

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1609

By: Treat

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5
6 AS INTRODUCED

7 An Act relating to title to real property; amending 1
8 O.S. 2021, Section 26, which relates to the Oklahoma
9 Abstractors Board Revolving Fund; sunseting certain
10 fund; reallocating remaining monies; amending 19 O.S.
11 2021, Section 245, which relates to duties as to
12 audited accounts; providing for certain access;
13 disallowing certain charge or cost; permitting
14 certain removal of records for specified time;
15 providing certain definition; allowing certain
16 refusal; requiring written notice upon refusal;
17 requiring immediate access for certain purpose;
18 prohibiting certain sale; amending 36 O.S. 2021,
19 Section 5001, which relates to certificates of
20 authority; eliminating certain requirement; removing
21 certain examination requirement; amending 36 O.S.
22 2021, Section 5003, which relates to additional
23 powers of title insurers; requiring charges stated in
24 certain manner; amending 36 O.S. 2021, Section 5004,
which relates to definitions; providing definitions;
repealing 1 O.S. 2021, Sections 20, 21, 22, 23, 24,
25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,
39, 40, 41, and 43, which relate to short title,
definitions, repeated violations, Oklahoma
Abstractors Board, Abstractors Board meetings,
administration of Oklahoma Abstractors Act, powers
and duties of Abstractors Board, application for
certificate of authority, independent set of abstract
books, persons, firms, corporations not engaged in
abstracting, issuance and renewal of certificate of
authority, current abstract plant required, abstracts
and other documents to be provided without delay,
temporary certificate of authority to another,
development of abstract plant, censure, suspension,
revocation, continuance, renewal, or refusal to issue
certificate of authority or permit, rights and

1 responsibilities of abstractors, certain employees
2 required to hold abstract licenses, qualifications
3 for issuance of license, supervision of licensees,
4 censure, revocation or suspension of abstract
5 license, unlawful business inducements, and real
6 property purchaser; repealing 1 O.S. 2021, Section
7 42, which relates to limitations of actions; updating
8 statutory language; stating certain severability
9 provision; and providing effective dates.

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

11 SECTION 1. AMENDATORY 1 O.S. 2021, Section 26, is
12 amended to read as follows:

13 Section 26. A. There is hereby created in the State Treasury a
14 revolving fund for the Oklahoma Abstractors Board to be designated
15 the "Oklahoma Abstractors Board Revolving Fund". Beginning July 1,
16 2007, any monies collected pursuant to the Oklahoma Abstractors Law
17 shall be deposited into the Oklahoma Abstractors Board Revolving
18 Fund. Beginning January 1, 2008, any monies collected pursuant to
19 the Oklahoma Abstractors Act shall be deposited into the Oklahoma
20 Abstractors Board Revolving Fund. The fund shall be a continuing
21 fund, not subject to fiscal year limitations, and shall consist of
22 all monies received by the Oklahoma Abstractors Board from any
23 transfers, fees, bonds, penalties or fines paid to the Board
24 pursuant to the Oklahoma Abstractors Act. All monies accruing to
the credit of ~~said~~ the fund are hereby appropriated and may be
budgeted and expended by the Oklahoma Abstractors Board for the

1 purpose of effectuating the purposes of the Oklahoma Abstractors Act
2 and to pay all costs and expenses heretofore and hereafter incurred
3 in connection therewith. Expenditures from ~~said~~ the fund shall be
4 made upon warrants issued by the State Treasurer against claims
5 filed as prescribed by law with the Director of the Office of
6 Management and Enterprise Services for approval and payment.

7 B. Upon the effective date of this act, the Oklahoma
8 Abstractors Board Revolving Fund created in subsection A of this
9 section shall be sunset and any unencumbered funds and monies
10 remaining in the Oklahoma Abstractors Board Revolving Fund shall be
11 reallocated to the General Revenue Fund.

12 SECTION 2. AMENDATORY 19 O.S. 2021, Section 245, is
13 amended to read as follows:

14 Section 245. A. It shall be the duty of the county clerk to
15 designate upon every account, which shall be audited and allowed by
16 the board, the amount so allowed, and the clerk shall deliver to any
17 person a copy certified or otherwise of any record in the clerk's
18 office and any account on file thereon, upon receiving the fee
19 allowed pursuant to the Oklahoma Open Records Act or the county
20 clerk fee schedule, Section 32 of Title 28 of the Oklahoma Statutes,
21 for every page contained in the copy. Upon demand, the clerk shall
22 furnish a certified copy in the form as it exists and at the
23 preference of the requestor as provided by the Oklahoma Open Records
24 Act or the county clerk fee schedule.

1 B. If the clerk provides records in an electronic format, the
2 clerk may charge a reasonable fee for providing such records. For
3 purposes of this section, "reasonable fee" shall mean the fee
4 charged by the clerk shall not exceed twenty-five cents (\$0.25) per
5 image or fifteen cents (\$0.15) per image for providing more than
6 three thousand five hundred (3,500) images in an electronic format.
7 All recording devices for providing records in an electronic format
8 shall be supplied by the county clerk. News media obtaining records
9 in an electronic format for a news purpose ~~and licensed abstractors~~
10 ~~performing their duties pursuant to state law~~ shall be exempt from
11 the fees provided for in this subsection. Nothing in this section
12 shall be construed to allow county clerks to provide all or part of
13 a tract index for use in any commercial purpose.

14 C. Holders of title producer licenses and their agent or agents
15 who access records for the purpose of creating or maintaining an
16 abstract plant shall:

17 1. Be granted access to non-digital records without charge for
18 the limited purpose of creating or maintaining an abstract plant;
19 provided, the records provided shall be converted into a digital
20 format and a digital copy shall be transferred to the county clerk
21 without charge or cost to the county;

22 2. Upon filing an approved bond with the county clerk, be
23 allowed to take records outside of the office of the district court
24 clerk for a period of time not to exceed twenty-four (24) hours

1 after first giving proper receipt to the appropriate clerk or
2 deputy;

3 3. Have the right of access to any instrument filed of record
4 in a county office, not later than the close of business of the
5 first business day following the day of filing. There shall be no
6 fee charged for providing access to the instrument. For purposes of
7 this section, "access" means possession of the instrument to
8 mechanically reproduce it, either in the office or out of the office
9 of filing, at the discretion of the county officer having custody of
10 the instrument. Reproduction of the instrument shall be completed
11 not later than the close of business of the first business day
12 following the day of receipt of the document; and

13 4. Return any files removed from the county office within the
14 twenty-four-hour period; provided, should the holder of the title
15 producer license and/or their agent fail to return the files timely,
16 the county officer may refuse to allow the holder of the title
17 producer license and/or their agent to remove the files at a later
18 date. Any county officer making such refusal shall send written
19 notice of such action to the Insurance Commissioner.

20 D. Access to instruments of record pursuant to this section
21 shall be for immediate and lawful abstract plant creation and
22 maintenance purposes only. The sale of the instruments of record
23 for profit to the general public, either on the Internet or any
24 other such forum, by any holder of the title producer license and/or

1 their agent is prohibited. Nothing herein shall prohibit a holder
2 of the title producer license and/or their agent from selling or
3 leasing their records to another holder of the title producer
4 license and their agent for the purpose of performing title searches
5 or creating an abstract for use in title insurance policies, created
6 pursuant to the provisions of Section 5001 et. seq. of Title 36 of
7 the Oklahoma Statutes.

8 SECTION 3. AMENDATORY 36 O.S. 2021, Section 5001, is
9 amended to read as follows:

10 Section 5001. A. Any foreign or domestic stock insurer
11 authorized by its corporate charter to engage in business as a title
12 insurer shall be entitled to the issuance of a certificate of
13 authority as a title insurer in this state upon meeting the
14 applicable requirements of Article 6, Authorization of Insurers and
15 General Requirements, of the Oklahoma Insurance Code, except that
16 existing title insurers may have their certificate of authority
17 renewed by maintaining surplus in regard to policyholders of not
18 less than Five Hundred Thousand Dollars (\$500,000.00).

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

23 C. Every commitment and policy of title insurance issued by any
24 insurance company authorized to do business in this state shall not

1 be required to be countersigned by ~~some person, partnership,~~
2 ~~corporation or agency actively engaged in the real estate title~~
3 ~~business and maintaining an office in the state, who is a duly~~
4 ~~appointed a title insurance producer for a title insurance company~~
5 ~~holding a valid license and authorized to do business in the state;~~
6 ~~provided, that no commitment or policy of title insurance shall be~~
7 ~~issued in the State of Oklahoma except:~~

8 1. ~~After examination by an attorney licensed to practice in~~
9 ~~this state of a duly certified abstract extension or supplemental~~
10 ~~abstract prepared by an abstractor licensed in the county where the~~
11 ~~property is located, from a certified abstract plant in the county~~
12 ~~where the property is located or per a temporary certificate of~~
13 ~~authority as provided in Section 33 of Title 1 of the Oklahoma~~
14 ~~Statutes, from the effective date of a prior owner's policy of title~~
15 ~~insurance issued by a title insurer licensed in this state provided~~
16 ~~by the insured, the prior title insurance producer or the prior~~
17 ~~title insurer, at the time a valid order is placed pursuant to the~~
18 ~~provisions of the Oklahoma Abstractors Law brought forward to the~~
19 ~~effective date of the abstract plant. Subject to the conditions and~~
20 ~~stipulations, the exclusions from coverage, exceptions from coverage~~
21 ~~and endorsements to the policy, any policy issued based on a prior~~
22 ~~owner's policy and a supplemental abstract shall insure the insured~~
23 ~~against loss or damage sustained or incurred by reason of~~
24 ~~unmarketability of title from sovereignty to the effective date of~~

1 ~~the policy, not to exceed the amount of insurance stated in the~~
2 ~~policy; or~~

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

8 D. If the current owner or insured, or the owner's or insured's
9 authorized agent requests, in writing, a copy of any previously
10 issued owner's policy, the title insurance producer or the title
11 insurer that issued the policy shall provide the requesting party
12 with a copy of the schedules in the previously issued policy within
13 five (5) business days, unless there exists an unavoidable delay.

14 E. ~~As used in this section, the term "representative" shall~~
15 ~~mean a person authorized to act on behalf of or in place of another~~
16 ~~in the current transaction.~~

17 ~~F.~~ Every title insurance producer, title insurer or person who
18 conducts a real estate closing that presents, for filing in the
19 office of the county clerk, an instrument of conveyance or vesting
20 title in connection with a transaction in which an owner's policy of
21 title insurance is to be issued by a title insurance producer or
22 title insurer that is based upon such instrument shall place a
23 legend within the instrument that sets forth the following
24 information:

1 Deed presented for filing by: [Name of title insurance
2 producer, title insurer or person conducting closing]
3 File Number: [File Number of title insurance producer, title
4 insurer or person conducting closing]
5 [Name of Title Insurer designated in the Commitment for Title
6 Insurance]

7 ~~G.~~ F. The Insurance Department shall maintain, for each title
8 insurance producer or title insurer holding a valid license and
9 authorized to do business in the state, contact information for the
10 office or person responsible for making available copies of owner's
11 policies pursuant to this statute and shall make such contact
12 information generally available to the public on its website and by
13 telephone request.

14 ~~H.~~ G. The Insurance Commissioner may promulgate rules and
15 regulations to carry out the provisions of this section.

16 SECTION 4. AMENDATORY 36 O.S. 2021, Section 5003, is
17 amended to read as follows:

18 Section 5003. A. A title insurer may engage in such other
19 business not inconsistent with the business of issuing title
20 insurance policies as may be authorized by its corporate charter.

21 B. All charges for title searches, abstracts, abstract
22 extensions, supplemental abstracts, or final title reports shall be
23 separately stated and shall not be combined with title insurance,
24

1 closing fees, or examination charges, and any other charges therefor
2 shall be unlawful.

3 SECTION 5. AMENDATORY 36 O.S. 2021, Section 5004, is
4 amended to read as follows:

5 Section 5004. As used in this title:

6 ~~A.~~ 1. "Abstract of title" shall mean a compilation in orderly
7 arrangement of the materials and facts of record, in the office of
8 the county clerk and court clerk, affecting the title to a specific
9 tract of land issued pursuant to a certificate certifying to the
10 matters therein contained;

11 2. "Abstract plant" shall mean a set of records in which an
12 entry has been made of all documents and matters which legally
13 impart constructive notice of matters affecting title to real
14 property, any interest therein, or encumbrances thereon, which are
15 filed, recorded, and currently available for reproduction in the
16 offices of the county clerk and the court clerk in the county for
17 which such abstract plant is maintained. Such records shall consist
18 of:

19 a. an index in which notations of or references to any
20 documents that describe the property affected are
21 included, according to the property described or in
22 which copies or briefs of all such documents that
23 describe the property affected are sorted and filed
24 according to the property described, which is compiled

1 from the instruments of record affecting real property
2 in the county offices and not copied or reproduced
3 from any county index, and

4 b. an index or files in which all other documents,
5 pending suits affecting real property and liens,
6 except ad valorem taxes and special assessments, are
7 posted, entered, or otherwise included, according to
8 the name of the parties whose title to real property
9 or any interest therein or encumbrances thereon is
10 affected, which is compiled from the instruments of
11 record affecting real property in the county offices
12 and not copied from any county index;

13 3. A ~~title~~ "Title insurance policy" ~~is~~ shall mean any written
14 instrument purporting to show the title to real or personal property
15 or any interest therein or encumbrance thereon, or to furnish such
16 information relative to real property, which written instrument in
17 express terms purports to insure or guarantee such title or the
18 correctness of such information; and

19 ~~B. 4. An "aircraft~~ "Aircraft title insurance policy" ~~is~~ shall
20 mean any written instrument purporting to show title to aircraft or
21 any interest therein or encumbrance thereon, which written
22 instrument in express terms protects an aircraft owner or lender
23 against loss of the aircraft or priority security position in the
24 event of a successful adverse claim on the title to an aircraft.

1 SECTION 6. REPEALER 1 O.S. 2021, Sections 20, 21, 22,
2 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
3 41, and 43, are hereby repealed.

4 SECTION 7. REPEALER 1 O.S. 2021, Section 42, is hereby
5 repealed.

6 SECTION 8. The provisions of this act are severable and if any
7 part or provision shall be held void the decision of the court so
8 holding shall not affect or impair any of the remaining parts or
9 provisions of this act.

10 SECTION 9. Sections 1 through 5 of this act shall become
11 effective November 1, 2022. Section 6 of this act shall become
12 effective November 1, 2027.

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