

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 104

By: Newberry

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5
6 AS INTRODUCED

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8 An Act relating to real estate; creating the Real
9 Estate Owner's Rights Act; providing short title;
10 making certain matter of statewide concern;
11 establishing certain rights of property owners;
12 granting right for construction and repairs;
13 requiring certain permits and inspections; construing
14 requirement to hire licensed persons under certain
15 condition; authorizing certain assistance to property
16 owner without licensure; granting right for
17 management, rental and leasing; authorizing
18 delegation of certain functions without licensure;
19 prohibiting disclosure of certain agreements;
20 allowing certain services by certain persons relating
21 to property management; providing exception to real
22 estate licensure; amending 59 O.S. 2011, Sections
23 858-301, 1017 and 1692, which relate to real estate
24 license exemption, plumbing and electrical
licensures; providing exception to licensures of
certain property owners; providing an exception to
mechanical licensure; providing for codification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 858-1000 of Title 59, unless
there is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Real Estate
2 Owner's Rights Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 858-1001 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 As a matter of statewide concern, an owner of real property in
7 this state has the following rights:

8 A. The right to construct, install, and repair.

9 1. Notwithstanding any provision of law or municipal ordinance
10 to the contrary, an owner of residential real property or farm
11 property who resides in this state and whose real property is
12 located in this state shall be authorized to, and have the absolute
13 right to, personally perform any construction, installation, work or
14 repairs to his or her property including, but not limited to,
15 fencing, landscaping, telephone, plumbing, electrical, roofing,
16 mechanical, carpentry, concrete, masonry, or painting, without first
17 obtaining licensure as may be required for such construction,
18 installation, work, or repair; provided, however, the owner shall be
19 required to:

20 a. obtain all applicable state and local permits and
21 inspections to satisfy the state and local building
22 code requirements, if any,

23 b. obtain the services of a qualified professional or
24 obtain applicable authority when working directly

1 with, connecting to or disconnecting from any public
2 utility system, public service corporation system or
3 any utility metering device or equipment, and

4 c. disclose the nature and extent of the construction,
5 installation, work, or repairs performed by the owner
6 for purposes of the sale of such property, if
7 licensure would have been required for such work.

8 2. Nothing in this subsection shall be construed to allow the
9 owner of any residential real property or farm property to avoid the
10 hire of a qualified licensed professional to perform any
11 construction, installation, work, or repairs to his or her property
12 where a valid license is required by law or municipal ordinance
13 should the work be performed by a person other than the actual owner
14 of the property or by the owner's family members, relatives, or
15 employees without such persons being licensed.

16 3. For purposes of this subsection, an owner is authorized to,
17 and shall have the absolute right to, be assisted by his or her
18 family members, relatives, or employees when performing
19 construction, installation, work, or repairs to his or her
20 residential real property or farm property.

21 B. The right to manage, rent, lease, and sell.

22 1. An owner of residential real property or farm property who
23 resides in this state and whose property is located in this state
24 shall be authorized to, and have the absolute right to, personally

1 manage, rent, and/or lease or sell his or her property without
2 obtaining a real estate license or using a licensed real estate
3 broker, sales associate or property management company for such
4 purposes, or paying any fee to, or registering such property with a
5 municipality.

6 2. Any owner of residential real property or farm property who
7 resides in-state or out-of-state and whose property is located in
8 this state may delegate, and shall have an absolute right to
9 delegate, another qualified person to manage, rent, and/or lease his
10 or her property without the owner or designated agent being required
11 to obtain a real estate license or obtain the services of a licensed
12 real estate broker, sales associate or property management company
13 if exempt under paragraph 10 of Section 858-301 of Title 59 of the
14 Oklahoma Statutes, or pay any fee to or register such property with
15 a municipality.

16 3. Notwithstanding any provision of law or municipal ordinance
17 to the contrary, an owner of residential real property or farm
18 property, or the designated agent of such owner, shall not be
19 required to disclose any rental, lease, or property management
20 agreement to a municipality as a condition of property management,
21 rental or leasing by the property owner, or his or her designated
22 agent.

23 4. Nothing in this subsection shall be construed to prohibit an
24 owner of residential real property or farm property from utilizing

1 the services of a licensed real estate broker, sales associate or
2 property management company for any purpose or service relating to
3 his or her property.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 858-606 of Title 59, unless
6 there is created a duplication in numbering, reads as follows:

7 Pursuant to the Real Estate Owner's Rights Act, an owner of
8 residential real property or farm property shall not be required to
9 obtain or hold a valid real estate broker license, sales associate
10 license or be in the business of real property management to manage,
11 rent, lease or sell his or her real property, and an owner's
12 qualified designated agent shall be exempt from licensure as
13 provided in paragraph 10 of Section 858-301 of Title 59 of the
14 Oklahoma Statutes.

15 SECTION 4. AMENDATORY 59 O.S. 2011, Section 858-301, is
16 amended to read as follows:

17 Section 858-301. It shall be unlawful for any person to act as
18 a real estate licensee, or to hold himself or herself out as such,
19 unless the person shall have been licensed to do so under the
20 Oklahoma Real Estate License Code. However, nothing in this section
21 shall:

22 1. Prevent any person, partnership, trust, association or
23 corporation, or the partners, officers or employees of any
24 partnership, trustees or beneficiaries of any trust, association or

1 corporation, from acquiring real estate for its own use, nor shall
2 anything in this section prevent any person, partnership, trust,
3 association or corporation, or the partners, officers or employees
4 of any partnership, trustees or beneficiaries of any trust,
5 association or corporation, as owner, lessor or lessee of real
6 estate, from selling, renting, leasing, exchanging, or offering to
7 sell, rent, lease or exchange, any real estate so owned or leased,
8 or from performing any acts with respect to such real estate when
9 such acts are performed in the regular course of, or as an incident
10 to, the management, ownership or sales of such real estate and the
11 investment therein;

12 2. Apply to persons acting as the attorney-in-fact for the
13 owner of any real estate authorizing the final consummation by
14 performance of any contract for the sale, lease or exchange of such
15 real estate;

16 3. In any way prohibit any attorney-at-law from performing the
17 duties of the attorney as such, nor shall this Code prohibit a
18 receiver, trustee in bankruptcy, administrator, executor, or his or
19 her attorney, from performing his or her duties, or any person from
20 performing any acts under the order of any court, or acting as a
21 trustee under the terms of any trust, will, agreement or deed of
22 trust;

23 4. Apply to any person acting as the resident manager for the
24 owner or an employee acting as the resident manager for a licensed

1 real estate broker managing an apartment building, duplex, apartment
2 complex or court, when such resident manager resides on the premises
3 and is engaged in the leasing of property in connection with the
4 employment of the resident manager;

5 5. Apply to any person who engages in such activity on behalf
6 of a corporation or governmental body, to acquire easements, rights-
7 of-way, leases, permits and licenses, including any and all
8 amendments thereto, and other similar interests in real estate, for
9 the purpose of, or facilities related to, transportation,
10 communication services, cable lines, utilities, pipelines, or oil,
11 gas, and petroleum products;

12 6. Apply to any person who engages in such activity in
13 connection with the acquisition of real estate on behalf of an
14 entity, public or private, which has the right to acquire the real
15 estate by eminent domain;

16 7. Apply to any person who is a resident of an apartment
17 building, duplex, or apartment complex or court, when the person
18 receives a resident referral fee. As used in this paragraph, a
19 "resident referral fee" means a nominal fee not to exceed One
20 Hundred Dollars (\$100.00), offered to a resident for the act of
21 recommending the property for lease to a family member, friend, or
22 coworker;

23 8. Apply to any person or entity managing a transient lodging
24 facility. For purposes of this paragraph, "transient lodging

1 facility" means a furnished room or furnished suite of rooms which
2 is rented to a person on a daily basis, not as a principal
3 residence, for a period less than thirty (30) days; ~~or~~

4 9. Apply to employees of a licensed real estate broker who
5 lease residential housing units only to eligible persons who qualify
6 through a state or federal housing subsidized program to lease the
7 property in an affordable housing development project. "Affordable
8 housing development project" means a housing development of four or
9 more units constructed for lease to specifically eligible persons as
10 required by the particular federal or state housing program,
11 including, but not limited to, the U.S. Department of Housing and
12 Urban Development, the U.S. Department Agriculture Rural
13 Development, the U.S. Department of Treasury Internal Revenue
14 Service, or the Oklahoma Housing Finance Agency; or

15 10. Apply to any person acting as the designated agent for an
16 individual owner of residential real property or farm property who
17 is a family member, relative, employee, or contractor of such owner
18 and who is managing, renting, leasing, or offering to rent, lease,
19 or exchange the real estate so owned, or is performing any acts with
20 respect to such real estate when such acts are performed in the
21 regular course of, or as an incident to, the management or ownership
22 of such real estate and the investment therein; provided, however,
23 the designated agent must work exclusively for owner-family members,
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1 owner-relatives, or an owner-employer to be eligible for the license
2 exemption.

3 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1017, is
4 amended to read as follows:

5 Section 1017. The provisions of The Plumbing License Law of
6 1955 shall not apply to:

7 1. Minor repairs, consisting of repairing or replacing faucets
8 or minor working parts of plumbing fixtures;

9 2. Farm buildings located outside any city or town unless such
10 buildings are connected to a public water or sewer system;

11 3. Maintenance work for state institutions and school
12 districts;

13 4. The installation, maintenance, repair, renovation of
14 automatic sprinkler systems and related mechanical appurtenances
15 beginning at a point where the pipe or piping system provides water
16 used exclusively for these automatic sprinklers and their related
17 appurtenances and to standpipes connected to automatic sprinkler
18 systems;

19 5. The construction, installation, maintenance, repair,
20 renovation, and/or removal of pipe or piping systems and related
21 mechanical appurtenances including backflow preventers, appliances
22 and/or equipment used in connection therewith, directly or
23 indirectly within or without any building or structure, from a point
24 or location in a source of potable water supply at which point or

1 location there exists any backflow preventer, provided that ~~said~~ the
2 pipe and/or piping systems are for:

- 3 a. heating, except radiant-floor heating systems as
4 defined in subparagraph d of paragraph 9 of Section
5 1003 of this title,
- 6 b. cooling,
- 7 c. air conditioning,
- 8 d. refrigeration, or
- 9 e. boilers and other pressure vessels of whatsoever kind
10 and character.

11 A "backflow preventer," as used herein, means any permanent
12 mechanical device, or combination of permanent mechanical devices,
13 of whatever material, which, after installation acts to prevent a
14 reversal of the normal directional flow of potable water within the
15 piping system in which it is installed, and shall include, but not
16 be limited to, metal checkvalves and airgaps, either naturally or
17 artificially created. Provided, further, that the exclusionary
18 provisions of this paragraph shall apply only to and within
19 governmental agencies, counties, cities and towns which now have or
20 which hereafter may adopt separate laws relating to the licensing,
21 registration and regulating of persons engaged, for business
22 purposes, in any of the areas of trade hereinbefore specified in
23 this paragraph; the exemptions herein being provided to apply only

1 to these items specifically regulated by any such local laws and
2 ordinances; and

3 6. An individual who performs plumbing work on ~~such~~
4 ~~individual's~~ residential or farm property of residence owned by the
5 individual or an owner who performs plumbing work on his or her
6 property with the assistance of his or her family members,
7 relatives, or employees as authorized by this act.

8 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1692, is
9 amended to read as follows:

10 Section 1692. A. The provisions of the Electrical License Act
11 shall not apply to:

12 1. Minor repairs, consisting of repairing or replacing outlets
13 or minor working parts of electrical fixtures;

14 2. Maintenance work for state and federal institutions;

15 3. The construction, installation, maintenance, repair, and
16 renovation by a public utility regulated by the Corporation
17 Commission;

18 4. Public service corporations, telephone and telegraph
19 companies, rural electric associations or municipal utilities;

20 5. The construction, installation, maintenance, repair, and
21 renovation of telephone equipment or computer systems by a person,
22 firm, or corporation engaged in the telecommunications or
23 information systems industry when such activities involve work
24 exclusively for communication of data, voice, or for other signaling

1 purposes; except fire alarm systems, security systems, and
2 environmental control systems that are not an integral part of a
3 telecommunications system; or

4 6. The installation, maintenance, repair or replacement of
5 water supply pumps, provided such work is performed from the output
6 side of a fused disconnect or breaker box.

7 B. Nothing in the Electrical License Act shall be construed to
8 require:

9 1. Employment of a licensed electrical contractor, journeyman
10 electrician or electrical apprentice except as required by local
11 ordinances and resolutions;

12 2. Any regular employee of any firm or corporation to hold a
13 license before doing any electrical work on the property of the firm
14 or corporation whether or not the property is owned, leased or
15 rented except as may be required by local ordinances and
16 resolutions; or

17 3. An individual to hold a license before doing electrical work
18 on his or her own property or residence ~~except as may be required by~~
19 ~~local ordinances and resolutions~~ or an owner who performs electrical
20 work on his or her property or residence with the assistance of his
21 or her family members, relatives, or employees as authorized by this
22 act.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1850.7a of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 The provisions of the Mechanical Licensing Act shall not apply
5 to an individual who performs mechanical work on residential or farm
6 property owned by such individual or an owner of property who
7 performs mechanical work with the assistance of his or her family
8 members, relatives, or employees as authorized by the Real Estate
9 Owner's Rights Act.

10 SECTION 8. This act shall become effective November 1, 2017.

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