

# Oklahoma Real Estate Commission

## Landlords and Tenants – You Need to Know!

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The following is important information that may be helpful to you as an owner/landlord (“owner”) or as a tenant.

**Protect Your Interest** – An owner or tenant should carefully read all agreements to assure that they adequately express their understanding of the transaction. If legal or tax advice is needed, they should consult an attorney.

**Laws & Regulations – Real Estate Commission regulations pertaining to discrimination in fair housing:** A licensee shall not advertise personally, or through any media, to sell, buy, exchange, rent, or lease property when the advertisement is directed at or referred to, persons of a particular race, color, age, creed, religion, national origin, familial status or handicap. The contents of any advertisement should remain in the confines of information relative to the property itself, and any advertisement directed at or referred to persons of any particular race, color, age, creed, religion, national origin, familial status, or handicap is prohibited.

Commission statute: Conviction (of a licensee) 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. is reason for disciplinary action by the Commission.

**Landlord/Tenant Act** – The Landlord and Tenant Act prescribes the rights and duties of the property owner and the tenant. A copy of the Landlord and Tenant Act pamphlet are obtainable through the Oklahoma Real Estate Commission, 1915 North Stiles Avenue, Suite 200, Oklahoma City, OK 73105, by telephone, at 866-521-3389 (toll free) or 405-521-3387 (local). A copy of the Landlord and Tenant Act is available on the Commission’s website at [www.orec.ok.gov](http://www.orec.ok.gov) under Publications.

**Environmental Hazards** – It is the owner’s responsibility to disclose to a tenant environmental hazards, if any, of which owner has knowledge (such as asbestos, lead-based paint, radon gas, or if a methamphetamine lab has ever been on the premises). An information pamphlet on Methamphetamine is available on the Commission’s website at [www.orec.ok.gov](http://www.orec.ok.gov).

**Lead-Based Paint – applies ONLY to properties built before 1978:** The Housing and Urban Development Agency (HUD) and Environmental Protection Agency (EPA) regulations require that the tenant receive the owner’s “**Disclosure of Information on Lead-Based Paint and Lead-Based Hazards,**” the EPA booklet entitled “**Protect Your Family from Lead in Your Home,**” and the following warning:

“Every tenant of a residential dwelling that was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

The owner of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the owner's possession and notify the tenant of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

The owner or tenant can also call the state Department of Environmental Quality (DEQ) at 405-702-6100, or 918-293-1600 (Tulsa) for further information.

The DEQ web site, [www.deq.state.ok.us](http://www.deq.state.ok.us) has a list of lead-based paint inspectors (some of whom also do mold inspections). Publications about environmental issues are located on the federal Environmental Protection Agency's (EPA) web site at [www.epa.gov/iaq/pubs/index.html](http://www.epa.gov/iaq/pubs/index.html) or the Commission's web site [www.orec.ok.gov](http://www.orec.ok.gov), under Publications.

**Flood** – An owner or tenant can obtain written flood zone verification by contacting the U.S. Army Corps of Engineers, Flood Plain Management Services. The customary cost of the verification is approximately \$55.00. Persons can also call and make an appointment to visit the Corps of Engineers' office and examine the maps and information. The Corps of Engineers' phone number is (918) 669-7197 and they headquartered in Tulsa, Oklahoma.

Additional Information: Depending upon city and municipality requirements, an owner may have additional disclosure requirements to a tenant. For example, the City of Tulsa requires an owner of rental property, any part of which is located in a special flood hazard area as depicted and shown on a Flood Insurance Rate Map adopted by the City, to give written notice to every tenant of the property that it is located in a designated special flood hazard area. Further, the owner must obtain and keep for inspection upon request by the Director of Public Works or his authorized representative written acknowledgement of receipt of this notice signed by each of the tenants. This notice is given and the acknowledgment obtained prior to a tenant taking possession of or occupying the real property. The notice and acknowledgment shall be in a separate document and not a part of any other document, such as a lease.

**Flood Insurance** – If there is a flood risk, the tenant is responsible for obtaining flood insurance on the tenant's personal property. The tenant should seek advice from an insurance agent.

**Hazard Insurance** – The owner is responsible for carrying hazard insurance on the dwelling and liability insurance to cover certain types of liability. It is the tenant's responsibility to carry hazard insurance on tenant's personal property. A tenant may also be required to carry liability insurance to cover tenant's liability for injury and damages in connection with the tenant's lease and occupancy of the premises.

All explanations, representations and disclosures concerning the terms, conditions, and provisions of a hazard insurance policy are the responsibility of the insurance agent and are not the responsibility of the broker or the broker's affiliated licensees.

### **Psychologically Impacted Property & Megan's Law (Title 59, O.S. §858-513)**

**Psychologically Impacted Property** – Psychologically impacted property is any property where certain circumstances, or suspicions or facts may create emotional or psychological disturbance or concerns to a tenant. Following are the procedures that a licensee must follow if a tenant desires to inquire regarding psychological factors regarding a property:

1. The tenant must be in the process of entering into a bona fide lease on the property.
2. The licensee must receive a request in writing from the tenant.
3. The written request from the tenant must state that this factor is important to the decision of the tenant to lease the property.
4. The licensee shall make inquiry of the owner by submitting the written request to the owner.
5. With the consent of the owner, the licensee will furnish the owner's response to the tenant.
6. If the owner refuses to furnish the information requested, owner's licensee shall so advise the tenant.
7. If the tenant is requesting information concerning Acquired Immune Deficiency Syndrome (AIDS) or any other disease, which falls under the privacy laws, the information is only obtainable in accordance with the Public Health & Safety Statute, Title 63, O.S., 1992, Section 1-502.2A.

**Megan's Law** – Oklahoma enacted a law that requires law enforcement officials to maintain a database of convicted sex offenders. The information is attainable online or by calling local police authorities, [www.familywatchdog.us](http://www.familywatchdog.us), or the Oklahoma State Department of Corrections at 405-425-2500.

### **Brokerage Services and Disclosure (Title 59, O.S. §858-351 – 858-363)**

The following definitions are from the Oklahoma Real Estate Commission's broker relationships statute. For the purpose of this section the term "broker" includes all real estate licensees affiliated with the broker.

Under the Oklahoma Real Estate License Law, a real estate licensee provides services to an owner and tenant as a broker. Additionally, the Oklahoma Real Estate Commission's administrative rules state that when a broker provides brokerage services to a landlord under a property management agreement, the services provided to the tenant by the broker shall not be construed as creating a broker relationship between the broker and the tenant unless otherwise agreed to in writing. However, the broker owes to the tenant the duties of honesty and exercising reasonable skill and care.

## **Definitions:**

**Broker** means a real estate broker, an associated broker associate, sales associate or provisional sales associate authorized by a real estate broker to provide brokerage Services.

**Brokerage Services** means those services provided by a broker to a party in a transaction.

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

## **Broker duties and responsibilities**

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

1. Treat all parties with honesty and exercise reasonable skill and care;
2. Unless specifically waived in writing by a party to the transaction:
  - a. receive all written offers and counteroffers,
  - b. reduce offers or counteroffers to a written form upon request of any party to a transaction, and
  - c. present timely all written offers and counteroffers;
3. Timely account for all money and property received by the broker;
4. Keep confidential information received from a party or prospective party confidential.

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

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

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

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

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

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

**Know Your Rights Under the Servicemembers Civil Relief Act** – The “Servicemembers Civil Relief Act” (SCRA) was signed into law in 2003. In reference to receiving permanent change of station (PCS) orders while in a housing lease, the law provides that if the service member deploys to a new location for **90 days** or more, then they have the right to terminate the housing lease by giving proper notice to the Owner/Owner's Broker. The process for giving notice is located in SCRA and servicemembers should become familiar with this law. The complete law is located here:

<http://www.servicememberscivilreliefact.com/link/text-of-act.php>