ENGROSSED HOUSE
BILL NO. 3176

By: Phillips and Roach of the House

and

Hendrick of the Senate

(insurance - amending 36 O.S., Sections 1424.11, 1424.13 and 5001 - Insurance Agents Licensing Act - title insurance agent - effective date)

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

SECTION 1. AMENDATORY Section 60, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1997, Section 1424.11), is amended to read as follows:

Section 1424.11 A. No person shall act as or hold himself or herself out to be an insurance agent, surplus lines insurance broker, limited insurance representative, managing general agent, consultant, or customer service representative unless duly licensed. Salaried employees in the office of an insurance agent, surplus lines insurance broker, limited insurance representative, managing general agent or consultant, who devote full time to clerical and administrative services, with incidental receiving of insurance applications and premiums in the office of the employer and who do not receive any commissions for the applications nor a compensation that is varied by the volume of applications or premiums taken or received, shall be exempt from any licensing requirement.

B. No insurance agent, surplus lines insurance broker, or limited insurance representative shall make application for, procure, negotiate for, or place for others any policies for any lines of insurance for which he or she is not then qualified and duly licensed.

C. An insurance agent may receive qualification for a license in one or more of the following categories or lines of insurance:

1. Life insurance, including fraternal agents licensed pursuant to Section 2733.1 of this title;

2. Accident and health insurance, including fraternal agents licensed pursuant to Section 2733.1 of this title;

3. Property and casualty insurance;

4. Variable annuity contracts, including fraternal agents licensed pursuant to Section 2733.1 of this title; and

5. Title insurance.

D. A limited insurance representative may receive qualification for a license in one or more of the following categories:

1. As a ticket-selling agent of a common carrier who acts only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier;

2. To engage in the sale of only limited travel accident insurance;

3. To engage in the sale of credit life insurance or credit accident and health insurance or both credit life insurance and credit accident and health insurance in connection with a credit transaction by which satisfaction of a debt in whole or in part is a benefit provided;

4. To engage in the sale of personal property floater insurance upon personal effects against loss or damage from any cause in connection with a credit transaction of not more than Five Thousand Dollars ($5,000.00) by which satisfaction of the credit transaction

debt in whole or in part is a benefit provided, and such personal effects are used as collateral on the debt;

5. To engage in the sale of nonfiling insurance relating to mortgages and security interests arising under the Uniform Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma Statutes;

6. Prepaid legal liability insurance, which means the assumption of an enforceable contractual obligation to provide specified legal services or to reimburse policyholders for specified legal expenses, pursuant to the provisions of a group or individual policy;

7. Job loss insurance, which means the sale of involuntary unemployment insurance in connection with a credit transaction by which satisfaction of a debt in whole or in part is a benefit provided;

8. Crop hail and multiperil crop hail insurance; and

9. Prepaid dental insurance, provided the individual selling the prepaid dental insurance has been appointed by the prepaid dental plan organization to sell such insurance.

E. 1. An insurance agent or limited insurance representative may solicit applications for and issue travel accident policies or baggage insurance by means of mechanical vending machines supervised by the agent or representative only if the Insurance Commissioner shall determine that the form of policy to be sold is reasonably suited for sale and issuance through vending machines, that use of vending machines for the sale of said policies would be of convenience to the public, and that the type of vending machine to be used is reasonably suitable and practical for the sale and issuance of said policies. Policies so sold do not have to be countersigned.

2. The Commissioner shall issue to the insurance agent or limited insurance representative a special vending machine license

for each such machine to be used. The license shall specify the name and address of the insurer and licensee, the kind of insurance and type of policy to be sold, and the place where the machine is to be in operation. The license shall expire, be renewable, and be suspended or revoked coincidentally with the insurance agent license or limited representative license of the licensee. The license fee for each vending machine shall be that stated in the provisions of Section 1425 of this title. Proof of existence of the license shall be displayed on or about each machine in such manner as the Commissioner may reasonably require.

F. Any person or entity who meets the qualifications of the Insurance Agents Licensing Act may be licensed as an insurance agent in title insurance. No person licensed as an abstractor or a licensed attorney shall act as a title insurance agent unless duly licensed as an agent.

SECTION 2. AMENDATORY Section 62, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1997, Section 1424.13), is amended to read as follows:

Section 1424.13 A. Any person or legal entity authorized to do business in Oklahoma may be licensed as an insurance agent, surplus lines insurance broker, or limited insurance representative or insurance consultant.

B. In the case of a partnership which has been licensed each general partner and each other individual acting for the partnership, and in the case of any entity which has been licensed each individual acting for the entity as an agent, surplus lines insurance broker, limited insurance representative or consultant, shall be named in the license and shall qualify therefor as though an individual licensee. The Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in such license. The agency shall notify the Commissioner within fifteen (15) days if any individual licensed

on its behalf has been terminated, is no longer associated with the agency, or has left its employ.

C. A nonresident of this state shall only be named in a license for a resident insurance agency as a nonresident agent.

D. A domestic insurance agency must be organized pursuant to the provisions of the laws of this state and must maintain its principal place of business in this state.

E. A license shall not be issued in a trade name except upon proof satisfactory to the Commissioner that the trade name has been lawfully registered.

F. No entity shall be licensed as an agency unless the insurance business to be transacted pursuant to the license is the primary purpose of the entity as described in its organizing documents or the entity is a bank that qualifies for an insurance agent license pursuant to Section 92 of Title 12 of the United States Code or subsection (10) of Section 402 of Title 6 of the Oklahoma Statutes. Any entity that owns an interest in or is a partner in a licensed agency shall also qualify for and obtain an agency license pursuant to this section, unless the owning entity is a bank that qualifies for an insurance agent license pursuant to Section 92 of Title 12 of the United States Code or subsection (10) of Section 402 of Title 6 of the Oklahoma Statutes, or the owning entity lawfully owned its interest in the licensed agency prior to the effective date of this act. The provisions of this paragraph shall not apply to any person licensed as a title insurance agent.

G. The licensee shall notify the Commissioner of all changes among its members, directors, and officers, and all other individuals designated in the license within fifteen (15) days after said change.

H. No person whose license as an insurance agent has been revoked by order of the Commissioner, nor any entity in which such person has a majority ownership interest, whether direct or

indirect, shall own any interest in any entity licensed pursuant to the provisions of this section.

I. 1. Beginning after July 1, 1998, any partnership, entity or person that is licensed as a title insurance agency shall:

a. require that each individual involved or, in the case of a partnership, each partner and each individual acting for the partnership or, in the case of an entity, each individual or entity acting for the entity as an agent shall be licensed as an individual title insurance agent,

b. require that each individual involved or, in the case of a partnership, each partner and each individual acting for the partnership or, in the case of an entity, each individual or entity acting for the entity as an agent shall be a resident of the State of Oklahoma,

c. provide a surety bond or an approved alternative security arrangement in an amount determined by the Insurance Commissioner, not to exceed Fifty Thousand Dollars ($50,000.00),

d. annually file a financial statement with the Insurance Commissioner's office, and

e. provide a written disclosure on every policy of title insurance issued by the agency disclosing any other real estate, abstractor, or title business in which the agency is engaged.

2. Any licensed title insurance agency in which a person or entity licensed as an abstractor or a licensed attorney owns an interest in or is a partner in shall be required to meet the requirements of paragraph 1 of this subsection.

3. A licensed title insurance agency which does not have a person or entity licensed as an abstractor or a licensed attorney as

an owner or partner shall contract with or employ any licensed abstractor or licensed attorney who is also licensed as a title insurance agent to countersign title insurance policies.

4. Every title insurance agency with a valid agency license on the effective date of this act shall be required to comply with the provisions of this subsection on or before July 1, 2001.

SECTION 3. 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~~ Section 601 et seq. of this title. Any title insurers which hold a valid certificate of authority on the effective date of this act 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 authorized to do business in this state shall be countersigned by ~~some~~ a person~~, partnership, corporation or agency actively engaged in the abstract of title business in Oklahoma as defined and provided in Title 1~~ licensed as an abstractor or by a person licensed as an attorney ~~licensed to practice in the State of Oklahoma duly appointed~~ who is also licensed as ~~agent of~~ a title insurance ~~company, provided that no~~ agent. The requirements of this subsection shall not be construed

as requiring additional qualifications, limitations or restrictions on persons or entities applying to be licensed or who are licensed as title insurance agents. No policy of title insurance shall be issued in the State of Oklahoma except after examination of a duly certified abstract of title prepared by a bonded and licensed abstractor as defined herein.

SECTION 4. This act shall become effective July 1, 1998.

Passed the House of Representatives the 11th day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate