

be included in the written brokerage agreement or in a separate document and shall contain the following information:

- a. a description of the transaction or type of transactions that might occur in which the single-party broker seeks to obtain consent to become a transaction broker,
 - b. a statement that in such transactions the single-party broker would perform services for more than one party whose interest could be different or even adverse and that such transactions require the broker to seek the consent of each party to such transactions to permit a change in the brokerage relationship,
 - c. a statement that by giving consent in such transactions:
 - (1) the party will allow the broker to change the broker's relationship from performing services as a single-party broker to performing services as a transaction broker,
 - (2) the broker will no longer provide services for the benefit of the party, but may only assist in such transactions,
 - (3) the broker will not be obligated to obey the specific directions of the party but will assist all parties to such transactions,
 - (4) the party will not be vicariously liable for the acts of the broker and associated associates, and
 - (5) the broker's obligation to keep confidential information received from the party confidential is not affected,
 - d. a statement that the party is not required to consent to the change in the brokerage relationships in such transactions and may seek independent advice,
 - e. a statement that the consent of the party to change the brokerage relationship in such transactions has been given voluntarily and that the written consent has been read and understood by the party, and
 - f. a statement that the party authorizes the broker to change the brokerage relationship in such transactions and to assist all parties to such transactions as a transaction broker.
- C. 1. If neither party gives consent as described in paragraph 3 of subsection B of this section, the broker shall withdraw from providing services to all but one party to a transaction. If the broker refers the party for whom the broker is no longer providing services to another broker, the broker shall not receive a fee for referring the party unless written disclosure is made to all parties.

2. If only one party gives consent as described in paragraph 3 of subsection B of this section, the broker may act as a transaction broker for the consenting party and continue to act as a single-party broker for the nonconsenting party. In this event, the broker shall disclose in writing to the consenting party that the broker remains a single-party broker for the nonconsenting party and performs services for the benefit of the nonconsenting party.

D. A broker may cooperate with other brokers in a transaction. Under Sections 858-351 through 858-363 of this act, a broker shall not be an agent, subagent, or dual agent and an offer of subagency shall not be made to other brokers.

858-356. Disclosures—Confirmation in writing.

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 disclosure required by this section and the consent required by Section 858-355 of this act must 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 be documented by the broker.

858-357. Confidential information. The following information shall be considered confidential and shall not be disclosed by a broker without the consent of the party disclosing the information unless consent to disclosure is granted by the 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:

1. That a party is willing to pay more or accept less than what is being offered;
2. That a party is willing to agree to financing terms that are different from those offered; and

3. The motivating factors of the party purchasing, selling, leasing, optioning, or exchanging the property.

858-358. Duties of broker following termination, expiration, or completion of performance. Except as may be provided in a written brokerage agreement between the broker and a party to a transaction, the broker owes no further duties or responsibilities to the party after termination, expiration, or completion of performance of the transaction, except:

1. To account for all monies and property relating to the transaction; and
2. To keep confidential all confidential information received by the broker during the broker's relationship with a party.

858-359. Payment to broker not determinative of relationship. 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.

858-360. Abrogation of common law principles of agency—Remedies cumulative. The duties and responsibilities of a broker specified in Sections 858-351 through 858-363 of this act 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.

858-361. Use of word "agent." A real estate broker and the associates of a real estate broker are permitted under the provisions of Sections 858-351 through 858-363 of this title to use the word "agent" in a trade name and as a general reference for designating themselves as real estate licensees.

858-362. Vicarious liability for acts or omissions of real estate licensee. 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 services as a transaction broker under Section 858-351 through 858-363 of this act.

858-363. Associates of real estate broker—Authority. Each broker associate, sales associate, and provisional sales associate shall be associated with a real estate 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.

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OKLAHOMA BROKER RELATIONSHIPS ACT

Title 59,
Oklahoma Statutes,
Sections 858-351–858-363

Effective November 1, 2000
(amended as of November 1, 2006)



PREFACE

This pamphlet has been compiled and published for the benefit of real estate licensees and members of the general public. It is intended as a general guide and is not for the purpose of answering specific legal questions. Questions of interpretation should be referred to an attorney. If a question arises as to whether or not a licensee has failed to comply with this act, please contact the Oklahoma Real Estate Commission at the phone number below.

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Broker Relationships Act Title 59, O.S. Sections 858-351—858-363

858-351. Definitions. Unless the context clearly indicates otherwise, as used in Section 858-351 through 858-363 of this act:

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. “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 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 may include, without limitation, soliciting, advertising, engaging a broker to list a property, showing or viewing a property, making 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 trans-

action without being an advocate for the benefit of that party.

858-352. Written brokerage agreement. A broker may enter into a written brokerage agreement to provide services as either a single-party broker or a transaction broker. If a broker does not enter into a written brokerage agreement with a party, the broker shall perform services only as a transaction broker. All brokerage agreements shall be deemed to incorporate as the material terms the duties and responsibilities set forth in the subsection A of Section 858-353 or subsection B of Section 858-354 if this title, based upon whether the relationship established by the brokerage agreement is a transaction broker relationship or a single - party broker relationship.

858-353. Transaction broker—Duties and responsibilities.

A. A transaction broker shall have the following duties and responsibilities, which are mandatory and may not be abrogated or waived by a transaction broker:

1. To treat all parties with honesty and exercise reasonable skill and care;
2. To be available to:
 - 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 written offers and counteroffers,
3. To inform in writing the party for whom the broker is providing 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 costs;
4. To account timely for all money and property received by the broker,
5. To keep confidential information received from a party confidential as required by Section 858-357 of this title
6. To disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and
7. To 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 disclosures shall be provided to the party for whom the broker is providing services. Such disclosures 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.

858-354. Single-party broker—Duties and responsibilities.

A. A broker shall enter into a written brokerage agreement prior to providing services as a single-party broker, which shall be deemed to include, and which may not abrogate or waive, the mandatory duties and responsibilities set forth in this section.

B. The single-party broker shall have the following duties and responsibilities:

1. To treat all parties with honesty and exercise reasonable skill and care;
2. To be available to:
 - a. receive all written offers and counteroffers,
 - b. reduce offers or counteroffers to a written form upon request of any party to a transaction.
 - c. present timely all written offers and counteroffers,
3. To inform in writing the party for whom the broker is providing 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 costs;
4. To keep the party for whom the single-party broker is performing services informed regarding the transaction,
5. To account timely for all money and property received by the broker,
6. To keep the confidential information received from a party confidential as required by Section 858-357 of this title;
7. To perform all brokerage activities for the benefit of the party for whom the single-party broker is performing services unless prohibited by law,
8. To disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act,
9. To obey the specific directions of the party for whom the single-party broker is performing services that are not contrary to applicable statutes and rules or contrary to the terms of a contract between the parties to the transaction; and
10. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

C. In the event a broker who is a single-party broker for a buyer or a tenant receives a fee or compensation based on a selling price or lease cost of a transaction, such receipt does not constitute a breach of duty or obligation to the buyer or tenant if fully disclosed to the buyer or tenant in the written brokerage agreement.

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

E. Nothing in this section requires or prohibits a single-party broker from charging a separate fee or other compensation for each duty or other services provided during a transaction.

F. If a single-party 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 the broker assisting the other party in the transaction is not required to provide assistance with these steps in any manner.

858-355. Alternative relationships entered into where broker assists one or both parties—Written disclosure—Written consent—Contents of brokerage agreement—Withdrawal by broker—Referral fees— Cooperation with other brokers.

A. When assisting one party to a transaction, a broker shall enter into one of the following relationships:

1. As a transaction broker without a written brokerage agreement;
2. As a transaction broker through a written brokerage agreement; or
3. As a single-party broker through a written brokerage agreement.

B. When assisting both parties to a transaction, a broker may enter into the following relationships:

1. As a transaction broker for both parties;
2. As a single-party broker for one party and as a transaction broker for the other party. In this event, a broker shall disclose in writing to the party for whom the broker is providing services as a transaction broker, the difference between a transaction broker and a single-party broker, and that the broker is a single-party broker for the other party and performs services for the benefit of the other party in the transaction; or
3. As a transaction broker where the broker has previously entered into a written brokerage agreement to provide services as a single-party broker for both parties. In this event, the broker shall obtain the written consent of each party before the broker begins to perform services as a transaction broker. The written consent may