCATION AND RECOVERY FUND

§858-601. Creation—Status—Appropriation—Expenditures—Use of funds—Eligibility to recover.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Real Estate Commission to be designated "Oklahoma Real Estate Education and Recovery Fund." The fund shall consist of monies received by the Oklahoma Real Estate Commission as fees assessed for the Oklahoma Real Estate Education and Recovery Fund under the provisions of this act. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of

the Oklahoma Real Estate Commission. The Oklahoma Real Estate Commission may invest all or part of the monies of the fund in securities offered through the "Oklahoma State Treasurer's Cash Management Program." Any interest or dividends accruing from the securities and any monies generated at the time of redemption of the securities shall be deposited in the Oklahoma Real Estate Education and Recovery Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Real Estate Commission for the purposes specified in Section 858-605 of this title. Expenditures from said fund shall be made pursuant to the laws of this state and the statutes relating to the said Commission, and without legislative appropriation. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the said Commission and approved for payment by the Director of State Finance.

B. Monies in the fund shall be used to reimburse any claimant who has been awarded a judgment, subject to subsection C of this section, by a court of competent jurisdiction to have suffered monetary damages by an Oklahoma real estate licensee in any transaction for which a license is required under the Oklahoma Real Estate License Code because of an act constituting a violation of the Oklahoma Real Estate License Code.

C. In determining a claimant's eligibility to recover from the fund, the Commission may conduct an independent review of the merits, findings and damages involved in the underlying action and may conduct an evidentiary hearing to determine if a claim is eligible for recovery from the fund and the amount of damages awarded are due to an act constituting a violation of the Oklahoma Real Estate License Code.

§858-602. Additional Fee—Disposition.

A. An additional, nonrefundable fee as promulgated by rule by the Commission shall be added to and payable with the license fee for both new licenses and renewals of licenses for each licensee as provided in Section 858-307.1 of this title. Such additional fee shall be deposited in the Oklahoma Real Estate Education and Recovery Fund.

B. If a license is issued for a period of less than thirty-six (36) months, such additional fee shall be prorated to the nearest dollar and month.

C. If a real estate sales associate or provisional sales associate shall qualify for a license as a real estate broker, the additional fee for the remainder of the term shall be prorated to the nearest dollar and month and credited to the additional fee added to the payable with the real estate broker license fee.

D. At the close of each fiscal year, the Commission shall transfer into the Oklahoma Real Estate Commission Revolving Fund any money in excess of that amount required to be retained in the Oklahoma Real Estate Education and Recovery Fund and that amount authorized to be expended as provided within this Code that is remaining in the Oklahoma Education and Recovery Fund and unexpended.

§858-603. Eligibility to recover from fund—Ineligibility.

A. Any claimant shall be eligible to seek recovery from the Oklahoma Real Estate Education and Recovery Fund if the following conditions have been met:

1. An action has been filed in district court based upon a violation specified in the Oklahoma Real Estate License Code;

2. The cause of action accrued not more than two (2) years prior to the filing of the action;

3. At the commencement of an action, the party filing the action shall immediately notify the Commission to this effect in writing and provide the Commission with a file-stamped copy of the petition or affidavit. Said Commission shall have the right to enter an appearance, intervene in, defend, or take any action it may deem appropriate to protect the integrity of the Fund. The Commission may waive the notification requirement if it determines that the public interest is best served by the waiver, that is to best meet the ends of justice and that the claimant making application made a good faith effort to comply with the notification requirements;

4. Final judgment is received by the claimant upon such action;

5. The final judgment is enforced as provided by statute for enforcement of judgments in other civil actions and that the amount realized was insufficient to satisfy the judgment; and

6. Any compensation recovered by the claimant from the judgment debtor, or from any other source for any monetary loss arising out of the cause of action, has been applied to the judgement awarded by the court.

B. A claimant shall not be qualified to make a claim for recovery from the Oklahoma Real Estate Education and Recovery Fund, if:

1. The claimant is the spouse of the judgment debtor or a personal representative of such spouse;

2. The claimant is a licensee who acted in their own behalf in the transaction which is the subject of the claim; or

3. The claimant's claim is based upon a real estate transaction in which the claimant is, through

their own action, jointly responsible for any resulting monetary loss with respect to the property owned or controlled by the claimant.

§858-604. Application for payment—Amount—Assignment of rights, etc.—Insufficient funds—Revocation of brokers license.

A. Any claimant who meets all of the conditions prescribed by this act may apply to the Commission for payment from the Oklahoma Real Estate Education and Recovery Fund, in an amount equal to the unsatisfied portion of the claimant's judgment, which is actual or compensatory damages, or Twenty-Five Thousand Dollars ($25,000.00), whichever is less. The claimant is entitled to reimbursement for attorney fees reasonably incurred in the litigation not to exceed twenty-five percent (25%) of the claimant's amount approved by the Commission. Attorney fees charged and received shall be documented, verified, and submitted with the claim. Court costs and other expenses shall not be recoverable from the fund.

B. Upon receipt by the claimant of the payment from the Oklahoma Real Estate Education and Recovery Fund, the claimant assigns the claimant's right, title and interest in that portion of the judgment to the Commission which shall be subrogated up to the amount actually paid by the fund to the claimant or to the claimant and the claimant's attorney. Upon suit to collect upon a judgment, the claimant shall have priority over the fund. Any amount subsequently recovered on the judgment by the Commission, to the extent of the Commission's right, title and interest therein, shall be used to reimburse the Oklahoma Real Estate Education and Recovery Fund.

C. Payments for claims arising out of the same transaction which constitutes a claimant's cause of action based upon a violation of the Oklahoma Real Estate License Code shall be limited in the aggregate of Fifty Thousand Dollars ($50,000.00) irrespective of the number of claimants or parcels of real estate involved in the transaction.

D. Payments for claims based upon judgments against any one licensee shall not exceed in the aggregate Fifty Thousand Dollars ($50,000.00).

E. If at any time the monies in the Oklahoma Real Estate Education and Recovery Fund are insufficient to satisfy any valid claim, or portion thereof, the Commission shall satisfy such unpaid claim or portion thereof as soon as a sufficient amount of money has been deposited in the fund by collecting special levy from the members of the fund of an amount not to exceed Five Dollars ($5.00) each fiscal year. If the additional levy is not sufficient to pay all outstanding claims against the fund, the claims shall be paid as the money becomes available. Where there is more than one claim outstanding, the claims shall be paid in the order that they were approved.

F. Any claim against a corporation, association or partnership would be imputed to the managing broker(s) at the time the cause of action arose.

G. The license of said licensee, shall be automatically revoked upon the payment of any amount from the Oklahoma Real Estate Education and Recovery Fund on a judgment against a licensee. The license shall not be considered for reinstatement until the licensee has repaid in full, plus interest at the rate of seven percent (7%) a year, the amount paid from the Oklahoma Real Estate Education and Recovery Fund on the judgment against the licensee.

§858-605. Expenditure of funds.

At any time when the total amount of monies, deposited in the Oklahoma Real Estate Education and Recovery Fund exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), the Commission in its discretion may expend such excess funds each fiscal year for the following purposes:

1. To promote the advancement of education in the field of real estate for the benefit of the general public and those licensed under the Oklahoma Real Estate License Code, but such promotion shall not be construed to allow advertising of this profession;

2. To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees;

3. To establish real estate courses at institutions of higher learning located in the state and accredited by the State Regents for Higher Education for the purpose of making such courses available to licensees and the general public; and

4. To contract for a particular educational project in the field of real estate to further the purposes of the Oklahoma Real Estate License Code.

OKLAHOMA REAL ESTATE COMMISSION RULES
(AS OF NOVEMBER 1, 2006)

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APPENDIX

Appendix A. Residential Property Condition Disclosure Statement
Appendix B. Residential Property Condition Disclaimer Statement Form

CHAPTER 1. ADMINISTRATIVE OPERATIONS

Subchapter Section
1. General Provisions 605:1-1-1

[**Authority:** 75 O.S., Section 858-208]

SUBCHAPTER 1. GENERAL PROVISIONS

Section
605:1-1-1 Statement of Purpose
605:1-1-2 Authority
605:1-1-3 Title and Construction
605:1-1-4 Operational Procedures

605:1-1-1. Statement of purpose

The fundamental and primary purpose of the Real Estate Commission is to safeguard the public interest and provide quality services by assisting and providing resources; encouraging and requiring high standards of knowledge and ethical practices of licensees; investigating and sanctioning licensed activities; and through the prosecution of any unlicensed person who violates the "Oklahoma Real Estate License Code and Rules."

605:1-1-2. Authority

The rules of this Title are hereby adopted in accordance with the provisions of Title 59, Section 858-101 et seq. and the provisions of Sections 301-327 of Title 75, Oklahoma Statutes, 1971.

605:1-1-3. Title and construction

The rules of this Title shall be known as the "Oklahoma Real Estate Commission Rules."

605:1-1-4. Operational procedures

(a) **Organization.** The organization of the Commission is declared to be that as enumerated in Sections 858-201 through 858-204 of the heretofore described Code.

(b) **Operational procedures.** The general course and method of operation shall be as hereinafter specified in overall provisions of the rules of this Title.

(c) **Open Records Act.** In conformance with Title 51, Section 24 A.1., et seq, Oklahoma Statutes, 1985, titled "Oklahoma Open Records Act" all open records of the Real Estate Commission may be inspected and copied in accordance with procedures, policies, and fee as required by the Commission. The Commission shall charge the following:

(1) A fee of $.25 for each xerographic copy or micrographic image.
(2) A fee of $1.00 for each copy to be certified.
(3) A fee of $10.00 per hour for a record or file search.

(d) **Directory of Licensees.** One copy of the Directory of Licensees shall be provided each licensee if Commission funds permit. Additional copies shall be available to licensees and the public from the Commission upon payment of a charge based on actual cost of production and printing. Copies of the Directory may be furnished to governmental agencies without charge as inventory permits.

(e) **Petition for promulgation, amendment or repeal of any rule.** Any person may petition the Commission in writing requesting a promulgation, amendment or repeal of any rule.

(1) The petition must be in writing in business letter form or in the form of petitions used in civil cases in this State, and shall contain an explanation and the implications of the request and shall be:

(A) Signed by the person filing the petition and be filed with the Secretary-Treasurer of the Commission.
(B) Submitted to the Commission at least thirty (30) days prior to a regular meeting.
(C) Considered by the Commission at its first meeting following such thirty (30) days.
(D) Scheduled for a public hearing before the Commission within sixty (60) days after being considered by the Commission in a regular meeting.

(2) Within sixty (60) days after the public hearing, the Commission shall either grant or deny the petition. If the petition is granted, the Commission shall immediately begin the procedure for the

promulgation, amendment or repeal of any rule pursuant to Title 75 O.S. 303.

(3) If the petition is denied the parties retain their rights under 75 O.S. Sec. 318, to proper Judicial Review.

(f) **Petition for declaratory ruling of any rule or order.**

(1) Any person may petition the Commission for a declaratory ruling as authorized by Section 307 of Title 75 of the Oklahoma Statutes as to the applicability of any rule or order of the Commission. Such petition shall:

(A) be in writing;

(B) be signed by the person seeking the ruling;

(C) state the rule or order involved;

(D) contain a brief statement of facts to which the ruling shall apply; and

(E) if known and available to petitioner, include citations of legal authority in support of such views.

(2) The Commission shall have at least thirty (30) days to review the petition. Following the review period, the Commission shall consider the petition at its next meeting.

(3) The Commission may compel the production of testimony and evidence necessary to make its declaratory ruling.

(4) Declaratory rulings shall be available for review by the public at the Commission office.

(g) **Contract Forms Committee.**

(1) The Contract Forms Committee is required to draft and revise residential real estate purchase contracts and any related addenda for standardization and use by real estate licensees (Title 59 O.S. 858-208 {14}).

(2) The committee shall consist of eleven (11) members. Three (3) members shall be appointed by the Oklahoma Real Estate Commission; three (3) members shall be appointed by the Oklahoma Bar Association; and five (5) members shall be appointed by the Oklahoma Association of Realtors, Incorporated.

(3) The initial members' terms shall begin upon development of the forms and each member shall serve through the effective date of implementation of form(s) plus one (1) year. Thereafter, the Oklahoma Real Estate Commission shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years; the Oklahoma Bar Association shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years and; the Oklahoma Association of Realtors, Incorporated shall appoint two (2) members for one (1) year, two (2) members for two (2) years, and one (1) member for three (3) years. Thereafter, terms shall be for three (3) years and each member shall serve until their term expires and their successor has been appointed. Any vacancy which may occur in the membership of the committee shall be filled by the appropriate appointing entity.

(4) A member can be removed for just cause by the committee.

(5) Each member of the committee shall be entitled to receive travel expenses essential to the performance of the duties of his appointment, as provided in the State Travel Reimbursement Act.

CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

Subchapter	Section
1. General Provisions	605:10-1-1
3. Education and Examination Requirements	605:10-3-1
5. Instructor and Entity Requirements and Standards	605:10-5-1
7. Licensing Procedures and Options	605:10-7-1
9. Broker's Operational Procedures	605:10-9-1
11. Associate's Licensing Procedures	605:10-11-1
13. Trust Account Procedures	605:10-13-1
15. Disclosures	605:10-15-1
17. Causes for Investigation—Hearing Process—Prohibited Acts—Discipline	605:10-17-1

[**Authority:** 59 O.S., Section 858-208]

SUBCHAPTER 1. GENERAL PROVISIONS

Section
605:10-1-1. Purpose
605:10-1-2. Definitions
605:10-1-3. Appeal of administrative decisions—procedures
605:10-1-4. Returned checks—disposition

605:10-1-1. Purpose

The rules of this Chapter establish procedures and standards that apply to real estate licensees, real estate schools and instructors, and which must be complied with as authorized under the provisions of the Oklahoma Real Estate License Code, Title 59, O.S., Sections 858-101 through 858-605.

605:10-1-2. Definitions

When used in this Chapter, masculine words shall include the feminine and neuter, and the singular includes the plural. The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Advertising" means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication to consumers for any purpose related to licensed real estate activity.

"Bona fide offer" means an offer in writing.

"Branch office broker" means a person who qualified for a broker license and who is designated by a broker to direct and supervise a branch office on behalf of the broker in conformance with Section 858-310 of the Code. A branch office broker is considered an associate of the broker and a managing broker of the branch office.

"Broker" means a sole proprietor, corporation, managing corporate broker of a corporation, association, managing broker member or manager of an association, partnership, or managing partners of a partnership and shall be one and the same as defined as a broker in Section 858-102 of the Code and whom the Commission shall hold responsible for all actions of associates who are assigned to said broker.

"Code" when used in the rules of this Chapter, means Title 59, Section 858-101 et seq, Oklahoma Statutes as adopted 1974 and amended.

"Filed" means the date of the United States postal service postmark or the date personal delivery is made to the Commission office.

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

"Inactive status" means a period in which a licensee is prohibited from performing activities which require an active license.

"Nonresident" means a person who is licensed to practice in this state, however, does not maintain a place of business in this state but maintains a place of business in another state and who periodically comes to this state to operate and perform real estate activities.

"Previously licensed applicant" means a person who has been licensed in another state and is desiring to obtain a resident license in this state.

"Provisional sales associate" shall be synonymous in meaning with sales associate except where it is specifically addressed in Subchapters 3, 5 and 7 of this Chapter.

"Resident" means a person who is licensed in this state and operates from a place of business in this state.

"Sole proprietor" means a broker who is the sole owner of a real estate business.

"Trade name" means the name a firm is to be known as and which is used in advertising by the firm to promote and generate publicity for the firm. A firm may or may not do business in the name under which their license is issued but must register with the Commission all trade names used by the firm.

605:10-1-3. Appeal of administrative decisions; procedures

(a) Unless specifically provided for elsewhere in this Chapter, any adverse administrative action or decision rendered by the Commission or its staff on behalf of the Commission, may be appealed by the adversely affected party filing within thirty (30) days of notice of such action or decision, a written request for a hearing.

(b) Upon receipt of a request for any non-disciplinary hearing provided for in this Section, or any other rule of this Chapter, the Secretary-Treasurer shall schedule an administrative decision hearing before a

Hearing Examiner, a selected panel of the Commission, or the Commission as a whole giving at least fifteen (15) days notice of such hearing. Such hearing shall be public except that upon motion, witnesses, other than the adversely affected appealing party, may be excluded from the hearing room when such witnesses are not testifying. A court reporter shall be present to record the proceedings in behalf of the Commission. Any person desiring a copy of the transcript of the proceedings may purchase such from the reporter.

(c) In the case of a proceeding conducted by the Commission as a whole or a panel of the Commission, the Chairman or his designee shall preside. Designated counsel shall advise the chair as to rulings upon the questions of admissibility of evidence, competence of witnesses and any other question of law where such ruling is required or requested.

(d) The appealing party may present his or her own evidence or may present such through his or her counsel. In order that the hearing will not be encumbered by evidence having no bearing on the issues, testimony by all witnesses will be limited to matters relevant to the issues involved.

(e) The order of procedure shall be as follows:

(1) Recitation of the administrative action or decision.

(2) Presentation of the adversely affected party's appeal.

(3) Questioning of the appealing party by the hearing panel or Hearing Examiner.

(4) Response by the Commission or Commission representatives detailing grounds for and basis for the administrative decision or action.

(5) Examination of witnesses by appealing party with cross-examination of such witnesses.

(6) Closing statements by the appealing party.

(f) If the case be heard by the Commission as a whole, the Commission shall deliberate and render its decision with confirmation of such decision in writing in the form of an Order distributed to all parties by mail.

(g) In the case of a hearing conducted by a Hearing Examiner or a panel of the Commission, following the hearing, the Hearing Examiner or attorney sitting as counsel to the panel of the Commission shall prepare a recommended Order to be considered by the Real Estate Commission as a whole at a future meeting. All parties will be furnished copies of the recommended Order and notified as to the date the recommendations will be considered by the Commission for adoption. At the same time, notice will be given also to the parties that written exceptions or requests to present oral exceptions or arguments, if any, should be submitted on or before a designated date pursuant to Section 311, Title 75, Oklahoma Statutes. Upon adoption of the recommended Order by the Commission as a whole, such Order shall be distributed to all parties.

605:10-1-4. Returned checks—disposition

(a) All fees are received subject to collection. Payment of a fee to the Commission with a dishonored check shall be prima facie evidence of a violation of Title 59, Section 858-312.

(b) If the Commission receives a check that is dishonored upon presentation to the bank on which the check is drawn, a returned check fee of Thirty-five Dollars ($35.00) will be charged. If such payment is for fees, or other amounts due the Commission, and the check is not replaced within the specified time frame as determined by the Commission, such request shall be deemed incomplete and the transaction null and void.

(c) Other services may be delayed or denied if a check is dishonored upon presentation to the bank on which the check is drawn.

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

Section

605:10-3-1. Prelicense education requirements
605:10-3-2. Application for license
605:10-3-3. Proceedings upon application for a license
605:10-3-4. Broker applicant; sales associate experience
605:10-3-5. Examinations
605:10-3-6. Continuing education requirements
605:10-3-7. Provisional sales associate postlicense education requirement

605:10-3-1. Prelicense education requirements

(a) On and after July 1, 1993, as evidence of an applicant's having satisfactorily completed those education requirements as set forth in Sections 858-302 and 858-303 of the Code, each applicant for licensure

shall present with his or her application a certification showing successful completion of the applicable course of study approved by the Commission as follows:

(1) To qualify an applicant for examination and licensure as a provisional sales associate, the course shall consist of at least ninety (90) clock hours of instruction or its equivalent as determined by the Commission. In order for a provisional sales associate to obtain a sales associate license, the provisional sales associate must, following issuance of a provisional license, complete additional education as required in Section 858-302 of the Code. The prelicense course of study shall be referred to as the Basic Course of Real Estate, Part I of II and shall encompass the following areas of study:

(A) Real Estate Economics and Marketing
(B) Nature of Real Estate
(C) Rights and Interest in Real Estate
(D) Legal Descriptions
(E) Title Search, Encumbrances, and Land Use Control
(F) Transfer of Rights
(G) Service Contracts
(H) Estimating Transaction Expenses
(I) Value and Appraisal
(J) Marketing Activities
(K) Fair Housing
(L) Contract Law Overview
(M) Contract Law and Performance
(N) Offers and Purchase Contracts
(O) Financing Real Estate
(P) Closing a Transaction
(Q) Regulations Affecting Real Estate
(R) Disclosures and Environmental Issues
(S) Property Management and Leasing
(T) Risk Management
(U) Professional Standards of Conduct

(2) To qualify an applicant for examination and licensure as a broker, the course shall consist of at least ninety (90) clock hours of instruction or its equivalent as determined by the Commission. Such course of study shall be referred to as the Advanced Course in Real Estate and shall encompass the following areas of study:

(A) Laws and Rules Affecting Real Estate Practice
(B) Broker Supervision
(C) Establishing a Real Estate Office
(D) Professional Development
(E) Business Office Management
(F) Office Financial Management
(G) Anti-Trust and Deceptive Trade
(H) Risk Management and Insurance
(I) Disclosures, Hazards, and Zoning
(J) Real Estate Financing
(K) Specialized Property Operations
(L) Transaction Management
(M) Closing a Real Estate Transaction
(N) Professional Standards of Conduct

(b) As evidence of an applicant's having successfully completed those education requirements as set forth in Section 858-304 of the Code, each applicant shall present a certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding accrediting agency of another state.

(1) The basic course of real estate shall be limited to Basic Real Estate Principles and Practices; provided, however, that a course or combination of courses not so titled may be accepted if the course content has been determined by the Commission to be equivalent as one and the same as enumerated in this Section.

(2) The advanced course of real estate shall be limited to Advanced Real Estate Principles and Practices; provided that a course or combination of courses not so titled may be accepted if the course content has been determined by the Commission to be equivalent as one and the same as that enumer-

ated in this Section.

(3) The Commission shall accept in lieu of a certified transcript a course completion certificate as prescribed by the Commission.

(c) **Entities allowed to seek approval**. The education courses required of this Section shall be satisfied by courses approved by the Commission and offered by:

(1) The Commission
(2) An area vocational-technical school
(3) A college or university
(4) A private school
(5) The Oklahoma Association of Realtors, the National Association of Realtors, or any affiliate thereof,
(6) The Oklahoma Bar Association, American Bar Association, or any affiliate thereof; or
(7) An education provider.

(d) **Attendance and successful completion required for in-class credit**. To complete any in-class offering, a person must physically be present during all of the offering time and successfully complete all course requirements to include an examination.

(e) **Successful completion of materials and examination required for distance education credit**. To complete a distance education course offering, a person must successfully complete all course requirements to include all modules and an examination.

605:10-3-2. Application for license

(a) **Requirements for completing application.**

(1) Any person seeking a real estate license shall make application for such license on a form provided by the Commission. The form shall contain, but not be limited to, the following:

(A) Legal name to include first, middle and last name.
(B) Routine biographical information.
(C) License history in Oklahoma and other states.
(D) Criminal and/or civil charges or convictions, including bankruptcy and judgments.
(E) All residential addresses and employment data for past five (5) years.
(F) Recent photograph.
(G) Birth date.
(H) Evidence of successful completion of course requirement as specified in the "Code".
(I) A sworn statement as to accuracy of the application information.
(J) Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
(K) Social security number, pursuant to Title 56, Oklahoma Statutes, Section 240.21A.

(2) An applicant indicating a bankruptcy or judgment, criminal and/or civil charges or convictions on the application, must submit with the application official documents to the Commission which pertain to the disposition of the matter. If official documents are unable to be obtained, a detailed letter explaining the matter(s) must be attached to the application.

(b) **Applicant shall appear for examination.** Each applicant shall appear for an examination as soon as possible subsequent to the filing of an approved application or the signing of a form as required in 605:10-3-3.

(c) **Applicant must be of good moral character.** The application submitted by an individual seeking a license must indicate that the applicant possesses a reputation for honesty, truthfulness, trustworthiness, good moral character, and that he or she bears a good reputation for fair dealing.

(d) **Determining good moral character.** In determining whether or not an applicant meets the definition of good moral character, the Commission will consider, but not be limited to, the following:

(1) Whether the probation period given in a conviction has been completed and fully satisfied to include fines, court costs, etc.

(2) Whether the restitution ordered by a court in a criminal conviction or civil judgement has been fully satisfied.

(3) Whether a bankruptcy that is real estate related has been discharged.

(4) Whether an applicant has been denied licensure or a license has been suspended or revoked by this or any other state or jurisdiction to practice or conduct any regulated profession, business or vocation because of any conduct or practices which would have warranted a like result under the Oklahoma "Code".

(5) Whether an applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revocation or suspension under the current Oklahoma "Code" had the applicant been licensed.

(e) **Subsequent good conduct.** If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission that the interest of the public will not likely be in danger by the granting of such license, the Commission may approve the applicant as relates to good moral character.

605:10-3-3. Proceedings upon application for a license

(a) **Qualified application.**

(1) **Approved application.** If the Commission shall be of the opinion that an applicant for license is qualified, the application shall be approved.

(2) **Incomplete application.** An applicant submitting either an incomplete application or an application requiring further information and/or investigation, shall either:

(A) Sign a form acknowledging that the application has not received final approval; however, the applicant requests permission to sit for the examination. If thereafter the application is not approved, the examination grade will be voided and fee will not be refunded.

(B) Wait for final approval of the application by the Commission.

(3) **Denial of application.** If, from the application filed, or from answers to inquiries, or from complaints or information received, or from investigation, it shall appear to the Commission the applicant is not qualified at any time before the initial license is issued, the Commission shall refuse to approve the application and shall give notice of that fact to the applicant within fifteen (15) days after its ruling, order or decision.

(b) **Appeal of denial of application.** Upon written request from the applicant, filed within thirty (30) days after receipt of such notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of the applicant's request.

(c) **Applicant hearing.** The hearing shall be at such time and place as the Commission shall prescribe. At least ten (10) days prior to the date set for hearing the Commission shall notify such applicant and other persons protesting, and shall set forth in a notice the reason or reasons why the Commission refused to accept or approve the application. Such written notice of the hearing may be served by delivery personally to the applicant and protesters, or by mailing the same by registered or certified mail to the last known address of the applicant and/or protesters.

(d) **Hearing procedures.** The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

605:10-3-4. Broker applicant; experience

(a) No individual shall be licensed as a real estate broker unless in addition to the other requirements in the Code, he or she has served two (2) years, or its equivalent, as a licensed real estate provisional sales associate and/or sales associate, with and under the instructions and guidance of a licensed real estate broker of this state or any other state at least twenty-four (24) months within the five (5) year period immediately prior to the filing of his or her application for license as a real estate broker in Oklahoma.

(b) An application submitted for the purpose of seeking a license to function as a real estate broker shall not be accepted for filing by the Commission unless such applicant has completed the two (2) year apprenticeship requirement on or before the date such application is submitted.

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. Unless otherwise directed by the Commission, all examinations will be conducted in Oklahoma City. 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) **Computer and written examinations.** In the event a computer is available and in working order, the Commission shall administer the examination by computer. If an applicant requests to take the examination in a written form and a computer is available, a charge of Twenty Dollars ($20.00) in addition to the regular examination fee will be assessed the applicant. In the event a written request is made by a handi-

capped individual, the Commission may waive the fee.

(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 may, within thirty (30) days of the date of the examination, personally visit the Commission office and view his or her examination. If, as a result of such viewing, the applicant is of the opinion incorrect grading was the cause for his or her receiving a failing grade, he or she may within ten (10) days request a review by the Commission of his or her examination. The purpose of such a review by the Commission shall be to determine whether or not such examination was correctly graded.

(e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. A request to write an examination submitted more than one (1) year from the most recent original application filing must be accompanied by 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.

(g) **Validity period of examination results.**

(1) **Approved or incomplete application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days from the date of such examination.

(2) **Unapproved application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days from the date the application has received final approval but shall not be valid for more than one year from the date of examination.

(h) **Extension of examination grade validity period.** An applicant may request in writing for an extension of the validity period, showing cause why such period should be extended. At the discretion of the Commission, such validity period may be extended.

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

(j) **Broker applicants.** A broker applicant who completes an entire broker examination and who is unsuccessful, may, if he or she retakes the examination within thirty (30) days, elect not to complete the written closing statement portion again, but be given his or her first written closing statement and re-enter his or her multiple choice closing statement answers.

605:10-3-6. Continuing education requirements

(a) **Definition.** Continuing education shall be defined as any real estate oriented education course or equivalent, hereinafter called offering(s) intended:

(1) To improve the knowledge of licensees.

(2) To keep licensees abreast of changing real estate practices and laws.

(3) To help licensees meet the statutory requirements for license renewal.

(b) **Purpose.** The purpose of continuing education is to provide an educational program through which real estate licensees can continually become more competent and remain qualified to engage in real estate activities for which they are licensed. Such activities involve facts and concepts about which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.

(c) **Goals.** The goals of continuing education are:

(1) To provide licensees with opportunity for obtaining necessary current information and knowledge which will enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.

(2) To assure that the licensees are provided with current information regarding new and/or changing laws and regulations which affect the real estate business.

(3) To ensure that the consumers interest is protected from unknowledgeable licensees.

(d) **Objectives.** The objectives of continued education are as follows:

(1) For licensees to expand and enhance their knowledge and expertise so as to be continually effective, competent, and ethical as they practice real estate.

(2) For licensees to review and update their knowledge of federal, state and local laws and regulations which affect real estate practices.

(e) **Entities allowed to seek approval.** The Commission may approve and/or accept any offering provided by an entity which meets the purposes, goals, and objectives of the continuing education requirement. The Commission may accept the following offerings as proof of meeting the continuing education

requirement:

(1) Any offering which is approved and presented by those entities enumerated in paragraph B, of 858-307.2 of the "Code".

(2) Any offering in real estate, or directly related area, approved and/or accepted by the real estate regulatory agency in another state; provided such offering is not excluded elsewhere in this Chapter.

(3) Any offering in real estate, or directly related area, not accepted in paragraphs (1) or (2) of this subsection, which can be determined by the Commission to be in compliance with the intent of the rules of this Chapter.

(4) Completion of an approved seventy-five (75) hour prelicense broker course or an approved forty-five (45) hour provisional sales associate postlicense course, or its respective equivalent as determined by the Commission shall suffice for 21-hours of continuing education credit for a licensee. An individual segment of an approved prelicense broker course or an approved provisional sales associate postlicense course shall suffice for continuing education credit provided such individual segment has also been separately approved for continuing education credit.

(f) **Ineligible courses.**

(1) The following offerings will not be considered by the Commission to meet continuing education requirements:

(A) General training or education not directly related to real estate or real estate practices.

(B) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, report writing, and personal motivation that is not directly related to real estate.

(C) Sales promotion or other meetings held in conjunction with the general real estate brokerage business.

(D) Meetings which are a normal part of in-house training.

(E) That portion of any offering devoted to breakfast, luncheon, dinner, or other refreshments.

(F) Prelicense general training and education to obtain a provisional sales associate or sales associate license or license examination refresher courses for provisional sales associate/sales associate or broker.

(2) The list in (1) of this subsection does not limit the Commission's authority to disapprove any offering which fails to meet the adopted purposes, goals and objectives.

(g) **List of approved entities.** The Commission shall maintain a list of approved entities.

(h) **Licensee responsible for notification to Commission.** Each licensee shall be ultimately responsible to the Commission to furnish evidence of having successfully completed the continuing education requirements for license renewal, activation, or reinstatement, as set forth elsewhere in this Chapter. Each licensee shall present to the Commission evidence of completion of a minimum of twenty-one (21) clock hours of continuing education offerings acceptable by the Commission. As evidence of having completed the requirement each licensee shall present:

(1) A certificate, and/or documents, statements and forms, as may reasonable be required by the Commission, or

(2) A certified transcript; provided, however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

(i) **Attendance and successful completion required for in-class credit.** To complete any in-class offering, a person must physically be present during all of the offering time and successfully complete all course requirements.

(j) **Successful completion of materials and examination required for distance education credit.** To complete a distance education course offering, a person must successfully complete all course requirements to include all modules and an examination.

(k) **Course limitations.**

(1) A particular course offering may not be taken for continuing education credit more than once from the same entity and/or instructor during a renewal period.

(2) Educational courses taken for disciplinary reasons shall not count towards the normal continuing education requirements for licensees.

(l) **Required number of continuing education hours.** The required number of continuing education hours for a licensee shall be as follows:

(1) Beginning July 1, 1996, the number of continuing education hours needed by a licensee for license renewal, reinstatement or activation, with the exception of those exempt as set out in Title 59, O.S. Section 858-307.2, shall be twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Each licensee shall be required to complete and include as part of said twenty-one (21) clock hours of continuing education nine (9) clock hours

of courses conducted on required subjects as approved by the Commission.

(2) As a condition of an active license renewal, each license with an expiration date of June 30, 2005 and thereafter, with the exception of those exempt as set out in Title 59, 858-307.2, shall provide evidence of completion of twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall have been taken during the license term preceding the license term for which the license is to be renewed, and wherein such hours have not been used for license activation or active reinstatement.

(3) As a condition of a license activation or active reinstatement, each license with an expiration date of June 30, 2005 and thereafter, with the exception of those exempt as set out in Title 59, 858-307.2, shall provide evidence of completion of twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall have been taken in the same license term for which the license is to be issued, with the exception of a licensee whose hours were not used in the preceding license term. In that case, the hours taken in the preceding license term shall count towards an applicable license activation or active reinstatement.

(4) Each licensee shall have completed of said twenty-one (21) clock hours of continuing education twelve (12) clock hours of required subject matter as directed by the Commission.

(5) The required subject matter, or its equivalent, as determined by the Commission, shall consist of all following subjects each license term: Professional Conduct, Broker Relationships Act, Fair Housing, and Current Issues including Code and Rule Updates. The remaining nine (9) clock hours may consist of elective subject matter as approved by the Commission

605:10-3-7. Provisional sales associate postlicense education requirement

(a) **Purpose.** The purpose of the provisional sales associate postlicense education requirement is to provide an educational program through which real estate provisional sales associate licensees can become more competent, knowledgeable and perfect their ability to engage in real estate activities for which they are licensed. Such activities involve facts and concepts about which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.

(b) **Goals.** The goals of the provisional sales associate postlicense education requirements are:

(1) To provide newly licensed individuals with the opportunity to obtain current information and knowledge to enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.

(2) To assure that licensees are provided with relevant information pertaining to practices which directly relate to real estate business.

(3) To assure that the provisional sales associate is provided with information regarding new and/or changing laws and regulations which affect the real estate business.

(4) To assure that the consumers interest is protected from unknowledgeable licensees.

(c) **Objectives.** The objectives of postlicensing education are to:

(1) Assist newly licensed individuals by having available a practical educational program wherein the information attained can be put into practice.

(2) To help licensees expand and enhance their knowledge and expertise so as to continually be effective, competent, and ethical as they practice real estate.

(3) To encourage licensees to gain additional education for specialization in particular areas of real estate.

(d) **Subject content.**

(1) On and after July 1, 1993, a provisional sales associate shall be required to successfully complete prior to the first license expiration date, forty-five (45) clock hours of postlicensing education or its equivalent as determined by the Commission. Such course of study shall be referred to as the Provisional Postlicense Course of Real Estate, Part II of II and shall encompass the following areas of study:

(A) Real Estate Marketplace
(B) Marketing Real Estate
(C) Personal Marketing
(D) The Qualifying Process
(E) Prospecting and Negotiating
(F) Financing Real Estate, Investments and Exchanges

(G) Financial Documents
(H) Duty to Account
(I) Title Search
(J) Risk Management
(K) Broker Relationships with Parties to a Transaction
(L) Property Management
(M) Laws and Regulations Affecting Real Estate Practice
(N) Disciplinary Action.

(2) The Commission has prepared a syllabus with prescribed content for the postlicense education course encompassing the areas as listed in (1) of this subsection. However, this shall not prevent those who are specializing in a specific real estate area from requesting approval of such offering if it can be proven to meet the purpose, goals and objectives as listed in this Section.

(e) **Entities allowed to seek approval.** The Commission may approve and/or accept any offering or combination of offerings which consists of forty-five (45) clock hours or more or its equivalent as determined by the Commission provided by an entity which meets the purposes, goals and objectives of the provisional sales associate postlicense education requirement.

(f) **Offerings.**

(1) The Commission may accept the following offerings as proof of meeting the postlicense education requirement:

(A) Any offering which is approved and presented by those entities enumerated in Title 59, O.S., subsection B, of 858-307.2 of the "Code."

(B) Any offering in real estate, or directly related area, approved and/or accepted by the real estate regulatory agency in another state; provided such offering is not excluded elsewhere in this Chapter.

(C) Any offering in real estate, or directly related area, not accepted in paragraphs (A) or (B) of this subsection, which can be determined by the Commission to be in compliance with the intent of the rules of this Chapter.

(2) The Commission has the authority to disapprove any offering which fails to meet the purposes, goals and objectives of this Section.

(g) **Licensee responsible for notification to Commission.** Each provisional sales associate shall be responsible to furnish evidence to the Commission of having successfully completed a Commission approved forty-five (45) clock hour postlicense education course or its equivalent as determined by the Commission. Upon successful completion of the postlicense education requirement, evidence must be submitted on or before license expiration and on a form approved by the Commission.

(h) **Failure to complete postlicense education requirement prior to license expiration.** A provisional sales associate who fails to complete the postlicense education requirement prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license.

(i) **Evidence of completion.** As evidence of having completed the education requirement, each provisional sales associate shall present one or more of the following as required by the Commission:

(1) A certificate, and/or documents, statements and forms, as may reasonably be required by the Commission, or

(2) A certified transcript; provided, however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

(j) **Attendance and successful completion required for in-class credit.** To complete any in-class offering, a person must physically be present during all of the offering time and successfully complete all course requirements and an examination.

(k) **Successful completion of materials and examination required for distance education credit.** To complete a distance education offering, a person must successfully complete all course requirements to include all modules and an examination.

(l) **Course limitations.** The following course limitations shall apply:

(1) A provisional sales associate shall only be given credit for courses specifically approved by the Commission.

(2) Educational courses taken for disciplinary reasons shall not count towards the normal postlicense education requirement.

(m) **Extension of time for completion of postlicense course for provisional sales associate who has received orders for active military service.** A provisional sales associate who has received orders for active military service may request an extension of time to complete the postlicense education requirement

if the request is received in writing prior to the expiration of the license. The request must be accompanied by a copy of the military orders for active military service. The extension of time shall be one (1) year from the date of return from active military service. In conformance with §858-309, a licensee on active military service shall request an inactive status prior to each term for which the license is to be issued. If an extension is approved, a provisional sales associate shall be allowed to renew their license by requesting an inactive status in writing prior to each term for which the license is to be issued.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

Section

605:10-5-1. Approval of prelicense course offerings
605:10-5-1.1 Approval of postlicense course offerings
605:10-5-2. Approval of continuing education offerings
605:10-5-3. Standards for Commission approved real estate courses

605:10-5-1. Approval of prelicense course offerings

(a) **Course approval.** Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

(1) Completed course application.

(2) Application fee of One Hundred Twenty-five Dollars ($125.00) for each course.

(3) An approved course syllabus encompassing the contents enumerated in 605:10-3-1 and divided by instructional periods, the name, author and publisher of the primary textbook, or a statement stating the entity will use OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

(1) An entity not conducting an applicable approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.

(2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.

(3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this Section are refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. Such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a One Hundred Dollar ($100.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) A bachelor's degree with a major in real estate from an accredited college or university.

(2) A bachelor's degree from an accredited college or university, and at least two (2) years active experience within the previous ten (10) years as a real estate broker.

(3) A real estate broker licensed in Oklahoma with a minimum of five (5) years active experience within the previous ten (10) years as a real estate broker and proof of high school education or its GED equivalent.

(4) An individual determined by the Commission to possess a combination of education and/or active broker experience in real estate or real estate related fields which constitute an equivalent to one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.

(f) **Course content examination.** Final approval will be considered after the instructor applicant has successfully completed an applicable Commission administered course content examination with a passing score of 80% or more. An instructor shall be allowed to successfully complete the applicable examination

one time without charge; thereafter, the applicable examination fee shall be charged for each examination.

(g) **Instructor renewal requirements.**

(1) In order to maintain approved status, an instructor must comply with the following:

(A) Attend a Commission directed Instructor Renewal Course every twelve (12) months. Instructors approved solely for distance education offerings must complete three (3) hours every twelve (12) months of instructor training as accepted by the Commission and sign a statement that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material.

(B) Furnish evidence that the instructor has taught a Commission approved prelicense course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period.

(2) Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

(h) **Guest instructors.** Guest instructors may be utilized for in-class instruction provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(i) **Instructor and entity requirements.**

(1) **Instructor must be present.** An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion.

(2) **Retention of records.** An instructor/entity shall maintain a record of enrollment records and roll sheets which include number of hours attempted by each student.

(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate prescribed or approved by the Commission certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.

(4) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(5) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.

(6) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).

(j) **Facility approval requirements.** Before an approved course offering can be presented at a location, the person or group presenting the course must seek approval of the facility to be used for presentation of the course. A Commission approved application must be completed and accompanied by a Seventy-five Dollar ($75.00) application fee.

(1) The application fee may be waived if the facility request for approval has been approved for use as a classroom by the State Department of Education, State Regents of Higher Education, or State Vocational and Technical Education.

(2) The application fee may be waived if an entity is requesting to utilize a facility that is currently approved by the Commission as an active facility site.

(3) The Commission shall act on a facility application within thirty (30) days of receipt of application.

(k) **Disciplinary action.** An approved course of study, director, instructor and/or facility may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.

(2) In the event the real estate license of an instructor is suspended or revoked.

(3) Failure to comply with any portion of the Code or the rules of this Chapter.

(4) Failure of an approved entity to maintain a 50% or better pass/fail ratio on the Commission examinations.

(5) Falsification of records and/or application(s) filed with the Commission.

(6) False and/or misleading advertisement.

(7) Any other improper conduct or activity of the director, instructor, or entity as may be determined by the Commission to be unacceptable.

605:10-5-1.1 Approval of postlicense course offerings

(a) **Course approval.** In accordance with Section 858-304 of the License Code, the Commission shall provide a syllabus outline for the Basic postlicense course of real estate to each person or entity conducting a postlicense course and requesting approval thereof. Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

(1) Completed course application.

(2) Application fee of One Hundred Twenty-five Dollars ($125.00) for each course.

(3) An approved course syllabus encompassing the contents enumerated in 605:10-3-7 and divided by instructional periods, and the name, author and publisher of the primary textbook, or a statement stating the entity will use OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

(1) An offering entity not conducting the approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.

(2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.

(3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this Section are refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. Such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a One Hundred Dollar ($100.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) Possession of a bachelor's degree in a related field.

(2) Possession of a valid teaching credential or certificate from Oklahoma or another state authorizing the holder to teach in an applicable field of instruction at the entity.

(3) Five (5) years full-time experience out of the previous ten (10) years in a profession, trade, or technical occupation in the applicable field of instruction.

(4) An individual determined by the Commission to possess a combination of education and/or experience, in a related field to that in which the person is to teach, which constitutes an equivalent to one or more of the qualifications in (1), (2) or (3) of subsection (e) of this Section.

(f) **Guest instructors.** Guest instructors may be utilized provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(g) **Instructor and entity requirements.**

(1) **Instructor must be present.** An approved instructor must be present in the same room during all course instruction for students to receive credit toward course completion.

(2) **Retention of records.** An instructor/entity shall maintain a record of enrollment records and roll sheets which include number of hours attempted by each student.

(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate prescribed or approved by the Commission certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.

(4) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(5) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.

(6) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).

(h) **Facility approval requirements.** Before an approved course offering can be presented at a location, the person or group presenting the course must seek approval of the facility to be used for presentation of the course. A Commission approved application must be completed and accompanied by a Seventy-five Dollar ($75.00) application fee.

(1) The application fee may be waived if the facility request for approval has been approved for use as a classroom by the State Department of Education, State Regents of Higher Education, or State Vocational and Technical Education.

(2) The application fee may be waived if an entity is requesting to utilize a facility that is currently approved by the Commission as an active facility site.

(3) The Commission shall act on a facility application within thirty (30) days of receipt of application.

(i) **Disciplinary action.** An approved course of study, director, instructor and/or facility may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.

(2) In the event the real estate license of an instructor is suspended or revoked.

(3) Failure to comply with any portion of the Code or the rules of this Chapter.

(4) Falsification of records and/or application(s) filed with the Commission.

(5) False and/or misleading advertisement.

(6) Any other improper conduct or activity of the director, instructor, or entity the Commission determines to be unacceptable.

605:10-5-2. Approval of continuing education offerings

(a) **Approval and expiration of application.** An entity seeking to conduct an approved continuing education offering shall make application for the approval or renewal of each offering. Such approval or renewal shall expire at the end of the twelfth (12) month including the month of issuance.

(b) **Application form.** Each application by a sponsoring entity for approval of an offering or group of offerings not exceeding thirty-six (36) hours covered by the same application must be accompanied by a non-refundable Thirty-five Dollar ($35.00) application fee. Such application shall be made on a form prescribed by the Commission. The application shall include, but not limited to, the following information:

(1) The name(s), address(es), and telephone number(s) of the sponsoring entity, the owner(s), and the coordinator/director responsible for the quality of the offering.

(2) The title(s) of the course offering or offerings.

(3) A complete description of or copies of all materials to be distributed to the participants except that if materials provided by the Commission are to be used, a complete description shall not be required.

(4) The number of hours in each course offering.

(5) The tuition/registration fee and cancellation/refund policy.

(6) A copy of each offering's curriculum, or revised curriculum with revisions noted, including comprehensive course objectives, detailed outline of the course subject matter, instructor for each segment, and teaching technique used in each segment.

(7) The method of evaluation of the course offering which will be used by the entity.

(8) The procedure for monitoring attendance.

(9) A personal resume indicating name(s) and qualifications of the instructor(s).

(10) The number of years the entity has been offering real estate related education.

(11) Any other relevant information useful in determining that the entity is presenting an offering which will meet the definition, purposes, goals and objectives adopted by the Commission.

(12) A statement attesting to the fact that in accepting approval as a continuing education offering entity, the entity will protect and promote the purposes, goals and objectives of continuing education as stated in the License Code and Rules.

(c) **Commission course approval notice.** The Commission shall within sixty (60) days after receipt of an application inform the entity as to whether the offering has been approved, denied, or whether additional information is needed to determine the acceptability of the offering.

(d) **Course renewal requirements.** An application for renewal of any offering or group of offerings by an entity shall also be accompanied by a non-refundable application fee of Thirty-five Dollars ($35.00). Renewal applications shall be subject to the same requirements as original applications, but may cross-reference an earlier application regarding previously approved course offerings to the extent that items have not changed since a previous application.

(e) **Change of information notice requirement.** Whenever there is any change in an offering, the entity shall notify the Commission prior to the effective date of the change. Such change shall not be considered approved until written notice is received from the Commission.

(f) **Advertising of course offering.** An entity advertising an offering as being approved for continuing education credit shall state in such advertisement, "Approved by the Commission for (correct number) hours of continuing education credit."

(g) **Course requirements and limitations.**

(1) An offering approved pursuant to this Section shall be open to all licensees, except as may otherwise be approved by the Commission upon request of the offering entity.

(2) An offering will not be approved by the Commission if its duration is less than two (2) consecutive clock hours or its equivalent as determined by the Commission.

(3) To meet the statutory requirement, a clock hour shall equal sixty (60) minutes, with no more than ten minutes of each hour utilized for breaks.

(4) An entity conducting an offering shall, within five (5) days of the completion thereof, submit to the Commission on a form prescribed by the Commission, a list of the names and license numbers of those licensees who successfully completed the said offering, along with other information which may reasonably be required.

(5) Each licensee successfully completing an offering shall be furnished a certificate, prescribed or approved by the Commission, certifying completion.

(6) Each offering shall be presented in such facilities and on such premises as shall be necessary to properly present the course as determined by the Commission.

(7) An approved instructor must be present in the same room during all course instruction for students to receive credit toward course completion. If an instructor is presenting a Commission approved course offering which is delivered to the licensees by way of television, the Commission may require that each delivering entity have a monitor in lieu of a Commission approved instructor.

(h) **Recruitment disallowed.**

(1) A coordinator/director or instructor shall not allow the premises or the facilities to be used by anyone to advertise and/or recruit new affiliates for any company. The coordinator/director shall cause the following statement to be posted at the premises or the facilities in such a manner as will be readable by all participants: "No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class or on the premises. Any recruiting on behalf of, or permitted by, the Instructor should be promptly reported to the Oklahoma Real Estate Commission."

(2) An instructor shall not wear any identification relating to a specific name or identity of a real estate company, a group of companies or franchises while in the class or on the premises.

(i) **Instructor application and approval requirements:** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a Ten Dollar ($10.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) Possession of a bachelor's degree in a related field.

(2) Possession of a valid teaching credential or certificate from Oklahoma or another state authorizing the holder to teach in an applicable field of instruction.

(3) Five (5) years full-time experience out of the previous ten (10) years in a profession, trade, or technical occupation in the applicable field of instruction.

(4) An individual determined by the Commission to possess a combination of education and/or experience, in a related field to that in which the person is to teach, which constitute an equivalent to one or more of the qualifications in (1), (2) or (3) of this subsection.

(j) **Denied application; appeal.** If the Commission shall be of the opinion that a proposed continuing education offering does not qualify under the Code and/or Rules of the Commission, the Commission shall refuse to approve the offering and shall give notice of that fact to the party applying for approval within fifteen (15) days after such decision. Upon written request from such party, filed within thirty (30) days after

receipt of such notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of such request. The hearing procedure shall be that as outlined in 605:10-1-3, titled "Appeal of administrative decisions; procedures."

(k) **Disciplinary action.** The Commission may withdraw or discipline as outlined in Title 59, O.S., Section 858-208, paragraph 6 the approval of a coordinator/director, instructor, offering or entity either on a complaint filed by an interested person or on the Commission's own motion, for any of the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of an instructor and /or coordinator/director is revoked or suspended.

(2) Failure to submit all documents, statements and forms as may be reasonably required by the Commission.

(3) Falsification of records and/or applications filed with the Commission.

(4) False and/or misleading advertising.

(5) Failure to revise an offering so as to reflect and present current real estate practices, knowledge, and laws.

(6) Failure to maintain proper classroom order and decorum.

(7) Any conduct which gives the coordinator/director, instructor or entity presenting the offering an unfair advantage over other brokers and/or real estate companies.

(8) Failure to comply with any portion of the Code or rules of this Chapter.

(l) **Retention of records.** An instructor/entity shall maintain a record of enrollment records and roll sheets which include number of hours attempted by each student.

(m) **Commission authorized to audit.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(n) **Licensee/Instructor course credit.**

(1) A licensee who shall instruct an approved offering for continuing education shall be credited with one (1) hour for each hour of actual instruction performed.

(2) An instructor may not receive continuing education credit for instructing an offering more than one time during a license term.

(3) Records of such instruction shall be reported and maintained in the same manner as prescribed for participants elsewhere in the rules of this Chapter.

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 new entity offers the identical series of courses.

(e) **Course examinations.** Every approved prelicense and postlicense course offering shall conclude with an end-of-course examination consisting of no less than one hundred and thirty (130) questions administered by the approved entity. Every approved distance continuing education course offering shall conclude with an end-of-course examination consisting of no less than ten (10) 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 mod-

ules and achieve a passing score of at least seventy-five percent (75%) on 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: "If you have been convicted of any crime, or if charges are pending, or if you have unpaid child support or unpaid student loans, please check with the Real Estate Commission before enrolling in this class. The Commission will allow you to seek preapproval prior to enrolling in a prelicense 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) An answer key for all examinations must be provided to the Commission with each course application. An answer key for examinations 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.

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

Section

605:10-7-1. License Issuance

605:10-7-1.1 Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

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

605:10-7-3. Placement of license on inactive status

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605:10-7-9. Nonresident licensing
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605:10-7-1. License issuance

No real estate licensee shall begin operations in the real estate business without first having been issued his or her numbered license certificate. This includes all original licenses, activations, reinstatements and all license types being changed from an associate to a broker or branch office broker, as defined in the rules.

605:10-7-1.1. Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

License renewals and reinstatements. Each licensee who submits a license renewal or reinstatement on or after July 1, 2002, shall be required to provide documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Failure to provide such documentation shall result in disapproval of the application.

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

(a) **License term and fees.** Each original license issued under the Code on and after July 1, 1981, 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 on and after August 1, 2001 shall be issued to expire at the end of the twelfth (12th) month including the month of issuance. On and after August 1, 2001:

(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 such 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 active original sales associate license and each subsequent active license renewal the fee shall be One Hundred and Fifty Dollars ($150.00.)

(4) 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.

(5) For a non-renewable original provisional sales associate license the fee shall be Seventy Dollars ($70.00.)

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

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

(8) An additional Fifteen Dollar ($15.00) fee, the Education and Recovery Fund fee, shall be added and payable with the license fee for an original license and subsequent license renewal for each license with the exception of a provisional sales associate license which fee shall be Five Dollars ($5.00) for their twelve (12) month license term and a branch office which shall not pay the fee.

(b) **Terms cannot be altered.** Terms shall not be altered except for purposes of general reassignment of terms which might be necessitated for the purpose of 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.

(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. Any such renewal application filed after such 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. 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 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) Documents as required by the Commission.

(2) **Lapsed more than one year but less than two years.** In the case of a license lapsed more than one year but less than two years.
- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) A completed reinstatement application.
- (D) A statement that the applicant has read a current License Code and Rules booklet.
- (E) If applicable, a statement as to why the license fee was not paid in a timely manner.
- (F) Documents as required by the Commission.

(3) **Lapsed more than two years.** In the case of a license lapsed more than two years.
- (A) License and late penalty fee(s).
- (B) Reinstatement fee(s).
- (C) A completed reinstatement application.
- (D) Successful completion of the appropriate licensing examination.
- (E) Documents as required by the Commission.

(4) **Lapsed more than five years.** If such late application is submitted more than five (5) years subsequent to the most recent year of licensure, the applicant shall be regarded as an original applicant.

(5) **May apply as an original if lapsed more than two years.** In the case of a license lapsed more than two (2) years but less than five (5) years, the applicant may at his or her option apply as an original applicant provided evidence is submitted to show that the applicant has successfully completed the appropriate prelicense course(s). A person who does not possess a valid license may be considered for re-license only through the provision for reinstatement unless such license has been lapsed more than two (2) years. In the case of a provisional sales associate, the applicant would be required to repeat and successfully complete the postlicense requirement. If this option is elected by a previously licensed sales associate, the sales associate shall be regarded as an original applicant.

(g) **Reinstatement of a provisional sales associate license wherein postlicense education was completed prior to license expiration date.** On and after June 1, 1996, an applicant who successfully completed the postlicense 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 (5).

(h) **Reinstatement of a provisional sales associate license wherein postlicense education was not completed prior to license expiration date.** On and after June 1, 1996, an applicant who has not successfully completed the postlicense educational requirement prior to the first license expiration date shall not be eligible to reinstate such 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. 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 a surrendered or cancelled license.** A surrendered or cancelled 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 applicant whose license term is still current:
- (A) Applicable reinstatement fee.
- (B) Re-issuance fee.
- (C) Documents as required by the Commission.

(2) **Reinstatement with term of license expired.** A surrendered or cancelled 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 postlicensing 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 (5).

(B) If a provisional sales associate did not complete the postlicensing requirement on or before the first license expiration date, the applicant shall be required to apply and qualify as an original applicant.

(k) **Continuing education requirement.** On and after July 1, 1984, 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 he or she has completed the continuing education requirements enumerated in Section 858-307.2 of Title 59. Further, on and after July 1, 1984, an applicant seeking active reinstatement of a lapsed license must submit evidence that he or she has completed continuing education requirements. The applicant must meet the continuing education requirement for each term in which an active license is requested.

(l) **Sales to broker license fee prorated.** If a real estate sales associate or provisional sales associate shall qualify for a license as a real estate broker, the unused license fee shall be credited to the broker 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.

(m) **Issuance of license from provisional sales associate to sales associate if licensed prior to August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the postlicense education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the postlicense education requirement, the provisional sales associate must apply by submitting the appropriate document(s) and fee of Twenty-five Dollars ($25.00) to the Commission for issuance of a renewable sales associate license. The issuance of the license from a provisional sales associate to a sales associate only changes the license type and does not change the expiration date of the license.

(n) **Issuance of license from provisional sales associate to sales associate if licensed on and after August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Postlicense 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 Postlicense 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 successfully completed the Provisional Postlicense Course of Real Estate, Part II of II education requirement and has initiated a renewal for a renewable sales associate license.

(o) **Active status requested, however, Commission unable to activate for reasons as stated in statutes elsewhere.** In the event a licensee requests an active original license or subsequent license renewal to be issued on active status and for reasons beyond the Commission's control the licensee is unable to obtain an active license at that time, the fees as received by the Commission shall be retained and not refunded. Once the licensee corrects the problem with the appropriate regulatory agency and such agency authorizes the issuance of an active license, the Commission will then, upon receipt of an activation fee and required documentation, initiate the issuance of an active license within the respective license term.

(p) On and after August 1, 2001, 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 license, the Commission shall not refund the difference in the license fees.

605:10-7-3. Placement of license on inactive status

In conformance with Section 858-309 of the Code a licensee who at any time fails to comply with all Code and Rule requirements for active license status shall be placed on inactive status. At any time the licensee complies with all Code and Rule requirements for licensing, such license shall be issued on active status.

605:10-7-4. Request for activation or re-issuance of license

(a) **Requirements.** All requests for activation or re-issuance of a license must be accompanied by the appropriate document(s) and fee of Twenty-five Dollars ($25.00) as required by the Commission. Due to the passage of rules which allow an applicant or licensee to originally issue or renew their license at a reduced inactive rate, in the event a licensee requests the Commission to activate a license that was originally issued or renewed inactive on and after August 1, 2001, the licensee shall be required to pay the applicable fee as outlined in 605:10-7-2.

(b) **Multiple change requests on same license.** In the event a licensee's request involves more than one change to the license at the same time, and each individual change requires a separate fee elsewhere in the rules of this Chapter, the Commission shall only require that one fee be charged to reissue the license if the request is done in a timely manner.

(c) **Continuing education required for activation.** A licensee requesting activation of a license must have complied with the continuing education requirement as set forth in Section 858-307.2 of Title 59 of the Oklahoma Statutes. Further, upon a licensee's request for activation being completed and processed, the licensee shall then be required to complete the continuing education requirement for the next license term for which the license is to be renewed active or activated.

605:10-7-5. Name changes

(a) **Name change request.** Any change of name of a licensee or licensed firm must be filed in the Commission office within ten (10) days of such change. Filed shall mean the date of the United States postal service postmark or the date personal delivery is made to the Commission office. The licensee or firm shall return the license certificate to the Commission office along with the request for such name change. Upon any request for a change of name there shall be paid a fee to the Commission of Twenty-five Dollars ($25.00) for each license to be changed. The Commission may require additional documents as may reasonably be required by the Secretary-Treasurer.

(b) **Group name changes.** 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 reissued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

605:10-7-6. Certification of license history

Each request for a certification of license history shall be in the form of a letter to the Commission accompanied by a fee of Fifteen Dollars ($15.00).

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, each additional office must be licensed as a branch office upon the payment of a branch office license fee. The license shall be displayed in the branch office.

(b) **Associate's license issued to branch office.** An associate's license shall be issued to and displayed 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 in behalf of the broker with respect to his or her Branch Office at the discretion of the broker. Such 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.

(e) **Reappointment of branch office broker.** In the event of the death, disability, 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 name or trade name which is different than the main office only if the branch office also utilizes, for identification and connection purposes, the name or trade name of the main office.

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, disability, 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 within three (3) working days of the occurrence of such event, and such notice of change must be filed in the Commission office no later than five (5) 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 (m.)

(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, disability, 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 within three (3) working days of the occurrence of such event, and such notice of change must be filed in the Commission office no later than five (5) working days of the occurrence of the event. The notice of change in man-

aging 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 (m.)

(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 a association in the State of Oklahoma and that the association is in good standing in the State of Oklahoma.

(3) Association must be in compliance 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, disability, 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 within three (3) working days of the occurrence of such event, and such notice of change must be filed in the Commission office no later than five (5) 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 (m.)

(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.

605:10-7-9. Nonresident licensing

(a) **Nonresident licensed in another state.** A nonresident applicant may apply to the Commission for a license to operate as a nonresident by submitting all appropriate documents as required by the Commission and furnish evidence that the applicant possesses a current active license in their resident state or another state in which the applicant has qualified for a license. If, in the opinion of the Commission, there is question as to the competence of the nonresident applicant, such individual may be required to successfully complete additional educational courses and/or the Oklahoma examination. No inactive license experience may be credited to qualify under this Section. The Commission, at its discretion, may issue a nonresident license if, in the opinion of the Commission, such nonresident has qualified and maintains a license in another state and meets the following qualifications:

(1) A nonresident applicant who has been actively licensed as a sales associate or broker respectively for a minimum of two (2) years out of the previous five (5) years.

(A) A nonresident applicant that applies under this paragraph must complete and submit the following:

(i) Appropriate application along with application fee.

(ii) Certificate of licensure from the state(s) in which the applicant has held and/or currently holds a license.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

(i) Appropriate license application form(s) along with license and education and recovery fund fees.

(ii) Consent for service of jurisdiction form.

(2) A nonresident applicant who has been actively licensed less than two (2) years as a sales associate or broker respectively out of the previous five (5) years must successfully complete the appropriate examination.

(A) A nonresident applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with examination fee.

(ii) Certificate of licensure from the state(s) in which the applicant has held and/or currently holds a license.

(iii) Successfully complete the appropriate examination.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

(i) Appropriate license application form(s) along with license and education and recovery fund fees.

(ii) Consent for service of jurisdiction form.

(b) **Nonresident agreement.** The Commission may enter into a nonresident agreement with another state and thereby qualify actively licensed nonresident applicants for licensing in this state provided the Commission determines that the educational and experience requirements of the other state are equivalent or equal to this state.

(c) **Nonresident applicant that is inactive or unlicensed in another state.** A nonresident applicant that holds an inactive license in another state or an applicant who is unlicensed in another state may apply to the Commission for a license to operate as a nonresident provisional sales associate or broker by submitting all appropriate documents and successfully completing all requirements as required by the Commission.

(1) The nonresident applicant must complete and submit the following:

(A) Appropriate application along with the examination fee.

(B) Qualify as an original applicant by submitting proof of appropriate required education.

(C) Successfully complete the appropriate examination.

(D) If applicable, certificate of licensure from the state(s) in which the applicant has held a license.

(2) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

(i) Appropriate license application form(s) along with license and education and recovery fund fees.

(ii) Consent for service of jurisdiction form.

(d) **Consent for service of jurisdiction.** Prior to the issuance of a license to a nonresident broker, such

non-resident shall file with the Commission a designation in writing that appoints the Secretary-Treasurer of the Commission to act as his or her licensed agent, upon whom all judicial and other process or legal notices directed to such licensee may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of such appointment, certified by the Secretary-Treasurer of the Commission, shall be deemed sufficient evidence thereof and shall be admitted into evidence with the same force and effect as the original thereof. In such written designation, the licensee shall agree and stipulate that any notice or instrument which is served upon such agent shall be of the same legal force and validity as if served upon the licensee, and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon receipt of any such process or notice the Secretary-Treasurer shall forthwith mail a copy of the same, by certified mail, to the last known business address of the licensee.

(e) **License history and application requirements.** Prior to the approval of the application, the nonresident must file with the Commission a certificate of licensure from the real estate licensing jurisdiction of the licensee's resident state and/or other state(s) in which the applicant has held or currently holds a license and pay the Commission the same examination fee and license fee as provided in the "Code" for the obtaining of a resident sales associate or broker license in this state. The certificate of licensure shall be valid for sixty (60) days from date of issuance.

(f) **Approved application valid for ninety (90) days.** An approved application shall be valid for ninety (90) days.

(g) **Stipulations.** Nonresident licenses granted under the provisions of this Section shall remain in force, unless suspended or revoked by the Commission for just cause, or for failure to pay the annual renewal fee, only as long as such nonresident remains licensed in good standing in this state, in his or her resident state and/or any other state in which the nonresident is or has been licensed.

(h) **Co-brokerage arrangements.** A broker of this state may participate in a cooperative brokerage arrangement with a broker of another state provided that each broker conduct real estate activities only in the state in which they are licensed.

(i) **Request for license transfer.** In the event a nonresident Oklahoma licensee desires to transfer the license and obtain a resident Oklahoma license or desires to transfer the license to another state or jurisdiction, the nonresident licensee shall be required to meet all applicable requirements and pay the appropriate change of address fee and submit all appropriate documents as required by the Commission. In the event a resident Oklahoma licensee desires to transfer the license and obtain a nonresident Oklahoma license, the licensee shall be required to pay the appropriate change of address fee and complete and submit all appropriate documents as required by the Commission.

(j) **Continuing education.** If a nonresident licensee satisfies a continuing education requirement in another state for license renewal, the Commission will exempt the nonresident licensee from the continuing education requirement in this state. In order to qualify for the exemption, the nonresident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the nonresident licensee has completed the continuing education requirement for license renewal in that state. The certificate from the state verifying the nonresident's compliance with continuing education in the other state must be received by the Commission within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.

605:10-7-10. Resident applicants currently or previously licensed in other states

(a) **Requirements.** In order to qualify under previously licensed procedures, an applicant must complete and submit all appropriate documents as required by the Commission and furnish evidence that the applicant possesses or has possessed a license in good standing in another state(s). No inactive license experience may be credited to qualify under this Section. The Commission, at its discretion, may issue the applicant a license if such previously licensed applicant meets all of the requirements of either paragraphs (1), (2), (3) or (4) of this subsection:

(1) If a nonresident agreement exists between Oklahoma and the respective state in which the applicant qualified for a license, the Commission shall qualify the licensed applicant through the nonresident agreement. In order to qualify under this paragraph an individual must furnish evidence that the license from the former state has not been inactive more than six (6) months prior to application to this state.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with application fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(B) Upon the Commission granting approval to the applicant for a licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with

license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(2) If a nonresident agreement does not exist, the applicant shall be required to furnish evidence of two (2) years of active experience respectively as a sales associate or broker out of the previous five (5) years. In order to qualify under this paragraph an individual must furnish evidence that the license from the former state has not been inactive more than six (6) months prior to application to this state.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with application fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(3) An applicant who does not possess the required two (2) years' active experience out of the previous five (5) years respectively as a sales associate or broker, or an applicant who does not meet all of the requirements of either paragraphs (1) or (2) of this subsection, but obtained the appropriate license in the other state within the past five (5) years, shall be required to take and successfully complete the appropriate examination.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with examination fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(iii) Successfully complete the appropriate examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(4) An applicant who has not been actively licensed during any portion of the previous five (5) years in the other state shall be regarded as an original applicant; however, if an applicant successfully completed the appropriate real estate course approved in another state for real estate licensure and such course's duration is equivalent to Oklahoma's hourly course requirements, the applicant may be granted to sit for the appropriate examination and shall be regarded as an original applicant.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with examination fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(iii) Qualify as an original applicant by submitting appropriate required education.

(iv) Successfully complete the appropriate examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a provisional sales associate, broker associate or broker license.

(b) **May be required to submit to additional requirements.** If, in the opinion of the Commission, there is question as to the competence of the previously licensed applicant, such individual may be required to submit to additional educational courses and/or the Oklahoma examination.

(c) **Application requirements.** Any applicant seeking to transfer his or her license to Oklahoma from another state must pay the required examination and regular license fee, whether or not the examination from the other state is accepted for substitution. Prior to the issuance of any license, the applicant must file with the Commission a certificate of licensure from the state(s) in which the applicant has held or currently holds a license. The certificate of licensure shall be valid for sixty (60) days from date of issuance. No inactive license experience may be credited to qualify under this Section. Such approved application shall be valid for ninety (90) days.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

Section
605:10-9-1. Place of business
605:10-9-2. Office identification
605:10-9-3. Trade names
605:10-9-4. Advertising
605:10-9-5. Broker change of address
605:10-9-6. Death or disability of broker
605:10-9-7. Requirements for cessation of real estate activities

605:10-9-1. Place of business.

(a) **Requirements.** Each broker shall maintain a specific place of business, and supervise a brokerage practice which is available to the public during reasonable business hours. Each broker shall be available to manage and supervise such brokerage practice and comply with the following:

(1) The broker's license, as well as those of all licensees associated with the broker, must be prominently displayed in such place of business.

(2) The office shall consist of at least one enclosed room or building of stationary construction wherein negotiations and closing of real estate transactions of others may be conducted and carried on with privacy and wherein the broker's books, records and files pertaining to real estate transactions of others are maintained.

(b) **Branch offices.** If a broker maintains one or more branch offices, each associate's license shall be issued to and displayed in the office to which the associate is assigned whether that be the main office or branch office.

(c) **Office located at residence.** The office may be in the residence of the broker, if not contrary to local zoning ordinances.

(d) **Associates not permitted to have an office.** Associates are not permitted to have an office, but must be registered with an office maintained and registered in the name of the broker.

(e) **Licenses issued to place of business.** All licenses will be issued to the street address of the place of business, unless the United States postal service refuses to deliver mail when addressed in such manner.

(f) **Broker may be broker for more than one firm.** A broker may be the broker for more than one firm so long as the firms are at the same location.

(g) **Broker is responsible for acts of unlicensed assistants.** A broker is responsible for all real estate related activities of any unlicensed assistant working within the firm.

605:10-9-2. Office identification

(a) **Office identification sign.** Each licensed real estate broker holding an active license certificate, except those registered as being associated with a broker who is in compliance with this Section, shall erect and maintain a sign on or about the entrance of his or her office, and all branch offices, which sign shall be easily observed and read by persons about to enter any of said offices.

(b) **Specifications of sign.** Each sign shall contain the name of the broker or trade name registered with the Commission, and if a partnership, association or corporation, shall contain the name or trade name of such firm. The sign must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "company", "realty", or "real estate", as the case may be, all in letters not less than one (1) inch in height. 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.

605:10-9-3. Trade names

Each licensed broker or entity must register in writing to the Commission all trade names used in connection with real estate activities prior to the trade name being advertised or displayed in any way. Further, each broker is to notify the Commission in writing of all deleted or unused trade names.

605:10-9-4. Advertising

(a) **Requirements and prohibitions.**

(1) A broker, when advertising, must use his or her business trade name or the name under which

the broker is licensed. 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 advertise, either 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, 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.

(b) **Associates advertising.**

(1) An associate is prohibited from advertising under only his or her name.

(2) All advertising by an associate must be under the direct supervision of his or her broker.

(3) In all advertising, the associate must include the name of his or her broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous and easily identifiable. If allowed 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 company 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 company name.

(C) An associate's contact information.

(D) A team name approved by the broker, so long as the broker's reference is prominent, conspicuous, and easily identifiable, and which cannot be construed as that of a company name.

(E) A slogan which cannot be construed as that of a company name.

(4) A sign rider with the associate's contact information may be attached to a yard sign if the yard sign contains the name or trade name and office telephone number of 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) **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 company, 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.

(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 a corporate owner is not required to indicate in the advertising that he or she is licensed.

605:10-9-5. Broker change of address

(a) **Change of business address.** Any change of business address of a broker must be filed in the Commission office within ten (10) days of such change. Filed shall mean the date of the United States postal service postmark or the date personal delivery is made to the Commission office. The broker shall return his or her certificate to the Commission along with those of all licensees in his or her association with a request for a change of address. Upon any request for a change of address there shall be paid a fee

to the Commission of Twenty-five Dollars ($25.00) for each license to be changed.

(b) **Group change of address.** 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.

(c) **Change of home address.** A broker is required to notify the Commission of his or her current home address. Such change shall be filed in the Commission office within ten (10) days of such change. No fee is required to change the licensee's record; however, a fee of Twenty-five Dollars ($25.00) will be charged if the change requires a new license to be issued.

605:10-9-6. Death or disability of broker

Upon the death or inability of a broker to act as a broker the following procedures shall apply:

(1) In the case of a corporation, association or partnership, the provisions of 605:10-7-8 relating to corporations, 605:10-7-8.2 relating to associations, and 605:10-7-8.1 relating to partnerships shall apply.

(2) In the case of a sole proprietor all brokerage activity must cease and a family attorney or representative should perform the following:

(A) Notify the Commission in writing of the date of death or disability.

(B) Advise the Commission as to the location where records will be stored. Such records may be assigned to another broker.

(C) 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.

(D) Notify each listing and management client in writing that the broker is no longer in business and that the client may enter a new listing or management agreement with the firm of his or her choice.

(E) Notify each party and co-broker to any existing contracts.

(F) Retain trust account monies under the control of the administrator, executor or co-signer on the account until such time as all parties to each transaction agree in writing to disposition or until a court of competent jurisdiction issues an order relative to disposition.

(G) Notify the Commission of the date the trust account will be closed.

(H) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of death or disability of the broker.

(3) In the case of a corporation, association or partnership which ceases all brokerage activity, the provisions of paragraph (2) of this Section apply.

605:10-9-7. Requirements for cessation of real estate activities

(a) **Requirement.** Unless specifically approved otherwise by the Commission a real estate firm shall, when ceasing a portion of real estate activities or ceasing all real estate activities, comply with Section 605:10-13-1 (n).

(b) **Ceasing a portion of real estate activities.** To cease a portion of real estate activities refers to closing a department within a firm wherein, to include but not limited to, separate accounting, trust/escrow accounts and trade names were established and utilized.

(c) **Firm not active in performing real estate activities.** If a firm is not active in performing real estate activities, such firm shall comply with Section 605:10-13-1 (n), (1), (A) through (C).

605:10-9-8. Branch office closing instructions

The Commission must receive in writing, the requirements listed in this Section at the time notice is given to the Commission that the branch office has closed; however, a written request may be submitted to the Commission for approval to extend the period for submitting such documents and information. Unless specifically approved otherwise by the Commission, a real estate branch office shall be closed by the main office broker in the following manner:

(1) Notify the Commission in writing of the date the branch office will close and advise as to the location where records will be stored and retained for a minimum of five (5) years in conformance with 605:10-13-1 (1).

(2) Return the branch office license certificate and pocket identification card along with all license certificates of those associated with the branch office to the Commission and advise the Commission as to the circumstances involving any not returned.

(3) Release forms must be filed for all licensees affiliated with the branch office.

(4) The branch office broker must either transfer his or her license to a firm of his or her choice or place his or her license on inactive status.
(5) If the main office is not going to service the branch office's existing listing and management clients, as well as parties and co-brokers to existing contracts, notice is to be sent in writing advising all parties of the date the branch office will close and advise each client that he or she may enter a new listing or management agreement with a firm of his or her choice.
(6) All advertising in the name of the branch office must be terminated and offerings signs removed within thirty (30) days of office closing.
(7) Trust account funds and pending contracts must be maintained by the responsible broker until final proper disbursal or until new agreements are secured from all parties for transfer of the funds and/or contracts. The Commission is to be notified in writing of any accounts that are closed.

SUBCHAPTER 11. ASSOCIATE'S LICENSING PROCEDURES

Section
605:10-11-1. Acts of associates
605:10-11-2. Associate licenses
605:10-11-3. Associate's corporation or association

605:10-11-1. Acts of associates

(a) **Requirement.** All acts performed by an associate under the provisions of the "Real Estate License Code" shall be done only in the name of the associate's broker.
(b) **Limitation.** An associate shall not be allowed to work for more than one broker at the same time.
(1) An exception to this subsection would be if the associate's broker agreed to loan the associate to another broker for a specific duty to be performed, such as:
(A) Sitting at an open house.
(B) Calling an auction or performing other auction related duties.
(C) Any other specific duty as requested in writing and approved by the Commission.
(2) The broker is responsible for all acts performed by the associate while the associate is performing a specific duty for another broker.
(c) **An associate is responsible for acts of unlicensed assistants.** An associate who employs an unlicensed assistant is responsible in conjunction with the broker for all real estate related activities of the unlicensed assistant.

605:10-11-2. Associate licenses

(a) **License issuance and change request.** Each associate license shall be issued to the associate's broker, who shall retain custody of such license. Upon an associate leaving the association of the broker, the associate's license shall be returned to the Commission, together with a release executed by the broker. Any change of association from one firm to another or relocation from one office to another within a firm by an associate must be filed in the Commission office within ten (10) days. Filed shall mean the date of the United States postal service postmark or the date personal delivery is made to the Commission office. The associate's new broker shall be required to file a consent agreement to sponsor said associate on a form as shall be provided by the Commission. An associate requesting an association or office change shall be required to pay a fee of Twenty-five Dollars ($25.00).
(b) **Broker refusal to release associate.** In the event a broker refuses or for any other reason will not release an associate, the associate shall notify the broker by certified mail of the disassociation and furnish the Commission a sworn statement that the notification has been served on the broker. If a broker, when requested to release an associate or when notified by certified mail of the disassociation by an associate, is of the opinion that the association has not been terminated and prevails in court over such associate, the broker may file a request with the Commission for a hearing to determine whether or not the associate should be disciplined. In such a filing, the complaining broker must show cause in the form of a copy of the court order directing a verdict in their favor.
(c) **Group change requests.** 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 reissued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.
(d) **Associates transfer.** When an affiliated associate leaves a broker for whom such associate is acting, the broker shall immediately cause the license of that associate to be forwarded to the Commission along

with a release of association form. The broker shall make every attempt to notify the associate of the disassociation.

(e) **Active associate may continually act.** An active associate transferring from one broker to a new broker may continually act if the change is done in a timely manner and in compliance with the ten (10) day notification requirement and other applicable rules of this Chapter.

(f) **Compensation due a disassociated associate.** A previous broker may pay compensation due a disassociated associate directly to the associate and not be required to make such payment through the associate's new broker. However, any agreements between the associate and prior broker requiring further activities to be performed in connection with the compensation to be received, can only be performed with consent and acknowledgement of the new broker.

(g) **Change of home address.** An associate is required to notify the Commission office of his or her current home address. Such change shall be filed in the Commission office within ten (10) days of such change. No fee is required to change the licensee's records; however a fee of Twenty-five Dollars ($25.00) will be charged if the change requires a new license to be issued.

605:10-11-3. Associate's corporation or association

Within the meaning of subsection 14 of Section 858-312 of the "Code" payment of a commission by a broker to an associate's corporation or association does not constitute a payment of a fee (commission) to an unlicensed person provided the corporation or association, the associate and the broker, abide by the following requirements:

(1) The associate's corporation or association may not perform any act requiring a real estate license and may not hold itself out as engaged in such activity.

(2) The associate must have a current individual real estate license.

(3) The broker of the associate must approve of the associate's corporation or association.

(4) The associate must be the majority stockholder and president of the corporation or majority member of the association.

(5) Ownership of an associate's corporation or association is limited to spouses and blood relatives.

(6) The associate's corporation or association may not advertise nor receive referral fees or commissions except from the associate's broker.

(7) The associate must file a written statement with the Commission including the following:

(A) A statement that the associate is the majority stockholder and president of the corporation or majority member of the association.

(B) Names and relation of all officers/members and/or stockholders.

(C) Verification that the association or corporation is authorized to transact business in the State of Oklahoma and that the association or corporation is in good standing.

(8) The associate's broker must file with the Commission a written statement approving of the associate's corporation or association.

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

Section

605:10-13-1. Duty to account; broker
605:10-13-2. Duty to account; associate
605:10-13-3. Special escrow disbursement

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 account.

(C) The account 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 unless otherwise agreed to in writing by all interested parties.

(E) The broker shall maintain such funds 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 furnished to all parties.** A broker shall insure the delivery of a copy of all instruments to any party or parties executing the same, where such instrument has been prepared by the broker or his or her associates and relates to the agreement with his or her principal or pertains to the real estate transaction in which he or she or one of the associates has participated.

(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.

(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 on alternative media, e.g. compact disk, optical disk, microfilm, etc.:

(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.

(7) A broker shall maintain no less than two (2) copies of the alternative media.

(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 such 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 disbursal 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 disbursal 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.

605:10-13-2. Duty to account; associate

The obligation of an associate to remit monies, valuable documents and other property coming into his or her possession within the meaning of subsection six (6), Section 858-312 of the Code shall be construed to include but shall not be limited to the following:

(1) Shall turn over all monies deposited, payments made, or things of value received by the associate to his or her broker promptly; and

(2) Shall deliver a copy of all instruments to any party or parties executing the same when such has been prepared by the associate or pertains to the consummation of a transaction in which he or she participated.

605:10-13-3. Special escrow disbursement

(a) In the event a dispute arises prior to the disbursement of any monies or other valuables held by a broker in escrow in connection with a real estate purchase contract, the broker shall continue to retain said money or valuables in escrow until he or she has a written release from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time he or she may pay or turn it in to the court.

(b) In the absence of a pending civil action and upon the passage of thirty (30) days from the date of final termination of the contract, it shall not be considered grounds for disciplinary action by the Commission against a broker for a broker to disburse escrow monies or valuables to either purchaser or seller when the disbursement has been based on a good faith decision by the broker that the opposite party has failed to perform as agreed, such disbursement to be made, however, only after fifteen (15) days written notice to all parties concerned setting forth the broker's proposed action.

SUBCHAPTER 15. DISCLOSURES

Section

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605:10-15-1. Disclosure of beneficial interest or referrals

(a) No licensee shall, without disclosing such fact in writing to all parties on both sides of the transaction, either:

(1) Accept or receive any fee, commission, salary, rebate, kickback or other compensation or consideration allowed by law in connection with the recommendation, referral or procurement of any product or service, including financial services.

(2) Own any beneficial interest in any entity which provides any product or service, including financial services to home owners, home buyers or tenants, in connection with the sale, lease, rental or listing of any real estate. Activities or interests of associates shall ordinarily be disclosed to his or her broker who shall have the primary responsibility to make written disclosures covered by this Section to the parties.

(b) If any associate owns any beneficial interest in any entity which provides any product or service, including financial services, to home owners, home buyers, or tenants, the associate shall disclose the nature and extent of such interest to his or her broker. The obligation to make such disclosure shall be a continuing one.

(c) Notwithstanding the provisions of this Section, disclosure of a beneficial interest shall not be required if either:

(1) The beneficial interest consists solely of a stock or other equity ownership in a publicly traded company where such ownership is less than one percent (1%) of the total equity value of such entity.

(2) Such beneficial interest consists solely of a stock or other equity interest in a privately held company in which the aggregate ownership of all licensees employed by the firm otherwise required to make the disclosure does not exceed ten percent (10%) of the equity value of the company and where the licensee is not an officer, director, managing partner or otherwise directly or indirectly is in control of the entity which provides any product or service covered by this Section.

(d) No particular form of disclosure shall be prescribed by the Commission. All disclosures required by this Section shall be made:

(1) Either prior to or at the time that any recommendation, referral or procurement of any product

or service is made in instances in which the licensee may receive any compensation or consideration in connection therewith.

(2) At or before the time that it becomes apparent to the licensee that any entity in which the licensee owns any beneficial interest may provide any product or service in instances in which the disclosure of any such ownership is required under this Section. All disclosures required by this Section shall be judged by the standard of whether the disclosure was adequate to inform all parties on both sides of the transaction of the existence of a beneficial interest covered by this Section or, if a party claims not to have been adequately informed, whether the form and manner in which the disclosure was made was adequate under the circumstances to inform a person of ordinary intelligence and understanding, not possessing expertise in real estate or financial matters, of the existence of any fee, compensation, salary, rebate, kickback or other compensation or consideration or the ownership of a beneficial interest in an entity providing products or services covered by this Section.

(e) The failure by a licensee to observe any provision of this Section shall be deemed to be a violation of subsections 2, 3, 8 and 15 of Section 858-312 of the Code and in the case of an associate, a violation of subsection 4 of Section 858-312 of the Code as well.

605:10-15-2. Broker Relationships Act to become effective November 1, 2000

(a) **Broker Relationships Act effective November 1, 2000.** A new law, Title 59, O. S., Sections 858-351 through 858-363 of the License Code, becomes effective on November 1, 2000, which law shall be referred to as the Broker Relationships Act.

(1) **Brokerage service agreement defined.** The term "brokerage service agreement" shall mean an oral or written agreement to provide brokerage services entered into by a real estate broker and a person who is a party to a real estate transaction and shall include, but not be limited to, listing agreements, buyer broker agreements and property management agreements.

(2) **Validity of a brokerage service agreement existing before and on November 1, 2000.** A brokerage service agreement entered into prior to November 1, 2000, shall remain in full force and effect until the agreement expires or is otherwise terminated by the parties to the agreement.

(3) **Addendum or attachment to a brokerage service agreement existing before and on November 1, 2000.** If a brokerage service agreement is entered into prior to November 1, 2000, it may contain an addendum or other attachment that allows the parties on or after November 1, 2000 to change their relationship with the real estate broker to those types of relationships permitted under the Broker Relationships Act. Such addendum or attachment must contain all relevant disclosures, consents and other requirements mandated by the Broker Relationships Act.

(4) **Real estate broker determines relationships under the Broker Relationships Act.** Under Title 59, O.S., Section 858-355, the relationship(s) with any party or parties to any transaction shall be determined by the real estate broker only and not by the associated broker associates, sales associates or provisional sales associates.

(b) **Delivery of a contract to broker after acceptance of a contract between the parties.** A single-party broker is authorized to accept delivery of a contract between the parties to a transaction on behalf of the party for whom the broker is performing single-party brokerage services. A transaction broker is not authorized to accept delivery of a contract between the parties to a transaction on behalf of the party for whom the broker is performing transaction brokerage services unless the contract between the parties authorizes such and the transaction broker agrees to accept delivery in writing.

(c) **Transaction broker may make a suggestion regarding value.** A transaction broker may provide market information and data which may indicate value and may make a suggestion regarding value, but shall not be an advocate for either party.

605:10-15-3. Requirements for furnishing psychological factors

Psychologically impacted property is any property whereof the existence of certain circumstances, suspicions or facts may create emotional or psychological disturbance or concerns to a prospective purchaser/lessee, with the potential of influencing a buying/leasing decision. Therefore, the obligation of a real estate licensee to obtain information as stated in Title 59, O.S., Section 858-513A (1) and (2) shall be performed in the following manner:

(1) Purchaser/lessee must be in the process of making a bona fide offer.

(2) Licensee must receive request in writing from purchaser/lessee.

(3) Purchaser's/Lessee's written request must state that such factor is important to the decision of the purchaser/lessee.

(4) Licensee shall make inquiry of the owner by submitting the written request to the owner.

(5) Licensee shall report any findings to the purchaser/lessee with the consent of the owner.
(6) If the owner refuses to furnish information requested, the licensee shall so advise the purchaser/lessee.
(7) Further, if a purchaser/lessee is requesting information as to whether or not an occupant of the real estate is, or was at any time suspected to be infected, or has been infected with Acquired Immune Deficiency Syndrome, or any other disease which falls under the privacy laws, the information can only be obtained in accordance with the Public Health and Safety Statute, Title 63, O.S., 1988, Section 1-502.2A.

605:10-15-4. Residential Property Condition Disclosure Act forms
(a) **Development and amendment of forms.** In accordance with Oklahoma Statutes, Title 60, Section 833 the Commission shall develop and amend by rule the forms for the Residential Property Condition Disclosure Statement and Residential Property Condition Disclaimer Statement. Effective November 1, 2003, the disclosure statement is amended and all disclosure forms executed prior to November 1, 2003 will remain in force and valid until expiration of the 180 days from the date noted thereon.
(b) **Availability of forms.** The forms shall be available to the public upon request on and after July 1, 1995.
(c) **Copy of form format.** The Residential Property Condition Disclosure Statement as referenced in this section is set out in Appendix A at the end of this Chapter. The Residential Property Condition Disclaimer Statement as referenced in this section is set out in Appendix B at the end of this Chapter.

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

Section
605:10-17-1. Commissions and disputes
605:10-17-2. Complaint procedures
605:10-17-3. Complaint hearings—notice and procedures
605:10-17-4. Prohibited dealings
605:10-17-5. Substantial misrepresentation
605:10-17-6. Requirements for suspended/revoked brokers and associates
605:10-17-7. Cessation of licensed activities upon loss of license

605:10-17-1. Commissions and disputes
(a) The Commission shall not establish the rate of commissions to be charged for real estate services and shall have no interest therein.
(b) At its discretion, the Commission may dismiss or postpone any investigation or hearing which essentially involves a dispute not affecting the public interest until or unless such dispute is resolved.
(c) The Commission shall entertain a complaint against a broker charging a violation of subsection 18 of Section 858-312 of this "Code" only if the complaining licensee submits with his or her complaint evidence that a court of competent jurisdiction has ruled in his or her favor relative to the subject and awarded judgment against the broker.

605:10-17-2. Complaint procedures
(a) **Complaint may be filed by public or Commission's own motion.** A complaint alleging misconduct on the part of a licensee may be filed by any person in writing on a form for such supplied by the Commission, or may be ordered by the Commission on its own motion. The Commission will accept a complaint alleging misconduct on a form not supplied by the Commission if such form is notarized by a notary public.
(b) **Complaint notification; licensee response.** When a complaint has been filed against a licensee, the licensee shall be immediately notified and shall be required to file an adequate written response within fifteen (15) days of the notice.
(c) **Investigation and/or investigative session.** Subsequent to the fifteen (15) day answer period, a field investigation or preliminary investigative session may be conducted to ascertain whether or not charges should be lodged and a formal hearing ordered. Such investigation or investigative session shall be under the supervision of the Secretary-Treasurer of the Commission. He or she may designate an attorney who will act as prosecutor for the Commission to examine the results of the field investigation and/or conduct a preliminary investigative session. The prosecutor so designated may in the name of the Commission subpoena witnesses, take testimony by deposition and compel the production of records and documents bearing upon the complaint.

(d) **Findings reported to Commission.** At the completion of the investigation or investigative session, a written report accompanied by findings, if any, shall be submitted to the Commission. Following receipt of the report, the Commission shall determine whether or not the apparent evidence warrants lodging formal charges and ordering a formal hearing, and if a formal hearing is ordered all parties shall then be furnished with copies of any written report accompanied by findings, if any.

605:10-17-3. Complaint hearings; notice and procedures

(a) **Summary suspension.** If the Commission finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action within thirty (30) days. The summary suspension shall remain in effect until further order by the Commission.

(b) **Formal hearing ordered; notification.** Except as provided in (a) of this section, the Commission may issue a disciplinary order only after a hearing of which licensee affected shall be given at least fifteen (15) days written notice, specifying the offenses of which the licensee is charged. Such notice may be served as provided by law for service of notices, or by mailing a copy by certified mail to the last known address of such licensee. If such licensee is an associate associated with a broker, the Commission in like manner shall notify the broker with whom associated.

(c) **Formal hearing location.** The hearing on such charges shall be set at such time and place as the Commission through its Secretary-Treasurer may prescribe and the notice in (b) of this section shall specify this time and place.

(d) **Formal hearing before Commission; hearing examiner or selected panel.** The Secretary-Treasurer shall schedule each formal disciplinary hearing before a Hearing Examiner, a selected panel of the Commission, or the Commission as a whole. In the case of a proceeding conducted by the Commission as a whole or a panel of the Commission, the Chairman or his/her designee shall preside. Designated counsel shall advise the Chair as to rulings upon the questions of admissibility of evidence, competence of witnesses and any other question of law where such ruling is required or requested.

(e) **Request for postponement.** Once a hearing has been scheduled, the Secretary-Treasurer may for sufficient cause postpone or reschedule a hearing upon proper motion or request having been filed with the Commission office seventy-two (72) hours prior to the hearing.

(1) Each postponement request must be in writing and must state the specific reason(s) for the request.

(2) The Commission may require official documentation supporting such request.

(3) An emergency postponement request shall be considered at the time of the emergency.

(4) The granting of a continuance whether general or emergency, shall not be interpreted to deny the Commission the power to impose summary suspension if the Commission finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its Order, summary suspension of a license may be ordered pending proceedings for revocation or other action within thirty (30) days.

(f) **Hearings public; witnesses may be excluded.** All hearings shall be public except that upon motion of either party, witnesses may be excluded from the hearing room when such witness is not testifying.

(g) **Court reporter.** A court reporter shall be present to record the proceedings on behalf of the Commission. Any person desiring a copy of the transcript of the proceedings, may purchase such from the reporter.

(h) **Formal hearing procedures.** The designated attorney for the State shall present the State's case. The respondent may present his or her own evidence or may present such through his or her own counsel. If the charges against the respondent resulted from a complaint filed by a party present at the hearing, the complaining party may be a witness for the State. In order that the hearing will not be encumbered by evidence having no bearing on the issues, testimony by all witnesses will be limited to matters relevant to the issues involved. The order of procedure shall be as follows:

(1) Recitation of the statement of charges by the person presiding.

(2) Opening statement by the State.

(3) Opening statement by the respondent.

(4) Presentation of the State's case followed by cross-examination and questioning by the Hearing Examiner or Hearing panel.

(5) Respondent's presentation followed by cross-examination and questioning by the Hearing Examiner or hearing panel.

(6) Closing arguments by the State.

(7) Closing arguments by the respondent.

(i) **Order; hearing before Commission.** If the case be heard by the Commission as a whole, the Commission shall deliberate and render a decision with confirmation of such decision in writing in the form of an Order distributed to all parties by mail.

(j) **Proposed order consideration; hearing before hearing examiner or panel.** In the case of a hearing conducted by a panel of the Commission or by a Hearing Examiner, following the hearing, the Hearing Examiner or attorney sitting as counsel to the panel shall prepare a proposed Order to be considered by mem-

bers of the Real Estate Commission at a future meeting.

(k) **Proposed order notification; written exceptions.** Affected parties will be furnished copies of the proposed Order and notified as to the date the proposal will be considered by the Commission for adoption. At the same time, notice will also be given to the parties that written exceptions or requests to present oral exceptions or arguments, if any, should be submitted on or before a designated date pursuant to Section 311, of Title 75, Oklahoma Statutes. Upon adoption of the Order by the Commission as a whole, the adopted Order shall be distributed to all parties.

(l) **Actual notification pertaining to this Section.** For purposes of this Section, notice shall be deemed to have been given at the time that notice is deposited in the United States mail with proper postage thereon and mailed to the last known address of the notified person, or date when such notice is served in person by a person duly authorized as a representative of the Commission.

(m) **Violation found.** If the Commission shall determine that any licensee is guilty of violation of the "Code," such licensee may be disciplined in the manner as prescribed in such "Code."

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 or herself or another entity in which he or she has interest as defined in 605:10-15-1 (c), if such property is listed with the broker or his or her firm, without first making full disclosure thereof and obtaining the approval of the owner, or the failure by the licensee to exert his or her best efforts in order to later purchase or acquire the property for himself or herself or another entity in which he or she has 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 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 his or her license to enable an associate licensed through him or her 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 his or her sponsorship.

(7) Failure to make known in writing to any purchaser any interest the licensee has in the property he or she is selling.

(8) Failure of the licensee to inform the buyer and seller at the time the offer is presented that he or she 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 which demonstrates bad faith or incompetency.

(13) Failure to act, in marketing his or her 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.

605:10-17-5. Substantial misrepresentation

Substantial misrepresentation within the meaning of paragraph 2 of Section 858-312 of the "Code" includes, but is not limited to:

(1) The recommendation or use by a licensee of a fictitious or false instrument for the purpose of inducing any lender or Government Agency to loan or insure any sum of money.

(2) Failure to disclose to a buyer or other cooperative licensee or company a known material defect

regarding the condition of a parcel of real estate of which a broker or associate has knowledge.

(3) The use by a real estate broker of the name or trade name of a licensee whose license has been revoked or currently on suspension.

605-10-17-6. Requirements for suspended/revoked brokers and associates

(a) A suspended/revoked broker or associate must return his or her license certificate and pocket identification card to the Commission office on or before the date the suspension/revocation becomes effective.

(b) When the suspension/revocation period becomes effective, the broker or associate shall comply with the following requirements:

(1) A suspended/revoked broker or associate may not engage in any activity which requires a real estate license, as defined in Section 858-102. The individual would, in effect, be regarded the same as an unlicensed person.

(2) When a broker's license is suspended/revoked, associates under the suspended/revoked broker's supervision will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(3) If the suspended/revoked broker has a branch office, the license for the branch office is also suspended/revoked along with the individual's broker license; and all licensees associated with the branch office will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(4) If a managing corporate broker of a corporation is suspended/revoked for an act which was in behalf of the corporation, the broker license of the corporation will, unless ordered otherwise, be suspended/revoked; and all licensees associated with the corporation will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(5) If the managing partner(s) of a partnership is suspended/revoked for an act which was in behalf of the partnership, the broker license of the partnership will, unless ordered otherwise, be suspended/revoked; and all licensees associated with the partnership will automatically be placed on "inactive" for the duration of the suspension/revocation period and the other broker will be placed "inactive" unless he or she requests his or her license to be transferred out of the partnership.

(6) If a managing broker member of an association is suspended/revoked for an act which was in behalf of the association, the broker license of the association will, unless ordered otherwise, be suspended/revoked; and all licensees associated with the association will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(7) A suspended/revoked broker or associate may only receive compensation during the suspension/revocation period for acts which were performed during the period in which he or she was properly licensed.

(8) Listings must be cancelled by a suspended/revoked broker between the time the Order of suspension/revocation is received and the effective date of suspension/revocation, as listings will be void on the date the suspension/revocation becomes effective. Broker has breached the listing contract since he or she is unable to fulfill his or her agreement. Seller is free to relist with another broker of his or her choice.

(9) A suspended/revoked broker may not assign listings to another broker without the written consent of the owner of the listed property.

(10) A suspended/revoked broker may not advertise real estate in any manner, and must remove and discontinue all advertising.

(11) The telephone in a suspended/revoked broker's office may not be answered in any manner to indicate the suspended/revoked broker is currently active in real estate.

(12) All pending contracts, items or monies placed with the suspended/revoked broker must be transferred to another responsible broker as approved by the Commission and in compliance with Section 605:10-13-1 (m.).

(13) A suspended/revoked licensee will be required to comply with Section 605:10-13-1 (m) and will provide the required information to the Commission prior to the effective date of suspension/revocation.

(14) A representative of the Commission will visit the office of any suspended/revoked broker prior to the effective date of the suspension/revocation to insure compliance with the requirements of (1) through (13) of this subsection.

605-10-17-7. Cessation of licensed activities upon loss of license

(a) A revoked, suspended, cancelled, surrendered or lapsed licensee is prohibited from performing licensed activities upon the effective date of loss of license.

(b) A revoked or suspended licensee shall comply with Section 605:10-17-6.

(c) A broker whose license was cancelled, surrendered or lapsed shall comply with Section 605:10-13-1

APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT

Oklahoma Law (the "Residential Property Condition Disclosure Act," 60 O.S. §831 et.seq., effective July 1, 1995) requires Sellers of 1 and/or 2 residential dwelling units to complete this form. A Seller must complete, sign and date this disclosure form and deliver it or cause it to be delivered to a purchaser as soon as practicable, but in any event no later than before an offer is accepted by the Seller. If you become aware of a defect after delivery of this statement, but before you accept an offer to purchase, you must deliver or cause to be delivered an amended disclosure statement disclosing the newly discovered defect to the purchaser. If the disclosure form or amendment is delivered to a purchaser after an offer to purchase has been made by the purchaser, the offer to purchase shall be accepted by you only after a purchaser has acknowledged receipt of this statement and confirmed the offer to purchase in writing.

The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any inspections or warranties the purchaser may wish to obtain. The information contained in this disclosure statement is not intended to be a part of any contract between the purchaser and seller. The information and statements contained in this disclosure statement are declarations and representations of the seller and are not the representations of the real estate licensee.

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Complete this form yourself. (4) If some items do not apply to your property, circle N/A (not applicable). If you do not know the facts, circle Unk (unknown). (5) The date of completion by you may not be more than 180 days prior to the date this form is received by a purchaser.

LOCATION OF SUBJECT PROPERTY: _____

_____

SELLER IS __ IS NOT __ OCCUPYING THE SUBJECT PROPERTY.

Appliances/Systems/Services: (The items below are in **NORMAL** working order)

		Circle below		
Sprinkler System	N/A	Yes	No	Unk
Swimming Pool	N/A	Yes	No	Unk
Hot Tub/Spa	N/A	Yes	No	Unk
Water Heater ___Electric ___Gas ___Solar	N/A	Yes	No	Unk
Water Purifier	N/A	Yes	No	Unk
Water Softener ___Leased ___Owned	N/A	Yes	No	Unk
Sump Pump	N/A	Yes	No	Unk
Plumbing	N/A	Yes	No	Unk
Whirlpool Tub	N/A	Yes	No	Unk
Sewer System ___Public ___Septic ___Lagoon	N/A	Yes	No	Unk
Air Conditioning System ___Electric ___Gas ___Heat Pump	N/A	Yes	No	Unk
Window Air Conditioner(s)	N/A	Yes	No	Unk
Attic Fan	N/A	Yes	No	Unk
Fireplaces	N/A	Yes	No	Unk
Heating System ___Electric ___Gas ___Heat Pump	N/A	Yes	No	Unk

		Circle below		
Humidifier	N/A	Yes	No	Unk
Gas Supply ___Public ___Propane ___Butane	N/A	Yes	No	Unk
Propane Tank ___Leased ___Owned	N/A	Yes	No	Unk
Ceiling Fans	N/A	Yes	No	Unk
Electric Air Purifier	N/A	Yes	No	Unk
Garage Door Opener/ Control	N/A	Yes	No	Unk
Intercom	N/A	Yes	No	Unk
Central Vacuum	N/A	Yes	No	Unk
Security System ___Rent ___Own ___Monitored	N/A	Yes	No	Unk
Smoke Detectors	N/A	Yes	No	Unk
Dishwasher	N/A	Yes	No	Unk
Electrical Wiring	N/A	Yes	No	Unk
Garbage Disposal	N/A	Yes	No	Unk
Gas Grill	N/A	Yes	No	Unk
Vent Hood	N/A	Yes	No	Unk
Microwave Oven	N/A	Yes	No	Unk
Built-in Oven/Range	N/A	Yes	No	Unk
Kitchen Stove	N/A	Yes	No	Unk
Trash Compactor	N/A	Yes	No	Unk

Buyer's Initials_____ Buyer's Initials _____

Seller's Initials _____ Seller's Initials _____

LOCATION OF SUBJECT PROPERTY _____

Source of Household Water	Other Items_____	Yes	No	Unk
	Other_____	Yes	No	Unk
___Public ___Private ___Well Yes No Unk	Other_____	Yes	No	Unk

IF YOU HAVE ANSWERED NO to any of the above, please explain. Attach additional pages with your signature(s).

_____

_____

Zoning, Flood and Water	**Circle below**		
1. Property is zoned: ***(Check one)*** ___residential ___ commercial ___historical ___ agricultural ___ industrial ___ office ___urban Conservation ___ other ___unknown			
2. Are you aware of any flood insurance requirements concerning the property?	Yes	No	Unk
3. Do you have flood insurance on the property?	Yes	No	Unk
4. Has the property been damaged or affected by flood, storm run-off, sewer backup, drainage or grading problems?	Yes	No	Unk
5. Are you aware of any surface or ground water drainage systems which assist in draining the property, e.g. french drains?	Yes	No	Unk
6. Has there been any occurrence of water in the heating and air conditioning duct system?	Yes	No	Unk
7. Are you aware of water seepage, leakage or other drainage problems in any of the improvements on the property?	Yes	No	Unk
Additions/Alterations/Repairs			
8. Have any additions or alterations been made without required permits?	Yes	No	Unk
9. Are you aware of previous foundation repairs?	Yes	No	Unk
10. Are you aware of any alterations or repairs having been made to correct defects or problems?	Yes	No	Unk
11. Are you aware of any defect or condition affecting the interior or exterior walls, ceilings, slab/foundation, basement/storm cellar, floors, windows, doors, fences or garage?	Yes	No	Unk
12. Has the roof ever been repaired or replaced during your ownership of the property?	Yes	No	Unk
13. Approximate age of roof, if known _____Number of layers, if known_____			Unk
14. Do you know of any current problems with the roof?	Yes	No	Unk
15. Are you aware of treatment for termite or wood-destroying organism infestation?	Yes	No	Unk
16. Do you have a termite bait system installed on the property?	Yes	No	Unk
17. If yes, is it monitored by a licensed exterminating company? ***(Check one)*** ___ yes ___ no Annual cost $ _____			
18. Are you aware of any damage caused by termites or wood-destroying organisms?	Yes	No	Unk
19. Are you aware of major fire, tornado, or wind damage?	Yes	No	Unk
Environmental			
20. Are you aware of the presence of asbestos?	Yes	No	Unk
21. Are you aware of the presence of radon gas?	Yes	No	Unk
22. Have you tested for radon gas?	Yes	No	Unk
23. Are you aware of the presence of lead-based paint?	Yes	No	Unk
24. Have you tested for lead-based paint?	Yes	No	Unk
25. Are you aware of any underground storage tanks on the property?	Yes	No	Unk
26. Are you aware of the presence of a landfill on the property?	Yes	No	Unk
27. Are you aware of existence of hazardous or regulated materials and other conditions having an environmental impact?	Yes	No	Unk
28. Are you aware of existence of prior manufacturing of methamphetamine?	Yes	No	Unk
29. Have you had the property inspected for mold?	Yes	No	Unk
30. Have you had any remedial treatment for mold on the property?	Yes	No	Unk
31. Are you aware of any condition on the property that would impair the health or safety of the occupants?	Yes	No	Unk
Property Shared in Common, Easements, Homeowner's Association, Legal			
32. Are you aware of features of the property shared in common with adjoining landowners, such as fences, driveways, and roads whose use or responsibility has an affect on the property?	Yes	No	Unk
33. Other than utility easements serving the property, are you aware of easements or right-of-ways affecting the property?	Yes	No	Unk

Buyer's Initials _____ Buyer's Initials _____ Seller's Initials _____ Seller's Initials _____

LOCATION OF SUBJECT PROPERTY _____

34. Are you aware of encroachments affecting the property? Yes No Unk
35. Are you aware of a mandatory homeowner's association? Yes No Unk
Amount of dues $ _____ Special Assessment $ _____
Payable: ***(Check one)*** ___monthly ___ quarterly ___annually
Are there unpaid dues or assessments for the Property? ***(Check one)*** ___ yes ___no
If yes, amount $_____Manager's Name:_____
Phone No._____
36. Are you aware of any zoning, building code or setback requirement violations? Yes No Unk
37. Are you aware of any notices from any government or government-sponsored agencies or any other entities affecting the property? Yes No Unk
38. Are you aware of any threatened or existing litigation or lawsuit(s), directly or indirectly, affecting the property? Yes No Unk
39. Is the property located in a fire district which requires payment? Yes No Unk
Amount of fees $ _____ To Whom Paid _____
Payable ***(Check one)*** ___monthly ___quarterly ___annually
40. Is the property located in a private utility district? Yes No Unk
(Check applicable) water ___garbage ___sewer ___ other ____
If other, explain: _____
Initial membership fee $ _____ annual membership fee $ _____
If more than one (1) utility, attach additional pages.

Miscellaneous

41. Are you aware of other defect(s), affecting the property, not disclosed above? Yes No Unk
42. Are you aware of any other fees or dues required on the property that you have not disclosed? Yes No Unk

If you answered "YES" to any of the items 1- 42 above, list the item number(s) and explain. ***(If needed, attach additional pages, with your signature(s), date(s) and location of subject property.***

_____

_____

On the date this form is signed, the seller states that based on seller's **CURRENT ACTUAL KNOWLEDGE** of the property, the information contained above is true and accurate.

Are there any additional pages attached to this disclosure *(circle one):* Yes No. If yes, how many?_____

Seller's Signature Date Seller's Signature Date

A real estate licensee has no duty to the Seller or the Purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in this disclosure statement.

The Purchaser is urged to carefully inspect the property and, if desired, to have the property inspected by a licensed expert. For specific uses and restrictions for this property, contact the City Planning Department. The Purchaser acknowledges that the Purchaser has read and received a signed copy of this statement. This completed acknowledgement should accompany an offer to purchase on the property identified.

Purchaser's Signature Date Purchaser's Signature Date

The disclosure and disclaimer statement forms and the Oklahoma Residential Property Condition Disclosure Act information pamphlet are made available at the Oklahoma Real Estate Commission (OREC), Shepherd Mall, 2401 NW 23 St, Suite 18, Oklahoma City, Oklahoma 73107-2431, or visit OREC's Web site www.orec.state.ok.us/.

APPENDIX B. RESIDENTIAL PROPERTY CONDITION DISCLAIMER STATEMENT FORM

Seller instructions: Oklahoma Law (the "Residential Property Condition Disclosure Act," 60, O.S. Section 831 et. seq., effective July 1, 1995) **requires a seller** of 1 and 2 residential dwelling units **to deliver, or cause to be delivered, a disclaimer statement to a purchaser as soon as practicable, but in any event before acceptance of an offer to purchase if you, the seller: 1) have never occupied the property and make no disclosures** concerning the condition of the property; and **2) have no actual knowledge of any defect** concerning the property.

If, however, you occupied the property or **know of a defect in regard to the property,** you must complete and deliver, or cause to be delivered, a "Residential Property Condition Disclosure Statement" to the purchaser.

Also, if you become aware of a defect after delivery of this disclaimer statement to a purchaser, but before you accept an offer to purchase, you must complete and deliver, or cause to be delivered, a "Residential Property Condition Disclosure Statement" to a purchaser.

Defect means a condition, malfunction, or problem that would have a materially adverse effect on the monetary value of the property, or that would impair the health or safety of future occupants of the property.

Completion of this form by you **may not be more than 180 days prior to the date this form is received by a purchaser**.

Note: If this disclaimer statement **is delivered to a purchaser after an offer to purchase has been made by the purchaser,** the offer to purchase **shall be accepted by you only after** a purchaser has acknowledged receipt of this statement and confirmed the offer to purchase.

(For more information on the requirements of the law, please refer to the Residential Property Condition Disclosure Information Pamphlet.)

Seller's Disclaimer Statement

The undersigned seller states that seller has never occupied the property located at _____ _____, Oklahoma; makes no disclosures concerning the condition of the property; AND has no actual knowledge of any defect.

_____	_____	_____	_____
Seller's Signature	**Date**	**Seller's Signature**	**Date**

Purchaser's Acknowledgment

The purchaser shall sign and date this acknowledgment. The purchaser is urged to carefully inspect the subject property and, if desired, to have the property inspected by an expert. The purchaser acknowledges that purchaser has read and received a signed copy of this statement. This completed acknowledgement should accompany an offer to purchase you make on the property identified above.

_____	_____	_____	_____
Purchaser's Signature	**Date**	**Purchaser's Signature**	**Date**

Note to seller and purchaser: A real estate licensee has no duty to the seller or purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in this disclaimer statement.

The disclosure and disclaimer statement forms and the Residential Property Condition Disclosure Information Pamphlet are made available by the Oklahoma Real Estate Commission, 2401 NW 23rd St, Suite 18, Oklahoma City, Oklahoma 73107-2431, or visit OREC's Web site www.orec.state.ok.us