

Oklahoma Real Estate Commission
Permanent Rules Effective July 1, 2010

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 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 to obtain a resident license in this state.

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

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

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

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

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-2. Application for license

(a) Requirements for completing application.

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

(A) Legal name to include first, middle and last name.

(B) Routine biographical information.

(C) License history in Oklahoma and other states.

(D) Criminal and/or civil charges or convictions, including bankruptcy and judgments.

(E) ~~All residential addresses and employment data for past five (5) years.~~
Compliance with Title 59 O.S. 858.301.1 regarding felony convictions.

(F) Recent photograph.

(G) Birth date.

(H) Evidence of successful completion of course requirement as specified in the "Code".

(I) A sworn statement as to accuracy of the application information.

(J) Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(K) Social security number, pursuant to Title 56, Oklahoma Statutes, Section 240.21A.

(L) Submit to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes. A fee amount, not to exceed sixty dollars (\$60.00), shall be sent to the Commission to begin the process of the national criminal history check.

(i) A completed national criminal history record check, completed for the Commission, shall be valid for six (6) months from the date of issuance from the issuing authority.

(ii) In the event an applicant is not physically able to submit to finger printing, other applicant identifiers shall be utilized, i.e., name, birth date and social security number.

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

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

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

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

- (1) Whether the probation period given in a conviction or deferred sentence has been completed and fully satisfied to include fines, court costs, etc.
- (2) Whether the restitution ordered by a court in a criminal conviction or civil judgement has been fully satisfied.
- (3) Whether a bankruptcy that is real estate related has been discharged.
- (4) Whether an applicant has been denied licensure or a license has been suspended or revoked by this or any other state or jurisdiction to practice or conduct any regulated profession, business or vocation because of any conduct or practices which would have warranted a like result under the Oklahoma "Code".
- (5) Whether an applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revocation or suspension under the current Oklahoma "Code" had the applicant been licensed.

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

605:10-3-6. Continuing education requirements

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

- (1) To improve the knowledge of licensees.
- (2) To keep licensees abreast of changing real estate practices and laws.
- (3) To help licensees meet the statutory requirements for license renewal.

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

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

- (1) To provide licensees with opportunity for obtaining necessary current information and knowledge which will enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.
- (2) To assure that the licensees are provided with current information regarding new and/or changing laws and regulations which affect the real estate business.
- (3) To ensure that the consumers interest is protected from unknowledgeable licensees.

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

- (1) For licensees to expand and enhance their knowledge and expertise so as to be continually effective, competent, and ethical as they practice real estate.
- (2) For licensees to review and update their knowledge of federal, state and local laws and regulations which affect real estate practices.

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

continuing education requirement. The Commission may accept the following offerings as proof of meeting the continuing education requirement:

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

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

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

(4) Completion of an approved ninety (90) hour prelicense broker course or an approved forty-five (45) hour provisional sales associate postlicense course, or its respective equivalent as determined by the Commission shall suffice for 21-hours of continuing education credit for a licensee. An individual segment of an approved prelicense broker course or an approved provisional sales associate postlicense course shall suffice for continuing education credit provided such individual segment has also been separately approved for continuing education credit.

(f) Ineligible courses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) **Course limitations.**

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

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

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

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

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

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

(4) Any licensee may complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours in lieu of the required subject matter.

(5) Any Broker who holds or has held ~~A licensee who maintains the~~ a license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) during any portion of a their current license term shall be ~~require~~ required to successfully complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours, or its equivalent, as approved by the Commission, each license term beginning with those licenses that expire on June 30, 2012. In addition, to complete the continuing education requirement of twenty-one (21) clock hours such broker shall complete at least two (2) of the four (4) required subject matter, equal to at least six (6) clock hours, as referenced in paragraph (3) of this subsection.

(6) Any broker that lapsed or renewed inactive in their previous license term or current license term who applies for reinstatement or activation after June 30,

2012 and held in their previous or current license term the license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) must complete the Broker in Charge course and two (2) of the four (4) required subject matter totaling six (6) hours prior to their license being reinstated active or reactivating.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

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

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

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-1 and divided by instructional periods, the name, author and publisher of the primary textbook, or a statement stating the entity will use the OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

- (1) An entity not conducting an applicable approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.
- (2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.
- (3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

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

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

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a 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 to one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.

(f) **Course content examination.** Final approval will be considered after the instructor applicant has paid the appropriate examination fee and successfully completed an applicable ~~Commission administered course content~~ examination with a passing score of 80% or more. ~~If an instructor applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of the applicable examination fee for each examination to be taken.~~ 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, ~~such~~ the passing score may be utilized to meet the applicable examination requirement in this section. ~~If, however, the instructor applicant does not obtain approval within 90 days of filing an instructor application, due to no fault on the part of the Commission, the instructor will be required to take the applicable examination again.~~

(g) **Instructor renewal requirements.**

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

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

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

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

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

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

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

(2) **Retention of records.** An instructor/entity shall maintain 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 course offerings

(a) **Course approval.** In accordance with Section ~~858-304~~ 858-302 of the License Code, the Commission shall provide a syllabus outline for the Basic postlicense course of real estate to each person or entity conducting a postlicense course and requesting approval thereof. Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-7 and divided by instructional periods, ~~and~~ with the name, author and publisher of the primary textbook, or a statement stating the entity will use OREC syllabus and other items as may be required by the Commission.

(b) Course offering requirements.

- (1) An offering entity not conducting the approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.
- (2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.
- (3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

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

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

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

- (1) Possession of a bachelor's degree in a related field.
- (2) Possession of a valid teaching credential or certificate from Oklahoma or another ~~state~~ jurisdiction authorizing the holder to ~~teach~~ 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 ~~related~~ field related to that in which the person is to ~~teach~~ instruct, which constitutes an equivalent to one or more of the qualifications in (1), (2) or (3) of subsection (e) of this Section.

(f) 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 twelve (12) months. An exception to this rule may be given by the Commission if such instructor is licensed or certified through

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

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

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

(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.

(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).

(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) A complete description of or copies of all materials to be distributed to the participants except that if materials provided by the Commission are to be used, a complete description shall not be required.~~
- ~~(4)~~ (3) The number of hours in each course offering.
- ~~(5)~~ (4) The tuition/registration fee and cancellation/refund policy.
- ~~(6)~~ (5) 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~~ instructor(s) for each segment. ~~and teaching technique used in each segment.~~
- ~~(7)~~ (6) The method of evaluation of the course offering which will be used by the entity.
- ~~(8)~~ (7) The procedure for monitoring attendance.
- ~~(9)~~ (8) A personal resume indicating name(s) and qualifications of the instructor(s).
- ~~(10)~~ (9) The number of years the entity has been offering real estate related education.
- ~~(11)~~ (10) Any other relevant information useful in determining that the entity is presenting an offering which will meet the definition, purposes, goals and objectives adopted by the Commission.
- ~~(12)~~ (11) 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 Dollars (\$70.00) for a twenty-four (24) month period. Renewal applications shall be subject to the same requirements as original applications, ~~but may cross-reference an earlier application regarding previously approved course offerings to the extent that items have not changed since a previous application.~~

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

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

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

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

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

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

(4) An entity conducting an approved continuing education offering shall, within five (5) days of the completion thereof, ~~submit to the Commission on a form prescribed by the Commission, a list of the names and license numbers of those licensees who successfully completed the said offering~~ 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 ~~such facilities and on such a facility premises as shall be necessary to properly present the course as determined by the Commission.~~ a facility premises as shall be necessary to properly present the course as determined by the Commission.

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

(h) **Recruitment disallowed.**

(1) A coordinator/director or instructor shall not allow the premises or the facilities to be used by anyone to advertise and/or recruit new affiliates for any company 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 company firm, a group of companies or franchises while in the class or on the premises.

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

Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

- (1) Possession of a bachelor's degree in a related field.
- (2) Possession of a valid teaching credential or certificate from Oklahoma or another ~~state~~ jurisdiction authorizing the holder to ~~teach~~ 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 ~~related~~ related field related to that in which the person is to ~~teach~~ 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 ~~shall be~~ 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 ~~such~~ its decision. Upon written request from ~~such~~ the denied party, filed within thirty (30) days after receipt of ~~such~~ the notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of ~~such~~ 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 ~~shall instruct~~ 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.

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

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

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

(1) attend the required number of hours of in-class instruction; or

(2) complete all instructional modules required for distance education instruction.

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

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

(e) **Course examinations.** Every approved prelicense and postlicense course offering shall conclude with an end-of-course examination consisting of no less than one hundred and thirty (130) questions administered by the approved entity. Every approved distance continuing education course offering shall conclude with an end-of-course examination consisting of no less than seven (7) questions for each clock hour. End-of-course examination questions may not be the same as any previously used questions covering the respective course content.

(f) **Successful completion.** In order for a student to successfully complete a prelicense, postlicense or distance education course, the entity must require that the student complete all class material and/or modules and achieve a passing score of at least seventy-five percent (75%) on final examination. An entity shall require the student to complete sufficient material or modules to ensure mastery of the course offering, and shall require the student to complete the end-of-course examination. An entity may allow any student who fails to achieve a passing score the opportunity to take another examination without repeating instruction.

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

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

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

(j) **Additional distance education course requirements.**

(1) Each course shall contain suitable learning objectives.

(2) Overview statements must be included for each course providing a quick preview of what is contained in the offering.

(3) ~~A complete set of questions and an answer key for all examinations~~ must be provided to the Commission with each course application. An answer key ~~for examinations~~ may not be included in any course materials provided to the student.

(4) From the date of enrollment, the course shall have a validity period of six (6) months in which to allow successful completion to be attained.

(5) Entities must include information with the course material that clearly informs the student of the completion time frame, passing and examination requirements, and any other relevant information necessary to complete the course.

(6) Each course must include a statement that the information presented in the course should not be used as a substitute for competent legal advice.

(7) Course offerings must be sufficient in scope and content to justify the hours requested for approval.

(k) Each entity shall promote the Basic Course of Real Estate as Part I of a two part series and the Provisional Postlicense Course of Real Estate as Part II of that series. Applicants are to be advised that Part II of the series is not to begin until after license issuance and shall be completed prior to their first license expiration.

(l) All materials that are distributed to students in any class must be current and up-to-date with the License Code and Rules and state or federal laws.

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

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

~~License renewals and reinstatements. Each licensee who submits a license renewal or reinstatement on or after July 1, 2002, shall be required to provide documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Failure to provide such documentation shall result in disapproval of the application.~~
Individuals who submit an application on or after July 1, 2002, shall be required to provide documentation necessary to verify compliance of citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Failure to provide this documentation shall result in disapproval of the application. If an individual fails to provide proof of citizenship within sixty (60) days from the date of reissuance of their license or approval, the individual will be placed inactive until the Commission receives current proof of citizenship or qualified alien status.

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

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

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

(c) **Continuing education required for activation.** A licensee requesting activation of a license must have complied with the continuing education requirement as set forth in Section 858-307.2 of Title 59 of the Oklahoma Statutes 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.

605:10-7-9. Nonresident licensing

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

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

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

(i) Appropriate application(s).

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

(iii) Examination fee and successfully complete the state portion of the examination.

(iv) Consent for service of jurisdiction form.

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

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

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

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

(i) Appropriate application(s).

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

(iii) Examination fee and successfully complete the entire appropriate examination.

(iv) Consent for service of jurisdiction form.

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

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

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

(c) **Nonresident applicant that is inactive or unlicensed in another jurisdiction.** A nonresident applicant that holds an inactive license in another jurisdiction and is unable to meet the requirement under paragraph (a) of this section or an applicant who is unlicensed in

another jurisdiction may apply to the Commission for a license to operate as a nonresident provisional sales associate or broker by submitting all appropriate documents and successfully completing all requirements as required by the Commission.

- (1) The nonresident applicant must complete and submit the following:
 - (A) Appropriate application(s).
 - (B) Qualify as an original applicant by submitting proof of appropriate required education.
 - (C) Examination fee and successfully complete the entire appropriate examination.
 - (D) If applicable, certification of licensure from the jurisdiction in which the applicant has held a license.
 - (E) Consent for service of jurisdiction form.
- (2) Upon the Commission granting approval to the nonresident applicant for licensure in this jurisdiction, the applicant must complete and submit the following:
 - (A) Appropriate license application form(s) along with license and education and recovery fund fees.

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

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

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

(g) **Stipulations.** Nonresident licenses granted under the provisions of this Section shall remain in force, only as long as such nonresident remains licensed in good standing in this jurisdiction, in his or her resident jurisdiction and/or any other jurisdiction in which the nonresident is or has been licensed.

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

(i) **Request for license transfer.** In the event a nonresident Oklahoma licensee desires to transfer the license and obtain a resident Oklahoma license or desires to transfer the license to another jurisdiction, the nonresident licensee shall be required to meet all applicable

requirements and pay the appropriate change of address fee and submit all appropriate documents as required by the Commission. In the event a resident Oklahoma licensee desires to transfer the license and obtain a nonresident Oklahoma license, the licensee shall be required to pay the appropriate change of address fee and complete and submit all appropriate documents as required by the Commission.

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

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

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

(3) Any licensee may complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours in lieu of the required subject matter.

(4) Any Broker who holds or has held a license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) during any portion of their current license term shall be required to successfully complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours, or its equivalent, as approved by the Commission, each license term beginning with those licenses that expire on June 30, 2012. In addition, to complete the continuing education requirement of twenty-one (21) clock hours such broker shall complete at least two (2) of the four (4) required subject matter, equal to at least six (6) clock hours, as referenced in paragraph (3) of this subsection.

(5) Any broker that lapsed or renewed inactive in their previous license term or current license term who applies for reinstatement or activation after June 30, 2012 and held in their previous or current license term the license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) must complete the Broker in Charge course and two (2) of the four (4) required subject matter totaling six (6) hours prior to their license being reinstated active or reactivating.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

605:10-9-1. Place of business and Broker Requirements.

(a) **Requirements 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 in such place of business.

(2) The ~~office~~ 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.

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

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

(d) **Associates not permitted to have an office.** Associates are not permitted to have an ~~office~~ a place of business, but must be registered with ~~an office~~ 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. The advertisement must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "agency", "company", "realty", or "real estate", as the case may be. Legal abbreviations following the trade name or name under which the broker is licensed shall be acceptable as long as they are easily identifiable by the public as such.

(2) No real estate advertisement shall show only a post office box number, telephone number or street address.

(3) A broker, when operating under a franchise name, shall clearly reveal in all office identification and in all advertising other than institutional type advertising designed to promote a common name, the franchise name along with the name of the broker or business trade name as registered with the Commission. A franchise name shall not be the complete business trade name. All institutional type franchise advertising shall indicate that each office is independently owned and operated.

(4) A licensee shall not advertise, either personally or through any media, to sell, buy, exchange, rent, or lease property when such advertisement is directed at or referred to persons of a particular race, color, creed, religion, national origin, familial status or handicap. The contents of any advertisement must be confined to information relative

to the property itself, and any advertisement which is directed at or referred to persons of any particular race, color, creed, religion, national origin, familial status, or handicap is prohibited.

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

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

(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 ~~company~~ 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 ~~company~~ firm's name.

(C) An associate's contact information.

(D) A team name approved by the broker, so long as the broker's reference is prominent, conspicuous, and easily identifiable, and which cannot be construed as that of a ~~company~~ 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 ~~company~~ 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) ~~A sign rider with the~~ An associate's contact information may be added attached to a yard sign if the yard sign contains the 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 ~~company~~ 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 ~~a corporate owner~~ 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 the license. Upon an associate leaving the association of the broker, the associate's license shall be returned to the Commission, together with a release executed by the broker. Any change of association from one firm to another, or relocation from one office to another within a firm by an associate must be filed in the Commission office within ten (10) days. ~~Filed shall mean the date of the United States postal service postmark or the date personal delivery is made to the Commission office.~~ The associate's new broker shall be required to file a consent agreement to sponsor ~~said~~ the associate on a form as ~~shall be~~ provided by the Commission. An associate requesting an association or office change shall be required to pay a fee of Twenty-five Dollars (\$25.00).

(b) **Broker refusal to release associate.** In the event a broker refuses, ~~or~~ for any ~~other~~ reason, ~~will not~~ 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 ~~served on~~ 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 ~~such~~ 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 broker must show cause in the form of a copy of the court order ~~directing~~ issuing a verdict in their favor.

(c) **Group change requests.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions requesting licenses to be reissued. To qualify, ~~such~~ 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 ~~such~~ 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~~ the payment through the associate's new broker. However, any agreements between the associate and prior broker requiring further activities to be performed in connection with the compensation to be received, can only be performed with consent and acknowledgement of the new broker.

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

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 of a copy of all instruments to any party or parties executing the same, where such instrument has been prepared by the broker or his or her associates and relates to the agreement with his or her principal or pertains to the real estate transaction in which he or she or one of the associates has participated 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 on alternative media, e.g. compact disk, optical disk, microfilm, etc.:

- (1) Trust account records shall be maintained by the broker in their original format for a minimum of two (2) years. Trust account records may then be transferred to an alternative media for the remaining required record retention time.
- (2) Records, with the exception of trust account records, may be transferred at any time to an alternative media for the remaining required retention time.
- (3) After documents are converted to alternative media, a quality assurance check shall be done to ensure that every document was imaged and can be reproduced in a legible and readable condition on a display device.
- (4) After the quality assurance check is completed, the original documents may be destroyed.
- (5) A broker shall maintain the alternative media and a means of viewing and retrieving records, and shall provide a true, correct and legible paper copy to the Commission upon request.
- (6) A broker shall store copies of the alternative media and the equipment used to read the media in an environment and at a level of quality conducive to maintain the ability to reproduce the media throughout the retention period. Reproduce means a process in which a document can be converted from the alternative media to a paper copy that is legible and able to be read.
- (7) A broker shall maintain no less than two (2) copies of the alternative media.

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

- (1) Notify the Commission in writing of the effective date of such action and advise as to the location where records will be stored and comply with the following:
 - (A) Return the broker's license certificate and pocket identification card and all license certificates of those associated with the broker to the Commission and advise the Commission as to the circumstances involving any not returned.
 - (B) Release forms must be filed for all licensees affiliated with the firm.
 - (C) The broker must either transfer to a new firm or place his or her license on inactive status.
- (2) Notify in writing all listing and management clients, as well as parties and co-brokers to existing contracts advising them of the date of cessation of real estate activities.
- (3) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of cessation of real estate activities.
- (4) Funds in trust accounts and pending contracts must be maintained by the responsible broker until consummation of transaction and final proper 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.

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

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

- (1) Shall turn over all documents, files and monies deposited, payments made, or things of value received by the associate to his or her broker promptly; and
- (2) Shall deliver a copy of all instruments to any party or parties executing the same when such has been prepared by the associate or pertains to the consummation of a transaction in which he or she participated.
- (3) Shall not be authorized to open or maintain a trust or escrow account, or be a signer on a trust or escrow account wherein the associate is providing licensed activities as defined in the License Code and Rules.

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 at the time the offer is presented that he or she will be expected to pay certain closing costs, brokerage service costs, and approximate amount of said costs.

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

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

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

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

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

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

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

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

(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.

605:10-17-5. Substantial misrepresentation

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

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

(2) Failure to disclose to a buyer or other cooperative licensee or ~~company~~ firm a known material defect regarding the condition of a parcel of real estate of which a broker or associate has knowledge.

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

(4) Representing to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sales price of the real property or terms differing from those actually agreed upon by the parties to the transaction.

APPENDIX

Appendix A. Residential Property Condition Disclosure Statement

14. Approximate age of roof covering, if known _____ Unk
Number of layers, if known _____ Unk

20. Are you aware of major fire, tornado, hail, or wind damage? Yes No Unk

21. Are you aware of problems pertaining to sewer, septic, lateral lines or aerobic system? Yes No Unk

39. Are you aware of any ~~threatened or existing~~ filed litigation or lawsuit(s), directly or indirectly, affecting the property, including a foreclosure? Yes No Unk