

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 733

By: Rader and Dugger of the
Senate

6 and

7 Bush of the House

8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 59 O.S. 2011, Sections 1033, as amended by
13 Section 1, Chapter 346, O.S.L. 2017, 1036, as amended
14 by Section 2, Chapter 346, O.S.L. 2017, 1038, as
15 amended by Section 3, Chapter 346, O.S.L. 2017, and
16 1041, as amended by Section 4, Chapter 346, O.S.L.
17 2017, and Section 5, Chapter 346, O.S.L. 2017 (59
18 O.S. Supp. 2018, Sections 1033, 1036, 1038, 1041 and
19 1046), which relate to the Oklahoma Inspectors Act;
20 modifying definitions; modifying licensing
21 requirements; removing obsolete language; changing
22 terms of provisional license; eliminating required
23 principal-agent relationship; authorizing license
24 renewal of unemployed inspectors; specifying
conditions; providing for separate classification of
inspector license; specifying requirements for
licensing; specifying certain restrictions on license
holders; updating statutory references; and providing
an effective date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1033, as
2 amended by Section 1, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2018,
3 Section 1033), is amended to read as follows:

4 Section 1033. As used in the Oklahoma Inspectors Act:

5 1. "Board" means the Construction Industries Board;

6 2. "Committee" means the Oklahoma Inspector Examiners
7 Committee;

8 3. "Building and construction inspection" means the inspection
9 of plumbing, electrical, mechanical or structural aspects of
10 building and construction, for the purpose of enforcing compliance
11 with the applicable building codes or standards;

12 4. "Building and construction inspector" means any person
13 actively engaged in the inspection of any phase of building and
14 construction ~~by the political subdivision having managerial and~~
15 ~~superintending control over building codes as the code official for~~
16 ~~the purpose of enforcing and having the authority to enforce~~
17 compliance with the applicable building codes or standards and
18 includes, but is not limited to, plumbing inspectors, electrical
19 inspectors, mechanical inspectors and structural building
20 inspectors;

21 5. "Building official" means the licensed employee code
22 official having the duty to administer and the authority to enforce
23 building codes in the political subdivision;

24

1 6. "Certification" means successful passage of an examination
2 by a Committee-approved national certification program in a license
3 category pursuant to the Oklahoma Inspectors Act;

4 7. "Circuit rider inspector" means a person who acts as a
5 building and construction inspector for two or more municipalities
6 or other political subdivisions and is certified and licensed
7 pursuant to the Oklahoma Inspectors Act;

8 8. "Inactive building and construction inspector" means a
9 previously licensed building and construction inspector, having
10 successfully passed an examination by a Committee-approved national
11 certification program, who ~~is currently not employed by a political~~
12 ~~subdivision and therefore~~ does not meet all requirements of the
13 Oklahoma Inspectors Act to perform building and construction
14 inspections pursuant to the Oklahoma Inspectors Act until all
15 requirements are met;

16 9. "Provisional license" means a license issued to a building
17 and construction inspector who is an employee of a political
18 subdivision on a provisional basis and limited to a maximum of ~~two~~
19 ~~(2) years~~ one (1) year in each license category for the purpose of
20 enabling an applicant to meet the certification requirements;

21 10. "Report writer" means any person or agency ~~designated~~
22 recognized by a political subdivision having managerial and
23 superintending control over building codes as a report writer for
24 purposes of furnishing report-writing services on behalf of the

1 building official. This person must be approved by the building
2 official or designated code official, provided he or she has no
3 conflict of interest and satisfies the requirements of the political
4 subdivision as to qualifications, ethical standards and reliability
5 in the process and services. The individual's furnished written
6 reports shall be provided and acceptable to the building official,
7 designated code official or political subdivision for final code
8 evaluation; and

9 11. "Authorized ~~agent~~ provider" means one who is not a
10 governmental employee but an independent contractor who, ~~through~~
11 ~~contract,~~ is ~~designated~~ recognized by a political subdivision that
12 issues building permits and who meets the requirements under the
13 Oklahoma Inspectors Act and rules promulgated on the requirements of
14 such licensure.

15 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1036, as
16 amended by Section 2, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2018,
17 Section 1036), is amended to read as follows:

18 Section 1036. A. Applicants for certification and license
19 shall~~+~~

20 ~~1. Show~~ show proof of certification or licensing by a program
21 or governmental entity approved by the Construction Industries
22 Board, or by successful completion of an examination approved by the
23 Oklahoma Inspector Examiners Committee; ~~and~~

24 ~~2. Be employed by a political subdivision.~~

1 The Board shall issue a license to any person who has met the
2 requirements of ~~paragraphs 1 and 2~~ of this subsection and who has
3 paid the fees required by the Oklahoma Inspectors Act and has
4 otherwise complied with the applicable requirements of the Oklahoma
5 Inspectors Act. Provided, the Board may issue a provisional license
6 limited to ~~two (2) years~~ one (1) year to enable an applicant to meet
7 the licensing requirements of this subsection while seeking
8 certification by examination.

9 B. Examinations shall be uniform and shall be practical in
10 nature but shall be sufficiently strict to test the qualifications
11 and fitness of the applicant as a building and construction
12 inspector. The examination shall be in whole or in part in writing.
13 Examination dates shall be set by the Committee or by the
14 examination provider. Any applicant failing to pass the examination
15 shall not be permitted to take another examination for a period of
16 thirty (30) days, and thereafter any such applicants subsequently
17 failing to pass the examination shall not be permitted to take a
18 subsequent examination for a period of ninety (90) days.

19 C. All licenses shall be nontransferable and it shall be
20 unlawful for any holder of a license issued pursuant to the Oklahoma
21 Inspectors Act to loan or allow the use of such license by any other
22 person, firm or corporation.
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1 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1038, as
2 amended by Section 3, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2018,
3 Section 1038), is amended to read as follows:

4 Section 1038. A. ~~Other than two-year provisional licenses, no~~
5 No license shall be issued for longer than one (1) year and all
6 licenses shall expire on the birth date of the licensee. The
7 Construction Industries Board shall establish by rule a method for
8 prorating license fees to coincide with the birth date of the
9 licensee.

10 B. An application for the renewal of a license which is
11 received more than thirty (30) days following the date of expiration
12 and which is accompanied by a fee established pursuant to Section
13 1000.5 of this title, and proof of current continuing education
14 requirements, may be accepted and the license reissued without
15 examination.

16 C. The fee for late renewal and the continuing education
17 requirements shall not be required of any holder of a license which
18 expires while such holder is in military service, if application for
19 renewal is made within one (1) year following the service discharge
20 of such person.

21 ~~D. If the licensed building and construction inspector is not~~
22 ~~employed at the time of renewal, the license may be renewed if the~~
23 ~~applicant is otherwise compliant with the requirements of the~~
24 ~~Oklahoma Inspectors Act including meeting continuing education~~

1 ~~requirements; however, the renewal application must reflect the~~
2 ~~change in employment along with a request to renew as inactive~~
3 ~~status. An inactive license status may be changed to active status~~
4 ~~upon notification of employment to the Construction Industries~~
5 ~~Board.~~

6 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1041, as
7 amended by Section 4, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2018,
8 Section 1041), is amended to read as follows:

9 Section 1041. Any municipality or other governmental entity
10 which employs any person as a building and construction inspector
11 for functions normally performed by a building and construction
12 inspector shall notify the Construction Industries Board of the
13 employment.

14 Any municipality or other political subdivision of the state
15 with a population of ten thousand (10,000) or less according to the
16 most current census published by the Oklahoma Employment Security
17 Board shall be exempt from the provisions of the Oklahoma Inspectors
18 Act, unless such municipality or other political subdivision of the
19 state employs the services of a circuit rider inspector or relies on
20 the use of an authorized agent provider.

21 SECTION 5. AMENDATORY Section 5, Chapter 346, O.S.L.
22 2017 (59 O.S. Supp. 2018, Section 1046), is amended to read as
23 follows:
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1 Section 1046. A. For purposes of a building and construction
2 inspector performing functions normally performed by a building and
3 construction inspector for a political subdivision pursuant to the
4 Oklahoma Inspectors Act, the Construction Industries Board shall
5 create for one acting as or performing the work of a building and
6 construction inspector a separate classification of inspector
7 license to act as an authorized ~~agent~~ provider of a political
8 subdivision, and such licensure shall be governed by the Oklahoma
9 Inspectors Act and rules promulgated on the requirements of such
10 licensure.

11 B. As used in this section, "authorized ~~agent~~ provider" means
12 one who is not a governmental employee but an independent contractor
13 who, ~~through contract,~~ is ~~designated~~ recognized by a political
14 subdivision that issues building permits and who meets the
15 requirements under the Oklahoma Inspectors Act and rules promulgated
16 on the requirements of such licensure. An authorized ~~agent~~ provider
17 is excluded from the population limitations of Section 1041 of ~~Title~~
18 ~~59 of the Oklahoma Statutes~~ this title and is required to be
19 licensed regardless of the population of the political subdivision.

20 C. To obtain an authorized ~~agent~~ provider inspector license,
21 the individual or entity shall:

22 1. Be ~~engaged in an independently established business~~
23 ~~approved, individually accepted and designated~~ recognized by a
24 political subdivision, ~~meet~~ as meeting all requirements for a state

1 inspector's license in the category of the inspections being
2 performed and be free of direction and control of any contractor who
3 is requesting the inspection;

4 2. Pass the inspector examination approved by the Oklahoma
5 Inspector Examiners Committee and complete all other requirements in
6 the Oklahoma Inspectors Act and rules for each category sought; and

7 3. Complete an authorized ~~agent~~ provider inspector license
8 application for the examination, license or renewal of license. The
9 application shall be completed in writing on forms furnished by the
10 Construction Industries Board. Each application shall be
11 accompanied by a fee and proof of continuing education for renewals
12 as required in the Oklahoma Inspectors Act and rules.—Every
13 applicant shall provide to the Construction Industries Board, on new
14 and renewal applications, a notarized certification by a political
15 subdivision's city or county manager, clerk or director of
16 inspections department that the applicant will be performing as an
17 authorized agent of that political subdivision.

18 D. It shall be unlawful for any person to act as or perform the
19 work of an authorized ~~agent~~ provider inspector unless such person is
20 qualified and licensed pursuant to the Oklahoma Inspectors Act. An
21 authorized ~~agent~~ provider inspector license does not authorize an
22 individual to issue permits.

23 E. Authorized ~~agent~~ provider inspectors licensed by the state
24 are deemed to be acting as independent contractors and not as

1 officers, employees or agents of the state or any political
2 subdivision. ~~The~~ Neither the state nor the political subdivision
3 assumes ~~ne~~ any liability for the actions or omissions of licensed
4 authorized ~~agents~~ providers.

5 F. Authorized ~~agents~~ providers shall:

6 1. In addition to complying with the provisions of the Oklahoma
7 Inspectors Act, provide proof of insurance coverage of up to One
8 Million Dollars (\$1,000,000.00) in professional liability insurance,
9 in addition to One Million Dollars (\$1,000,000.00) in errors and
10 omissions insurance as set by rule. Proof of valid and current
11 insurance coverage must be provided upon application for
12 registration and renewal of registration in the form of an insurance
13 certificate listing the State of Oklahoma as the certificate holder.
14 Further, proof of compliance with the workers' compensation laws of
15 Oklahoma or exemption is required. Lapse of insurance shall result
16 in the change of license status to inactive;

17 2. Not be under the direction and control of any entity that
18 performs industrial, commercial or residential construction ~~within~~
19 ~~the political subdivision in~~ for which they would provide services;

20 3. Not be under the direction and control of any entity that
21 designs industrial, commercial or residential projects ~~within the~~
22 ~~political subdivision in~~ for which they would provide services;

23 4. Provide written reports acceptable to the political
24 subdivision according to the political subdivision requirements;

1 5. Not be prohibited in ~~this act~~ the Oklahoma Inspectors Act
2 from providing other plan review and inspection services for
3 jurisdictions that pertain to infrastructure projects, utilities
4 projects or other services not regulated by the Oklahoma Inspectors
5 Act, except as restricted or limited by the political subdivision;

6 6. Not be allowed to apply for a provisional license as
7 described in Section 1036 of ~~Title 59 of the Oklahoma Statutes~~ this
8 title; and

9 7. Provide evidence of being certified for the specific license
10 category for which they are applying and shall only provide services
11 in the area of certification and licensing.

12 SECTION 6. This act shall become effective November 1, 2019.

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