



# OKLAHOMA REAL ESTATE COMMISSION COMMENT

OFFICIAL PUBLICATION OF THE OKLAHOMA REAL ESTATE COMMISSION

VOLUME 37

OKLAHOMA CITY, OKLAHOMA

2nd QUARTER 2002

NO. 1

**Important**

## SPECIAL NOTICES Requirements effective July 1, 2002

**Important**

### All Real Estate Applicants, Licensees and School Instructors Must Submit Evidence of Citizenship or Qualified Alien Status to Continue to Receive Services From the Commission

Prior to your license renewal, reinstatement, application for issuance of an original license for a provisional sales associate, sales associate, or broker, or application for a real estate school instructor you must provide evidence of United States citizenship or proof that you maintain qualified alien status in order to receive services from the Oklahoma Real Estate Commission in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

This requirement becomes effective July 1, 2002 and will be implemented in accordance with the following:

1. **License Renewal** At license renewal, licensees will be required to send a copy of documentation which verifies citizenship or qualified alien status. If the documentation is not approved, the license can not be renewed. If the documentation approved is proof of the person being a U.S. citizen, submission of documentation will only be required one (1) time. Persons with qualified alien status will be required to submit proof with each license renewal until citizenship is granted and proof of citizenship is approved. A detailed list of docu-

*Continued on page 19*

### Commission Requires Continuing Education to Consist of Core Subject Matter

Beginning July 1, 2002, licensees with an expiration date of June 30, 2005 and thereafter will be required to take, each license term, 12 required clock hours consisting of four core subjects as determined by the Commission. The four core subjects are listed as follows: (This requirement does not apply to a provisional sales associate.)

- Professional Conduct
- Fair Housing
- Broker Relationships Act, and
- Hot Topic (which will consist of a variety of issues ranging from Code and Rule updates to major industry concerns)

The total number of continuing education hours did not increase for license renewal, the requirement still remains at 21 clock hours every three year term. However, the make-up of the hours did change with required hours increasing from 9 to 12 and elective hours decreasing from 12 to 9.

**This new requirement will affect those licensees whose original license or license renewal is processed on and after July 1, 2002 and has an expiration date of June 30, 2005 and thereafter.**

*Continued on page 19*

#### Important Articles:

Commission Sponsors Environmental Education Seminar .....	3
Incentive Marketing Survey .....	7
Attorney General Opinion relates to the Broker Relationships Act .....	9
Permanent Rules Effective 7-1-2002 .....	10
Residential Property Condition Disclosure Form Revised .....	15

**Schedule for CE  
Workshops on  
Environmental Issues**

*See page 3*

**The Oklahoma Real Estate  
Commission Comment**

Official Publication of the  
Oklahoma Real Estate Commission  
Shepherd Mall  
2401 N.W. 23rd, Suite 18  
Oklahoma City, Okla. 73107-2431  
(405) 521-3387  
www.orec.state.ok.us

**THE COMMISSION**

Bud Engstrom, Chairman.....Tulsa  
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Joseph McGraw.....Tulsa  
John Snodgrass.....Okla. City  
Pat Schafer.....Bartlesville  
John Mosley.....Chickasha  
Martin VanMeter.....Durant  
Anne M. Woody, Executive Director.....Staff

Address all communications to the  
Commission Office

"Use your zip code and ours  
when you write to us"

**Additions to our web site  
(www.orec.state.ok.us):**

- Upcoming Commission sponsored continuing education workshops—front web page
- Attorney General Opinions affecting the industry—under Door 4
- Publications for you and the consumer—under Door 4—FEMA's Flood Brochures; Predatory Lending Home Buying Guide; Mold Resources; Cleaning up Meth labs; Hazardous Waste Information; Broker Relationships Act; Lead-based Paint Booklet and Forms; Landlord Tenant; Residential Property Condition Disclosure Act; and the License Code
- Predatory Lending Hotline to be utilized in the event you or the consumer experience questionable activities—front web page
- Consumer Awareness icon that is linked to the publications page and news releases—front web page, located at bottom-right

**CHAIRMAN'S  
CORNER**



*Bud Engstrom  
Chairman*

Very soon I expect to pass the Chairman's gavel to my successor. In a flash, my year has come and gone. It's been a year full of wonderful people and invigorating challenges, a year of building legacies. We've completed the work to insure continued sound fiscal operation of the real estate commission. We've enjoyed watching the enthusiasm of our new Executive Director as she has shouldered the responsibility of building a better state agency.

We've seen the implementation of new examination materials, and we've even acquired new office facilities. It's been a great year, built upon previous great years. Without those previous great years, this year could not have been as good. You see, that's what we do, individually and collectively; we build on our predecessor's work. When President Lincoln, in his well known Gettysburg address, said, "the brave men living and dead who struggled here..." He was gratefully reflecting on the toil of those who were there before him. I am very grateful that so many good men and women have given of themselves to build our country, our industry, and my professional and personal life. They left me a legacy on which to build.

Earlier this month, I buried my mother who invested her entire life in building a legacy, not a financial legacy but a legacy of people. She is survived by one spouse, five children, twelve grandchildren, fourteen great-grandchildren and countless others whose lives she touched and enriched. To paraphrase my favorite orator, the world will little note nor long remember what we say here, but it cannot forget what they did here. They, being those wonderful people who never asked, "What's in it for me?"

Last night I sat in the maternity waiting room of a local hospital awaiting the birth of my newest grandson. I pondered what legacy he will build. Will he understand how much he has been given? Do I understand? May God help me to understand the magnitude of the legacy that I have been given, and to appreciate all of you. Thank you for the opportunity to serve as your Chairman.

- Relevant links to federal and state regulatory entities—under Door 1—Consumer Credit; Department of Environmental Quality; Fair Housing; Fannie Mae Foundation; FDIC; Federal Reserve Board—Regulation Z; HUD; RESPA; IRS (Forms and publications, particularly Form 8300, Reporting of Cash Payments Over \$10,000.00; and Publications 15 and 15A for Employee vs. Independent Contractor); Oklahoma Floodplain Managers Association; Oklahoma Housing Finance Authority (Bond Money); and the Secretary of State

# REAL ESTATE COMMISSION SPONSORS ENVIRONMENTAL EDUCATION SEMINARS

The Real Estate Commission is offering these seminars at no charge to licensees. **To attend, you must schedule by calling (405) 522-8547** as seating will be limited to 300 at each session. We suggest you schedule early to insure you the opportunity to benefit from this vast array of information on environmental issues and concerns. There will be four [different] 3-hour segments, thereby totaling 12 clock hours of required subject matter.

We wish to thank the Oklahoma Department of Environmental Quality, the law firms of Crowe & Dunlevy; McKinney & Stringer, P.C.; Hall, Estill, Hardwick, Gable, Golden & Nelson; and Shipley Jennings & Champlin, P.C., the environmental consulting firms of Cardinal Engineering, Inc. and URS and the facilities, Francis Tuttle Technology Center and Tulsa Technology Center (Broken Arrow Campus) who made these seminars possible through their cooperation and participation.

### Oklahoma City - July 23

Francis Tuttle Technology Center  
Rockwell Campus  
12777 North Rockwell Ave.

### Tulsa - August 27

Tulsa Technology Center  
Broken Arrow Campus  
4600 South Olive

#### RESIDENTIAL and RURAL ENVIRONMENTAL ISSUES - Part I (8:30 a.m. to noon)

8:30	Opening Remarks	OREC
8:45	About DEQ	Barbara Rauch
9:00	Meth Labs	Michael Freeman
9:30	Mold	Mary Jane Calvey, PhD
10:00	Lead Based Paint	Kerra Roudebush and Jerry Matthews, OKC speaker
10:30	Radon	Nadine Barton, Tulsa speaker
11:00	Mercury Spills	Rita Kottke, PhD
11:30	Panel Question & Answer Session	Morning speakers
12:00	End of First Session	

#### RESIDENTIAL and RURAL ENVIRONMENTAL ISSUES - Part II (1:30 p.m. to 4:30 p.m.)

1:30	Septic Tanks	Robert Huber
2:00	Dilapidated Buildings	Marvin Boatright
2:30	Illegal Dumps	Fenton Rood
	Tires, Trash/Debris, C & D Waste, Computers, Frig/Stove, Hazardous Waste	
3:15	Pesticides, Insecticides	Mary Jane Calvey, PhD
3:45	Panel Question & Answer Session	Afternoon speakers
4:30	End of Second Session	

### Oklahoma City - July 24

Francis Tuttle Technology Center  
Rockwell Campus  
12777 North Rockwell Ave.

### Tulsa - August 28

Tulsa Technology Center  
Broken Arrow Campus  
4600 South Olive

#### COMMERCIAL PROPERTIES & ENVIRONMENTAL ISSUES - PART I (8:30 a.m. to noon)

8:30	Opening Remarks	OREC
8:45	About DEQ	Barbara Rauch
9:00	RCRA & CERCLA	Catherine Sharp
9:30	Due Diligence	*
10:15	Structuring the Deal	*
11:00	Role of the Environmental Consultant	*
11:30	Panel Question & Answer Session	Morning speakers
12:00	End of Third Session	

#### COMMERCIAL PROPERTIES & ENVIRONMENTAL ISSUES - Part II (1:30 p.m. to 4:30 p.m.)

1:30	Common Problems	Mary Jane Calvey, PhD
	USTs, Dry Cleaners, Auto Body Shops, Paint Shops, Furniture Restorers, Recyclers	
2:15	VCP/BF Programs	Rita Kottke, PhD
	Liability Protection, Financial Incentives, Risk-Based Cleanups	
3:00	Working with DEQ	Barbara Rauch
3:30	Panel Question & Answer Session	Afternoon speakers
4:30	End of fourth Session	

\* In Oklahoma City, the law firm speakers will be from the law firms of Crowe & Dunlevy and McKinney & Stringer, P.C., and the environmental consulting firm speakers are from Cardinal Engineering, Inc.

\* In Tulsa, the law firm speakers will be from the law firms of Hall, Estill, Hardwick, Gable, Golden, & Nelson and Shipley, Jennings & Champlin, P.C., and the environmental consulting firm speakers are from URS.

# Comments from the Executive Director

On the following three pages is the Commission's 2001 Fiscal Year Annual Report which is a compilation of activities for the year. Each year a report is sent to the Governor and State Auditor that summarizes the Commission's income vs. expenditures, and work products for the past fiscal year. The Commission's fiscal year is from July 1 to June 30.

As you will see, the Commission's largest expenditure is Salary and Benefits for the Commission's staffed employees. It is important to note that the Commission is staffed at only 70% of what is allocated by the legislature and we will continue to monitor our needs and services to insure we are meeting the needs of Oklahoma.

You will also note that this past fiscal year, as well as the previous fiscal years, the Commission has operated in the red when comparing new income vs. expenditures. During these years the Commission operated off of a large reserve which was built up over past years. Our expenditures began surpassing our income due to continued loss of licensees, increased costs of operations, coupled with costs incurred by staying abreast with technology.

As you already know, the Commission was forced to implement a fee adjustment this past August. The increase has, so far, proven to be a step in the right direction for the Commission. It is our hope that we can slowly build up a reserve so, if needed, it will see us through tough times in the future.

I hope you will find this report of some interest, as it *briefly* describes the diligent work performed by state employees for the real estate industry. Your comments and suggestions are welcomed.

Anne M. Woody  
Executive Director

## FUNCTIONS AND PURPOSE OF THE OKLAHOMA REAL ESTATE COMMISSION

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

Our VISION is to be the best state agency by whom other agencies set their standards.

Agency Functions: the programs of the Commission can be classified into several distinct administrative functions as follows:

1. Screening and processing license applications.
2. Investigation of license applicants.
3. Examination of license applicants.
4. Issuance of licenses to qualified applicants.
5. Monitoring of licensee activities for conformance with the "Code and Rules."
6. Processing and investigating complaints against licensees.
7. Hearing complaints, and when warranted, disciplining licensees in the form of license revocation, suspension, probation, fines or reprimand.
8. Performing various license transactions and maintaining licensee's files.
9. Approving qualified real estate education courses and instructors as required by Statute.
10. Monitoring educational course offerings.
11. Administration of the Education and Recovery Fund, which reimburses members of the public who have been harmed by a licensee who has been found in violation of a provision of the Code.
12. Administration of the Continuing Education Program, wherein education is disseminated statewide at no additional cost to the licensee.

## QUARTERLY EXAMINATION STATISTICS

### BROKER APPLICANTS

### SALES ASSOCIATE & PROVISIONAL APPLICANTS

	<u>Number Examined</u>		<u>Number Examined</u>
1st Quarter	56	1st Quarter	498
2nd Quarter	51	2nd Quarter	562
3rd Quarter	53	3rd Quarter	661
4th Quarter	<u>39</u>	4th Quarter	<u>613</u>
<b>TOTALS</b>	<b>199</b>		<b>2,334</b>

**OPERATING FUND**

*Statements of Revenues and Disbursements*

**Revenues**

License and Other Fees \$ 827,133.30  
Miscellaneous Income 37,245.74

Gross Fiscal Year 2001 Income \$864,379.04  
Less 10% of all license fees collected  
and paid to State General Revenue Fund  
(July 1, 2000-June 30, 2001) (57,701.60)

Net Fiscal Year 2001 Operating Income \$806,677.44

**Expenditures**

Salaries/Benefits \$784,414.11  
Professional Services 54,383.69  
Personnel Board 3,607.45  
Travel 20,931.10  
Airline Tickets 9,465.00  
Inter & Intra Agency Payments 504.15  
Administrative Expenses-Misc. 29,973.31  
Rent/Building & Postage Meter 75,115.10  
Maintenance and Repair 1,952.40  
Office Supplies 6,913.76  
Agency Payments/Admin. Exp 19,811.93  
Office Furniture & Equipment 3,582.21  
Library Equip/Resources 141.72  
D.P./Rental Exp. 215.00  
D.P./Professional Services .00  
D.P. Maintenance/Repair Exp. 2,795.60  
D.P./Office Exp 709.90  
Inter & Intra Office Admin Exp 27,580.00  
D.P./Furniture & Equipment 5,786.72  
Miscellaneous Expenditures July-Oct. 9,375.31

Total Expenditures \$1,057,258.46

Total Revenues 806,677.44

**Expenditures in excess of revenues** (\$250,581.02)

**EDUCATION AND RECOVERY FUND**

*Statement of Revenues and Disbursements*

**Revenues**

Total assessments of  
\$1.00 to \$15.00 ea \$107,743.00

Total Income 2001 Fiscal Year \$107,743.00

**Expenditures**

Legal & Professional Fees \$21,399.93  
Travel 6,520.98  
Admin. Services 12,349.09  
Room Rental 3,633.42  
Operating Exp. 1,359.61  
Other State Agencies (Printing) 11,878.43  
Office Furniture 605.00  
Indemnity Payments 31,880.00  
Other 51.30  
Total Expenditures (89,677.76)

**TOTAL** \$18,065.24

**COMPLAINT AND HEARING ACTIVITY**

Total Formal Investigations 87  
Formal Sworn Complaints Registered 78  
Formal Investigations on Motion of Commission 9  
Formal hearings conducted by Commission  
or Hearing Examiners 11  
Dismissals Based on Formal Hearings 1  
Disciplinary Actions 10  
Consent Orders 1  
Informal Special Investigations 32  
Applicant Investigations 56

In addition to the activity noted above, the Commission processes daily, a number of informal complaints, grievances and queries. These usually are resolved through an establishment of communication between the parties.

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The Disciplinary Actions affected 17 individual or corporation licensees as follows:

Number of licenses Revoked 5  
Number of licenses Suspended 1  
Other Disciplines (Reprimands & Fines) 5  
TOTAL 11

Other Cautions/Warning 8

**Applicant Appeal Hearings**

Number of Applications Denied 9  
Number of Formal Applications for  
License Appeal Hearings 4

Licenses Approved Based on Appeal Hearing 3  
Licenses Denied based on Appeal Hearing 1

**Office Inspections**

Number of Office Inspections Conducted 44

**Recovery Fund Claim Actions**

Number of Recovery Fund Claim Actions (Filed) 7  
Claims Approved 4  
Claims Denied 1

(Annual Report continued on page 6)



## QUARTERLY LICENSE STATISTICS

### Number Licensed as of the Last Day of Each Quarter

|                                                      | 1st Quarter<br><u>2000</u> | 2nd Quarter<br><u>2000</u> | 3rd Quarter<br><u>2001</u> | 4th Quarter<br><u>2001</u> |
|------------------------------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Active Brokers                                       | 6,929                      | 6,867                      | 6,812                      | 6,791                      |
| Inactive Brokers                                     | <u>2,107</u>               | <u>2,114</u>               | <u>2,128</u>               | <u>2,216</u>               |
| <b>Total Brokers</b>                                 | <b>9,036</b>               | <b>8,981</b>               | <b>8,940</b>               | <b>8,917</b>               |
| Active Prov. SA                                      | 2,160                      | 2,104                      | 2,089                      | 2,107                      |
| Inactive Prov. SA                                    | 1,282                      | 1,262                      | 1,273                      | 1,236                      |
| Active Sales Assoc.                                  | 4,798                      | 4,765                      | 4,721                      | 4,786                      |
| Inactive Sales Assoc.                                | <u>4,290</u>               | <u>4,275</u>               | <u>4,333</u>               | <u>4,270</u>               |
| <b>Total Prov. &amp; Sales Assoc</b>                 | <b>12,530</b>              | <b>12,406</b>              | <b>12,417</b>              | <b>12,399</b>              |
| Active Brokers, Prov. SA and Sales Assoc.            | 13,887                     | 13,736                     | 13,623                     | 13,684                     |
| Inactive Brokers Prov. SA, and Sales Associates      | <u>7,679</u>               | <u>7,651</u>               | <u>7,734</u>               | <u>7,632</u>               |
| <b>Total Brokers, Prov. SA, and Sales Associates</b> | <b>21,566</b>              | <b>21,387</b>              | <b>21,357</b>              | <b>21,316</b>              |

## REAL ESTATE COURSE ACTIVITY

Real estate courses were available to licensees in all parts of the State at almost any time of the year.

Currently there are 28 colleges and universities offering at least one real estate course for college credit. In addition, there are other organizations offering courses, which although not for college credit, have been approved by the Commission as qualifying an applicant educationally for licensure. Of these, 81 are approved to offer provisional sales associate courses, 63 are approved to offer broker courses, and 78 approved to offer the sales post license course.

### Continuing Education

Continuing education courses are available on a college-credit basis at 28 accredited colleges and universities in the State. In addition, 178 organizations have been approved to offer continuing education courses on a non-college-credit basis. Approximately 1,981 individual course offerings are approved and available to all licensees.

The Oklahoma Real Estate Commission and the Arkansas Real Estate Commission designed and delivered a continuing education seminar of six (6) hours duration for individuals who have real estate licenses in both states. One hundred forty (140) licensees attended. This caused the generation of 840 hours of continuing education credit.

The Commission office maintains a course record for each course completed by licensees. A tally of accumulated hours is periodically provided each of the more than 21,316 licensees.

## EDUCATION AND RECOVERY FUND ACTIVITY

The Legislature created the "Oklahoma Real Estate Education and Recovery Fund" in 1977 to become operative July 1, 1977. The primary purpose of the fund is to reimburse any person who has been adjudged by a court of competent jurisdiction to have suffered monetary damages by a person required to have a license under the Oklahoma Real Estate License Code in any transaction for which a license is required under the Code because of the acquisition of money or property by fraud, misrepresentation, deceit, false pretenses, artifice, trickery or by any other act which would constitute a violation of the Oklahoma Real Estate License Code.

At any time when the total amount of monies deposited in the Fund exceeds \$250,000.00 the Real Estate Commission, at its discretion, may expend such excess funds each year for certain designated educational purposes.

For the eighteenth consecutive year, the Fund exceeded \$250,000.00.

Educational expenditures for FY-2001 included:

1. Delivery of state-wide continuing education courses to licensees: courses were delivered throughout the state, from Guymon to Afton to Poteau to Durant. The Commission has delivered approximately 51 seminars to 2,602 licensees for a total of 7,806 hours of continuing education provided to licensees at no additional cost.
2. Continue to update our real estate library, which is available to the public and licensees. During this fiscal year we were able to add additional books to the library encompassing a wide variety of subject matter dealing with real estate.
3. Developed and disseminated to the public and licensees, various pamphlets which deal with state and federal laws. The Commission currently has four (4) pamphlets which are available to licensees and the public at no charge. The Commission now has available a web site that contains all available publications which can be reviewed and printed by licensees and the public at no charge.
4. The Commission has developed and makes available through our web site, teacher and student workbooks for the purpose of delivering the "It's Your Move" course material to high school students.
5. Commission conducts yearly "instructor orientation workshops" designed to provide instructors with relevant teaching tools and disseminate updates of federal and state laws.
6. A new law went into effect November 1, 2000, the Broker Relationships Act. The Commission contracted with a nationally known instructor to present education courses in the metropolitan areas and to develop educational course materials on this new law. Further, the Commission offered extensive seminars throughout the state, from August, 2000 through January, 2001, in an effort to educate licensees on the law change before and after the law became effective.
7. The Commission has continued to develop several new courses for continuing education which are being taught throughout the state. These courses are also made available to real estate instructors.

# INCENTIVE MARKETING SURVEY

In an effort to determine if Oklahoma's current law should be amended in regard to giving a rebate or incentive to a purchaser in connection with a real estate transaction, the Commission formed an Incentive Marketing Task Force consisting of large and small real estate company representation. The task force met and could not arrive at a consensus as to whether or not incentives or rebates should be allowable to a purchaser within the confines of the real estate transaction.

The Commission solicited comments from 3,691 managing real estate brokers as to their opinions regarding offering an incentive to a purchaser of real estate. Currently, Oklahoma law prohibits the offering of any valuable consideration to a purchaser or prospective purchaser of real estate; however, Oklahoma law does allow an incentive to a seller of real estate.

The Commission wishes to thank all managing brokers who took the time to complete the survey and participate in this endeavor. Based on the survey results, the Incentive Marketing Task Force voted to not move forward with an amendment to the law at this time.

Following is the outcome of the survey:

|                           |                                    |
|---------------------------|------------------------------------|
| Number surveyed           | 3,691                              |
| Number responded          | 513                                |
| Of the 513 who responded: | 388 No; 94 Yes; 13 Maybe, if . . . |
|                           | 18 Yes, but . . .                  |

The comments received are as follows:

## Reasons why incentives should be offered

Already being done (Closing costs, etc.)  
Frustrating that we cannot take advantage of programs that the rest of the country is involved in  
It's in the consumer's interest  
Limits our freedom  
Improve ability to market  
Other states offer incentives  
Prizes, contests, trips, are a way of life  
Everyone else is doing it autos, boats, furniture  
Brokers need every possible edge  
Brokers need to be competitive  
Buyers are more sophisticated today  
Difficult to market own properties when non-broker owners can offer incentives  
It seems to be successful in other states  
Not government's job to protect consumers "informed decisions"  
Simply another method of doing business  
Unfair to offer incentives to everyone except buyers  
Better to allow it than to police it  
Car dealers can do it  
Don't see that it would cause any problems  
Eliminate some of the impediments to a potential purchase of real property  
Even the playing field  
Expected by the purchaser  
Helps move hard-to-sell property  
Law was enacted to protect brokers not the clients  
Let buyer-seller-agent operate in a free market  
Makes a buyer feel like they are appreciated  
Makes your property stand out  
Real estate should be no different from any other major purchase item

Unfair advantage to larger companies  
Want to be able to offer property by selling lottery type tickets on it

## Reasons why incentives should not be offered

Unfair advantage to larger companies  
Not professional  
Any sale should stand alone on the basis of bargain, desire and/or need  
Do not believe such activities could be adequately "policed"  
Will lead to many ethics and law violations  
Unethical  
Would cause a regulatory nightmare  
Cheapens the industry  
There would likely be consumer complaints resulting from contest, incentives, bonuses, etc.  
Affects the value of real property  
Open a kettle of worms  
Protect consumers by quality assistance don't "buy" them  
Would place Real Estate Brokers on same level as auto agents and politicians  
Would lead to unequal treatment of buyer and seller  
Will influence the buyer to make a bad decision  
Is not a necessary tool  
Offering incentives would open the door for misrepresentation and dissatisfied clients  
Open up another avenue to create more problems  
Damage to the purchaser  
If the rules (law) were good for 1949, they should still be good for 2001.  
Must be considered as commission reductions  
Not appropriate  
Reduce real estate to the level of "car dealerships"  
Will become too costly  
Would cause far more regulation  
Already being done through closing costs, and special loans  
Create incentive wars with embarrassing results  
Property should be incentive enough  
Put small companies out of business  
Allow out of state conglomerates to dictate requirements  
Confuse buyers and sellers  
Corrupts the nature of the business  
Could trigger a "give away contest"  
Creates another headache  
Disguise less desirable features of a property  
Enough big city brokers crowd the line already  
I think doing this would increase our liability risk  
Impossible to administer  
Incentives are hucksterism  
Incentives would target and deceive the less sophisticated  
It isn't necessary to bribe a buyer  
Once this gets started it could get out of control  
Other professionals (district attorneys, ministers etc) do not give incentives  
People buying a major investment of their life, not a promo, fast food style attitude  
Problems on who we represent  
Purchaser will demand the firm pay closing costs or other items if allowed  
Would put me at a disadvantage because I won't give them  
This type of activity is questionable  
Unfair advantage for small companies  
We are not car salesman selling a depreciating product



## OFFICE INSPECTIONS

By

Sherry L. Kueffler, Chief Investigator

The Investigations Department performs monthly office inspections for the purpose of educating and assisting brokers in their operational procedures. These office inspections are not intended to be intimidating or threatening.

The selection process is done randomly. Each month a specific community is selected with all brokers within that community identified. Each selected broker will then receive notification of the date and time a staff investigator will visit.

Although each office inspection should be taken seriously, there is no need to panic. These visits give the broker and the investigator an opportunity to become acquainted without a complaint sitting on the table between them. If a broker has questions or concerns about anything, this is the time to ask. The investigator is there to assist the broker in any way possible.

If you have questions concerning the Code and Rules, get with your managing broker first. If there are still questions, please call our office: an investigator will be glad to assist you. Also, if you don't have a copy of the current Code and Rules, you may download this from our website. This is the best resource available to prevent complaints from occurring.

## PREDATORY LENDING PRACTICES— TIPS FOR CONSUMERS

1. *Beware of predatory mortgage brokers' fees.* Often loans are arranged by mortgage brokers who are paid a fee out of a loan, generally a percentage of the loan amount. Therefore, a mortgage broker with a predatory intent has an incentive to increase the amount of your new loan. Sometimes, the mortgage broker may get an additional cash payment from the lender as a reward for getting you to pay a higher rate than you had to. Predatory mortgage brokers often advertise vague promises about helping to solve your financial problems. They rarely explain how they make their money. You should ask the mortgage broker to clearly explain what he or she gets for helping you.

2. *Beware of promises of lower interest and lower payments.* Refinancing a mortgage to lower an interest rate can be a good thing to do, but if the new transaction has big fees loaded into the loan, you may end up paying more. Similarly, promises about lower monthly payments can also be half-truths; for example, the old payment may have included taxes and insurance and the new one does not; or the new, lower payment is scheduled to increase in the future through an adjustable rate or balloon structure.

3. *Don't borrow more than you need.* Predatory mortgage brokers and lenders may try to persuade borrowers to consolidate bills unnecessarily to make the loan as big as possible. A mortgage puts your home at risk and this risk should never be made bigger than necessary.

4. *Get advice before signing loan papers.* This is always the best protection. No matter how desperate you are, and no matter how good the deal sounds, never put a mortgage on your house without first talking to a housing counselor or a lawyer. Free counseling is available to low-income residents through publicly funded housing counseling agencies.

5. *Talk about money matters with family and friends.* Senior citizens who are somewhat isolated are very vulnerable to predators.

To report predatory lending practices, please call 1-800-448-4904.

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## EPA, HUD Clarify Lead Disclosure Rules

Washington: In response to questions posed by the NAR, HUD and the EPA have issued some clarifications on when lead-based paint disclosure must be made.

Regulators approved for national use California contract language that allows disclosures to be made after a seller has accepted a buyer's offer, so long as the buyer has the right to cancel the purchase upon receipt of the disclosure and is allowed 10 days for an inspection.

Also, a seller/lessor may distribute photocopies of a completed disclosure form to prospective purchaser/lessees to execute and return to the seller/lessor with the offer. The regulators confirmed that completion of the disclosure and acknowledgment form, in two separate documents, satisfies the disclosure obligations.

Only one owner is required to complete the disclosure form when the property is held jointly, as long as the non-executing owner does not have any additional undisclosed information or records of lead-based paint hazards.

Sellers, lessors and their representatives may continue to distribute the 1995 version of the EPA's "Protect Your Family From Lead in Your Home" pamphlet, even though it was revised in 1999. (The 1999 revision deleted certain phone numbers.)

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## Attorney General Opinion

02-8

February 19, 2002

Where a broker has entered into a listing agreement with a seller, can the broker comply with the seller's request that no offers less than the listing price shall be presented to the seller?

I.

THE OKLAHOMA STATUTES REQUIRE TRANSACTION BROKERS AND SINGLE-PARTY BROKERS TO PRESENT ALL WRITTEN OFFERS TO SELLERS WITH WHOM THEY HAVE ENTERED INTO A LISTING AGREEMENT.

II.

THE ACT'S REQUIREMENT THAT A SINGLE-PARTY BROKER SHALL OBEY THE SPECIFIC DIRECTIONS OF A SELLER WITH WHOM HE OR SHE HAS A LISTING AGREEMENT DOES NOT AUTHORIZE A SINGLE-PARTY BROKER TO COMPLY WITH A SELLER'S REQUEST THAT NO OFFERS LESS THAN THE LISTING PRICE SHALL BE PRESENTED TO THE SELLER.

It is, therefore, the official Opinion of the Attorney General that:

Where a broker enters into a listing agreement with a seller, the broker cannot comply with the seller's request not to present offers which are less than the seller's listing price without violating the provisions of the Transaction and Single-Party Broker statutes and the Oklahoma Real Estate Commission's administrative rules, which require a broker to present all bona fide offers to the seller. 59 O.S. 2001, §§ 858-353(4)(a), 858-354(B)(4)(a); OAC 605:10-17-4(10)-(11).

The Transaction and Single-Party Broker statutes' requirement that a single-party broker shall obey the seller's directions which are not contrary to applicable statutes and administrative rules (id. § 858-354(B)(4)(g)), does not authorize a single-party broker to comply with a seller's request not to present offers less than the seller's listing price because such a request by the seller is contrary to provisions of the Transaction and Single-Party Broker statutes (id. §§ 858-353(4)(a), 858-354(B)(4)(a)) and the Oklahoma Real Estate Commission's administrative rules (OAC 605:10-17-4(10), (11)) requiring all written offers to be presented to the seller.

W. A. DREW EDMONDSON  
ATTORNEY GENERAL OF OKLAHOMA

JANIS W. PRESLAR  
ASSISTANT ATTORNEY GENERAL

## Attorney General Opinion

02-9

February 21, 2002

Can a single-party broker, who has a brokerage agreement with a buyer, comply with the buyer's request to keep the buyer's identity confidential and present a seller an offer in which the buyer's name does not appear?

THE TRANSACTION AND SINGLE-PARTY BROKER STATUTES

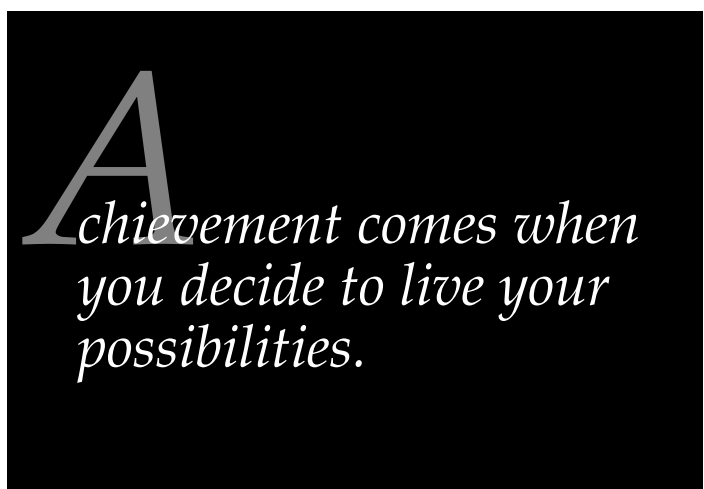
THE ACT'S REQUIREMENT THAT A SINGLE-PARTY BROKER SHALL OBEY A BUYER'S SPECIFIC DIRECTIONS DOES NOT PERMIT THE BROKER TO ACT AS A BUYER'S AGENT AND MAKE AN OFFER ON THE BUYER'S BEHALF.

It is, therefore, the official Opinion of the Attorney General that:

Because Oklahoma law requires offers to purchase real property to be in writing, signed by the buyer's agent if not signed by the buyer (15 O.S. 2001, § 136), and because the Transaction and Single-Party Brokers statutes, at 59 O.S. 2001, § 858-355(D), prohibit a single-party broker from acting as a buyer's agent, the single-party broker cannot make a bona fide offer to a seller on behalf of a buyer who wishes to keep his or her identity confidential.

W. A. DREW EDMONDSON  
ATTORNEY GENERAL OF OKLAHOMA

JANIS W. PRESLAR  
ASSISTANT ATTORNEY GENERAL



# RULE AMENDMENTS TO BECOME EFFECTIVE JULY 1, 2002

Following are rules that were adopted by the Real Estate Commission on March 20, 2002. The rules were submitted to the Governor and Legislature for consideration and approval was obtained, and will become effective on July 1, 2002.

Underlined language represents new language. Words that are hyphenated through indicates language that is being deleted. Three asterisks indicate that existing language appears before or after the asterisk however the language was not changed and therefore does not appear in this listing.

Please visit our web site at [www.orec.state.ok.us](http://www.orec.state.ok.us) for a revised License Code and Rule booklet on or after July 1, 2002. If you have any questions about the rules, please contact our office.

## CHAPTER 1. ADMINISTRATIVE OPERATIONS SUBCHAPTER 1. GENERAL PROVISIONS

### 605:1-1-1. Statement of purpose

The fundamental and primary purpose of the Real Estate Commission is to safeguard the public interest ~~through encouraging and requiring high standards of knowledge; through encouraging ethical practices; through disciplining of licensees who engage in dishonest, fraudulent or criminal activities in the conduct of real estate transactions; and through causing the prosecution of any person who violates the "Oklahoma Real Estate License Code."~~ and provide quality services by assisting and providing resources; encouraging and requiring high standards of knowledge and ethical practices of licensees; investigating and sanctioning licensed activities; and through the prosecution of any unlicensed person who violates the "Oklahoma Real Estate License Code and Rules."

## CHAPTER 10. ~~RULES AND REGULATIONS REQUIREMENTS, STANDARDS AND PROCEDURES~~ SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

### 605:10-3-1. Prelicense education requirements

(a) On and after July 1, 1993, as evidence of an applicant's having satisfactorily completed those education requirements as set forth in Sections 858-302 and 858-303 of the Code, each applicant for licensure shall present with his or her application a certification showing successful completion of the applicable course of study approved by the Commission as follows:

(1) To qualify an applicant for examination and licensure as a provisional sales associate, the course shall consist of at least forty-five (45) clock hours of instruction or its equivalent as determined by the Commission. In order for a provisional sales associate to obtain a sales associate license, the provisional sales associate must, following issuance of a provisional license, complete additional education as required in Section 858-302 of the Code. The prelicense ~~Such~~ course of study shall be referred to as the Basic Course of Real Estate, Part I of II and shall encompass the following areas of study:

\*\*\*

(2) To qualify an applicant for examination and licensure as a broker, the course shall consist of at least seventy-five (75) clock hours of instruction or its equivalent as determined by the Commission. Such course of study shall be referred to as the Advanced Course in Real Estate and shall encompass the following areas of study:

- (A) Laws and Rules Affecting a Real Estate Office Practice
- ~~(B) Office and Personnel Administration~~
- ~~(C) Brokerage Operations and Accounting~~
- ~~(D) Risk Management~~
- ~~(E) Real Estate Insurance~~
- ~~(F) Real Estate Finance~~
- ~~(G) Management Practices~~
- ~~(H) Auditing and Investigative Procedures~~
- ~~(I) Anti-Trust~~
- ~~(J) Strategic Planning~~
- ~~(K) Real Estate Negotiations~~
- ~~(L) Property Management~~
- ~~(M) Zoning~~
- ~~(N) Communications~~
- ~~(O) Closing Real Estate Transactions~~
- (B) Establishing a Real Estate Office
- (C) Office Management
- (D) Anti-Trust and Deceptive Trade
- (E) Oklahoma Broker Relationships Act
- (F) Risk Management and Insurance
- (G) Disclosures, Hazards and Zoning
- (H) Financial Management

- (I) Real Estate Financing
- (J) Specialized Operations
- (K) Transaction File Maintenance
- (L) Trust Accounts and Trust Funds
- (M) Closing a Real Estate Transaction
- (N) Closing Statements

\*\*\*

#### **605:10-3-2. Application for license**

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

- (1) Any person seeking a real estate license shall make application for such license on a form provided by the Commission. The form shall contain, but not be limited to, the following:
  - (A) Legal name to include first, middle and last name.
  - (B) Routine biographical information.
  - (C) License history in Oklahoma and other states.
  - (D) Criminal and/or civil charges or convictions, including bankruptcy and judgments.
  - (E) All residential addresses and employment data for past five (5) years.
  - (F) Recent photograph.
  - (G) Birth date.
  - (H) Evidence of successful completion of course requirement as specified in the "Code".
  - (I) A sworn statement as to accuracy of the application information.
  - (J) Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
  - (K) Social security number, pursuant to Title 56, Oklahoma Statutes, Section 240. 21A.

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#### **605:10-3-5. Examinations**

- (a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. Unless otherwise directed by the Commission, all examinations will be conducted in Oklahoma City. On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75. 00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60. 00. )

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#### **605:10-3-6. Continuing education requirements**

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

- (1) Beginning July 1, 1996, the number of continuing education hours needed by a licensee for license renewal, reinstatement or activation, with the exception of those exempt as set out in Title 59, O. S. Section 858-307. 2, shall be twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Each licensee shall be required to complete and include as part of said twenty-one (21) clock hours of continuing education nine (9) clock hours of courses conducted on required subjects as approved by the Commission.
- (2) As a condition of an active license renewal, each license with an expiration date of June 30, 2005 and thereafter, with the exception of those exempt as set out in Title 59, 858-307. 2, shall provide evidence of completion of twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall have been taken during the license term preceding the license term for which the license is to be renewed, and wherein such hours have not been used for license activation or active reinstatement.
- (3) As a condition of a license activation or active reinstatement, each license with an expiration date of June 30, 2005 and thereafter, with the exception of those exempt as set out in Title 59, 858-307. 2, shall provide evidence of completion of twenty-one (21) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall have been taken in the same license term for which the license is to be issued, with the exception of a licensee whose hours were not used in the preceding license term. In that case, the hours taken in the preceding license term shall count towards an applicable license activation or active reinstatement.
- (4) Each licensee shall have completed of said twenty-one (21) clock hours of continuing education twelve (12) clock hours of required subject matter as directed by the Commission.
- (5) The required subject matter, or its equivalent, as determined by the Commission, shall consist of all following subjects each license term: Professional Conduct, Broker Relationships Act, Fair Housing, and Current Issues including Code and Rule Updates. The remaining nine (9) clock hours may consist of elective subject matter as approved by the Commission.

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

\*\*\*

(d) **Subject content.**

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

\*\*\*

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

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

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

\*\*\*

## SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

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

\*\*\*

(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.

\*\*\*

(f) **Course content examination.** Final approval will be considered after the instructor applicant has successfully completed ~~a~~ an applicable Commission administered ~~broker~~ broker applicable course content examination with a passing score of 80% or more. An instructor shall be allowed to successfully complete the ~~broker~~ broker applicable examination one time without charge; thereafter, the applicable examination fee shall be charged for each examination.

\*\*\*

### 605:10-5-1. 1 Approval of postlicense course offerings

\*\*\*

(b) **Course offering requirements.**

(1) An offering entity not conducting ~~an~~ 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.

\*\*\*

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

\*\*\*

(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 ~~entire~~ 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.

\*\*\*

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

## SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

### 605:10-7-1. 1. Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

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

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

(a) **License term and fees.** Each original license issued under the Code on and after July 1, 1981, shall be issued to expire at the end of the thirty-sixth (36) month including the month of issuance. Each original provisional sales associate license issued under the Code on and after August 1, ~~1993~~ 2001 shall be issued to expire at the end of the ~~thirty-sixth (36)~~ twelfth (12th) month including the month of issuance. On and after August 1, 2001:

(1) For an original broker license and each subsequent license renewal, to include corporations, associations or partnerships, the fee shall be Two Hundred and Ten Dollars (\$210. 00).

(2) For an inactive original broker license and each subsequent inactive license renewal, with the exception of corporations, associations or partnerships, the fee shall be One Hundred and Twenty-five Dollars (\$125. 00. ) In order to activate such license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Thirty Dollars (\$130. 00. ) Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(3) For an active original sales associate license and each subsequent active license renewal the fee shall be One Hundred and Fifty Dollars (\$150. 00. )

(4) For an inactive original sales associate license and each subsequent inactive license renewal the fee shall be Ninety-five Dollars (\$95. 00. ) In order to activate a sales associate license that was renewed inactive in the same license term, the licensee shall pay One Hundred Dollars (\$100. 00. ) Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.

(5) For a non-renewable original provisional sales associate license the fee shall be Seventy (\$70. 00. )

(6) For an original branch office license and each subsequent license renewal the fee shall be One Hundred and Twenty-five Dollars (\$125. 00. )

(7) For each duplicate license or pocket card, where the original license is lost or destroyed, and a written request is made, a fee of Seven Dollars and fifty cents (\$7. 50) shall be charged.

(8) An additional Fifteen Dollar (\$15. 00) fee, the Education and Recovery Fund fee, shall be added and payable with the license fee for an original license and subsequent license renewal for each license with the exception of a provisional sales associate license which fee shall be Five Dollars (\$5. 00) for their twelve (12) month license term and a branch office which shall not pay the fee.

(b) **Terms cannot be altered.** ~~After January 1, 1982, each license renewal term shall be for a period of thirty-six (36) months.~~ Terms shall not be altered except for purposes of general reassignment of terms which might be necessitated for the purpose of maintaining an equitable staggered license term system.

(c) **Expiration date.** The actual expiration date of ~~original and/or renewal license terms~~ a license shall be midnight of the last day of the month of the designated license term, ~~except in the event an expiration date falls on a Saturday, Sunday or holiday; in such case, the next Commission working day shall be considered the expiration date.~~

\* \* \*

(f) **Reinstatement of license.** Any ~~sales associate or broker licensee~~ whose license term has expired shall be considered for reinstatement of such license upon payment of an amount equal to the current examination fee in addition to the license and late penalty fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

\*\*\*

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

\*\*\*

(j) **Reinstatement of a surrendered or cancelled license.** A surrendered or cancelled applicant may be reinstated provided the applicant has received approval for ~~reissuance~~ re-issuance from the Commission. The following forms and fees must be submitted:

(1) **Reinstatement with term of license still current.** A surrendered or cancelled applicant whose license term is still current:

- (A) Applicable reinstatement fee.
- (B) ~~Reissuance~~ Re-issuance fee.
- (C) Documents as required by the Commission.

\*\*\*

(m) **Issuance of license from provisional sales associate to sales associate if licensed prior to August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the postlicense education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the postlicense education requirement, the provisional sales associate must apply by submitting the appropriate document(s) and fee of Twenty-five Dollars (\$25. 00) to the Commission for issuance of a renewable sales associate license. The issuance of the license from a provisional sales associate to a sales associate only changes the license type and does not change the expiration date of the license.

(n) **Issuance of license from provisional sales associate to sales associate if licensed on and after August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement, the provisional sales associ-

ate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has successfully completed the Provisional Postlicense Course of Real Estate, Part II of II education requirement and has initiated a renewal for a renewable sales associate license.

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

(p) On and after August 1, 2001, in the event an active sales associate within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker license, the Commission shall not refund the difference in the license fees.

#### 605:10-7-4. 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.

\*\*\*

#### 605:10-7-7. Branch offices

(a) **Each additional office must be licensed.** If a broker desires to do business from more than one office, each additional office must be licensed as a branch office upon the payment of a ~~three (3) year broker~~ branch office license fee. The license shall be displayed in the branch office.

\*\*\*

### SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

#### 605:10-13-1. Duty to account; broker

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(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 bank charges. The broker is required to maintain complete and accurate records of the interest earned ~~on each trustor's funds~~. 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.

\*\*\*

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

#### 605:10-17-2. Complaint procedures

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(b) **Complaint notification; licensee response.** When a complaint has been filed against a licensee, the licensee shall be immediately notified and shall be required to file an adequate written response within fifteen (15) days of the notice.

\*\*\*

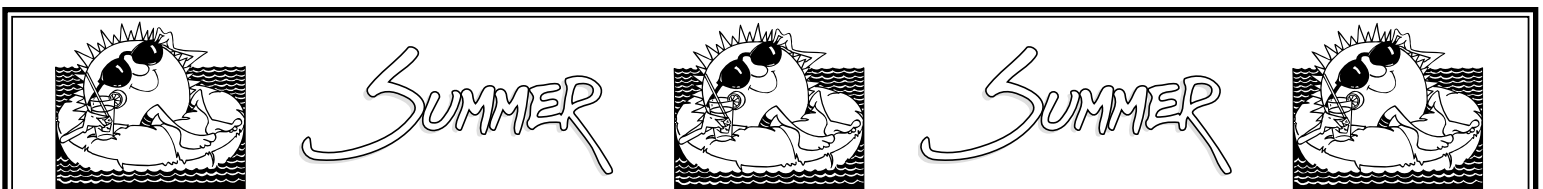
#### 605:10-17-4. Prohibited dealings

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:

\*\*\*

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

\*\*\*



# APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT

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

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

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

**LOCATION OF SUBJECT PROPERTY:** \_\_\_\_\_

**SELLER IS \_\_ IS NOT \_\_ OCCUPYING THE SUBJECT PROPERTY.**

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

|                              | <u>Circle below</u> |     |    |     |                                | <u>Circle below</u> |     |    |     |
|------------------------------|---------------------|-----|----|-----|--------------------------------|---------------------|-----|----|-----|
| Sprinkler System             | N/A                 | Yes | No | Unk | Humidifier                     | N/A                 | Yes | No | Unk |
| Swimming Pool                | N/A                 | Yes | No | Unk | Gas Supply                     | N/A                 | Yes | No | Unk |
| Hot Tub/Spa                  | N/A                 | Yes | No | Unk | ___Public___Propane            |                     |     |    |     |
| Water Heater                 | N/A                 | Yes | No | Unk | ___Butane                      |                     |     |    |     |
| ___Electric ___Gas           |                     |     |    |     | Propane Tank                   | N/A                 | Yes | No | Unk |
| ___Solar                     |                     |     |    |     | ___Leased___Owned              |                     |     |    |     |
| Water Purifier               | N/A                 | Yes | No | Unk | Ceiling Fans                   | N/A                 | Yes | No | Unk |
| Water Softener               | N/A                 | Yes | No | Unk | Electric Air Purifier          | N/A                 | Yes | No | Unk |
| ___Leased ___Owned           |                     |     |    |     | Garage Door Opener/<br>Control | N/A                 | Yes | No | Unk |
| Sump Pump                    | N/A                 | Yes | No | Unk | Intercom                       | N/A                 | Yes | No | Unk |
| Plumbing                     | N/A                 | Yes | No | Unk | Central Vacuum                 | N/A                 | Yes | No | Unk |
| Whirlpool Tub                | N/A                 | Yes | No | Unk | Security System                | N/A                 | Yes | No | Unk |
| Sewer System                 | N/A                 | Yes | No | Unk | ___Rent___Own                  |                     |     |    |     |
| ___Public___Septic           |                     |     |    |     | ___Monitored                   |                     |     |    |     |
| ___Lagoon                    |                     |     |    |     | Smoke Detectors                | N/A                 | Yes | No | Unk |
| Air Conditioning<br>System   | N/A                 | Yes | No | Unk | Dishwasher                     | N/A                 | Yes | No | Unk |
| ___Electric___Gas            |                     |     |    |     | Electrical Wiring              | N/A                 | Yes | No | Unk |
| ___Heat Pump                 |                     |     |    |     | Garbage Disposal               | N/A                 | Yes | No | Unk |
| Window Air<br>Conditioner(s) | N/A                 | Yes | No | Unk | Gas Grill                      | N/A                 | Yes | No | Unk |
| Attic Fan                    | N/A                 | Yes | No | Unk | Vent Hood                      | N/A                 | Yes | No | Unk |
| Fireplaces                   | N/A                 | Yes | No | Unk | Microwave Oven                 | N/A                 | Yes | No | Unk |
| Heating System               | N/A                 | Yes | No | Unk | Built-in Oven/Range            | N/A                 | Yes | No | Unk |
| ___Electric___Gas            |                     |     |    |     | Kitchen Stove                  | N/A                 | Yes | No | Unk |
| ___Heat Pump                 |                     |     |    |     | Trash Compactor                | N/A                 | Yes | No | Unk |

Buyer's Initials \_\_\_\_\_ Buyer's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_

**Note:** 2 or 3 asterisks on this form indicate the changes that occurred to the form.

**LOCATION OF SUBJECT PROPERTY \*\*\*** \_\_\_\_\_

|                            |                   |     |    |     |
|----------------------------|-------------------|-----|----|-----|
| Source of Household Water  | Other Items _____ | Yes | No | Unk |
| ___Public___Private___Well | Other _____       | Yes | No | Unk |
|                            | Other _____       | Yes | No | Unk |

**IF YOU HAVE ANSWERED NO to any of the above, please explain. Attach additional pages with your signature(s).**

**Zoning, Flood and Water \*\***

**Circle below**

1. Property is zoned: (**Check one**) \_\_\_residential \_\_\_ commercial  
\_\_\_historical\_\_\_ agricultural\_\_\_ industrial\_\_\_ office  
\_\_\_urban conservation\_\_\_ other \_\_\_unknown
2. Are you aware of any flood insurance requirements concerning the property? \*\* Yes No Unk
3. Do you have flood insurance on the property? \*\*\* Yes No Unk
4. Has the property been damaged or affected by flood, storm run-off, sewer backup, drainage or grading problems? Yes No Unk
5. Are you aware of any surface or ground water drainage systems which assist in draining the property, e. g. french drains? \*\*\*\*\* Yes No Unk
6. Has there been any occurrence of water in the heating and air conditioning duct system? Yes No Unk
7. Are you aware of water seepage, leakage or other drainage problems in any of the improvements on the property? Yes No Unk

**Additions/Alterations/Repairs \*\***

8. Have any additions or alterations been made without required permits? Yes No Unk
9. Are you aware of previous foundation repairs? Yes No Unk
10. Are you aware of any alterations or repairs having been made to correct defects or problems? Yes No Unk
11. Are you aware of any defect or condition affecting the interior or exterior walls, ceilings, slab/foundation, basement/storm cellar, floors, windows, doors, fences or garage? Yes No Unk
12. Has the roof ever been repaired or replaced during your ownership of the property? Yes No Unk
13. Approximate age of roof, if known \_\_\_\_\_ Number of layers, if known \_\_\_\_\_ \*\* Unk\*\*
14. Do you know of any current problems with the roof? \*\* Yes No Unk
15. Are you aware of treatment for termite or wood-destroying organism infestation? Yes No Unk
16. Do you have a termite bait system installed on the property? \*\* Yes No Unk
17. If yes, is it monitored by a licensed exterminating company?  
(**Check one**) \_\_\_ yes \_\_\_ no \*\*\* Annual cost \$ \_\_\_\_\_
18. Are you aware of any damage caused by termites or wood-destroying organisms? Yes No Unk
19. Are you aware of major fire, tornado, or wind damage? \*\* Yes No Unk

**Environmental\*\***

20. Are you aware of the presence of asbestos? Yes No Unk
21. Are you aware of the presence of radon gas? Yes No Unk
22. Have you tested for radon gas? Yes No Unk
23. Are you aware of the presence of lead-based paint? \*\* Yes No Unk
24. Have you tested for lead-based paint? \*\* Yes No Unk
25. Are you aware of any underground storage tanks on the property? Yes No Unk
26. Are you aware of the presence of a landfill on the property? Yes No Unk
27. Are you aware of existence of hazardous or regulated materials and other conditions having an environmental impact, including, but not limited to, residue from drug manufacturing? Yes No Unk
28. Are you aware of any condition on the property that would impair the health or safety of the occupants, e. g. , mold? \*\*\* Yes No Unk

Buyer's Initials \_\_\_\_\_ Buyer's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_



**LOCATION OF SUBJECT PROPERTY\*\*\*** \_\_\_\_\_

**Property Shared in Common, Easements, Homeowner's Association, Legal\*\***

29. Are you aware of features of the property shared in common with adjoining landowners, such as fences, driveways, and roads whose use or responsibility have an affect on the property? Yes No Unk
30. Other than utility easements serving the property, are you aware of easements or right-of-ways affecting the property? \*\* Yes No Unk
31. Are you aware of encroachments affecting the property? \*\* Yes No Unk
32. Are you aware of a mandatory homeowner's association? \*\* Yes No Unk  
 Amount of dues \$ \_\_\_\_\_ Special Assessment \$ \_\_\_\_\_  
 Payable: **(Check one)** \_\_\_ monthly \_\_\_ quarterly \_\_\_ annually  
 Are there unpaid dues or assessments for the Property? **(Check one)** \_\_\_ yes \_\_\_ no  
 If yes, amount \$ \_\_\_\_\_ Manager's Name: \_\_\_\_\_  
 Phone No. \_\_\_\_\_
33. Are you aware of any zoning, building code or setback requirement violations? Yes No Unk
34. Are you aware of any notices from any government or government-sponsored agencies or any other entities affecting the property? \*\* Yes No Unk
35. Are you aware of any threatened or existing litigation or lawsuit(s), directly or indirectly, affecting the property? \*\* Yes No Unk
36. Is the property located in a fire district which requires payment? \*\* Yes No Unk  
 Amount of fees \$ \_\_\_\_\_ To Whom Paid \_\_\_\_\_  
 Payable **(Check one)** \_\_\_ monthly \_\_\_ quarterly \_\_\_ annually
37. Is the property located in a private utility district? \*\* Yes No Unk  
**(Check applicable)** water \_\_\_ garbage \_\_\_ sewer \_\_\_ other \_\_\_  
 If other, explain: \_\_\_\_\_  
 Initial membership fee \$ \_\_\_\_\_ annual membership fee \$ \_\_\_\_\_  
 If more than one (1) utility, attach additional pages.

**Miscellaneous**

38. Are you aware of other defect(s), affecting the property, not disclosed above? \*\* Yes No Unk
39. Are you aware of any other fees or dues required on the property that you have not disclosed? Yes No Unk

**If you answered "YES" to any of the items 1-39 above, list the item number(s) and explain. (If needed, attach additional pages, with your signature(s), date(s) and location of subject property. )\*\***

\_\_\_\_\_

\_\_\_\_\_

On the date this form is signed, the seller states that based on seller's **CURRENT ACTUAL KNOWLEDGE** of the property, the information contained above is true and accurate.

**Are there any additional pages attached to this disclosure (circle one): Yes No. If yes, how many?** \_\_\_\_\_

\_\_\_\_\_  
 Seller's Signature Date Seller's Signature Date

**A real estate licensee has no duty to the Seller or the Purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in this disclosure statement**

The Purchaser is urged to carefully inspect the property and, if desired, to have the property inspected by a licensed expert. For specific uses and restrictions for this property, contact the City Planning Department. The Purchaser acknowledges that the Purchaser has read and received a signed copy of this statement. This completed acknowledgement should accompany an offer to purchase on the property identified.

\_\_\_\_\_  
 Purchaser's Signature Date Purchaser's Signature Date

The disclosure and disclaimer statement forms and the Oklahoma Residential Property Condition Disclosure Act information pamphlet are made available at the Oklahoma Real Estate Commission (OREC), Shepherd Mall, 2401 NW 23 St, Suite 18, Oklahoma City, Oklahoma 73107-2431, or visit OREC's Web site [www.orec.state.ok.us/](http://www.orec.state.ok.us/).

# Rule Highlights

## Effective July 1, 2002

- **Proof of citizenship or qualified alien status**—License and instructor applicants and licensees will be required to provide documentation that is proof of citizenship or qualified alien status in order to receive services from the Real Estate Commission. Applicants and instructors must provide proof at the time of examination. Applicants or reinstatements which have already been examined and/or approved for issuance, must provide proof of documentation prior to license issuance. License holders will be notified to provide proof at the time of their next license renewal. Refer to our website (under the 4th door — News releases), for a comprehensive listing of documentation that qualifies for submission to the Commission.
- **Social Security Number**—All license applicants must provide their social security number pursuant to Title 56, Oklahoma Statutes, Section 240. 21A.
- **Continuing Education**—Licensees with license expiration dates of June 30, 2005 and thereafter will be required to complete 12 clock hours of required subject matter on core courses as determined by the Commission and 9 clock hours of elective subject matter of courses that are approved by the Commission. The total number of clock hours remains at 21; however the required vs elective hours were adjusted. Licensees under this requirement must take four required core courses totaling at least 12 clock hours over the following subjects:

Professional Conduct  
Broker Relationships Act  
Fair Housing  
Current Issues including Code and Law Updates.

This is a change from the current continuing education requirement. Currently licensees with a license expiration date of May 31, 2005, and before, are required to have only 9 clock hours of required subject matter and 12 clock hours of elective subject matter; however, the required hours do not have to consist of core subject matter as directed by the Commission.

The continuing education requirements as discussed herein do not apply to a provisional sales associate.

- **Instructor Requirements**—Real estate instructor applicants will be required to complete and successfully pass, at the rate of 80%, the relevant prelicense course examination that correlates to the type of content for which they are seeking to teach. Prior to this change, all instructor applicants were required to complete and successfully pass, at the rate of 80%, the broker examination regardless of whether they taught the basic or broker prelicense course.
- **Interest Bearing Trust Account**—Since financial institutions do not provide a broker with an accounting record which separates out the amount of interest earned by each party within the broker's trust account, the Commission eliminated that requirement. The broker will however be required to maintain

a complete and accurate record of the interest earned in the account.

- **Licensee Required to Provide an Adequate Written Response**—A licensee will be required to file an adequate written response on a complaint filed from the public within fifteen (15) days notice from the Commission. All licensees named in a complaint must provide an adequate written response. If not, the licensee may be subject to discipline from the Commission.
- **Residential Property Condition Disclosure Form**—Various amendments were made to this form as follows:
  - Instead of a legal form, the form is now 3 standard size pages (8½x11)
  - On each page, the seller must reference the location of the property
  - The Form was formatted into specific sections, i. e. , Zoning, Flood and Water, etc.
  - There are questions which make reference to residue from drug manufacturing; mold; mandatory homeowner's association & required fees, rural fire district & required fees; private utility district & required fees
  - The buyer's and seller's initials must appear at the bottom of pages 1 and 2.



### Who Qualifies to Complete a Residential Property Condition “Disclaimer” Form?

Very few sellers in Oklahoma—There is some confusion regarding which form a seller completes if they have never lived in the property they are selling. Some think that if the seller has never lived in the property they are selling, then the seller can complete a “disclaimer” form—WRONG. There are three conditions that must be met by the seller in order for a seller to complete a disclaimer form in relation to a real estate transaction. They are listed as follows:

- 1) The seller has never occupied the property;
- 2) The seller can make no disclosures concerning the condition of the property, and
- 3) The seller has no actual knowledge of any defect.

Therefore, if a seller has never lived in the property they are selling but has maintained the property for any given time, it is unlikely that any seller can qualify to complete a disclaimer form. If a seller does not meet all of the aforementioned requirements, the seller must complete a Residential Property Condition Disclosure Form. If you have any questions, please contact our office.

## Evidence of Citizenship . . . *continued from page 1*

ments will be mailed with each renewal; however, licensees may wish to visit the Commission's web site at [www.orec.state.ok.us](http://www.orec.state.ok.us) to locate the document that would qualify to verify citizenship or qualified alien status.

**2. License Reinstatements** All license applicants will be required to submit a copy of documentation which verifies citizenship or qualified alien status. If the documentation is not approved, the license can not be reinstated. If the documentation approved is proof of the person being a U.S. citizen, submission of documentation will only be required one (1) time. Persons with qualified alien status will be required to submit proof with each license renewal until citizenship is granted and proof of citizenship is approved. If an examination is required, the applicant can not take the examination until the documentation is approved.

**3. Application for License** All license applicants will be required to submit a copy of documentation which verifies citizenship or qualified alien status. If the documentation is not approved, the applicant can not be approved for a license. If an examination is required, the applicant can not take the examination until the documentation is approved. If the documentation approved is proof of the person being a U.S. citizen, submission of documentation will only be required one (1) time. Persons with qualified alien status will be required to submit proof with each license renewal until citizenship is granted and proof of citizenship is approved.

**4. Approval of New Instructors** All new instructors will be required to send a copy of documentation which verifies citizenship or qualified alien status. If the documentation is not approved, the new instructor can not be approved. If an examination is required, the applicant can not take the examination until the documentation is approved.



## Core Subject Matter . . . *continued from page 1*

**Licensees with expiration dates of May 31, 2005 and before will remain under** the current continuing education requirements throughout their existing license term wherein there is no specifically identified core required subject matter and the continuing education hours are 9 required and 12 elective. **Thereafter, all licensees** will be required to take at least 12 required clock hours, each license term, consisting of the 4 core required subjects as identified by the Commission.

## 2002 Legislation Review

- SB 1369—The Home Inspection Licensing Act has been delayed until July 1, 2003, therefore home inspectors will not be regulated until such date.
- HB 2719—An existing law, the Service Warranty Insurance Act which is under the jurisdiction of the Insurance Department, was amended with an effective date of November 1, 2002, to include entities who provide home warranties on newly-constructed residential dwellings and certain systems therein. Such entity shall register with the Insurance Department on or before March 1 of each odd-numbered year the name and address of each sales representative utilized by the entity and pay a registration fee.

During the legislative session it was discovered that real estate brokers, who handle sales of home warranties, would be subject to the provisions of the new law and be required to register with the Insurance Department. Since the intent of a new law was not to include real estate licensees, language was added to the bill to exempt licensees from the act.

*continued on page 20*



**OKLAHOMA REAL ESTATE COMMISSION**

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

PRESORTED STANDARD  
U. S. POSTAGE  
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PERMIT #432  
OKLAHOMA CITY, OK 731

**IMPORTANT**

**Record of Continuing Education Hours**

**NOTE: If you are a Provisional Sales Associate**, the CE requirement does not apply to you, because you are required to complete a Commission approved 45 clock hour post-licensing course prior to the expiration date of your license.

The continuing education requirement for renewal is 9 clock hours of required subject matter and 12 clock hours of elective subject matter. **The address label above contains information regarding the number of hours we have recorded for you in each category—\*“R” denotes required hours and \*“E” denotes elective hours. The center date reflects the expiration date of your current license term.**

If your license is on an **inactive status**, it is possible that these hours may only be applied toward activation of your license.

\* This label only reflects hours which were posted to your record prior to the label being extracted, which occurred approximately 30 days prior to the current date.

**2002 Legislation Review . . . continued from page 19**

Real estate licensees will be required to continue to comply with Rule 605:10-15-1. Disclosure of beneficial interest or referrals when recommending a home warranty plan wherein the licensee receives compensation or has an interest in the company providing the service.

- HB 2009—An existing law was amended with an effective date of July 1, 2003 to further clarify that real estate licensees shall not:
  - hold themselves out as able to obtain a mortgage loan from a lender for another,
  - accept a mortgage loan application, or submit a mortgage loan application to a lender,
  - accept any deposit for third-party services or any compensation from a borrower, whether such compensation is paid before, upon, or after the closing of the mortgage loan, or
  - negotiate rates or terms with a lender on behalf of a borrower.

As stated, this is not a new law. HB 2009 further clarifies that a licensee would fall under the jurisdiction of the Mortgage Broker Licensure Act which is regulated by Consumer Credit, if any of the above activities are performed by a licensee.

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