

1 ENGROSSED HOUSE  
2 BILL NO. 1584

By: Park of the House

3 and

4 Jech of the Senate

5  
6  
7 An Act relating to labor; amending 40 O.S. 2011,  
8 Section 3-111, as amended by Section 9, Chapter 71,  
9 O.S.L. 2013 (40 O.S. Supp. 2014, Section 3-111),  
10 which relates to the Employment Security Act of 1980;  
11 providing penalty for failure to provide certain  
12 notice; and providing an effective date.

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

14 SECTION 1. AMENDATORY 40 O.S. 2011, Section 3-111, as  
15 amended by Section 9, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014,  
16 Section 3-111), is amended to read as follows:

17 Section 3-111. SUCCESSOR AND PREDECESSOR EMPLOYERS.

18 A. Any employing unit, whether or not an employing unit at the  
19 time of the acquisition, which acquires substantially all of the  
20 trade, organization, employees, business, or assets of any employer  
21 (excepting in such case any assets retained by that employer  
22 incident to the liquidation of the employer's obligations) and who  
23 continues the operations of the predecessor employer as a going  
24 business, shall be determined to be a successor employer. The  
successor employer shall acquire the experience rating account of

1 the predecessor employer, including the predecessor's actual  
2 contribution and benefit experience, annual payrolls, and  
3 contribution rate. The successor employer shall also become jointly  
4 and severally liable with the predecessor employer for all current  
5 or delinquent contributions, interest, penalties and fees owed to  
6 the Oklahoma Employment Security Commission by the predecessor  
7 employer.

8       Written notice of all current or delinquent contributions,  
9 interest, penalties and fees owed to the Commission by the  
10 predecessor employer shall be provided to the successor employer by  
11 the predecessor employer prior to the sale of the business. Failure  
12 to give such notice may subject the predecessor employer to a  
13 penalty as specified by the rules of the Commission. In addition,  
14 if the predecessor employer fails to provide the successor employer  
15 with notice as required by this section or such notice is knowingly  
16 false or fraudulent, the successor employer shall be entitled to  
17 actual damages and expenses incurred from the predecessor employer.

18       Any remuneration for services covered by the Employment Security  
19 Act of 1980 or other state unemployment compensation acts paid by  
20 the predecessor employer shall be considered as having been paid by  
21 the successor employer. The initial determination regarding whether  
22 or not an acquiring employer will become a successor to a  
23 predecessor account shall be made by the Commission or its duly  
24 authorized representative and notice of this determination shall be

1 delivered to the acquiring employer or mailed to his or her last-  
2 known address.

3 B. Any employing unit, whether or not an employing unit at the  
4 time of the acquisition, which acquires substantially all of the  
5 trade, employees, organization, business, or assets of an employer,  
6 at one or more separate and distinct establishments and who  
7 continues the acquired operations of the predecessor as a going  
8 business, shall acquire that portion of the experience rating  
9 account of the predecessor employer that is applicable to the  
10 establishment or establishments, if the employing unit, immediately  
11 after the acquisition, is an employer; provided, however, that the  
12 employing unit shall not acquire a portion of the experience rating  
13 account unless written application therefor is received by the  
14 Commission within one hundred twenty (120) days after the date of  
15 the acquisition together with evidence sufficient for the Commission  
16 to determine which portion of the experience rating account of the  
17 predecessor is applicable to the acquired operations, and the  
18 Commission finds that the transfer will not tend to defeat or  
19 obstruct the object and purpose of the Employment Security Act of  
20 1980; and provided further, that the portion of the experience  
21 rating account so transferred, including the taxable payrolls and  
22 benefit wages, shall not thereafter be used in computing a  
23 contribution rate for the transferring employer. For the purpose of  
24 this subsection a separate and distinct establishment means all

1 operations conducted by an employer at one business location which  
2 is readily identifiable as a separate business organization.

3 C. If the Commission finds that any report required to complete  
4 a determination of contribution rate has not been filed or if filed  
5 is incorrect or insufficient, and any such fact or information has  
6 not already been established or found in connection with some other  
7 proceeding pursuant to the provisions of the Employment Security Act  
8 of 1980, an estimate may be made of the information required on the  
9 basis of the best evidence reasonably available to it at the time.  
10 Notice shall be given of the determination as provided for  
11 contribution rate in subsection C of Section 3-102 of this title and  
12 the employer may appeal therefrom as provided in subsection D of  
13 Section 3-102 of this title.

14 D. A determination made under this section may be appealed  
15 pursuant to the provisions of Section 3-115 of this title.

16 SECTION 2. This act shall become effective November 1, 2015.

17  
18  
19  
20  
21  
22  
23  
24

1 Passed the House of Representatives the 5th day of March, 2015.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

6  
7  
8 \_\_\_\_\_  
9 Presiding Officer of the Senate