

**OKLAHOMA REAL ESTATE COMMISSION
DECEMBER 7, 2001**

OKLAHOMA DECEPTIVE TRADE PRACTICES ACT

Title 78, Oklahoma Statutes, Section 52, et. seq.

The Oklahoma Deceptive Trade Practices Act is a trade regulation law not specifically directed to real estate but has some significance.

Section 53.

Acts constituting deceptive trade practices-Prima facie evidence of intent to injure competitors.

- (a) A person engages in a deceptive trade practice when in the course of his business, vocation or occupation, he:
- (1) Pass off goods or services as those of another;
 - (2) Knowingly makes a false representation as to the sources, sponsorship, approval, or certification of goods or services;
 - (3) Knowingly makes a false representation as to affiliation, connection, association with, or certification by another;
 - (4) Uses deceptive representations or designations of geographic origin in connection with goods or services;
 - (5) Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits or quantities of goods or services or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith;
 - (6) Represents that goods are original or new if they are not;
 - (7) Represents that goods or services are a particular standard, quality, or grade, or that goods are a particular style or model, if they are another;
 - (8) Disparages the goods, services, or business of another by false or misleading representation of fact;
 - (9) Advertises goods or services which differ from those offered for sale in the advertisements;
 - (10) Advertises goods or services with intent not to supply reasonable expectable public demand, unless the advertisement discloses a limitation of quality;
 - (11) Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.
- (b) Evidence that a person has engaged in a deceptive trade practice shall be prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.
- (c) The deceptive trade practices listed in this section are in addition to and do not limit the types of unfair trade practices actionable at common law or under other statutes of this state.

Section 54. Remedies

- (a) Any person damaged or likely to be damaged by a deceptive trade practice of another may maintain an action in any court of equitable jurisdiction to prevent, restrain or enjoin such

deceptive trade practice. Proof of actual monetary damages, loss or profits or intent shall not be required; but, if in such action damages are alleged and proved, the plaintiff, in addition to injunctive relief, shall be entitled to recover from the defendant the actual damages sustained by him.

- (b) In any action instituted under the provisions of this act, the court may, in its discretion, award reasonable attorneys' fees to the prevailing party. If in any such action the court finds either (1) that the defendant has willfully engaged in a deceptive trade practice or (2) that the plaintiff has acted in bad faith in instituting the action, the court shall award reasonable attorneys' fees to the prevailing party.
- (c) The relief provided for in this section is in addition to and not in exclusion of remedies otherwise available against the same conduct pursuant to the common law or other statutes of this state.
- (d) And duly-organized and existing trade association, whether incorporated or not, is hereby authorized to institute and prosecute a suit or suits for injunctive relief her3eunder as the real party in interest, for or on behalf of one or more of its members, when a deceptive trade practice directly or indirectly affects or threatens to affect or injure such member or members.

Section 55. Exceptions

- (a) This act does not apply to:
 - (1) Conduct in compliance with the orders or rules or, of a statute administered by, a federal, state, or local governmental agency;
 - (2) Publishers, broadcasters, printers, or other persons engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast, or reproduce material without knowledge of its deceptive character; or
 - (3) Actions or appeals pending on the date that this act becomes effective.
 - (4) Motor vehicle dealers who are new car franchise dealers covered under the provisions of the Motor Vehicle Commission Law as set forth in 47 O.S. 1961, Sections 561 to 568, inclusive.
- (b) This act shall not be interpreted to apply to the use by a person of any service mark, trademark, certification mark, trade name, or other trade identification which was used and not abandoned prior to the effective date of this act, if the use was in good faith and is otherwise lawful except for the provisions of this act.

Related Law

A tort may be defined as a wrongful act that arises out of either negligence or intention.

Tort law plays a role in protecting business (economic) activities from interference from outside (unreasonable) sources. Tort law protects firms against the diversion of customers arising from falsehoods or deceitful practices by competitors. Tort law protects businesses who have trade secrets, patents and copyrights. Tort law also protects against interference with contracts and with economic expectations.