

OKLAHOMA REAL ESTATE COMMISSION
Permanent Rules
Effective July 1, 2012

CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

SUBCHAPTER 1. GENERAL PROVISIONS

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 include social networking, 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.

"Entity" means association, corporation and partnership.

"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~~ desires 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.

"Rents or leases real estate" as referenced in Title 59, Section 858-101, subparagraph 2, means the licensed activities provided by a broker through a property management agreement with a consumer for a fee, commission or other valuable consideration, or with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration. Licensed property management activities may include, but shall not be limited to, showing real property for rent or lease; soliciting tenants and landlords; negotiating on behalf of the tenant or landlord; and complying with and maintaining the property in accordance with Title 41, Oklahoma Statutes, Non-Residential/Residential Landlord and Tenant Acts.

"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, or a third party contract vendor, 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 is 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.

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-5. Examinations

(a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75.00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60.00.)

(b) **Special accommodations.** In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, on a form prescribed by the Commission, describing the disability and necessary accommodations.

(c) **Failure to pass examination.** If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.

(d) **Applicant request to view failed examination.** An applicant who fails the examination has the option of reviewing their missed questions at the end of their examination. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. A challenge to a question that pertains to the Oklahoma law portion of the examination will be sent to the Commission by the examination supplier. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during review nor will they be allowed to leave the examination area with the examination questions.

(e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. After such date, an applicant must complete a new original application form.

(f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker or provisional sales associate/sales associate examination.

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

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

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

(1) immediately forfeit the examination,

(2) be given a failing score,

(3) be disqualified from retaking the examination for one year, and

(4) be allowed to file an appeal with the Commission under Rule 605:10-1-3.

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

(a) **Purpose.** The purpose of the provisional sales associate ~~postlicense~~ post-license 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~~ post-license 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~~ post-license 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.** 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~~ post-license education or its equivalent as determined by the Commission. Such course of study shall be referred to as the Provisional ~~Postlicense~~ Post-License Course of Real Estate, Part II of II and shall encompass the following areas of study:
- (1) Real Estate Marketplace
 - (2) Marketing Real Estate
 - (3) Personal Marketing
 - (4) The Qualifying Process
 - (5) Prospecting and Negotiating
 - (6) Financing Real Estate, Investments and Exchanges
 - (7) Financial Documents
 - (8) Duty to Account
 - (9) Title Search
 - (10) Risk Management
 - (11) Broker Relationships ~~With~~ with Parties to a Transaction
 - (12) Property Management
 - (13) Laws and Regulations Affecting Real Estate Practice
 - (14) Disciplinary Action-
 - (15) Contracts.
- (e) **Equivalent course content.** 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~~ post-license education requirement.
- (f) **Offerings.**
- (1) The Commission may accept the following offerings as proof of meeting the ~~postlicense~~ post-license 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~~ post-license education course or its equivalent as determined by the Commission. Upon successful completion of the ~~postlicense~~ post-license education requirement, evidence must be submitted on or before license expiration and on a form approved by the Commission.
- (h) **Failure to complete ~~postlicense~~ post-license education requirement prior to license expiration.** A provisional sales associate who fails to complete the ~~postlicense~~ post-license 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~~ do not count towards the normal ~~postlicense~~ post-license education requirement.
- (m) **Extension of time for completion of ~~postlicense~~ post-license course for provisional sales associate ~~who that~~ that has received orders for active military service.** A provisional sales associate ~~who that~~ that has received orders for active military service may request an extension of time to complete the ~~postlicense~~ post-license 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

605:10-5-1. Approval of ~~prelicense~~ pre-license 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 the course as approved prior to the course receiving approval from the Commission. No Further, no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. Such although 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 Twenty-Five Dollar (\$25.00) 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 of applicable active experience within the previous ten (10) years as a real estate broker or sales associate.
- (3) A real estate broker or sales associate licensed in Oklahoma with a minimum of five (5) years applicable active experience within the previous ten (10) years as a real estate broker or sales associate 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 applicable active broker or sales associate experience in real estate or real estate related fields which constitutes an equivalent of 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 paid the appropriate examination fee and successfully completed an applicable examination with a passing score of 80% or more. If an instructor applicant has successfully taken an applicable license examination with a passing score of 80% or more within thirty (30) days of filing an instructor application, the passing score may be utilized to meet the applicable examination requirement in this section

(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 eighteen (18) months or successfully complete nationally recognized teacher modules consisting of at least 3 clock hours of credit as approved by the Commission.

(B) Complete one of the following:

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

(ii) Successfully pass the applicable sales or broker examination with a score of 80% or more; or

(iii) Furnish evidence to the Commission that the instructor has audited an in-class ~~prelicense~~ pre-license course, in its entirety, that must be validated by the school instructor or director.

(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 enrollment records and roll sheets which include number of hours attempted by each student for seven (7) years.

(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~~ post-license course offerings

(a) **Course approval.** In accordance with Section 858-302 of the License Code, the Commission shall determine and approve the education content of the forty-five (45) clock hour ~~postlicense~~ post-license course content or its equivalent. 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, with the name, author and publisher of the primary textbook.

(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 the course as approved prior to the course receiving approval from the Commission. ~~No~~ Further, no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. ~~Such~~ although 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 be considered for approval as an instructor upon receipt of an application and evidence of education and/or experience. Each application 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 jurisdiction authorizing the holder to instruct 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 field related to that in which the person is to instruct, which constitutes an equivalent to one or more of the qualifications in (1), (2) or (3) of subsection (e) of this Section.

(6) **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, or its equivalent, every eighteen (18) months. An exception to this rule may be given by the Commission if such instructor is licensed or certified through another regulatory body.

~~(B)~~ 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.

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

(g) **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.

(h) **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 for a period of seven (7) years.

(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) **Course notification to Commission.** An entity conducting an approved post-license education offering shall, within five (5) days of the completion thereof, successfully submit to the Commission the list of name(s), license number(s) and other personal identifiers of those licensees who have successfully completed said offering. The information shall be submitted to the Commission by way of electronic format as required by the Commission, along with other information which may reasonably be required.

~~(4)~~(5) **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)~~(6) **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)~~(7) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).

(i) **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.

(j) **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 twenty-fourth (24) 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 Seventy Dollar (\$70.00) 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) The number of hours in each course offering.
- ~~(4) The tuition/registration fee and cancellation/refund policy.~~
- ~~(5)~~(4) A copy of each offering's curriculum, or revised curriculum with revisions noted, including comprehensive course objectives, a legible detailed outline of the course subject matter and instructor(s) for each segment.
- ~~(6)~~(5) The method of evaluation of the course offering which will be used by the entity.
- ~~(7)~~(6) The procedure for monitoring attendance.
- ~~(8)~~(7) A personal resume indicating name(s) and qualifications of the instructor(s).
- ~~(9) The number of years the entity has been offering real estate related education.~~
- ~~(10)~~(8) 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.
- ~~(11)~~(9) 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 Seventy Dollar (\$70.00) for a twenty-four (24) month period. Renewal applications shall be subject to the same requirements as original applications.

(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." No entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. Further, no entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission.

(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 approved continuing education offering shall, within five (5) days of the completion thereof, successfully submit to the Commission the list of name(s), license number(s) and other personal identifiers of those licensees who have successfully completed said offering. The information shall be submitted to the Commission by way of electronic format as required by the Commission, 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 a facility necessary to properly present the course as determined by the Commission.

(7) An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion. If an instructor is presenting a Commission approved in-class course offering which is delivered to the licensees by way of ~~television~~ electronic means to receiving sites other than where the instructor is presenting, the Commission may require that each ~~delivering~~ receiving entity site have a an in-class person monitoring the class ~~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 firm. 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 firm, a group of companies or franchises while in the class or on the premises.

(i) **Instructor application and approval requirements:** An individual may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor for a three (3) year period including the month of approval. Each application for approval must be accompanied by a Ten Dollar (\$10.00) application fee. 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 jurisdiction authorizing the holder to instruct 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 field related to that in which the person is to instruct, 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 is 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 its decision. Upon written request from the denied party, filed within thirty (30) days after receipt of the notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of the 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.
- (9) Any other improper conduct or activity of the director, instructor, or entity the Commission determines to be unacceptable.

(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 for seven (7) years.

(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 is the instructor of 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.

(o) **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.

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

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

(a) **License term and fees.** Each original license issued under the Code 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) The Fifteen Dollar (\$15.00) Education and Recovery Fund fee shall be added and payable with the license fee for an original license and for each subsequent license. Exceptions to this rule are: 1) a provisional sales associate license fee shall be Five Dollars (\$5.00) for their twelve (12) month license term; and 2) a branch office shall not pay the fee.
- (b) **Terms cannot be altered.** Terms shall not be altered except for purposes of general reassignment of terms 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. A person who allows their license to expire shall be considered an applicant and subject to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.
- (d) **Late penalty.** All renewals shall be filed on or before midnight of the tenth day of the month in which said license is due to expire, except in the event that date falls on a Saturday, Sunday or holiday; in such case, the next Commission working day shall be considered the due date for all renewals except electronic online renewals wherein this exception would not apply. 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, 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. 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) National criminal history check.
 - (D) 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) National criminal history check.
 - (D) A completed reinstatement application.
 - (E) A statement that the applicant has read a current License Code and Rules booklet.
 - ~~(F) If applicable, a statement as to why the license fee was not paid in a timely manner.~~
 - ~~(G)~~(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) National criminal history check.
 - (D) A completed reinstatement application.
 - (E) Successful completion of the appropriate licensing examination.
 - (F) Documents as required by the Commission.
- (4) **Lapsed more than five years.** If an 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~~ pre-license 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~~ post-license 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~~ post-license education was completed prior to license expiration date.** On and after June 1, 1996, an applicant who successfully completed the ~~postlicense~~ post-license education requirement before their first license expiration date and failed to renew their license on or before such date shall be eligible to reinstate the license as a sales associate according to 605:10-7-2 (f), (1) through (5).
- (h) **Reinstatement of a provisional sales associate license wherein ~~postlicense~~ post-license 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~~ post-license education 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, except for an applicant whose license was automatically revoked pursuant to Sections 858-402 or 858-604 of Title 59, Oklahoma Statutes. Upon the passage of the three (3) year period, the applicant shall be required to comply with the requirements of an original applicant.
- (j) **Reinstatement of an automatically revoked license.** An applicant who has had their license

automatically revoked, pursuant to Section 858-402 or 858-604 of Title 59 of the Oklahoma Statutes, shall be required to comply with the requirements of (f) of this Section. In addition, reinstatement will not be granted until all outstanding amounts due the Commission have been paid in full.

(k) **Reinstatement of a surrendered or cancelled license.** A surrendered or cancelled 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~~ post-license requirement on or before the first license expiration date, the applicant shall be eligible to reinstate the license according to 605:10-7-2 (f), (1) through (5).

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

(l) **Continuing education requirement.** 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.

(m) **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.

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

(1) Any licensee who allows their license to expire after January 1, 2008, shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of a completed fingerprint card, application Part A, and fee as stated elsewhere in these rules for the background search. If; the Commission does not receive a completed Part A of the application; and completed finger print card and fee within thirty (30) days from the date of request of the Commission, the license will be placed inactive and a hold placed on the license until receipt by the Commission of the aforementioned items. Thereafter, upon receipt by the Commission, the license may be reactivated so long as appropriate reactivation forms and fees, as stated elsewhere in these rules, have been received by the Commission.

(2) A ~~Provisional Sales Associate~~ provisional sales associate who completes the Provisional Post-License Course prior to their first license expiration date but fails to timely renew ~~and/or complete the post-licensing education requirement~~ the license shall be eligible to apply under the requirement under the preceding paragraph. However, after a period of five (5) years from the date of the license expiration such applicant shall no longer be eligible to apply under this section.

(o) **Issuance of license from provisional sales associate to sales associate 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~~ Post-License Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional ~~Postlicense~~ Post-License Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has submitted evidence of successful completion of the forty-five (45) clock hour ~~postlicense~~ post-license course requirement and submitted all required form(s) and fee(s) as required by the Commission.

~~(p) **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, issue an active license.~~

~~(e)(p)~~ **Active sales associate to inactive broker license – no remaining credit to be given.** 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. If a licensee fails to comply with a request for documentation from the Commission, based on another appropriate statutory or rule requirement which affects the license, the Commission shall place the license inactive. At any time the licensee complies with all ~~Code and Rule~~ requested requirements for ~~licensing, such~~ the 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 documents 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~~ Upon activation of an inactive license wherein the licensee paid the reduced inactive license fee rate, the licensee shall be required to pay the remaining active license 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 and rule 605:10-3-6. 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.

(d) 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, subsequent license renewal, or activation 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, issue an active license.

605:10-7-7. Branch offices

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

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

(c) **Broker to designate a branch office broker to act.** A broker shall designate a branch office broker, other than himself or herself, to act as broker for each location, to supervise the activities of the branch office. The branch office shall be licensed in conformance with Section 858-310 of the Code. The branch office broker may be designated to perform all duties and sign documents 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 upon the appropriate documents and fees being filed with the Commission.

(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 (n).

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

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

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

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

(2) A written statement signed by all partners attesting to the formation of a partnership and that it is in good standing in the State of Oklahoma.

(3) Partnership must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code".

(4) Partnership must have a minimum of two managing partners who each hold a separate license as a real estate broker.

(5) The designation of the managing partners shall be established by sworn statement signed by the managing partners of the partnership stating the date and place such action was effected.

(6) In the event of the death, 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 managing partners must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollars (\$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 the real estate activities or ceases all real estate activities, the partnership is required to comply with the following:

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

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

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

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

- (1) Completed application form(s) and required fee(s).
- (2) Verification that the association is authorized to transact business as a an 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 (n).

(d) **Limited liability company.** A limited liability company shall be considered as an association.

(e) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions

requesting licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

605:10-7-8.3. Sole Proprietor licensing procedures

(a) **Sole Proprietor.** A sole proprietor is a broker ~~who~~ that is the sole owner of a real estate business/firm. To qualify for a sole proprietorship, the firm shall not conduct business in the name of an entity, i.e., corporation, association (Limited Liability Company) or partnership and the business/firm shall not be owned by any other person or entity. To apply as sole proprietor one must qualify meet all requirements for a broker license and submit to the Commission the following:

(1) Completed sole proprietor broker application form(s) and ~~required~~ fee(s) as required by the Commission.

(2) An associate release form if ~~terminating the association as a broker associate~~ previously associated with a sponsoring broker. ~~If upgrading a license from a sales associate or obtaining an initial broker's license, submit the required application form(s) and fee(s) for qualifying for a broker's license as required by the Commission.~~

(b) **Death, disability or retirement.** In the event of the death, disability or retirement of the sole proprietor, the sole proprietor firm shall cease business activities.

(c) **Broker responsible.** A sole proprietor broker is responsible for all acts of associates licensed with the firm.

(d) **Ceasing business activities.** When the sole proprietor discontinues a portion of the real estate activities or ceases all real estate activities, the sole proprietor is required to comply with the following:

(1) Immediately notify the Commission.

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

(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.

605:10-7-8.4. Managing broker, broker proprietor or branch broker's corporation or association formed for the purpose of receiving compensation

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

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

(2) The managing broker, broker proprietor or branch broker must have an active individual real estate license.

(3) The broker of the branch broker must provide to the Commission a written statement approving of the branch broker's corporation or association.

(4) The managing broker, broker proprietor or branch broker must be the majority stockholder and president of the corporation or majority member of the association.

(5) Ownership of a managing broker's, broker proprietor's or branch broker's corporation or association is limited to spouses and blood relatives.

(6) The corporation or association shall not advertise nor receive referral fees or commissions except from the broker.

(7) The managing broker, broker proprietor or branch broker must file a written statement with the

Commission including the following:

- (A) A statement that the managing broker, broker proprietor or branch broker 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 in good standing with the Oklahoma Secretary of State.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

605:10-9-1. Place of business and broker requirements

(a) **Place of Business.** 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~~ maintained in such the place of business as registered with the Commission and available upon request.
- (2) The place of business 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.
- (3) Each broker shall register for each place of business a physical address and office telephone number.

(b) **Branch offices.** If a broker maintains one or more places of business, the additional places of business shall be referred to as a branch office. Each associate's license shall be issued to and ~~displayed~~ available upon request in the office to which the associate is assigned whether that be the main place of business or branch office.

(c) **Office located at residence.** The office may be in the residence of the broker.

(d) **Associates not permitted to have an office.** Associates are not permitted to have a place of business, but must be registered with a place of business 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.

605:10-9-4. 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; however, yard signs must also include the broker's office telephone number. 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, age or handicap is prohibited.

(5) Any advertising in any media which is misleading or inaccurate in any material fact or in any way misrepresents any property, terms, values, services, or policies is prohibited.

(6) A licensee shall not advertise any property for sale, rent, lease, or exchange in any media unless the broker has first secured the permission of the owner or the owner's authorized representative and said permission has a definite date of expiration.

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

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

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

(b) **Associates advertising.**

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

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

(C) An associate's contact information.

(D) A team name approved by the broker, ~~so~~ as long as the broker's reference is prominent, conspicuous, and easily identifiable, and which cannot be construed as that of a firm's name. The broker's reference must be in close proximity to the team name reference.

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

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

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

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

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

(1) When a licensee, either active or inactive, is purchasing real estate or is the owner of property that is being sold, exchanged, rented or leased and such is being handled either by the licensee or marketed through a real estate firm, the licensee is required to disclose in writing on all documents that pertain to the transaction and in all advertisements that he or she is licensed. On all purchase or

lease contracts the licensee is to include their license number.

(2) A licensee who is not acting in the capacity of a licensee but is engaged in buying, selling, leasing or renting real estate as a direct employee for the owner or as an officer for an entity is not required to indicate in the advertising that he or she is licensed.

SUBCHAPTER 11. ASSOCIATE'S LICENSING PROCEDURES

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. The associate's new broker shall be required to file a consent agreement to sponsor said associate on a form 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 for any reason to 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 sent to 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 the 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 principal broker must show cause in the form of a copy of the court order issuing a verdict in their favor.~~ Upon receipt by the Commission of the aforementioned statement, the Commission shall release the licensee.

(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, the 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 the 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. The change shall be filed in the Commission office within ten (10) days of the 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 formed for the purpose of receiving compensation

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~~ shall not perform any act requiring a real estate license and ~~may~~ shall not hold itself out as engaged in such activity.
- (2) The associate must have ~~a current~~ an active individual real estate license.
- (3) ~~The broker of the associate must approve of the associate's corporation or association~~ The broker of the associate must provide the Commission a written statement approving 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~~ shall not advertise nor receive referral fees or commissions except from the associate's broker.
- (7) The broker and associate must file a written statement with the Commission including complete and sign a Commission approved form that includes 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 with the Oklahoma Secretary of State.
- ~~(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

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

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

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

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

(m) **Requirements for storage of records on alternative media.** The Real Estate Commission establishes the following requirements for storage of trust account and transaction records stored on

alternative media, e.g. compact disk, optical disk, microfilm, etc.. Alternative media is defined as media that uses an electronic device to store or retrieve the information that pertains to the trust account and transaction documentation. This requirement applies to any computer technology utilized by the broker to create, store or retrieve the aforementioned documentation, whether the computerized device is internal or external to the broker's computer equipment. If a broker utilizes his own equipment or a third party vendor to create, store or retrieve this information, the broker shall ensure that the documentation is maintained and able to be retrieved for the five (5) year time period as required by the Commission.

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

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

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

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

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

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

~~(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 disbursement of funds. Upon final disbursements of funds the broker is required to close the account and notify the Commission in writing that the account is closed.

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

(6) If funds, items and/or contracts are transferred to another authorized broker, entity or legal representative and approved by the Commission, the broker transferring such shall be required to

compile a record of the following, retain a copy for his or her file and give a copy to the receiving authorized broker, entity or legal representative:

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

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

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

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

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

(o) Security breach of personal information.

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

(A) social security number.

(B) driver license number or state identification card number issued in lieu of a driver license,
or

(C) financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to the financial accounts.

(2) The breach of information would not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

(3) In the event personal information is breached, the licensee is required to send notice to the Commission and to all concerned persons whose information was breached by an unauthorized person or source as required in Title 24, O.S., Section 162 . The licensee is required to comply with all requirements within the Security Breach Notification Act or be subject to disciplinary action by the Commission.

SUBCHAPTER 15. DISCLOSURES

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

Psychologically impacted property is any property ~~whereof~~ where 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.

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

605:10-17-4. Prohibited dealings

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

(1) The making of a brokerage service contract without a date of termination.

(2) Purchasing of property by a licensee for himself 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 in writing at the time the offer is presented that he or she will be expected to pay certain closing costs, such as discount points and approximate amount of said costs.

(9) Failing, 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 a bona fide offer to writing, where a proposed purchaser requests such offer to be submitted.

- (11) Failure to submit all written 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) Failing 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 but is intentionally acting in the capacity of a broker or branch office broker.
- (15) Discouraging a party from obtaining an inspection on a property.
- (16) Allowing access to, or control of, real property without the owner's authorization.
- (17) Knowingly providing false or misleading information to the Commission during the course of an investigation.
- (18) Interfering with an investigation by means of persuading, intimidating or threatening any party or witness, or tampering with or withholding evidence relating to the investigation.
- (19) Knowingly cooperating with an unlicensed person or entity to perform licensed real estate activities as required by Title 59 O.S. Section 858-301.
- (20) Failing to act in accordance with the broker relationship established and/or disclosed with a party.
- (21) Failure by a broker to ensure all persons performing real estate licensed activities under the broker are properly licensed.
- (22) An associate shall not perform licensed activities outside their broker's supervision.
- (23) Failing to maintain documents relating to a trust account or real estate transaction for the time period as required by Rule 605:10-13-1.

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

- (a) A suspended/revoked ~~broker or associate~~ licensee must return ~~his or her~~ their 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~~ licensee shall comply with the following requirements:
 - (1) A suspended/revoked ~~broker or associate~~ licensee ~~may~~ shall 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~~ will be placed inactive unless otherwise ordered by the Commission; 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~~ on behalf of the corporation, the broker license of the corporation will, ~~unless ordered otherwise, be suspended/revoked~~ be placed inactive unless otherwise ordered by the Commission; 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~~ be placed inactive unless otherwise ordered by the Commission; 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~~ be placed inactive unless otherwise ordered by the Commission; 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 licensee shall only receive compensation during the suspension/revocation period for acts which were performed during the period in which ~~he or she~~ the licensee was ~~properly~~ actively 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~~ shall not assign listings to another broker without the written consent of the owner of the listed property.

(10) A suspended/revoked broker ~~may~~ shall 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~~ shall 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)~~ (n).

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

(14) A representative of the Commission ~~will~~ shall 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.