

1 ENGROSSED HOUSE  
2 BILL NO. 3331

By: Perryman of the House

3 and

4 Howard of the Senate  
5  
6

7 An Act relating to title insurance; requiring certain  
8 waiver be obtained; providing for contents of waiver;  
9 requiring certain retention of waiver; amending 36  
10 O.S. 2011, Section 5001, as last amended by Section  
11 1, Chapter 285, O.S.L. 2018 (36 O.S. Supp. 2019,  
12 Section 5001), which relates to certificates of  
13 authority; modifying certain authorized party;  
14 providing for codification; and providing an  
15 effective date.

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

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 5009 of Title 36, unless there  
19 is created a duplication in numbering, reads as follows:

20 A title insurer producer, title insurer or person who conducts a  
21 real estate closing covering a one-to-four family residential  
22 property where a loan policy of title insurance is issued in  
23 conjunction with a mortgage loan made simultaneously with the  
24 purchase of all or part of a one-to-four family residential property  
securing the loan shall obtain a waiver in writing when a purchaser

1 elects to decline the purchase of an owner's policy. Such waiver  
2 shall include the following:

3 1. A statement that owner's title insurance is available;

4 2. A statement that the purchaser is not protected by the title  
5 policy of the lender;

6 3. The approximate additional premium for the concurrently  
7 issued owner's title insurance policy compared to the premium for  
8 the loan policy without the owner's title insurance policy;

9 4. A statement that the purchaser understands the risk of not  
10 purchasing an owner's policy and declines the purchase of an owner's  
11 policy; and

12 5. A place for the purchaser to decline an owner's policy and  
13 the signature of the purchaser.

14 The waiver signed by the purchaser, or a copy thereof, shall be  
15 retained in the file of the company conducting the closing at least  
16 five (5) years after the effective date of the lender's title  
17 insurance policy.

18 SECTION 2. AMENDATORY 36 O.S. 2011, Section 5001, as  
19 last amended by Section 1, Chapter 285, O.S.L. 2018 (36 O.S. Supp.  
20 2019, Section 5001), is amended to read as follows:

21 Section 5001. A. Any foreign or domestic stock insurer  
22 authorized by its corporate charter to engage in business as a title  
23 insurer shall be entitled to the issuance of a certificate of  
24 authority as a title insurer in this state upon meeting the

1 applicable requirements of Article 6, Authorization of Insurers and  
2 General Requirements, of the Oklahoma Insurance Code, except that  
3 existing title insurers may have their certificate of authority  
4 renewed by maintaining surplus in regard to policyholders of not  
5 less than Five Hundred Thousand Dollars (\$500,000.00).

6 B. A person engaged in the business of preparing or issuing  
7 abstracts of, but not guaranteeing or insuring, title to property,  
8 or a person acting only as a title insurance producer appointed by a  
9 title insurer, shall not be deemed to be a title insurer.

10 C. Every commitment and policy of title insurance issued by any  
11 insurance company authorized to do business in this state shall be  
12 countersigned by some person, partnership, corporation or agency  
13 actively engaged in the real estate title business and maintaining  
14 an office in the state, who is a duly appointed a title insurance  
15 producer for a title insurance company holding a valid license and  
16 authorized to do business in the state; provided, that no commitment  
17 or policy of title insurance shall be issued in the State of  
18 Oklahoma except:

19 1. After examination by an attorney licensed to practice in  
20 this state of a duly certified abstract extension or supplemental  
21 abstract prepared by an abstractor licensed in the county where the  
22 property is located, from a certified abstract plant in the county  
23 where the property is located or per a temporary certificate of  
24 authority as provided in Section 33 of Title 1 of the Oklahoma

1 Statutes, from the effective date of a prior owner's policy of title  
2 insurance issued by a title insurer licensed in this state provided  
3 by the insured, the prior title insurance producer or the prior  
4 title insurer, at the time a valid order is placed pursuant to the  
5 provisions of the Oklahoma Abstractors Law brought forward to the  
6 effective date of the abstract plant. Subject to the conditions and  
7 stipulations, the exclusions from coverage, exceptions from coverage  
8 and endorsements to the policy, any policy issued based on a prior  
9 owner's policy and a supplemental abstract shall insure the insured  
10 against loss or damage sustained or incurred by reason of  
11 unmarketability of title from sovereignty to the effective date of  
12 the policy, not to exceed the amount of insurance stated in the  
13 policy; or

14 2. If a prior owner's policy of title insurance is not  
15 provided, then a title insurance commitment and policy may be issued  
16 after examination by an attorney licensed to practice in this state  
17 of a duly certified abstract of title prepared by a bonded and  
18 licensed abstractor as defined in the Oklahoma Abstractors Law.

19 D. If the current owner or insured, or the owner's or insured's  
20 authorized ~~agent~~ representative requests, in writing, a copy of any  
21 previously issued owner's policy, the title insurance producer or  
22 the title insurer that issued the policy shall provide the  
23 requesting party with a copy of the schedules in the previously  
24

1 issued policy within five (5) business days, unless there exists an  
2 unavoidable delay.

3 E. As used in this section, the term "representative" shall  
4 mean a person authorized to act on behalf of or in place of another  
5 in the current transaction.

6 F. Every title insurance producer, title insurer or person who  
7 conducts a real estate closing that presents, for filing in the  
8 office of the county clerk, an instrument of conveyance or vesting  
9 title in connection with a transaction in which an owner's policy of  
10 title insurance is to be issued by a title insurance producer or  
11 title insurer that is based upon such instrument shall place a  
12 legend within the instrument that sets forth the following  
13 information:

14 Deed presented for filing by: [Name of title insurance producer,  
15 title insurer or person  
16 conducting closing]

17 File Number: [File Number of title insurance producer, title  
18 insurer or person conducting closing]

19 [Name of Title Insurer designated in the Commitment for Title  
20 Insurance]

21 G. The Insurance Department shall maintain, for each title  
22 insurance producer or title insurer holding a valid license and  
23 authorized to do business in the state, contact information for the  
24 office or person responsible for making available copies of owner's

1 policies pursuant to this statute and shall make such contact  
2 information generally available to the public on its website and by  
3 telephone request.

4 H. The Insurance Commissioner may promulgate rules and  
5 regulations to carry out the provisions of this section.

6 SECTION 3. This act shall become effective November 1, 2020.

7 Passed the House of Representatives the 3rd day of March, 2020.

8

9

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

10

11

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

12

13

14

\_\_\_\_\_  
Presiding Officer of the Senate

15

16

17

18

19

20

21

22

23

24