

Oklahoma Real Estate Commission

Administrative Rules Report | Executive Order 2020-03

Comprehensive Review of Administrative Rules as of July 31, 2020

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Method Used to Conduct Review: The Commission conducted a thorough review by utilizing a combination of staff and Commissioner input along with two (2) attorneys. In conjunction with Commission staff, both attorneys reviewed each line of our rules. After reviewing the rules, we created a word document and excel spreadsheet which identified and emphasized every rule responsive to this Executive Order. These documents were circulated to staff for comments, input, questions and overall review. After identifying and consolidating every responsive rule, we went through each rule to determine if they met the appropriate criteria for removal or consolidation. The Commission also reviewed all of our statutes to see if there were any opportunities to remove rules which were covered in statutes. The Commission consulted Real Estate Commissions in other jurisdictions to discuss specific requirements under review for removal. Lastly, the Commission consulted professionals in the industry for feedback on specific regulations identified to make sure there were no unintended consequences, as well as to provide those licensed professionals with an opportunity to provide objective feedback.

TOTAL NUMBER OF UNECESSARY, COSTLY, INEFFECTIVE, DUPLICATIVE OR OUTDATE REGULATIONS: 17

Title 605 Oklahoma Real Estate Commission

Chapter 10-Requirements, Standards and Procedures

Subchapter 1- General Provisions

Table with 10 columns: Section, Title, Date Created, Costly, Ineffective, Duplicate, Location Of Duplication, Outdated/Unnecessary, Necessary, Explanation of determined category. Rows include Purpose, Definitions, Appeal of administrative decisions; procedures, and Returned checks - disposition.

Chapter 10-Requirements, Standards and Procedures

Subchapter 3 - Education and Examination Requirements

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-3-1	Pre-license Education Requirements	Prior to 1991	No	No	No		No	Yes	Necessary to codify education requirements for licensure
10-3-2	Application for License	Prior to 1991	No	No	No		Yes, but only 605:10-3-2(c), (d), and (e)	Yes	Provisions C, D, and E can all be removed as outdated. These provisions are no longer valid or necessary with respect to license eligibility.
10-3-3	Proceedings upon application for license	Prior to 1991	No	No	No		No	Yes	Necessary to provide authority/procedure for applicant appeals.
10-3-4	Broker applicant; experience	Prior to 1991	No	No	No		No	Yes	Codifies the requirements for a broker license
10-3-4.1	Broker associate applicant; experience	11-1-17	No	No	No		No	Yes	Codifies the requirements for a broker associate license.
10-3-5	Examinations	Prior to 1991	No	No	No		No	Yes	Codifies the examination requirements and procedures
10-3-6	Continuing Education Requirement	Prior to 1991	No	No	No		No	Yes	Codifies the annual requirements for continued education. Necessary to protect the public and promote responsible practices.
10-3-7	Provisional Sales Associate post-license education requirement	7-1-93	No	No	No		No	Yes	Provides the required education for a provisional sales associate.

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Subchapter 5 – Instructor and Entity Requirements and Standards

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-5-1	Approval of pre-license course	Prior to 1991	Yes - Partially	Yes - Partially	No		Yes - partially	Yes	<p>605:10-5-1(G)(1)(a) can be removed for ineffectiveness & unnecessary cost. This rule mandates instructors to attend a commission directed renewal course, which staff and licensees agree is wasteful, ineffective and costly.</p> <p>605:10-5-1(J) can be removed as outdated. The Commission no longer requires applicants to provide pictures/proof of facility requirements. An increasing amount of pre-license education is completed online.</p>
10-5-1.1	Approval of post-license course	7-11-97	Yes - Partially	Yes - Partially	No		Yes – partially	Yes	<p>605:10-5-1.1(f)(1)(a) can be removed for ineffectiveness and unnecessary cost. This rule mandates instructors to attend a commission directed renewal course, which staff and licensees agree is wasteful, ineffective and costly.</p> <p>605:10-5-1.1(i) can be removed as outdated. The Commission no longer requires applicants to provide pictures/proof of facility requirements.</p>
10-5-2	Approval of continuing education course	Prior to 1991	No	No	No		No	Yes	Necessary to codify the requirements for approval of CE courses submitted by instructors and entities
10-5-3	Standards for Commission approved real estate courses	7-1-93	No	No	No		Yes, but only provision (i).	Yes	Provision (i) can be deleted, as it is no longer up to date. The referenced statute, 59 O.S. 858-301.1 changed in 2019 and is no longer applicable. The remaining text is necessary to provide requirements applied to all approved real estate courses.

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Subchapter 7 – Licensing Procedures and Options

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-7-1.1	Documentation required for compliance necessary to verify citizenship, qualified alien status	7-1-02	No	No	No		No	Yes	Required to clarify citizenship & qualified alien status for eligibility to obtain a license.
10-7-1	License issuance	Prior to 1991	No	No	No		No	Yes	Codifies the requirement that licenses must be issued to a broker in order for an associate to work. This protects the public from inexperienced licensed practice of real estate outside the scope of a brokerage.
10-7-2	License terms and fees; renewals; reinstatements	Prior to 1991	No	No	No		No	Yes	Provision (m) can be removed. This requires staff to prorate specific submissions, which is difficult to calculate and often ineffective to apply consistently. Most jurisdictions and agencies assess fixed fees regardless of the time of submission.
10-7-3	Placement of license on inactive status	Prior to 1991	No	No	No		No	Yes	Codifies the ability to place a license on inactive status. This is necessary for licensees who may need to halt their practice for a variety of reasons.
10-7-4	Request for activation or re-issuance of license	Prior to 1991	No	No	No		No	Yes	Necessary to provide authority for a license to be activated or re-issued.
10-7-5	Name changes	Prior to 1991	No	No	No		No	Yes	Needed to provide authority and procedure for name changes
10-7-6	Certification of license history	Prior to 1991	No	No	No		No	Yes	Necessary to provide authority and procedure for obtaining a certified license history
10-7-7	Branch offices	Prior to 1991	No	No	No		No	Yes	Necessary to codify the ability of a brokerage to open additional offices
10-7-8.3	Sole Proprietor Licensing Procedures	7-1-11	No	No	No		No	Yes	Provides the procedure for licensing a sole proprietor
10-7-8.4	Managing broker, broker proprietor or branch broker's corporation	7-1-12	No	No	No	605:10-11-3	No	Yes	Provides the authority for broker's to form a corporation/entity for the purpose of receiving compensation (generally used for tax purposes).

	formed for the purpose of receiving compensation								Similar but not duplicative of 605:10-11-3, we will look at merging the two rules.
10-7-8	Corporation licensing procedures and requirements of good standing	Prior to 1991	No	No	Yes	605:10-7-8.2	No	Yes	Necessary in order to provide corporations with procedures for licensure & practice. This rule can merge with 10-7-8.2, as they are almost identical.
10-7-8.1	Partnership licensing procedures and requirements of good standing	Prior to 1991	No	No	No		No	Yes	Necessary to provide partnerships with procedures for licensure & practice.
10-7-8.2	Association licensing procedures and requirements of good standing	7-11-97	No	No	Yes	605:10-7-8	No	No	This rule can be consolidated into 10-7-8 as duplicative.
10-7-9	Nonresident licensing	Prior to 1991	No	No	No		No	Yes	Codifies requirements for nonresident licensing.
10-7-10	Resident applicants currently or previously licensed in other jurisdictions	Prior to 1991	No	No	No		No	Yes	Necessary to address resident applicants who obtain licensure in another jurisdiction or seek licensure based on previous licensed status in Oklahoma.

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Subchapter 9 – Broker’s Operational Procedures

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-9-1	Place of business and broker requirements	Prior to 1991	No	No	No		No	Yes	Provides critical requirements for broker requirements as they relate to places of business.
10-9-2	Office identification	Prior to 1991	No	No	No		No	Yes	Specifies the requirements for identifying a real estate office
10-9-3	Trade names	Prior to 1991	No	No	No		No	Yes	Protects the public by requiring registration of trade names used in advertising/practice. This promotes transparency and best practices.
10-9-3.2	Team registration and fees	11-1-17	No	No	No		No	Yes	Codifies team registration procedure and establishes associated fees.

10-9-4	Advertising	Prior to 1991	No	No	No		No	Yes	Necessary to regulate advertising
10-9-5	Broker change of address or office telephone number	Prior to 1991	No	No	No		No	Yes	Necessary to provide authority/procedure for changing address/telephone number, which helps the Commission, licensees and the public obtain accurate information.
10-9-6	Requirements for cessation of real estate activities	Prior to 1991	No	No	No		No	Yes	Necessary to address requirements/procedure in the event of death/disability of a broker.
10-9-7	Requirements for cessation of real estate activities	Prior to 1991	No	No	Yes	605:10-13-1(n)	No	Yes	Required to address requirements of ceasing real estate activities/practices. Can be consolidated into 605:10-13-1, which also addresses cessation of real estate activities.
10-9-8	Branch office closing instructions	7-1-93	No	No	No		No	Yes	Provides the procedure for closing a branch office <i>instead of</i> ceasing all real estate activities/practices

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Subchapter 11 – Associate’s Licensing Procedures

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/Unnecessary	Necessary	Explanation of determined category
10-11-1	Acts of Associates	Prior to 1991	No	No	No		No	Yes	Codifies practice requirements for associates
10-11-2	Associate Licenses	Prior to 1991	No	No	No		No	Yes	Codifies licensing procedures for associates
10-11-3	Associate's corporation or association formed for the purpose of receiving compensation	Prior to 1991	No	No	No	605:10-7-8.4 has similarities, but the text is different and they apply to different license types.	No	Yes	This rule closely resembles the requirements for brokers who choose to form an association/corporation for the purpose of receiving compensation (605:10-7-8.4) However, it is not duplicative because this applies to associates and the requirements are different. However, we will look at potentially merging the two rules.

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Subchapter 13 – Trust Account Procedures

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-13-1	Duty to account; broker	Prior to 1991	No	No	Yes - partially	605:10-9-7	No	Yes	Subsection (n) can absorb 605:10-9-7. Both regulations cover cessation of real estate activities.
10-13-2	Duty to account; associate	Prior to 1991	No	No	No		No	Yes	Provides requirements for proper handling of documents/instruments and money.
10-13-3	Special escrow disbursement	Prior to 1991	No	No	No		No	Yes	Provides for procedure in the event a dispute arises prior to disbursement of money/valuables.

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Subchapter 15 – Disclosures, Brokerage Services and Statute of Frauds

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-15-1	Disclosure of beneficial interest or referrals	Prior to 1991	No	No	No		No	Yes	Codifies requisite disclosures & protects the public
10-15-2	Broker Relationships Act to become effective November 1, 2013	Prior to 1991	No	No	No		Yes	Yes	Subsection (A) may be removed as unnecessary. This rule serves no meaningful function. Subsection (B) may be removed and placed in the defined terms section. The remainder of this rule can be placed in other sections.
10-15-3	Requirements for furnishing psychological factors	7-1-91	No	No	No		No	Yes	Provides important procedure for properties psychologically impacted by factors such as disease (e.g. HIV).
10-15-4	Residential Property Condition Disclosure Act forms	7-1-95	No	No	No		No	Yes	Provides authority to develop and amend disclosure forms for statewide use.

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Subchapter 17– Causes for Investigation; Hearing Process; Prohibited Acts; Discipline

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-17-1	Commissions and disputes	Prior to 1991	No	No	No		No	Yes	Necessary for complaint resolution to protect the public from predatory behavior and to maintain responsible practices across the state.
10-17-2	Complaint procedures	Prior to 1991	No	No	No		No	Yes	Necessary for transparent & consistent complaint resolution/regulatory enforcement.
10-17-3	Complaint hearings; notice and procedures	Prior to 1991	No	No	No		No	Yes	Necessary for conducting disciplinary hearings under the Administrative Procedures Act
10-17-4	Prohibited dealings	Prior to 1991	No	No	No		No	Yes	Codifies prohibited actions/dealings which hurt the public and the real estate industry.
10-17-5	Substantial misrepresentation	Prior to 1991	No	No	No		Yes	Yes	Clarifies what constitutes substantial misrepresentation under the statutory counter-part to this rule. May be removed by adding a defined term to 59 O.S. § 858-312
10-17-6	Requirements for suspended/revoked licensee	Prior to 1991	No	No	No		No	Yes	Codifies requirements in the event a license is suspended or revoked.
10-17-7	Cessation of licensed activities upon loss of license	7-1-95	No	No	No		Yes	No	This rule can be removed and placed into its own subsection of 605:10-17-6.

END OF REPORT