STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 909 By: Crain of the Senate

and

Blackwell and Roan of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to abstracting and state government; amending 74 O.S. 2001, Sections 227.10, as amended by Section 2, Chapter 269, O.S.L. 2006, 227.11, 227.12, 227.13, as amended by Section 3, Chapter 269, O.S.L 2006, 227.14, 227.15, 227.17, 227.18, as amended by Section 4, Chapter 269, O.S.L 2006, 227.20, as amended by Section 5, Chapter 269, O.S.L. 2006, Section 6, Chapter 269, O.S.L. 2006, 227.21 and 227.22, as amended by Sections 7 and 8, Chapter 269, O.S.L. 2006, 227.23, 227.25, as amended by Section 9, Chapter 269, O.S.L. 2006, 227.26, 227.27 and 227.28, as amended by Section 10, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Sections 227.10, 227.13, 227.20, 227.20A, 227.21, 227.22, 227.25 and 227.28), which relate to the Oklahoma Abstractors Law; changing the name of the Oklahoma Abstractors Law to the Oklahoma Abstractors Act throughout act; modifying and adding definitions; creating the Oklahoma Abstractors Board; providing for certain powers and duties; providing for administration and enforcement of the Oklahoma Abstractors Act; providing for sunset; providing for membership, appointment, confirmation, qualifications, districts, initial appointments, terms, successor, vacancies, unexpired terms, reappointment, reimbursement, removal from office, meetings, officers and duties, election of certain member to preside under certain circumstances and quorum of the Board; changing the State Auditor and

Inspector to the Oklahoma Abstractors Board throughout act; adding certain powers and duties; creating the Oklahoma Abstractors Board Revolving Fund; providing for certain deposits; stating fund shall be a certain type of fund consisting of certain monies; appropriating certain monies to be budgeted and expended for certain purposes, costs and expenses; providing for expenditures to be paid on certain warrants; authorizing the Director of the Office of State Finance to transfer certain funds; providing for expenditures of certain funds; modifying certain schedule for application fees; modifying limit of fee for certain license; providing for codification; providing for noncodification; providing for recodification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 227.10, as amended by Section 2, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.10), is amended to read as follows:

Section 227.10 Sections 227.10 through 227.30 of this title shall be known and may be cited as the "Oklahoma Abstractors ~~Law~~ Act".

SECTION 2. AMENDATORY 74 O.S. 2001, Section 227.11, is amended to read as follows:

Section 227.11 As used in the Oklahoma Abstractors ~~Law~~ Act:

1. "Abstract of title" is a compilation in orderly arrangement of the materials and facts of record, in the office of the county clerk and court clerk, affecting the title to a specific tract of

land issued pursuant to a certificate certifying to the matters therein contained~~.~~;

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

a. an index in which notations of or references to any documents that describe the property affected are included, according to the property described or in which copies or briefs of all such documents that describe the property affected are sorted and filed according to the property described, which is compiled from the instruments of record affecting real property in the county offices and not copied or reproduced from any county index; and

b. an index or files in which all other documents, pending suits affecting real property and liens, except ad valorem taxes and special assessments, are posted, entered, or otherwise included, according to the name of the parties whose title to real property or any interest therein or encumbrances thereon is

affected, which is compiled from the instruments of record affecting real property in the county offices and not copied from any county index~~.~~;

3. "Abstract license" is the authorization for a person working for a holder of a certificate of authority to search and remove from county offices county records, summarize or compile copies of such records, and issue the abstract of title;

4. "Act" or "Oklahoma Abstractors Law" means the Oklahoma Abstractors Act;

5. "Board" means the Oklahoma Abstractors Board;

6. "Certificate of authority" is the authorization to engage in the business of abstracting in a county in this state, granted to a person, firm, corporation, or other entity, by the ~~State Auditor and Inspector.~~ Oklahoma Abstractors Board;

~~4.~~ 7. "Permit" is the authorization to build an abstract plant in a specific county~~.~~

~~5. "Abstract license" is the authorization for a person working for a holder of a certificate of authority to search and remove from county offices county records, summarize or compile copies of such records, and issue the abstract of title~~; and

8. "State Auditor and Inspector", for the purposes of the Oklahoma Abstractors Act, means the Oklahoma Abstractors Board.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22 of Title 1, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created to continue until July 1, 2013, in accordance with the Oklahoma Sunset Law the Oklahoma Abstractors Board. Beginning January 1, 2008, the Oklahoma Abstractors Board shall have the total responsibility of administering and enforcing the Oklahoma Abstractors Act.

B. The Board shall have the power and duty to prescribe, promulgate and implement rules as deemed necessary to implement all the provisions of the Oklahoma Abstractors Act.

C. The Board shall have the power and duty to obtain and secure an office in Oklahoma City, and employ, direct, discharge, and define the duties and set the salaries of employees of the Board, including an Executive Director, as are necessary to implement the provisions of the Oklahoma Abstractors Act.

D. The Board shall consist of nine (9) members who shall be appointed by the Governor and confirmed by the Senate.

1. Six of the members shall be residents of this state who are either a holder of a current valid Certificate of Authority or an employee of a holder of a current valid Certificate of Authority for not less than five (5) years in a county in the district from which the member is appointed prior to appointment. One member shall be appointed from each of the following districts:

District 1: Alfalfa, Beaver, Blaine, Cimarron, Custer, Dewey, Ellis, Garfield, Grant, Harper, Kingfisher, Major, Roger Mills, Texas, Woods, and Woodward Counties.

District 2: Beckham, Caddo, Carter, Comanche, Cotton, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Kiowa, Love, McClain, Murray, Stephens, Tillman, and Washita Counties.

District 3: Canadian, Cleveland, Logan, and Oklahoma Counties.

District 4: Adair, Cherokee, Craig, Delaware, Kay, Mayes, Muskogee, Noble, Nowata, Okmulgee, Osage, Ottawa, Pawnee, Payne, Sequoyah, and Washington Counties.

District 5: Creek, Lincoln, Rogers, Tulsa, and Wagoner Counties.

District 6: Atoka, Bryan, Choctaw, Coal, Haskell, Hughes, Johnston, Latimer, Leflore, McIntosh, Marshall, McCurtain, Okfuskee, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, and Seminole Counties.

2. One member shall be a resident of this state who has been a licensed real estate broker in Oklahoma for not less than five (5) years;

3. One member shall be an attorney who is a resident of this state who has been licensed to practice in Oklahoma for not less than five (5) years; and

4. One member shall be a resident of this state who has been an officer in a bank in Oklahoma for not less than five (5) years.

E. The Governor shall make the initial appointments to the Board within ninety (90) days of the effective date of this act.

1. The initial appointments for the members of the Board shall be as follows:

a. members appointed from Districts 1 and 3 shall serve until July 1, 2008,

b. members appointed from Districts 2 and 4 shall serve until July 1, 2009,

c. members appointed from Districts 5 and 6 shall serve until July 1, 2010,

d. the real estate broker member shall serve until July 1, 2010,

e. the attorney member shall serve until July 1, 2009,

f. the bank officer member shall serve until July 1, 2010, and

2. Thereafter, all members shall serve four (4) year terms.

F. Each member shall hold office until the expiration of the term of office for which appointed or until a successor has been appointed and confirmed.

1. Vacancies on the Board due to death, resignation, or removal occurring during a term shall be filled by the Governor for the unexpired portion of the term in a manner as provided for regular appointments to the Board;

2. Members filling the remainder of an unexpired term shall assume office immediately upon appointment by the Governor and shall serve until confirmation or denial of confirmation by the Senate; and

3. A member may be reappointed to the Board, but shall not serve more than two (2) terms.

G. Members of the Board shall receive no salary or compensation for service on the Board, but shall be reimbursed for travel expenses incurred on behalf of their service on the Board pursuant to the State Travel Reimbursement Act.

H. Members may be removed from office by the Governor:

1. For inefficiency, neglect of duty, or malfeasance in office in the manner provided for by law for the removal of officers not subject to impeachment;

2. For cause which shall include, but not be limited to:

a. the member has ceased to be qualified. A member of the Board is no longer qualified to serve if that member:

(1) is a member whose certificate of authority, license, or permit pursuant to the laws of this state has become void or has been revoked or suspended, or

(2) is a member who has moved from this state,

b. the member has been convicted, pled guilty or nolo contendere to a felony pursuant to the laws of the United States or any jurisdiction,

c. the member has become medically incapacitated as determined in writing by a medical doctor upon request by the Board, or

d. the member has been absent from three (3) meetings, or is absent for more than one-half (1/2) the number of minutes for which a meeting is conducted of three meetings as determined by the Board during any twelve-month period, unless such absence is determined to be unavoidable in the opinion of a majority of the remaining members;

3. Upon being found guilty, through due process, of malfeasance, misfeasance or nonfeasance in relation to Board duties; or

4. Upon being found mentally incompetent by a court of competent jurisdiction.

I. Removal pursuant to the provisions of subsection H of this section shall be accomplished in the following manner:

1. After a majority vote of the remaining members setting out the dates of absences or other grounds for removal and the fact of the disqualification of the member, a written notification of the said vote shall be sent to the Governor; and

2. Upon receipt of the written notification, the Governor, after a hearing conducted in accordance with the provisions of the Administrative Procedures Act, may remove any member of the Board for any of the reasons set out in the notice from the Board or for any other reason specified in this act, provided:

a. removal pursuant to the provisions of this subsection shall occur upon the Governor filing a written statement of findings after the hearing as to the reasons and basis for removal of the member with the secretary of the Board, and

b. the Governor shall appoint another member in the manner provided for appointments to the Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 23 of Title 1, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Abstractors Board shall meet at least quarterly each calendar year, and may meet more often as determined by the Board.

B. The Board shall elect from its membership a chair, a vice-chair and a secretary. The officers of the Board shall be elected each July, and shall hold office for a term of one (1) year.

1. The chair shall preside at all meetings of the Board, call special meetings of the Board as are necessary, sign all certificates of authority, licenses and permits and perform such

other duties as the Board shall direct. A special meeting shall be called by the chair upon written request of three or more board members.

2. The vice-chair shall exercise the powers of and perform the duties of the chair in the absence or disability of the chair, and perform such other duties as the Board shall direct.

3. The secretary shall keep a complete and permanent record of all proceedings of the Board and shall preside at any meeting in the absence of the chair and vice-chair, validate minutes of all of the meetings of the Board, in the manner prescribed in the rules of the Board and supervise the maintenance of the records of the Board. The secretary shall perform such other duties as the Board shall direct.

4. At any regular or special meeting at which none of the officers are in attendance, the members of the Board in attendance shall elect a member to preside at that meeting.

5. Five Board members shall constitute a quorum for the transaction of business.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 227.12, is amended to read as follows:

Section 227.12 A. The ~~State Auditor and Inspector~~ Oklahoma Abstractors Board is hereby charged with the duty of administering the Oklahoma Abstractors ~~Law~~ Act. The ~~State Auditor and Inspector~~ Board shall be the sole governmental entity, state, county or

municipal, authorized to regulate and issue certificates of authority, permits, and abstract licenses in this state. For the purposes of exercising the powers and performing the duties imposed by the Oklahoma Abstractors ~~Law~~ Act, the ~~State Auditor and Inspector~~ Board shall be subject to the provisions of the Administrative Procedures Act~~, Sections 301 through 326 of Title 75 of the Oklahoma Statutes~~.

B. The ~~State Auditor and Inspector~~ Board may designate and employ hearing examiners who shall have the authority to conduct hearings subject to the provisions of applicable rules, regulations, and orders of the ~~State Auditor and Inspector~~ Board. No person shall serve as a hearing examiner in any proceeding in which any party to the proceeding is or has been a client of the hearing examiner or any partnership, firm, corporation, or other entity with which the hearing examiner is or has been associated. In any hearing the burden of proof shall be upon the moving party.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 227.13, as amended by Section 3, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.13), is amended to read as follows:

Section 227.13 In performing the duties imposed pursuant to the Oklahoma Abstractors ~~Law~~ Act, the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall have the following powers and duties:

1. To prescribe, promulgate, implement and enforce rules and make such orders as deemed necessary to implement all the provisions of the Oklahoma Abstractors ~~Law~~ Act including the duties imposed in this section;

2. To hold examinations for applicants for abstract licenses;

3. To issue abstract licenses, certificates of authority, and permits in such form as deemed appropriate;

4. To issue abstract licenses and certificates of authority to nonresidents, associations, corporations, and partnerships;

5. To suspend, revoke, or reinstate abstract licenses and certificates of authority previously issued, upon good cause shown;

6. To reprimand, place on probation, or require additional education of licensees and certificate holders upon good cause shown;

7. To establish administrative penalties and fines as provided for in Section 227.22 of this title for failure to furnish an abstract, abstract extension, supplemental abstract or final title report;

8. To prescribe and impose such administrative penalties and fines as deemed proper to be assessed against licensees and certificate holders for the failure to pay the renewal fees or for the violation or noncompliance with any provision of the Oklahoma Abstractors ~~Law~~ Act or rule or order of the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board;

9. To cause the prosecution of any person who violates any of the provisions of the Oklahoma Abstractors ~~Law~~ Act;

10. To promulgate such rules and regulations governing the approval of organizations offering courses of study in real estate as are necessary for the administration of the Oklahoma Abstractors ~~Law~~ Act;

11. To establish minimum standards to be followed in the preparation of abstracts;

12. To establish a schedule of fees for applications for or renewals of certificates of authority, abstract licenses, or permits;

13. To establish the amount of the bond to be filed with applications for abstract licenses, certificates of authority, or permits;

14. To approve fee schedules of holders of certificates of authority, set criteria for determining what constitutes an excessive fee, and impose administrative penalties and fines for violations of approved fee schedules; ~~and~~

15. To deposit all fees and fines collected to the credit of the ~~State Auditor and Inspector Revolving Fund~~ Oklahoma Abstractors Board Fund;

16. To confer with and seek legal assistance from the Office of the Attorney General whenever deemed appropriate by the Board; and

17. To have a seal which shall be affixed to all certificates of authority, abstract licenses, certified copies of documents on file, and such other instruments as the Board may direct, and all courts shall take judicial notice of the seal, and copies of records and proceedings of the Board and all documents filed with the Board and certified under seal shall be received as evidence in all courts of record.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 26 of Title 1, unless there is created a duplication in numbering, reads as follows:

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

effectuating the purposes of the Oklahoma Abstractors Act and to pay all costs and expenses heretofore and hereafter incurred in connection therewith. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. TRANSFER The Director of the Office of State Finance shall transfer the sum of Twenty Thousand Dollars ($20,000.00) from the Revolving Fund for the State Auditor and Inspector ("200 Fund") to the Oklahoma Abstractors Board Revolving Fund of the State Treasury. These funds shall be expended in the same manner and for the same purposes as provided by law for other monies accruing to the credit of the Oklahoma Abstractors Board Revolving Fund.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 227.14, is amended to read as follows:

Section 227.14 A. Any person, firm, corporation, or other entity desiring to engage in the business of abstracting in this state shall make application to the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board for a certificate of authority for each county in which the applicant desires to do business. The application shall be on a form prepared by the ~~State Auditor and Inspector~~ Board and containing such information as may be necessary to determine whether or not the applicant has complied with the

provisions of the Oklahoma Abstractors ~~Law~~ Act. The application shall be accompanied by a fee and a bond. The bond may be a corporate surety bond or a personal bond in the form of cash or a certificate of deposit endorsed in favor of and delivered to the ~~State Auditor and Inspector~~ Board. The application fee shall be set by the ~~State Auditor and Inspector~~ Board in an amount determined by the number of counties in which the applicant desires to do business not to exceed the following schedule:

County Population	Fee Not to Exceed
Less than ~~30,000~~ 10,000	~~$250.00~~ $500.00
~~30,000~~ 10,000 but less than ~~60,000~~ 30,000	~~$500.00~~ $1,000.00
~~60,000~~ 30,000 but less than ~~100,000~~ 60,000	~~$750.00~~ $1,500.00
60,000 but less than 100,000 ~~or more~~	~~$1,000.00~~ $2,000.00
100,000 but less than 200,000	$3,000.00
200,000 or more	$4,000.00

B. The applicant shall furnish proof to the ~~State Auditor and Inspector~~ Board that there is an abstract plant available for use for each county for which abstracts will be prepared, or that the applicant was engaged in the business of abstracting in this state on January 1, 1984, and had a valid certificate of authority

pursuant to the laws of this state on that date for each county in which the applicant wishes to do business. Or, if it is finally determined that the applicant was entitled to a valid certificate of authority pursuant to the provisions of the previous law, said applicant shall be deemed to have been engaged in the business of abstracting on January 1, 1984, and had a valid certificate of authority pursuant to the laws of this state for each county in which the applicant wishes to do business. All periods for compliance for a certificate of authority pursuant to the provisions of the Oklahoma Abstractors ~~Law~~ Act shall be extended for like periods from the date of such determination notwithstanding other provisions of the Oklahoma Abstractors ~~Law~~ Act.

C. The applicant also shall furnish proof of either errors and omissions insurance or a bond for each county in which the applicant wishes to do business to pay damages for possible errors in abstracts prepared subject to the provisions of the certificate as follows:

County Population	Amount of Bond
Less than 30,000	$15,000.00
30,000 but less than 60,000	$25,000.00
60,000 but less than 100,000	$50,000.00
100,000 or more	$100,000.00

The bond may be a corporate surety bond or a personal bond in the form of cash or a certificate of deposit endorsed in favor of and delivered to the ~~State Auditor and Inspector~~ Board.

SECTION 10. AMENDATORY 74 O.S. 2001, Section 227.15, is amended to read as follows:

Section 227.15 In addition to the bond required any person, firm, corporation, or other entity not engaged in the business of abstracting on January 1, 1984, desiring to enter into the business of compiling or abstracting titles to real estate in any of the counties of the State of Oklahoma from and after the passage of the Oklahoma Abstractors ~~Law~~ Act, shall have for use in such business an independent set of abstract books or other system of indexes compiled from the instruments of record affecting real estate in the office of the county clerk, and not copied from the indexes in said office, showing in a sufficiently comprehensive form all instruments affecting the title to real property on file or of record in the office of the county clerk and court clerk of the county wherein such business is conducted.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 227.17, is amended to read as follows:

Section 227.17 Any person, firm, corporation, or other entity who wishes to engage in the business of abstracting in this state who was not engaged in the business of abstracting in this state on January 1, 1984, or who did not have a valid certificate of

authority in this state on such date shall make application for a certificate of authority. At the time of application, the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall notify all certificate holders doing business in the county of the application.

SECTION 12. AMENDATORY 74 O.S. 2001, Section 227.18, as amended by Section 4, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.18), is amended to read as follows:

Section 227.18 A. The ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall issue a certificate of authority to any applicant who has complied with the provisions of the Oklahoma Abstractors ~~Law~~ Act. The certificate shall be in written form and shall indicate the county or counties in which the applicant may operate. The certificate shall be prominently displayed in the office of the certificate holder.

B. All certificates of authority issued pursuant to the provisions of the Oklahoma Abstractors ~~Law~~ Act shall expire annually on a staggered schedule established by the ~~State Auditor and Inspector~~ Board except the first certificates which may cover more than one (1) year but less than two (2) years. Renewal procedures are as follows:

1. Applications for renewal shall be made ninety (90) days prior to expiration and shall be accompanied by a renewal fee in an amount determined by the ~~State Auditor and Inspector~~ Board not to exceed the original application fee;

2. Any individual, firm, corporation, or other entity holding a certificate of authority who fails to apply for renewal and pay the renewal fee shall be notified by the ~~State Auditor and Inspector~~ Board no later than sixty (60) days prior to expiration of the certificate of authority;

3. The individual, firm, corporation, or other entity shall have thirty (30) days from the date of notification to file a renewal application; and

4. The name of any individual, firm, corporation, or other entity failing to renew the certificate of authority shall be stricken from the records of the ~~State Auditor and Inspector~~ Board and said individual, firm, corporation, or other entity shall no longer engage in the business of abstracting in this state until authorized.

C. A list of abstracting fees shall be attached to an application for certificate of authority, an application to renew a certificate of authority and an application to transfer a certificate of authority. No certificate of authority shall be issued to any applicant until the list of abstracting fees is approved by the ~~State Auditor and Inspector~~ Board.

SECTION 13. AMENDATORY 74 O.S. 2001, Section 227.20, as amended by Section 5, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.20), is amended to read as follows:

Section 227.20 A. All abstractors shall furnish abstracts, abstract extensions, supplemental abstracts or final title reports as desired, to the persons applying therefor, in the order of receipt of a valid order therefor, without unnecessary delay, and for reasonable compensation pursuant to the requirements of the Oklahoma Abstractors ~~Law~~ Act. A valid order is a written order from the person applying for the order who is a party to the transaction containing the following elements:

1. A complete and accurate legal description or a complete and accurate address, as applicable;

2. The availability of any necessary base abstract; and

3. An up-front commitment to pay for the order either upon delivery or other payment conditions agreed to by the parties to the transaction or a stated cancellation fee amount.

B. Failure of an abstractor to furnish an abstract, abstract extension, supplemental abstract or final title report within the following time periods shall constitute unnecessary delay:

1. For furnishing new abstracts:

a. unplatted: twenty (20) business days, and

b. platted: fifteen (15) business days; and

2. For furnishing an abstract extension, supplemental abstract or final title report:

a. unplatted: seventeen (17) business days, and

b. platted: twelve (12) business days.

C. All licensed abstractors and certificate of authority holders, whose business is hereby declared to stand upon a like footing with that of common carriers, who shall refuse to do so, upon receipt of a valid order for the abstract, abstract extension, supplemental abstract or final title report, shall be subject to the following:

1. A civil penalty of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) for each occurrence;

2. Liability in any action for damages, loss or injury which any person may suffer or incur by reason of failure to furnish such abstract, abstract extension, supplemental abstract or final title report pursuant to the provisions of this section. This penalty may be enforced in the same manner in which civil judgments may be enforced; and

3. Any administrative penalties and fines enforced by the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board.

D. The provisions of this section shall not apply to orders for abstracts on oil, gas, and other minerals.

SECTION 14. AMENDATORY Section 6, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.20A), is amended to read as follows:

Section 227.20A In the event that a holder of a certificate of authority has had repeated violations of the provisions of either

Section ~~227.22 or 227.28 of Title 74~~ 35 or 41 of Title 1 of the Oklahoma Statutes, the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall establish a procedure whereby a temporary certificate of authority may be issued to another holder of a certificate of authority licensed in this state to meet the consumer needs in the county wherein the violations occurred. The certificate shall be subject to the following:

1. The temporary certificate of authority shall be valid for ninety (90) days;

2. Additional ninety-day renewals may be granted if deemed appropriate;

3. The holder of a temporary certificate of authority shall provide a fee schedule for the county covered by the temporary certificate of authority. The fee schedule may or may not be the same as the current fee schedule of the holder of the certificate of authority receiving the temporary certificate of authority; and

4. The holder of a temporary certificate of authority shall not be required to furnish proof of the existence of an abstract plant required in Section ~~227.14 of Title 74~~ 27 of Title 1 of the Oklahoma Statutes.

SECTION 15. AMENDATORY 74 O.S. 2001, Section 227.21, as amended by Section 7, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.21), is amended to read as follows:

Section 227.21 Any person wishing to develop an abstract plant shall make application for a permit. The application shall be on a form prepared by the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board and shall be accompanied by the fee and the bond as provided in Section ~~227.14 of this title~~ 27 of Title 1 of the Oklahoma Statutes. All permits shall expire annually. A permit holder who has not completed development of an abstract plant at the time the permit expires may apply for renewal of the permit. Applications for renewal must be made thirty (30) days prior to the scheduled expiration of the original permit and shall be accompanied by the renewal fee. The permit holder shall comply with the provisions of the Oklahoma Abstractors ~~Law~~ Act to obtain a certificate of authority after completion of the abstract plant.

SECTION 16. AMENDATORY 74 O.S. 2001, Section 227.22, as amended by Section 8, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.22), is amended to read as follows:

Section 227.22 A. The ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall censure, suspend, revoke, continue, renew, or refuse to issue any certificate of authority or permit issued or applied for pursuant to the provisions of the Oklahoma Abstractors ~~Law~~ Act, if, after a hearing, the ~~State Auditor and Inspector~~ Board finds any one or more of the following conditions:

1. Any untrue statement in the application for a certificate of authority or permit;

2. The violation of or noncompliance with any provision of the Oklahoma Abstractors ~~Law~~ Act or rule, regulation, or order of the ~~State Auditor and Inspector~~ Board;

3. The obtaining of or attempt to obtain a certificate of authority or permit through fraud or misrepresentation;

4. Conviction of or plea of guilty or nolo contendere to a felony in this state, another state, or a federal court or of a misdemeanor involving moral turpitude;

5. Conspiracy involving the certificate holder or the certificate holder's agents to obtain an abstract license for an employee, prospective employee, or other person through fraud or misrepresentation;

6. Failure to properly supervise an abstract licensee whose license is issued through the certificate holder; or

7. Failure to provide an abstract, abstract extension, supplemental abstract or final title report pursuant to the requirements of Section ~~227.20 of this title~~ 32 of Title 1 of the Oklahoma Statutes.

B. In addition to or in lieu of any censure, denial, suspension, or revocation of a certificate or permit, any person, firm, corporation, or other entity violating the provisions of the Oklahoma Abstractors ~~Law~~ Act shall be subject to a civil penalty of not less than One Hundred Dollars ($100.00) nor more than Ten Thousand Dollars ($10,000.00) for each occurrence. The fine may be

enforced in the same manner in which civil judgments may be enforced.

SECTION 17. AMENDATORY 74 O.S. 2001, Section 227.23, is amended to read as follows:

Section 227.23 A. Any person, firm, corporation, or other entity holding a valid abstract license or permit, or any abstract licensee affiliated with such person, firm, corporation, or other entity, shall:

1. have free access to the instruments of record affecting real property filed in any city, county, or state office;

2. be permitted to make such memoranda, notations, or copies of such instruments of record;

3. occupy reasonable space with equipment for that purpose during the business hours of such office;

4. make and prepare abstracts;

5. compile, post, copy, and maintain his books, records, and indexes.

B. The records in any city, county, or state office shall not be taken from the office to which they belong, for any reason, except that records may be taken from the office of the district court clerk by an abstractor who is doing business within that county and has an approved bond on file with the county clerk for a period of time not to exceed twenty-four (24) hours after first giving proper receipt to the appropriate clerk or deputy.

C. An abstractor shall have the right of access to any instrument filed of record in a county office, not later than the close of business of the first business day following the day of filing. There shall be no fee charged for providing access to the instrument.

D. For purposes of this section, "access" means possession of said instrument to mechanically reproduce it, either in the office or out of the office of filing, at the discretion of the county officer having custody of the instrument, which reproduction shall be completed not later than the close of business of the first business day following the day of receipt of the document. Provided if the abstractor fails to return the files within the twenty-four-hour period, the county officer in his discretion may refuse to allow the abstractor to remove said files at a later date. Any county officer making such refusal shall send written notice of such action to the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board.

E. All certificates of authority or permit holders and abstract licensees shall be subject to the same obligation to protect and preserve the public records to which they have access as do the public officers who have legal custody of such records. Holders of certificates of authority or permits and abstract licensees shall be subject to the same penalties for a violation of such duty as said officers.

F. Reliance on the county indexes in the preparation of an abstract of title shall not be a defense of liability for an error or omission in an abstract of title.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 227.25, as amended by Section 9, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.25), is amended to read as follows:

Section 227.25 A. An abstract license shall be issued by the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board to an applicant who:

1. Is eighteen (18) years of age or older;

2. Is of good moral character;

3. Has not been convicted of or pleaded guilty or nolo contendere to a felony or crime of moral turpitude in this state, another state, or a federal court; and

4. Has passed a test for abstractors required by the ~~State Auditor and Inspector~~ Board.

B. Each abstract license shall be valid for one (1) year. The ~~State Auditor and Inspector~~ Board shall set the fees for an abstract license and for renewal not to exceed ~~Fifty Dollars ($50.00)~~ One Hundred Fifty Dollars ($150.00).

SECTION 19. AMENDATORY 74 O.S. 2001, Section 227.26, is amended to read as follows:

Section 227.26 All abstract licensees shall submit to the supervision of a holder of a certificate of authority or permit and

shall inform the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board in writing of the name and address of that holder of a certificate of authority or permit. If the licensee leaves the employ of that holder of a certificate of authority or permit or changes employment to another holder of a certificate of authority or permit, he shall so inform the ~~State Auditor and Inspector~~ Board in writing within ten (10) days of the action.

SECTION 20. AMENDATORY 74 O.S. 2001, Section 227.27, is amended to read as follows:

Section 227.27 Upon good cause shown and after a hearing, the ~~State Auditor and Inspector~~ Oklahoma Abstractors Board may censure a licensee or revoke or suspend his abstract license for any of the following acts:

1. Making of a materially fraudulent statement in an application for an abstract license; or

2. Having been convicted and exhausted all appellate remedies in a court of competent jurisdiction in this or any other state or a federal court of the crime of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, fraud, or any similar offense, or pleading guilty or nolo contendere to any such offense; or

3. Destroying or secreting public records, or failing to return said records within the designated time; or

4. Any other conduct which constitutes untrustworthy or improper, fraudulent, or dishonest activities; or

5. Disregarding or violating any provision of the Oklahoma Abstractors ~~Law~~ Act; or

6. Continued violation after notice from the ~~State Auditor and Inspector~~ Board of engaging in a practice of charging excessive abstracting fees.

SECTION 21. AMENDATORY 74 O.S. 2001, Section 227.28, as amended by Section 10, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.28), is amended to read as follows:

Section 227.28 A. It shall be unlawful for any abstractor as an inducement to obtaining any business to pay, rebate, or deduct any portion of or to permit any deduction from a charge made for making, extending, or certifying an abstract of title, to:

1. Any owner, mortgagee, or lessee of the real property covered by the abstract of title, or of any right, title, or interest in or lien upon the same;

2. Any principal, broker, agent, or attorney in connection with a sale or lease of real property or the making or obtaining of a loan thereon in which an abstract of title is required, used, or furnished; and

3. Any spouse, child, employee, ward, officer, director, subsidiary, affiliate, parent, relative within the fifth degree,

personal representative, or partner of any person, firm, or corporation included in this section.

B. All charges for abstracts, abstract extensions, supplemental abstracts or final title reports shall be separately stated and shall not be combined with title insurance, closing fees, or examination charges, shall be uniform for all abstracts, abstract extensions, supplemental abstracts or final title reports of whatsoever kind or nature, whether the abstract, abstract extension, supplemental abstract or final title report is prepared for use by the abstractor or for others purchasing abstracts, abstract extensions, supplemental abstracts or final title reports from the abstractor; and any other charge therefor shall be unlawful.

C. The list of abstracting fees required to be attached to an application for certificate of authority, an application to renew a certificate of authority and an application to transfer a certificate of authority pursuant to the provisions of Section 227.18 of this title shall include all fees the applicant intends to charge for abstracts, abstract extensions, supplemental abstracts or final title reports. The ~~State Auditor and Inspector~~ Oklahoma Abstractors Board shall notify the applicant in writing of any action taken with regard to the requested fees within sixty (60) days of submission. If no notice is provided regarding the submitted fees, they will be deemed to become effective on the sixty-first day following the day the application was submitted to

the ~~State Auditor and Inspector~~ Board. The fees shall also be subject to the following:

1. No fee shall be charged that is not on the approved list;

2. The holder of the certificate of authority may submit an amended list of fees once a year requesting approval for changes to the currently approved fees; and

3. The amended list of fees must be approved before becoming effective. The ~~State Auditor and Inspector~~ Board may disapprove a list of fees or an amended list of fees if the fees are determined to be excessive or are used as an unlawful inducement. In determining whether a fee is excessive, the ~~State Auditor and Inspector~~ Board may consider any or all of the following:

a. the change from any prior rate for the same abstract, abstract extension, supplemental abstract or final title report,

b. the fee charged by other holders of certificates of authority within the same county, in adjacent counties, and in counties with similar characteristics,

c. the amount of work performed,

d. the time required to perform the work,

e. the amount of financial risk involved to the holder of the certificate of authority,

f. the cost of providing the abstract, abstract extension, supplemental abstract or final title report,

g. the availability of competition,

h. the average cost for such services across the state, and

i. any other relevant factor applicable to a particular set of circumstances presented for approval.

D. In addition to any other penalty any person, firm, corporation, or other entity violating the provisions of this section shall be subject to a civil penalty of not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1,000.00) for each occurrence. The fine may be enforced in the same manner in which civil judgments may be enforced.

SECTION 22. RECODIFICATION 74 O.S. 2001, Section 227.10, as last amended by Section 1 of this act, shall be recodified as Section 20 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.11, as amended by Section 2 of this act, shall be recodified as Section 21 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.12, as amended by Section 5 of this act, shall be recodified as Section 24 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.13, as last amended by Section 6 of this act, shall be recodified as Section 25 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.14, as amended by Section 9 of this act, shall be recodified as Section 27 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.15, as amended by Section 10 of this act, shall be recodified as Section 28 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.17, as amended by Section 11 of this act, shall be recodified as Section 29 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.18, as last amended by Section 12 of this act, shall be recodified as Section 30 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.19, shall be recodified as Section 31 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.20, as last amended by Section 13 of this act, shall be recodified as Section 32 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

Section 6, Chapter 269, O.S.L. 2006 (74 O.S. Supp. 2006, Section 227.20A), as amended by Section 14 of this act, shall be recodified as Section 33 of Title 1 of the Oklahoma Statutes unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.21, as last amended by Section 15 of this act, shall be recodified as Section 34 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.22, as last amended by Section 16 of this act, shall be recodified as Section 35 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.23, as amended by Section 17 of this act, shall be recodified as Section 36 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.24, shall be recodified as Section 37 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.25, as last amended by Section 18 of this act, shall be recodified as Section 38 of Title 1 of the Oklahoma Statutes unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.26, as amended by Section 19 of this act, shall be recodified as Section 39 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.27, as amended by Section 20 of this act, shall be recodified as Section 40 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.28, as last amended by Section 21 of this act, shall be recodified as Section 41 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

74 O.S. 2001, Section 227.29, shall be recodified as Section 42 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

Section 1, Chapter 36, O.S.L. 2002 (74 O.S. Supp. 2006, Section 227.30), shall be recodified as Section 43 of Title 1 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 23. Sections 3, 4, 7 and 8 of this act shall become effective July 1, 2007.

SECTION 24. Sections 1, 2, 5, 6, and 9 through 22 of this act shall become effective January 1, 2008.

SECTION 25. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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