



New Broker Relationships Statute Effective November 1, 2013

The Commission has already begun work on implementing the new law. The Broker Relationship Task Force, Commission staff and counsel will meet over the next few months to develop rules for implementing the law. Development of education content and disclosure forms will follow by rewriting the state examination questions and ultimately the state real estate contracts and addenda. The Commission plans for education sessions to be conducted for real estate instructors and licensees to begin in May, 2013. Following is the law as signed by the Governor on May 15, 2012:

HOUSE BILL 2524

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-351, is amended to read as follows:

Section 858-351. Unless the context clearly indicates otherwise, as used in Sections 858-351 through 858-363 of this title The Oklahoma Real Estate License Code:

1. "Broker" means a real estate broker as defined in Section 858-102 of this title, and means, further, except where the context refers only to a real estate broker, an associated broker associate, sales associate, or provisional sales associate authorized by a real estate broker to provide brokerage services;

2. "Brokerage services" means those services provided by a broker to a consumer in a consumer transaction;

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

3. "Single-party broker" means a broker who has entered into a written brokerage

agreement with a party in a transaction to provide services for the benefit of that party;

4. "Transaction" means any or all of the steps that may occur by or between parties when a party seeks an activity or process to buy, sell, lease, rent, option or exchange real estate and at least one party enters into a broker relationship subject to this title. Such steps activities or processes may include, without limitation, soliciting, advertising, engaging a broker to list a property, showing or viewing a real property, making presenting offers or counteroffers, entering into agreements and closing such agreements; and

5. "Transaction broker" means a broker who provides services by assisting a party in a transaction without being an advocate for the benefit of that party. "Firm" means a sole proprietor, corporation, association or partnership.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-353, is amended to read as follows:

Section 858-353. A. A transaction broker shall have the following duties and responsibilities to a party, which are

continued on 6

Have You Used the Online License Module?

To Renew Your License • To Update Your Personal Contact Information • To View the Status of your Continuing Education

If not, follow these steps to sign on to the system: Go to www.orec.ok.gov and select the "Online Renewal" box, then select "First Time Login". If you are logging in to provide information for a licensed entity (Corporation (CP), Association (AS), Partnership (PR) or Branch Office (BO) you will enter the license number of the entity and the license expiration date of the entity then press "Login".

If you are logging in as an individual license type of Broker Proprietor (BP), Broker Manager (BM), Branch Broker (BO), Broker Associate (BA), Broker Inactive (BR), Sales Associate (SA), Provisional Sales Associate (PS), or Provisional Sales Associate Military (PM) you will enter your license number and enter your last name then press "Login".

Once you press Login it will bring up a screen for you to: enter your email address, reenter your email address, and press Continue.

An email message will be sent to you (at the email address you provided) asking you to click on a link. Upon arriving at the link you will be asked to answer some security questions that are unique to you and create a password. The password must contain 8 characters and numbers and nothing can repeat itself, i.e., 1234fort, wanted85. Upon submitting the information, a screen will come up allowing you to login to the system using your security question answers and password.

Once you are in the online module you will be able to review the status of your recorded education, change your personal contact information, or renew your license. You are encouraged to keep your personal contact information up to date as the Commission will send periodic notices to your current email address (to include a license renewal notice).

There is a fee to renew your license online. The fee is necessary to cover credit card and banking fees and maintenance of the online module platform. The fees range from \$3.50 to \$5.25 based on the cost of your license.

If you have any questions or need assistance in logging into the online license and information module, please contact the Commission.

New Office Location

The Commission is now located at 1915 North Stiles, Suite 200, Denver Davison Building, Oklahoma City, Oklahoma 73105. All other contact information remains the same. The building is a secured state location so you will enter through a security check point and you will be directed to our office location on the second floor.

In this issue:

Chairman's Corner.....	2
Disciplinary Actions	2
Governor Appointments	4
Farewell Commissioner Saunier	4
Retention of Records.....	4
Permanent Rules Effective July 1	4
Square Footage Law Amended	5
Licensee Guidance on Immigration Law	5
Articles of Interest From HUD	6

Chairman's Corner

The Commission's primary purpose is to protect the public and, at the same time, serve the Real Estate Industry and its sales and leasing licensees. Because of this, the Commission frequently finds itself adapting to changing circumstances, and some adaptations are very significant. Over the last few months, the Commission and staff have been busy with regard to the following, significant matters.

The Commission moved from its Shepherd Mall location, where it was located for ten (10) years, to the Denver N. Davison Building at the State Capitol Complex. The new location contains less square footage at a more favorable rental rate than that which was offered by its prior landlord. The Commission's space is more efficient than its prior offices, and has a very nice feel to it. Executive Director Anne Woody and her staff were able to design a very comfortable workplace, with all the modern amenities, a perimeter glass line of windows, and an atmosphere which has resulted in a warmer, more pleasant place for work and meetings, and which at the same time is more professional and functional than the prior office because of updated technology. The Commission is also under a state mandatory contract to acquire an enterprise licensing system, and is in the process of documenting its needs for the vendor to use so that the vendor can create an interactive platform for the Commission -- this will allow all services with the Commission to be performed online. The project is expected to take approximately one year (if all goes well).

Even more significant to each of you than the foregoing is the most significant modification to the Oklahoma Real Estate License Code in recent years. Oklahoma's House Bill 2524 will take effect November 1, 2013, and, in summary and at the risk of over-simplification, it eliminates the brokerage relationship classifications, and mandates near-uniform behavior from all licensees. Oklahoma's existing Brokerage Relationship Act was enacted in 2000 and, in essence, replaced common law agency principles by eliminating agency, sub-agency and disclosed dual-agency, and creating two (2) types of brokerage relationships, i.e., that of a single-party broker who performs brokerage activities, and advocates, for the benefit of one (1) party, and a transaction broker, who may assist multiple parties, but may not advocate for any one (1) party. The new law will require licensees to comply with a set of mandatory duties which will apply to all licensees, regardless of whether they are working with one or both, or more, parties to a transaction. The new law modifies Oklahoma's current Brokerage Relationship Act, above, with regard to alternate relationships, and will require that any licensee providing services to one or more parties to a transaction will be required to disclose in writing the broker's statutory duties and responsibilities prior to execution of any contracts.

House Bill 2524 will present many opportunities to interpret a new law intended to simplify the existing law, and for which there is very little precedent upon which licensees will be able to rely on in making decisions on how to proceed under various circumstances. In this regard, the Commission will do that which it does so well, i.e., develop and promulgate rules and regulations to interpret the law enacted as House Bill 2524 so that fair and reasonable outcomes can be expected by both licensees and consumers. Further, the Commission will develop education content which will be delivered and/or available to you beginning May, 2013.

It has been a pleasure serving as the Commission's Chairman this past year, and I thank my fellow Commissioners for giving me the opportunity to so serve. I also want to thank our outgoing commissioner Randy Saunier of McAlester who served on the Commission for seven (7) years and welcome our new commissioner, Mike Craddock of Tulsa, to his new four (4) year term. Lastly, I want to give a big shout-out to Anne and the entire staff for making things run without a hitch (usually)!



Steve Sherman
Chairman

BY ORDER OF THE COMMISSION

DISCIPLINARY ACTIONS AS OF MAY 2012

NOVEMBER (2011)

C-2009-064: James D. McQuain (SA)— Lawton

James D. McQuain in violation of:

Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-2 (B), in that he failed to submit a written response to the complaint within fifteen (15) days of the Notice of Complaint, and

Title 59 O.S. §858-312, Subsection 15, in that he entered a plea of Guilty in misdemeanor cases in the District Court of Comanche County, Oklahoma.

The Commission ordered that the Oklahoma real estate sales associate license of James D. McQuain be revoked, with an effective date of 12-2011.

C-2009-076: Paradigm Advantedge LLC, J.D. Hadley (BM) and Nancy Ann Jackson (SA)— Edmond

Nancy Jackson in violation of:

Title 59 O.S. §858-354 and Title 59 O.S. §858-312, Subsection 3, in that she failed to treat the seller with honesty, failed to keep him informed regarding the transaction and failed to respond to his written communication.

continued on page 3

The Oklahoma Real Estate Commission Comment

Official Publication of the
Oklahoma Real Estate Commission
Denver N. Davison Building
1915 North Stiles Ave., Suite 200
Oklahoma City, Okla. 73105-4919
(405) 521-3387
www.orec.ok.gov

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Address all communications to the
Commission Office

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

DISCIPLINARY ACTION *continued from page 2*

Paradigm Advantedge LLC and J.D. Hadley in violation of:

Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(6), in that they failed to properly supervise the activities of Nancy Jackson.

The Commission ordered that Respondent Nancy Jackson be formally reprimanded and pay an administrative fine of \$1,000.00, and that Respondents Paradigm Advantedge LLC and J.D. Hadley be formally reprimanded and pay an administrative fine of \$500.00 each.

U-2009-024: Stellar Consulting & Management LLC (Unlicensed) and Amy Davis (Unlicensed)—Oklahoma City

Respondents in violation of:

Title 59 O.S. §858-301, in that they engaged in licensable real estate activities while unlicensed.

The Commission ordered that Respondents Stellar Consulting & Management LLC and Amy Davis pay an administrative fine in the amount of \$3,000.00. This matter was forwarded to the Oklahoma Assistant Attorney General's Office for collection.

C-2004-071: Prestigious Properties Incorporated and Bahman Safary (BM)—Tulsa

Respondents in violation of:

Title 59 O.S. §858-312, Subsections 2, 8 and 9, in that Respondents failed to provide a copy of the Report of Structural Inspection to the complainant until after closing; and

Title 59 O.S. §858-312, Subsections 2, 8 and 9 and Rule 605:10-17-4(12), in that Respondents failed to inform the complainant the Report of Structural Inspection indicated structural deficiencies in the property.

The Commission ordered that respondents Prestigious Properties Incorporated and Bahman Safary pay an administrative fine of \$1,000.00.

C-2009-090: ABW Edmond Incorporated, Susan Kessler Miller (BM) and Melanie D. Berry (SA)—Edmond

Melanie D. Berry in violation of:

Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-15-1(a), in that she failed to disclose to the complainants in writing her beneficial interest in Rystin Homes Incorporated; and

Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4 (12), in that she failed to provide the complainants a

written estimate of expected closing costs based upon the documented sales price of the property being constructed by Rystin Homes Incorporated

The Commission ordered that the case be dismissed against Respondents ABW Edmond Incorporated and Susan Kessler Miller, and that Respondent Melanie D. Berry pay an administrative fine of \$500.00. Melanie Berry's license was revoked in December 2011 for non-payment of fine.

UC-2010-003: Express Rents Realty (Unlicensed), Leroy B. Elrod (BP) and Todd E. Elrod (SA)—Tulsa (Kisner)

Leroy Elrod in violation of:

Title 59 O.S. §858-312, Subsections 9 and 20 and Rules 605:10-4-1 and 605:10-4-3, in that he failed to indicate on the Craigslist ads during 2009 and 2010 that he was a real estate licensee, and failed to reference his trade name or the name under which he is licensed;

Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-9-3, in that he failed to register the trade name "Express Rents Realty" with the Oklahoma Real Estate Commission; and

Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-5(c), in that he failed to notify the Commission of a change in his residential address.

Todd E. Elrod in violation of:

Title 59 O.S. §858-301, in that he engaged in licensable real estate activities during the time when his Oklahoma real estate license was on inactive status.

The Commission ordered that Respondent Leroy Elrod pay an administrative fine of \$750.00, and that Respondent Todd Elrod pay an administrative fine of \$500.00. It was further ordered that the respondents successfully complete 6 hours of continuing education on the topic of advertising, in addition to the continuing education required by law.

FEBRUARY 2012

C-2009-079: Gary S. Witty (B)—Tulsa

Gary S. Witty in violation of:

Title 59 O.S. §858-301 and Title 59 O.S. §858-312, Subsection 9, in that Respondent Gary S. Witty, performed licensed activities without an active real estate license, solicited prospective tenants/caretakers and advertised and held himself out as engaged in that activity.

The Commission ordered that Respondent Witty pay an administrative fine

of \$3,000.00 and Mr. Witty agreed to active his broker license, open a trust account and register such with the Commission; Mr. Witty licensed Camelot Realty, Inc. dba Castle Keepers of Tulsa for which he is the broker.

C-2011-063: Jeff W. Rabon (BP)—Lawton

Jeff Rabon consented to:

Title 59 O.S. §858-312, Subsections 9 and 15 and Rule 605:10-17-2 (b), in that he failed to provide a written response within fifteen (15) days of receipt of the complaint notice, and that he pleaded nolo contendere to a misdemeanor charge of Driving Under the Influence in Choctaw County, Oklahoma.

Respondent Rabon consented to the payment of an administrative fine of \$500.00.

MARCH 2012

C-2011-040: Alan D. Brock (BP)—Grapevine, TX

Alan Brock consented to:

Title 59 O.S. §858-312, Subsections 8, 9 and 15, in that he has received two convictions for Driving While Intoxicated (DWI) in the State of Texas.

Respondent Brock consented to the payment of an administrative \$2,000.00, the placing of his broker proprietor license on probation until May 23, 2012, and not transporting any person in a vehicle under his operation during the course of his activities as a real estate broker.

MAY 2012

C-2011-044: Glenn P. Christiansen (BA)—Lawton

Glenn Christiansen consented to:

Title 59 O.S. §858-312, Subsections 9 and 15, in that he entered a plea of Nolo Contendere to a misdemeanor assault charge in the Municipal Court of Lawton, Oklahoma.

Respondent Christiansen consented to the payment of an administrative fine of \$250.00.

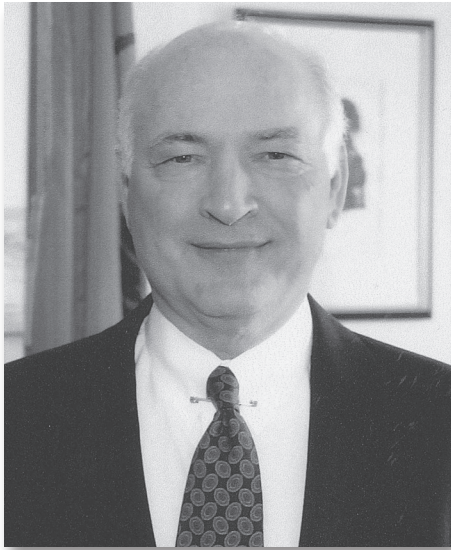
C-2012-007: Daniel Brady Coleman (B)—Oklahoma City

Daniel Coleman consented to:

Title 59 O.S. §858-312, in that he pled Guilty to Driving a Motor Vehicle While Under the Influence of Alcohol in Cleveland County, Oklahoma.

Respondent Coleman consented to the payment of an administrative fine of \$500.00.

Governor Appoints Commissioners



John Mosley



Mike Craddock

Governor Mary Fallin reappointed John Mosley, broker member of Chickasha to serve another term until June 30, 2016. Mr. Mosley is owner/broker of Mosley Real Estate, Inc. and specializes in both commercial and residential transactions. Mr. Mosley has held a license since 1963. He also is owner of Mosley Insurance Company out of Chickasha and has served on numerous boards and commissions in his community in the past to include President of the Chamber of Commerce, City Council, President of Oklahoma Consumer Finance Authority and President of Century 21 Oklahoma City Broker Council. Mr. Mosley is a member of the Rotary Club and current Chairman of the Grady County Industrial Authority.

Governor Fallin also appointed Mike Craddock, broker member of Tulsa to serve until June 30, 2016. Mr. Craddock replaces Randy Saunier of McAlester. Mr. Craddock is licensed in numerous surrounding states and is licensed under First Commercial Real Estate Services Corporation. Mr. Craddock specializes in hotel and motel sales, portfolio sales and land development sales, to include tax deferred transactions. Mr. Craddock worked two years with the Federal Deposit Insurance Corporation. He is a past recipient of the Most Unique Deal of the Year Award from HMBA and he served as the 2009 President of the Oklahoma Association of Realtors. He was also awarded the 2005 Commercial Realtor of the Year by the Greater Tulsa Association of Realtors.

Farewell to Fellow Commissioner Saunier

The Commission bids farewell to fellow Commissioner Randall "Randy" Saunier, owner and broker of First Realty Better Homes & Gardens, Inc. in McAlester.

Randy served on the Commission from July 1, 2005 to June 30, 2012. He served as Chairman of the Commission fiscal year 2008. Randy is the son of Robert "Bob" Saunier who served on the Commission from 1985 to 1998. Randy has brought much candor, wisdom, and humor to the Commission and he will be greatly missed by fellow Commissioners and Commission staff. Congratulations Randy on a job well done.

Retention of Transaction Records – Emails, Text, etc.

More and more communications pertaining to real estate transactions are occurring by way of email, text, etc. Brokers are advised that these types of communications may need to be retained in the transaction's file. For example, should the licensee need to prove that they did in fact inform a consumer about a required disclosure or discuss with the party a negotiable item in the contract, these types of communications should be retained in the file.

Recently, the Commission heard a case wherein the licensee was unable to produce an email that would have cleared the licensee of wrongdoing. On the opposite side of the case, the cooperating broker and the party had copies of all emails pertaining to the transaction, but not the one allegedly sent by the licensee.

Permanent Rules Effective July 1, 2012

Effective July 1, 2012, the following permanent rules became effective. The underlined language is new language and crossed-out language is being deleted. The asterisks indicate that existing language exists; however, such was not amended. The License Code and Rules booklet has been updated on the website. If you have questions regarding these rules, please contact the Commission.

CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

SUBCHAPTER 1. GENERAL PROVISIONS

605:10-1-2. Definitions

When used in this Chapter, masculine words shall include the feminine and neuter, and the singular includes the plural. The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Advertising" means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication, to include social networking, to consumers for any purpose related to licensed real estate activity.

"Previously licensed applicant" means a person who has been licensed in another state and ~~is desiring~~ desires to obtain a resident license in this state.

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

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

continued on page 8

Real Estate License Code Amended

HOUSE BILL 2200—Square Footage Effective November 1, 2012

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-515.1, is amended to read as follows:

Section 858-515.1 A. In connection with any real estate transaction, the size or area, in square footage or otherwise, of the subject property shall not be required to be provided by any real estate licensee, and if provided, shall not be considered any warranty or guarantee of the size or area information, in square footage or otherwise, of the subject property.

B. 1. If a real estate licensee provides any party to a real estate transaction with third-party information concerning the size or area, in square footage or otherwise, of the subject property involved in the transaction, the licensee shall identify the source of the information.

2. For the purposes of this subsection, “third-party information” means:

- a. an appraisal or any measurement information prepared by a licensed appraiser,
- b. a survey or developer’s plan prepared by a licensed surveyor,
- c. a tax assessor’s public record, ~~or~~
- d. a builder’s plan used to construct or market the property, or
- e. a plan, drawing or stated square footage provided by the owner or agent of the owner, as it relates to commercial buildings or structures for sale or for lease only. Commercial land shall be verified by one of the methods provided for in subparagraphs a through d of this paragraph.

C. A real estate licensee has no duty to the seller or purchaser of real property to

conduct an independent investigation of the size or area, in square footage or otherwise, of a subject property, or to independently verify the accuracy of any third-party information as such term is defined in paragraph 2 of subsection B of this section.

D. A real estate licensee who has complied with the requirements of this section, as applicable, shall have no further duties to the seller or purchaser of real property regarding disclosed or undisclosed property size or area information, and shall not be subject to liability to any party for any damages sustained with regard to any conflicting measurements or opinions of size or area, including exemplary or punitive damages.

SECTION 2. This act shall become effective November 1, 2012.

The Licensee’s Guide to Oklahoma Immigration Laws

Geoffrey D. Long, Assistant Attorney General

The Real Estate Commission received a question late in 2011 regarding the immigration law that was passed by the Oklahoma Legislature in 2007. The question and answer to the question is as follows:

At the current time, is a real estate licensee required to validate whether an illegal alien is a United States citizen prior to the licensee assisting such person (alien) with a sale or lease of Oklahoma property?

Oklahoma law prohibits any person from concealing, harboring, or sheltering from detection any illegal alien in any place, including any building, if they actually know or recklessly disregard the fact that the alien has come to, entered, or remained in the United States in violation of the law. See 21 O.S. § 446. The question is whether selling or leasing property in Oklahoma [to a consumer who might be an illegal alien] constitutes concealing, harboring, or sheltering from detection. Initially, we should note that Oklahoma law does NOT place an affirmative duty on real estate licensees to determine whether a person is in this country legally prior to assisting them in a transaction.

Next, it is important to consider that this is a criminal statute enforced by the elected District Attorney. This statute has not been challenged in Oklahoma and therefore, there are no Oklahoma court decisions interpreting

the law. We cannot be certain of how each District Attorney will interpret this statute. Each case will depend on its individual facts.

Based on the language of the statute we have a rough idea of how it might be interpreted. The statute can only apply to a real estate licensee when the licensee either (1) has actual knowledge the person is an illegal alien, or (2) is in reckless disregard of the fact that the person is an illegal alien. This raises the question of what is meant by “reckless disregard.” For guidance, federal courts have interpreted this to mean “deliberate indifference to facts which, if considered and weighed in a reasonable manner, indicates the highest probability that the alleged aliens were in fact aliens and were in the United States unlawfully.” In other words, one cannot claim a lack of knowledge by ignoring obvious signs that indicated a person is an illegal alien.

The next question is whether selling or leasing property to an alien is concealing, harboring, or sheltering from detection. Once again, federal courts have interpreted these terms. “Harbor” has been defined as “tending substantially to facilitate an alien’s remaining in the United States illegally and to prevent government authorities from detecting his unlawful presence.” “Shelter” is defined as “something that covers or affords protection.”

Generally, “conceal” means “to hide” or “to keep secret.” Finally, “substantially facilitate” is interpreted to mean “to make an alien’s illegal presence in the United States substantially ‘easier or less difficult.’”

These definitions imply a level of secrecy that does not exist with a typical sale or lease of property. The idea of these terms is to perform acts that prevent government authorities from detecting an illegal alien’s unlawful presence. Simply selling or leasing property to an alien likely does not fit within those terms. If, on the other hand, the licensee knows the person is an alien and assists that person with the intent of hiding or sheltering him from detection, a violation of the law could occur.

As a disclaimer, this should not be taken as legal advice. It is merely guidance. Ultimately, it is up to the District Attorney to determine, on a case-by-case basis, whether a licensee has the required intent to commit a crime. Because of the nature of the law it is impossible to provide a blanket statement that would apply in every situation, and if you have specific questions you should seek the guidance of an attorney. However, as a final point I will reiterate that the law does not require a licensee to take affirmative steps to confirm if a person is legally in the United States.

Articles of Interest from the HUD.gov Website

Fannie Mae Mandates Online REO Offers

U.S. Government sponsored enterprise Fannie Mae announced in early February that all offers to purchase its foreclosed (real estate-owned or REO) properties must be made online through its expanded HomePath® Online Offer system. Homepath.com is Fannie Mae's online portal for, among other things, the marketing and disposition of properties it acquires through foreclosure, a deed in lieu of foreclosure or forfeiture. Fannie Mae depends on the expertise of state licensed real estate professionals and accepts offers only through approved listing brokers. Buyers can make an offer directly through the approved listing broker or choose to work with another licensee, who must register to access the system. The online registration process begins with filling out an online offer form and uploading required documents such as a state-specific contract and disclosures, a Fannie Mae Purchase Addendum and an Owner Occupant Certification (if applicable). Once registered, a selling agent making an offer for a potential buyer will use the system to submit the offer, receive receipt confirmation and track the status of the offer. Registering as a selling agent on behalf of a potential buyer is not the same as obtaining approval to list Fannie Mae properties for sale, which involves a separate application and selection process. More Information is available at www.homepath.com.

HUD Issues New LGBT Fair Housing Rules

The U.S. Department of Housing and Urban Development (HUD) has issued new rules that advance its ongoing efforts to prevent housing discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals and families. The final rules generally track HUD's January

2011 rule proposal, which recited evidence suggesting that LGBT families are being arbitrarily excluded from housing opportunities in the private sector.

According to HUD's announcement, and a blog post authored by Secretary Shaun Donovan, the new rules will open access to housing for LGBT individuals and families in four principal ways. First, the rules contain an equal access provision clarifying that housing financed or insured by HUD [FHA] must be made available without regard to actual or perceived sexual orientation, gender identity or marital status. This aspect of the rules applies whether or not the property is renter- or owner-occupied. Second, the rules prohibit owners and operators of HUD-funded housing, or housing whose financing is insured by HUD, from asking about sexual orientation or gender identity, or denying housing on that basis. Third, the new rules clarify that the term "family" includes LGBT individuals and couples as eligible beneficiaries of HUD's public housing and voucher programs. Thus, otherwise eligible families may not be excluded because one or more members of the family may be an LGBT individual, have an LGBT relationship or be perceived to be such an individual or in such relationship. Finally, according to Secretary Donovan, "The rule makes clear that sexual orientation and gender identity should not and cannot be part of any lending decision when it comes to getting an FHA-insured mortgage. Particularly with the FHA playing an elevated role in the housing market today, this represents a critical step in ensuring that LGBT Americans have fair access to the dream of responsible, sustainable homeownership." The new rules were published in the U.S. Federal Register on February 3rd and will take effect on March 5, 2012.

FHFA Launches "REO-to-Rental" Pilot Program

The U.S. Federal Housing Finance Agency (FHFA) has launched a pilot program that will make pools of federally-controlled foreclosed (REO) properties (in hardest-hit metropolitan areas) available to investors, who will be required to rent them out for a specified term of years. The pilot program will initially focus on Fannie Mae's REO inventory and will later be adjusted and expanded, if it is successful. The FHFA first announced the initiative last August through a request for information that sought input on how to address Real-Estate Owned ((REO) inventories subject to its oversight. Under the REO-to-Rental initiative, qualified purchasers will be required to rent the properties for a specified number of years, depending on the transaction, as a means of supporting local housing markets that are depressed by high volumes of foreclosures. The purpose of the pilot phase will be to examine program issues such as investor interest, operating and financial structures that improve both investor returns and home values; and the qualification process. During the pilot phase, Fannie Mae will focus on the areas hardest hit by the housing downturn and offer pools of various types of assets including rental properties, vacant properties and non-performing loans. A pre-qualification process has been commenced, through which investors can receive detailed information about offered transactions. Although the initial phase of the pilot program will focus on pooled and joint venture transactions, the FHFA is also looking at ways to improve REO sales to homeowners and small investors as another way to enhance existing retail sales strategies at Fannie Mae and Freddie Mac. More Information is available through Federal Housing Finance Agency's website under REO Asset Disposition.

NEW BROKER RELATIONSHIP STATUTE

continued from page 1

mandatory and may not be abrogated or waived by a ~~transaction~~ broker:

1. ~~To treat~~ Treat all parties with honesty and exercise reasonable skill and care;
2. ~~To be available to~~ Unless specifically waived in writing by a party to the transaction:
 - a. receive all written offers and counteroffers,
 - b. reduce offers or counteroffers to a written form upon request of any party to a transaction, and
 - c. present timely ~~such~~ all written offers and counteroffers;

3. ~~To inform~~ Inform in writing the party for whom the broker is providing brokerage services when an offer is made that the party will be expected to pay certain closing costs, brokerage service costs and approximate amount of ~~said~~ the costs;

4. Keep the party for whom the broker is providing brokerage services informed regarding the transaction;

~~To account~~ timely 5. Timely account for all money and property received by the broker;

5. ~~To keep~~ 6. Keep confidential information received from a party or prospective party confidential ~~as required by~~

Section 858-357 of this title. The confidential information shall not be disclosed by a broker without the consent of the party disclosing the information unless consent to the disclosure is granted in writing by the party or prospective party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the broker. The following information shall be considered confidential and shall be the only information considered confidential in a transaction:

continued on page 7

NEW BROKER RELATIONSHIP STATUTE

continued from page 6

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

~~6. To disclose~~ 7. Disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and

~~7. To comply~~ 8. Comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

~~B. Except as provided in Section 858-358 of this title, such duties and responsibilities set forth in this section shall be performed by a transaction broker if such duties and responsibilities relate to the steps of the transaction which occur while there is a broker relationship.~~

~~C. Nothing in this section requires or prohibits a transaction broker from charging a separate fee or other compensation for each duty or other services provided during a transaction.~~

~~D. If a transaction broker intends to perform fewer services than those required to complete a transaction, written disclosure shall be provided to the party for whom the broker is providing services. Such disclosure shall include a description of those steps in the transaction for which the broker will not perform services, and also state that a broker assisting the other party in the transaction is not required to provide assistance with these steps in any manner. When working with both parties to a transaction, the duties and responsibilities set forth in this section shall remain in place for both parties.~~

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-355.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. All brokerage agreements shall incorporate as material terms the duties and responsibilities set forth in Section 858-353 of The Oklahoma Real Estate License Code.

B. A broker may provide brokerage services to one or both parties in a transaction.

C. A broker who is providing brokerage services to one or both parties shall describe

and disclose in writing the broker's duties and responsibilities set forth in Section 858-353 of The Oklahoma Real Estate License Code prior to the party or parties signing a contract to sell, purchase, lease, option, or exchange real estate.

D. A firm that provides brokerage services to both parties in a transaction shall provide written notice to both parties that the broker is providing brokerage services to both parties to a transaction prior to the parties signing a contract to purchase, lease, option or exchange real estate.

E. If a broker intends to provide fewer brokerage services than those required to complete a transaction, the broker shall provide written disclosure to the party for whom the broker is providing brokerage services. Such disclosure shall include a description of those steps in the transaction for which the broker will not provide brokerage services, and also state that the broker assisting the other party in the transaction is not required to provide assistance with these steps in any manner.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 858-356, is amended to read as follows:

Section 858-356. A. Prior to the signing by a party of a contract to purchase, lease, option or exchange real estate, a broker who is performing services as a transaction broker without a written brokerage agreement shall describe and disclose in writing the broker's role to the party.

B. Prior to entering into a written brokerage agreement as either a transaction broker or single-party broker, the broker shall describe and disclose in writing the broker's relationship to the party.

C. A transaction broker shall disclose to the party for whom the transaction broker is providing services that the party is not vicariously liable for the acts or omissions of the transaction broker.

D. A single-party broker shall disclose to the party for whom the single-party broker is providing services that the party may be vicariously liable for the acts or omissions of a single-party broker.

E. The written disclosures as required by this section and the consent required by ~~Section 5 subsection C of Section 3~~ of this act must shall be confirmed by each party in writing in a separate provision, incorporated in or attached to the contract to purchase, lease, option, or exchange real estate. In those cases where a broker is involved in a transaction but does not prepare the contract to purchase, lease, option, or exchange real estate, compliance with the disclosure requirements must shall be documented by the broker.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 858-359, is amended to read as follows:

Section 858-359. A. The payment or promise of payment or compensation by a party to a broker does not determine what relationship, if any, has been established between the broker and a party to a transaction.

B. In the event a broker receives a fee or compensation from any party to the transaction based on a selling price or lease cost of a transaction, such receipt does not constitute a breach of duty or obligation to any party to the transaction.

C. Nothing in this section requires a broker to charge, or prohibits a broker from charging, a separate fee or other compensation for each duty or other brokerage services provided during a transaction.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 858-360, is amended to read as follows:

Section 858-360. A. The duties and responsibilities of a broker specified in Sections ~~† 858-351~~ through ~~† 858-363~~ of this act The Oklahoma Real Estate License Code shall replace and abrogate the fiduciary or other duties of a broker to a party based on common law principles of agency. The remedies at law and equity supplement the provisions of Sections ~~† 858-351~~ through ~~† 858-363~~ of this act The Oklahoma Real Estate License Code.

B. A broker may cooperate with other brokers in a transaction. Pursuant to Sections ~~858-351 through 858-363~~ of The Oklahoma Real Estate License Code, a broker shall not be an agent, subagent, or dual agent and an offer of subagency shall not be made to other brokers.

C. Nothing in this act shall prohibit a broker from entering into an agreement for brokerage services not enumerated herein so long as the agreement is in compliance with this act, the Oklahoma Real Estate Code and the Oklahoma Real Estate Commission Administration Rules.

SECTION 7. AMENDATORY 59 O.S. 2011, Section 858-362, is amended to read as follows:

Section 858-362. A party to a real estate transaction shall not be vicariously liable for the acts or omissions of a real estate licensee who is providing brokerage services ~~as a transaction broker~~ under Sections ~~† 858-351~~ through ~~† 858-363~~ of this act The Oklahoma Real Estate License Code.

continued on page 8

NEW BROKER RELATIONSHIP STATUTE

continued from page 7

SECTION 8. AMENDATORY 59 O.S. 2011, Section 858-363, is amended to read as follows:

Section 858-363. Each broker associate, sales associate, and provisional sales associate shall be associated with a real estate broker. Associates shall not enter into a brokerage agreement with a party

in the associate's name and shall only be allowed to enter into the agreement in the name of the broker. A real estate broker may authorize associates to provide brokerage services in the name of the real estate broker as permitted under The Oklahoma Real Estate License Code, which may include the execution of written agreements; ~~however,~~

~~such associates shall not refer to themselves as a broker.~~

SECTION 9. REPEALER 59 O.S. 2011, Sections 858-352, 858-354, 858-355 and 858-357, are hereby repealed.

SECTION 10. This act shall become effective November 1, 2013.

PERMANENT RULES

continued from page 4

605:10-1-3. Appeal of administrative decisions; procedures

(a) Unless specifically provided for elsewhere in this Chapter, any adverse administrative action or decision rendered by the Commission, or its staff on behalf of the Commission, or a third party contract vendor, may be appealed by the adversely affected party filing within thirty (30) days of notice of such action or decision, a written request for a hearing.

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-5. Examinations

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

- (1) immediately forfeit the examination.
- (2) be given a failing score.
- (3) be disqualified from retaking the examination for one year, and
- (4) be allowed to file an appeal with the Commission under Rule 605:10-1-3.

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

(a) **Purpose.** The purpose of the provisional sales associate postlicense post-license education requirement is to provide an educational program through which real estate provisional sales associate licensees can become more competent, knowledgeable and perfect their ability to engage in real estate activities for which they are licensed. Such activities involve facts and concepts ~~about~~ which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.

(b) **Goals.** The goals of the provisional sales associate postlicense post-license education requirements are:

- (1) To provide newly licensed individuals with the opportunity to obtain current information and

knowledge to enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.

(2) To assure that licensees are provided with relevant information pertaining to practices which directly relate to real estate business.

(3) To assure that the provisional sales associate is provided with information regarding new and/or changing laws and regulations which affect the real estate business.

(4) To assure that the consumers interest is protected from unknowledgeable licensees.

(c) **Objectives.** The objectives of postlicensing post-license education are to:

(1) Assist newly licensed individuals by having available a practical educational program wherein the information attained can be put into practice.

(2) To help licensees expand and enhance their knowledge and expertise so as to continually be effective, competent, and ethical as they practice real estate.

(3) To encourage licensees to gain additional education for specialization in particular areas of real estate.

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

- (1) Real Estate Marketplace
- (2) Marketing Real Estate
- (3) Personal Marketing
- (4) The Qualifying Process
- (5) Prospecting and Negotiating
- (6) Financing Real Estate, Investments and Exchanges
- (7) Financial Documents
- (8) Duty to Account
- (9) Title Search

(10) Risk Management

(11) Broker Relationships ~~With~~ with Parties to a Transaction

(12) Property Management

(13) Laws and Regulations Affecting Real Estate Practice

(14) Disciplinary Action.

(15) Contracts.

(e) **Equivalent course content.** The Commission may approve and/or accept any offering or combination of offerings which consists of forty-five (45) clock hours or more or its equivalent as determined by the Commission provided by an entity which meets the purposes, goals and objectives of the provisional sales associate postlicense post-license education requirement.

(f) **Offerings.**

(1) The Commission may accept the following offerings as proof of meeting the postlicense post-license education requirement:

(A) Any offering which is approved and presented by those entities enumerated in Title 59, O.S., subsection B, of 858-307.2 of the "Code."

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

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

(2) The Commission has the authority to disapprove any offering which fails to meet the purposes, goals and objectives of this Section.

(g) **Licensee responsible for notification to Commission.** Each provisional sales associate shall be responsible to furnish evidence to the Commission of having successfully completed a Commission approved forty-five (45) clock hour postlicense post-license education course or its equivalent as determined by the

continued on page 9

PERMANENT RULES *continued from page 8*

Commission. Upon successful completion of the postlicense post-license education requirement, evidence must be submitted on or before license expiration and on a form approved by the Commission.

(h) **Failure to complete postlicense post-license education requirement prior to license expiration.** A provisional sales associate who fails to complete the postlicense post-license education requirement prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license.

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

- (1) A certificate, and/or documents, statements and forms, as may reasonably be required by the Commission, or
- (2) A certified transcript; provided, however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

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

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

(l) **Course limitations.** The following course limitations shall apply:

- (1) A provisional sales associate shall only be given credit for courses specifically approved by the Commission.
- (2) Educational courses taken for disciplinary reasons ~~shall do~~ not count towards the normal postlicense post-license education requirement.

(m) **Extension of time for completion of postlicense post-license course for provisional sales associate who that has received orders for active military service.** A provisional sales associate ~~who that~~ has received orders for active military service may request an extension of time to complete the postlicense post-license education requirement if the request is received in writing prior to the expiration of the license. The request must be accompanied by a copy of the military orders for active military service. The extension of time shall be one (1) year from the date of return from active military service. In conformance with §858-309, a licensee on

active military service shall request an inactive status prior to each term for which the license is to be issued. If an extension is approved, a provisional sales associate shall be allowed to renew their license by requesting an inactive status in writing prior to each term for which the license is to be issued.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

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

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. ~~No Further,~~ no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. ~~Such although such~~ person or entity may indicate that a course of study has been approved by the Commission.

(g) **Instructor renewal requirements.**

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

(A) Attend a Commission directed Instructor Renewal Course every eighteen (18) months or successfully complete nationally recognized teacher modules consisting of at least 3 clock hours of credit as approved by the Commission.

(B) Complete one of the following:

- (i) Furnish evidence that the instructor has taught a Commission approved prelicense pre-license course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period;
- (ii) Successfully pass the applicable sales or broker examination with a score of 80% or more; or
- (iii) Furnish evidence to the Commission that the instructor has audited an in-class prelicense pre-license course, in its entirety, that must be validated by the school instructor or director.

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

605:10-5-1.1 Approval of postlicense post-license course offerings

(a) **Course approval.** In accordance with Section 858-302 of the License Code, the Commission shall determine and approve the education content of the forty-five (45) clock hour postlicense post-license course content or its equivalent. Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-7 and divided by instructional periods, with the name, author and publisher of the primary textbook.

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. ~~No Further,~~ no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. ~~Such although such~~ person or entity may indicate that a course of study has been approved by the Commission.

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

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

(2) **Retention of records.** An instructor/entity shall maintain a record of enrollment records and roll sheets which include number of hours attempted by each student for a period of seven (7) years.

(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate prescribed or approved by the Commission certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.

(4) **Course notification to Commission.** An entity conducting an approved post-license education offering shall, within five (5) days of the completion thereof, successfully submit to the Commission the list of name(s),

continued on page 10

PERMANENT RULES *continued from page 9*

license number(s) and other personal identifiers of those licensees who have successfully completed said offering. The information shall be submitted to the Commission by way of electronic format as required by the Commission, along with other information which may reasonably be required.

~~(4)~~(5) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

~~(5)~~(6) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.

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

605:10-5-2. Approval of continuing education offerings

(a) **Approval and expiration of application.** An entity seeking to conduct an approved continuing education offering shall make application for the approval or renewal of each offering. Such approval or renewal shall expire at the end of the twenty-fourth (24) month including the month of issuance.

(b) **Application form.** Each application by a sponsoring entity for approval of an offering or group of offerings not exceeding thirty-six (36) hours covered by the same application must be accompanied by a non-refundable Seventy Dollar (\$70.00) application fee. Such application shall be made on a form prescribed by the Commission. The application shall include, but not limited to, the following information:

(1) The name(s), address(es), and telephone number(s) of the sponsoring entity, the owner(s), and the coordinator/director responsible for the quality of the offering.

(2) The title(s) of the course offering or offerings.

(3) The number of hours in each course offering.

~~(4) The tuition/registration fee and cancellation/refund policy.~~

~~(5)~~(4) A copy of each offering's curriculum, or revised curriculum with revisions noted, including comprehensive course objectives, a legible detailed outline of the course subject matter and instructor(s) for each segment.

~~(6)~~(5) The method of evaluation of the course offering which will be used by the entity.

~~(7)~~(6) The procedure for monitoring attendance.

~~(8)~~(7) A personal resume indicating name(s) and qualifications of the instructor(s).

~~(9) The number of years the entity has been offering real estate related education.~~

~~(10)~~(8) Any other relevant information useful in determining that the entity is presenting an offering which will meet the definition, purposes, goals and objectives adopted by the Commission.

~~(11)~~(9) A statement attesting to the fact that in accepting approval as a continuing education offering entity, the entity will protect and promote the purposes, goals and objectives of continuing education as stated in the License Code and Rules.

(f) **Advertising of course offering.** An entity advertising an offering as being approved for continuing education credit shall state in such advertisement, "Approved by the Commission for (correct number) hours of continuing education credit." No entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. Further, no entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission.

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

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

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

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

(f) **Reinstatement of license.** Any licensee whose license term has expired

shall be considered for reinstatement of such license upon payment of an amount equal to the current examination fee in addition to the license and late penalty fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

(1) **Lapsed less than one year.** In the case of a license lapsed less than one year:

(A) License and late penalty fee.

(B) Reinstatement fee.

(C) National criminal history check.

(D) Documents as required by the Commission.

(2) **Lapsed more than one year but less than two years.** In the case of a license lapsed more than one year but less than two years.

(A) License and late penalty fee.

(B) Reinstatement fee.

(C) National criminal history check.

(D) A completed reinstatement application.

(E) A statement that the applicant has read a current License Code and Rules booklet.

~~(F) If applicable, a statement as to why the license fee was not paid in a timely manner.~~

~~(G)~~(F) Documents as required by the Commission.

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

(g) **Reinstatement of a provisional sales associate license wherein postlicense post-license education was completed prior to license expiration date.** On and after June 1, 1996, an applicant who successfully completed the postlicense post-license education requirement before their first license expiration date and failed to renew their license on or before such date shall be eligible to reinstate the license as a sales associate according to 605:10-7-2 (f), (1) through (5).

continued on page 11

PERMANENT RULES *continued from page 10*

(h) **Reinstatement of a provisional sales associate license wherein postlicense post-license education was not completed prior to license expiration date.** On and after June 1, 1996, an applicant who has not successfully completed the postlicense educational post-license education requirement prior to the first license expiration date shall not be eligible to reinstate such license and shall apply and qualify as an original applicant.

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

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

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

(2) **Reinstatement with term of license expired.** A surrendered or cancelled applicant whose license term has expired shall be required to comply with the requirements of (f) of this Section.

(3) **Reinstatement of provisional sales associate with term of license expired.** A surrendered or cancelled provisional sales associate whose license term has expired shall be required to comply with the following:

(A) If a provisional sales associate completed the postlicensing post-license requirement on or before the first license expiration date, the applicant shall be eligible to reinstate the license according to 605:10-7-2 (f), (1) through (5).

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

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

(1) Any licensee who allows their license to expire after January 1, 2008, shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of a completed fingerprint card, application Part A, and fee as stated elsewhere in these rules for the background search. If, the Commission does not receive a

completed Part A of the application; and completed finger print card and fee within thirty (30) days from the date of request of the Commission, the license will be placed inactive and a hold placed on the license until receipt by the Commission of the aforementioned items. Thereafter, upon receipt by the Commission, the license may be reactivated so long as appropriate reactivation forms and fees, as stated elsewhere in these rules, have been received by the Commission.

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

(o) **Issuance of license from provisional sales associate to sales associate if licensed on and after August 1, 2001.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Postlicense Post-License Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Postlicense Post-License Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has submitted evidence of successful completion of the forty-five (45) clock hour postlicense post-license course requirement and submitted all required form(s) and fee(s) as required by the Commission.

~~(p) **Active status requested, however, Commission unable to activate for reasons as stated in statutes elsewhere.** In the event a licensee requests an active original license or subsequent license renewal to be issued on active status and for reasons beyond the Commission's control the licensee is unable to obtain an active license at that time, the fees as received by the Commission shall be retained and not refunded. Once the licensee corrects the problem with the appropriate~~

~~regulatory agency and such agency authorizes the issuance of an active license, the Commission will then, upon receipt of an activation fee and required documentation, issue an active license.~~

~~(q)(p) **Active sales associate to inactive broker license – no remaining credit to be given.**~~

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

605:10-7-3. Placement of license on inactive status

In conformance with Section 858-309 of the Code a licensee who at any time fails to comply with all Code and Rule requirements for active license status shall be placed on inactive status. If a licensee fails to comply with a request for documentation from the Commission, based on another appropriate statutory or rule requirement which affects the license, the Commission shall place the license inactive. At any time the licensee complies with all Code and Rule requested requirements for licensing, such the license shall be issued on active status.

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

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

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

continued on page 12

PERMANENT RULES *continued from page 11*

receipt of an activation fee and required documentation, issue an active license.

605:10-7-7. Branch offices

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

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

(d) **Broker may act as branch office broker; restriction.** A broker may act as the branch office broker if the branch office is located at the same location as the main office upon the appropriate documents and fees being filed with the Commission.

605:10-7-8. Corporation licensing procedures and requirements of good standing

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

- (1) Completed application form(s) and required fee(s).
- (2) Verification that the corporation is authorized to transact business as a corporation in the State of Oklahoma and that the corporation is in good standing in the State of Oklahoma.
- (3) Corporation must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code".
- (4) Corporation must have a managing corporate broker who holds a separate license as a real estate broker.
- (5) The designation of a managing corporate broker shall be established by sworn statement signed by the President of the corporation stating the date and place such action was effected.
- (6) In the event of the death, disability, retirement or cessation of employment for any reason of the managing corporate broker, the corporation shall be required to appoint a new managing

corporate broker ~~within three (3) working days of the occurrence of such event~~; and such notice of change must be filed in the Commission office no later than five (5) working days of the occurrence of the event. The notice of change in a managing corporate broker must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollar (\$25.00) change of status fee.

(7) The corporation is to notify the Commission in writing within ten (10) days of the date of a change in corporate officers.

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

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

- (1) Completed application form(s) and required fee(s).
- (2) A written statement signed by all partners attesting to the formation of a partnership and that it is in good standing in the State of Oklahoma.
- (3) Partnership must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code".
- (4) Partnership must have a minimum of two managing partners who each hold a separate license as a real estate broker.
- (5) The designation of the managing partners shall be established by sworn statement signed by the managing partners of the partnership stating the date and place such action was effected.
- (6) In the event of the death, disability, retirement or cessation of employment for any reason of the managing partner(s), the partnership is dissolved unless the partnership agreement provides otherwise. If the partnership agreement provides for the continuation of the partnership after the loss of a partner, the partnership shall be required to appoint a new managing partner ~~within three (3) working days of the occurrence of such event~~; and such notice of change must be filed in the Commission office no later than five (5) working days of the occurrence of the event. The notice of change in managing partners must be accompanied by the

appropriate documents as required by the Commission and a Twenty-five Dollars (\$25.00) change of status fee.

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

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

- (1) Completed application form(s) and required fee(s).
- (2) Verification that the association is authorized to transact business as a an association in the State of Oklahoma and that the association is in good standing in the State of Oklahoma.
- (3) Association must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code".
- (4) Association must have a managing member or manager who holds a separate license as a real estate broker.
- (5) The designation of a managing broker member or manager shall be established by sworn statement signed by an authorized member or manager of the association stating the date and place such action was effected.
- (6) In the event of the death, disability, retirement or cessation of employment for any reason of the managing broker member or manager, the association shall be required to appoint a new managing broker member or manager ~~within three (3) working days of the occurrence of such event~~; and such notice of change must be filed in the Commission office no later than five (5) working days of the occurrence of the event. The notice of change in a managing broker member or manager must be accompanied by the appropriate documents as required by the Commission and a Twenty-five Dollar (\$25.00) change of status fee.

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

(a) **Sole Proprietor.** A sole proprietor is a broker ~~who that~~ is the sole owner of a real estate business/firm. To qualify for a sole proprietorship, the firm shall not conduct business in the name of an entity, i.e., corporation, association (Limited Liability

continued on page 13

PERMANENT RULES *continued from page 12*

Company) or partnership and the business/firm shall not be owned by any other person or entity. To apply as sole proprietor one must qualify meet all requirements for a broker license and submit to the Commission the following:

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

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

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

- (1) The corporation or association shall not perform any act requiring a real estate license and shall not hold itself out as engaged in such activity.
- (2) The managing broker, broker proprietor or branch broker must have an active individual real estate license.
- (3) The broker of the branch broker must provide to the Commission a written statement approving of the branch broker's corporation or association.
- (4) The managing broker, broker proprietor or branch broker must be the majority stockholder and president of the corporation or majority member of the association.
- (5) Ownership of a managing broker's, broker proprietor's or branch broker's corporation or association is limited to spouses and blood relatives.
- (6) The corporation or association shall not advertise nor receive referral fees or commissions except from the broker.
- (7) The managing broker, broker proprietor or branch broker must file a written statement with the Commission including the following:

(A) A statement that the managing broker, broker proprietor or branch broker is the majority stockholder and president of the corporation or majority member of the association.

(B) Names and relation of all officers/members and/or stockholders.

(C) Verification that the association or corporation is in good standing with the Oklahoma Secretary of State.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

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

(a) **Place of Business.** Each broker shall maintain a specific place of business, and supervise a brokerage practice which is available to the public during reasonable business hours. Each broker shall be available to manage and supervise such brokerage practice and comply with the following:

- (1) The broker's license, as well as those of all licensees associated with the broker, must be prominently displayed maintained in such the place of business as registered with the Commission and available upon request.
- (2) The place of business shall consist of at least one enclosed room or building of stationary construction wherein negotiations and closing of real estate transactions of others may be conducted and carried on with privacy and wherein the broker's books, records and files pertaining to real estate transactions of others are maintained.
- (3) Each broker shall register for each place of business a physical address and office telephone number.

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

605:10-9-4. Advertising

(a) **Requirements and prohibitions.**

- (1) A broker, when advertising, must use his or her business trade name or the name under which the broker is licensed; however, yard signs must also include the broker's office telephone number. The advertisement must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "agency", "company", "realty", or "real estate", as the case may be. Legal

abbreviations following the trade name or name under which the broker is licensed shall be acceptable as long as they are easily identifiable by the public as such.

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

SUBCHAPTER 11. ASSOCIATE'S LICENSING PROCEDURES

605:10-11-2. Associate licenses

(b) Broker refusal to release associate. In the event a broker refuses for any reason to release an associate, the associate shall notify the broker by certified mail of the disassociation and furnish the Commission a sworn statement that the notification has been sent to the broker. ~~If a broker, when requested to release an associate or when notified by certified mail of the disassociation by an associate, is of the opinion that the association has not been terminated and prevails in court over the associate, the broker may file a request with the Commission for a hearing to determine whether or not the associate should be disciplined. In such a filing, the complaining principal broker must show cause in the form of a copy of the court order issuing a verdict in their favor. Upon receipt by the Commission of the aforementioned statement, the Commission shall release the licensee.~~

605:10-11-3. Associate's corporation or association formed for the purpose of receiving compensation

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

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

continued on page 14

(2) The associate must have a ~~current~~ an active individual real estate license.

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

(4) The associate must be the majority stockholder and president of the corporation or majority member of the association.

(5) Ownership of an associate's corporation or association is limited to spouses and blood relatives.

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

(7) ~~The broker and associate must file a written statement with the Commission including complete and sign a Commission approved form that includes the following:~~

(A) A statement that the associate is the majority stockholder and president of the corporation or majority member of the association.

(B) Names and relation of all officers/members and/or stockholders.

(C) Verification that the association or corporation is ~~authorized to transact business in the State of Oklahoma and that the association or corporation is in good standing with the Oklahoma Secretary of State.~~

(8) ~~The associate's broker must file with the Commission a written statement approving of the associate's corporation or association.~~

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

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

(m) **Requirements for storage of records on alternative media.** The Real Estate Commission establishes the following requirements for storage of trust account and transaction records stored on alternative media, e.g. compact disk, optical disk, microfilm, etc. Alternative media is defined as media that uses an electronic device to store or retrieve the information that pertains to the trust account and transaction documentation. This requirement applies to any computer technology utilized by the broker to create, store or retrieve the aforementioned documentation, whether the computerized device is internal or external to the broker's computer equipment. If a broker utilizes his own equipment or a third

party vendor to create, store or retrieve this information, the broker shall ensure that the documentation is maintained and able to be retrieved for the five (5) year time period as required by the Commission.

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

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

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

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

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

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

(7) ~~A broker shall maintain no less than two (2) copies of the alternative media.~~

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

(1) Notify the Commission in writing of the effective date of such action and advise as to the location where records will be stored and comply with the following:

(A) Return the broker's license certificate and pocket identification card and all license certificates of those associated with the broker to the Commission and advise the Commission as to the circumstances involving any not returned.

(B) Release forms must be filed for all licensees affiliated with the firm.(C) The broker must either transfer to a new firm or place his or her license on inactive status.

(2) Notify in writing all listing and management clients, as well as parties and co-brokers to existing contracts advising them of the date of cessation of real estate activities.

(3) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of cessation of real estate activities.

(4) Funds in trust accounts and pending contracts must be maintained by the responsible broker until consummation of transaction and final proper disbursement of funds. Upon final disbursements of funds the broker is required to close the account and notify the Commission in writing that the account is closed.

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

(6) If funds, items and/or contracts are transferred to another authorized broker, entity or legal representative and approved by the Commission, the broker transferring such shall be required to compile a record of the following, retain a copy for his or her file and give a copy to the receiving authorized broker, entity or legal representative:

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

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

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

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

continued on page 15

PERMANENT RULES *continued from page 14*

the name of the responsible person or entity.

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

(o) Security breach of personal information.

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

(A) social security number

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

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

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

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

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

Psychologically impacted property is any property ~~whereof~~ where the existence of certain circumstances, suspicions or

facts may create emotional or psychological disturbance or concerns to a prospective purchaser/lessee, with the potential of influencing a buying/leasing decision. Therefore, the obligation of a real estate licensee to obtain information as stated in Title 59, O.S., Section 858-513A (1) and (2) shall be performed in the following manner:

(1) Purchaser/lessee must be in the process of making a bona fide offer.

(2) Licensee must receive request in writing from purchaser/lessee.

(3) Purchaser's/Lessee's written request must state that such factor is important to the decision of the purchaser/lessee.

(4) Licensee shall make inquiry of the owner by submitting the written request to the owner.

(5) Licensee shall report any findings to the purchaser/lessee with the consent of the owner.

(6) If the owner refuses to furnish information requested, the licensee shall so advise the purchaser/lessee.

(7) Further, if a purchaser/lessee is requesting information as to whether or not an occupant of the real estate is, or was at any time suspected to be infected, or has been infected with Acquired Immune Deficiency Syndrome, or any other disease which falls under the privacy laws, the information can only be obtained in accordance with the Public Health and Safety Statute, Title 63, O.S., 1988, Section 1-502.2A.

SUBCHAPTER 17. CAUSES FOR INVESTIGATION; HEARING PROCESS; PROHIBITED ACTS; DISCIPLINE**605:10-17-4. Prohibited dealings**

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

(8) Failure of the licensee to inform the buyer and seller in writing at the time the offer is presented that he or she will be expected to pay certain closing costs, such as discount points and approximate amount of said costs.

(23) Failing to maintain documents relating to a trust account or real estate transaction for the time period as required by Rule 605:10-13-1.

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

(a) A suspended/revoked ~~broker or associate licensee~~ licensee must return ~~his or her~~ their license certificate and pocket identification card to

the Commission office on or before the date the suspension/revocation becomes effective.

(b) When the suspension/revocation period becomes effective, the ~~broker or associate licensee~~ licensee shall comply with the following requirements:

(1) A suspended/revoked ~~broker or associate licensee~~ licensee ~~may~~ shall not engage in any activity which requires a real estate license, as defined in Section 858-102. ~~The individual would, in effect, be regarded the same as an unlicensed person.~~

(2) When a broker's license is suspended/revoked, associates under the suspended/revoked broker's supervision will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

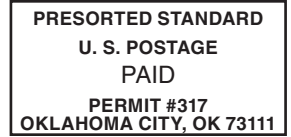
(3) If the suspended/revoked broker has a branch office, the license for the branch office is ~~also suspended/revoked along with the individual's broker license~~ will be placed inactive unless otherwise ordered by the Commission; and all licensees associated with the branch office will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(4) If a managing corporate broker of a corporation is suspended/revoked for an act which was ~~in~~ on behalf of the corporation, the broker license of the corporation will, ~~unless ordered otherwise, be suspended/revoked~~ be placed inactive unless otherwise ordered by the Commission; and all licensees associated with the corporation will automatically be placed "inactive" for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(5) If the managing partner(s) of a partnership is suspended/revoked for an act which was in behalf of the partnership, the broker license of the partnership will, ~~unless ordered otherwise, be suspended/revoked~~ be placed inactive unless otherwise ordered by the Commission; and all licensees associated with the partnership will automatically be placed on "inactive" for the duration of the suspension/revocation period and the other broker will be placed "inactive" unless he or she requests his or her license to be transferred out of the partnership.

(6) If a managing broker member of an association is suspended/revoked

continued on page 16



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PERMANENT RULES *continued from page 15*

for an act which was in behalf of the association, the broker license of the association will, ~~unless ordered otherwise, be suspended/revoked~~ be placed inactive unless otherwise ordered by the Commission; and all licensees associated with the association will automatically be placed “inactive” for the duration of the suspension/revocation period unless the licensee requests to be transferred to another broker.

(7) A suspended/revoked ~~broker or associate may~~ licensee shall only receive compensation during the suspension/revocation period for acts which were performed during the period in which ~~he or she~~ the licensee was ~~properly~~ actively licensed.

(8) Listings must be cancelled by a suspended/revoked broker between the time the Order of suspension/revocation

is received and the effective date of suspension/revocation, as listings will be void on the date the suspension/revocation becomes effective. ~~Broker has breached the listing contract since he or she is unable to fulfill his or her agreement. Seller is free to relist with another broker of his or her choice.~~

(9) A suspended/revoked broker may shall not assign listings to another broker without the written consent of the owner of the listed property.

(10) A suspended/revoked broker ~~may~~ shall not advertise real estate in any manner, and must remove and discontinue all advertising.

(11) The telephone in a suspended/revoked broker’s office ~~may~~ shall not be answered in any manner to indicate the suspended/revoked broker is currently active in real estate.

(12) All pending contracts, items or monies placed with the suspended/

revoked broker must be transferred to another responsible broker as approved by the Commission and in compliance with Section 605:10-13-1 ~~(m)~~ (n).

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

(14) A representative of the Commission ~~will~~ shall visit the office of any suspended/revoked broker prior to the effective date of the suspension/revocation to insure compliance with the requirements of (1) through (13) of this subsection.

Appendix A Residential Property Condition Disclosure Statement Form

Question 20: Are you aware of major fire, tornado, hail, earthquake or wind damage?