

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 729

By: Smith of the Senate

and

Sullivan (John) of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 1991, Sections 110, as last amended by Section 1, Chapter 118, O.S.L. 1994 and 5001 and Section 18, Chapter 339, O.S.L. 1995, as amended by Section 3, Chapter 356, O.S.L. 1995 (36 O.S. Supp. 1995, Sections 110 and 5006), which relate to entities to which Insurance Code does not apply and title insurance; deleting exemption for trust companies engaged in title insurance; updating and clarifying language; extending certain examination authority of Insurance Commissioner to include title insurance agents; authorizing only persons and entities meeting certain qualifications to be licensed as title insurance agents; prohibiting said persons and entities from forming certain legal entities for certain purposes; requiring certain employees be licensed as customer service representatives; requiring certain title evidence be compiled only by certain entity; requiring title insurers to appoint certain persons and entities as agents upon application; entitling agents to certain split in premium; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 110, as last amended by Section 1, Chapter 118, O.S.L. 1994 (36 O.S. Supp. 1995, Section 110), is amended to read as follows:

Section 110. No provision of the Oklahoma Insurance Code, Section 101 et seq. of this title, shall apply to:

1. Nonprofit hospital service and medical indemnity corporations, except as stated in Sections 601 et seq. and 2601 et seq. of this title; or

2. Fraternal benefit societies, except as stated in Section 2701 et seq. of this title; or

3. Farmers' mutual fire insurance associations, except as stated in Section 2801 et seq. of this title; or

4. Mutual benefit associations, except as stated in Section 2401 et seq. of this title; or

5. Domestic burial associations; or

6. Any domestic association organized subject to the supervision or by the authority of any incorporated Grange Order of Patrons of Husbandry, when the association is formed exclusively for the mutual benefit of the members of such order. Effective January 1, 1982, The Oklahoma State Union of the Farmers' Educational and Cooperative Union of America shall comply with all provisions of the Oklahoma Insurance Code; or

~~7. Trust companies organized pursuant to the provisions of Title 6 of the Oklahoma Statutes engaged in title insurance and surety insurance as defined in Section 701 et seq. of this title; or~~

~~8.~~ Soliciting agents of mutual insurance corporations or associations, operating only in this state, that issue no stock or other form of security, do not operate for profit, and have none of their funds inure to the benefit of individuals except in the form of less expensive insurance and necessary expenses of operation, if provisions are made in the bylaws of the insurer for the election of any soliciting agents by a majority of the policyholders in the area where the soliciting agent solicits insurance; or

~~9.~~ 8. The Mutual Aid Association of the Church of the Brethren or the Mutual Aid Association of the Mennonite and Brethren in Christ; or

~~10.~~ 9. Incorporated or unincorporated banking associations having been in existence for over fifteen (15) years and consisting of more than seventy-five (75) member banks within this state for issuance of blanket fidelity bonds for banks within this state for each bank's own use, or any nonprofit trust sponsored by such associations' member banks providing employee benefits such

as life, health, accident, disability, pension and retirement benefits for banks, bank holding companies and subsidiaries thereof, the associations' employees and associate members, if the association uses standard forms and provides information to the Bank Commissioner adequate for a determination of actuarial soundness; or

~~11.~~ 10. A religious publication, or subscribers of the publication, when the publication:

- a. is a nonprofit religious organization,
- b. is limited to subscribers who are members of the same denomination or religion,
- c. acts as an organizational clearinghouse for information between subscribers who have financial, physical or medical needs and subscribers with the present ability to pay subscribers with present financial or medical needs,
- d. provides for the financial or medical needs of a subscriber through payments directly from one subscriber to another, and
- e. suggests amounts that subscribers may voluntarily give with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 5001, is amended to read as follows:

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

B. A person engaged in the business of preparing or issuing abstracts of, but not guaranteeing or insuring, title to property,

or a person acting only as agent for a title insurer, shall not be deemed to be a title insurer.

C. Every policy of title insurance or certificate of title issued by ~~any company~~ a title insurer authorized to do business in this state shall be countersigned by some person, partnership, corporation, ~~company~~, or agency actively engaged in the abstract of title business in Oklahoma ~~as defined and provided in Title 1~~ and holding a certificate of authority issued by the State Auditor and Inspector pursuant to Section 227.10 et seq. of Title 74 of the Oklahoma Statutes, or by an attorney ~~licensed~~ who holds a valid license to practice in ~~the State of Oklahoma~~ this state duly appointed as agent of a title insurance company; ~~provided that,~~ no policy of title insurance shall be issued in ~~the State of Oklahoma~~ this state except after examination of a duly certified abstract of title prepared by a bonded and licensed abstracter as defined herein.

SECTION 3. AMENDATORY Section 18, Chapter 339, O.S.L. 1995, as amended by Section 3, Chapter 356, O.S.L. 1995 (36 O.S. Supp. 1995, Section 5006), is amended to read as follows:

Section 5006. The Insurance Commissioner is authorized to conduct an examination of any title insurance company or agent pursuant to the provisions of Section 309.1 et seq. of ~~Title 36 of the Oklahoma Statutes~~ this title and may employ an examiner for such purposes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5007 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No person, partnership, corporation, or company shall be licensed as an insurance agent for the purpose of title insurance pursuant to Section 1421 et seq. of Title 36 of the Oklahoma Statutes unless such person, partnership, corporation, or company is actively engaged in the abstract of title business and holds a certificate of authority issued by the State Auditor and Inspector pursuant to Section 227.10 et seq. of Title 74 of the Oklahoma Statutes, or unless the person holds a valid license to practice law in this state.

B. Persons, partnerships, corporations, or companies holding a certificate of authority issued pursuant to Section 227.10 et seq. of Title 74 of the Oklahoma Statutes and persons who hold a valid license to practice law in this state are prohibited from forming partnerships, corporations, limited liability companies, companies, or other such legal entities with any individual, corporation, limited liability company, company, or other legal entity not holding such certificate of authority or valid license to practice law for the purpose of acting as a title insurance agent.

C. Employees of an agent as described in subsection A of this section or of a title insurer whose duties consist of assisting the agent or insurer in the preparation of a title insurance policy by negotiating insurance rates, answering specific title insurance questions, soliciting or negotiating coverage, or conducting such other insurance-related business shall be licensed as a customer service representative.

D. Preliminary abstracts, title reports, gap checks, UCC searches, unmatured special assessments reports, final and interim abstracting, final title reports, and any other title evidence required for a commitment for or used in the issuance of title insurance may only be compiled by a holder of a certificate of authority issued pursuant to Section 227.10 et seq. of Title 74 of the Oklahoma Statutes for the county in which the property is located.

E. As a condition of doing business in this state, a title insurer must appoint as its agent in this state any person, partnership, corporation, or company that qualifies pursuant to subsection A of this section and makes application for such appointment. Such agent shall be entitled to the same split in premiums with the insurer as granted by the insurer to any other agent representing the insurer in this state.

SECTION 5. This act shall become effective November 1, 1996.

45-2-2825 JY