

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 733

By: Rader and Dugger of the
Senate

3
4 and

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

20 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
and replace with:

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22
23 "An Act relating to professions and occupations;
24 amending 59 O.S. 2011, Sections 1033, as amended by
Section 1, Chapter 346, O.S.L. 2017, 1036, as

1 amended by Section 2, Chapter 346, O.S.L. 2017,
2 1038, as amended by Section 3, Chapter 346, O.S.L.
3 2017, and 1041, as amended by Section 4, Chapter
4 346, O.S.L. 2017, and Section 5, Chapter 346, O.S.L.
5 2017 (59 O.S. Supp. 2018, Sections 1033, 1036, 1038,
6 1041 and 1046), which relate to the Oklahoma
7 Inspectors Act; modifying definitions; modifying
8 licensing requirements; removing obsolete language;
9 changing terms of provisional license; eliminating
10 required principal-agent relationship; authorizing
11 license renewal of unemployed inspectors; specifying
12 conditions; providing for separate classification of
13 inspector license; specifying requirements for
14 licensing; specifying certain restrictions on
15 license holders; updating statutory references; and
16 providing an effective date.

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

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

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

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

23 2. "Committee" means the Oklahoma Inspector Examiners
24 Committee;

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

1 4. "Building and construction inspector" means any person
2 actively engaged in the inspection of any phase of building and
3 construction ~~by the political subdivision having managerial and~~
4 ~~superintending control over building codes as the code official~~ for
5 the purpose of enforcing ~~and having the authority to enforce~~
6 compliance with the applicable building codes or standards and
7 includes, but is not limited to, plumbing inspectors, electrical
8 inspectors, mechanical inspectors and structural building
9 inspectors;

10 5. "Building official" means the licensed employee code
11 official having the duty to administer and the authority to enforce
12 building codes in the political subdivision;

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

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

20 8. "Inactive building and construction inspector" means a
21 previously licensed building and construction inspector, having
22 successfully passed an examination by a Committee-approved national
23 certification program, ~~who is currently not employed by a political~~
24 ~~subdivision and therefore~~ does not meet all requirements of the

1 Oklahoma Inspectors Act to perform building and construction
2 inspections pursuant to the Oklahoma Inspectors Act until all
3 requirements are met;

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

9 10. "Report writer" means any person or agency ~~designated~~
10 recognized by a political subdivision having managerial and
11 superintending control over building codes as a report writer for
12 purposes of furnishing report-writing services on behalf of the
13 building official. This person must be approved by the building
14 official or designated code official, provided he or she has no
15 conflict of interest and satisfies the requirements of the political
16 subdivision as to qualifications, ethical standards and reliability
17 in the process and services. The individual's furnished written
18 reports shall be provided and acceptable to the building official,
19 designated code official or political subdivision for final code
20 evaluation; and

21 11. "Authorized ~~agent~~ provider" means one who is not a
22 governmental employee but an independent contractor who, ~~through~~
23 ~~contract,~~ is ~~designated~~ recognized by a political subdivision that
24 issues building permits and who meets the requirements under the

1 Oklahoma Inspectors Act and rules promulgated on the requirements of
2 such licensure.

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

6 Section 1036. A. Applicants for certification and license
7 shall:

8 ~~1. Show~~ show proof of certification by successful completion of
9 an examination approved by the Oklahoma Inspector Examiners
10 Committee; ~~and~~

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

12 The Board shall issue a license to any person who has met the
13 requirements of ~~paragraphs 1 and 2 of~~ this subsection and who has
14 paid the fees required by the Oklahoma Inspectors Act and has
15 otherwise complied with the applicable requirements of the Oklahoma
16 Inspectors Act. Provided, the Board may issue a provisional license
17 limited to ~~two (2) years~~ one (1) year to enable an applicant to meet
18 the licensing requirements of this subsection while seeking
19 certification by examination.

20 B. Examinations shall be uniform and shall be practical in
21 nature but shall be sufficiently strict to test the qualifications
22 and fitness of the applicant as a building and construction
23 inspector. The examination shall be in whole or in part in writing.
24 Examination dates shall be set by the Committee or by the

1 examination provider. Any applicant failing to pass the examination
2 shall not be permitted to take another examination for a period of
3 thirty (30) days, and thereafter any such applicants subsequently
4 failing to pass the examination shall not be permitted to take a
5 subsequent examination for a period of ninety (90) days.

6 C. All licenses shall be nontransferable and it shall be
7 unlawful for any holder of a license issued pursuant to the Oklahoma
8 Inspectors Act to loan or allow the use of such license by any other
9 person, firm or corporation.

10 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1038, as
11 amended by Section 3, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2018,
12 Section 1038), is amended to read as follows:

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

19 B. An application for the renewal of a license which is
20 received more than thirty (30) days following the date of expiration
21 and which is accompanied by a fee established pursuant to Section
22 1000.5 of this title, and proof of current continuing education
23 requirements, may be accepted and the license reissued without
24 examination.

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

6 ~~D. If the licensed building and construction inspector is not
7 employed at the time of renewal, the license may be renewed if the
8 applicant is otherwise compliant with the requirements of the
9 Oklahoma Inspectors Act including meeting continuing education
10 requirements; however, the renewal application must reflect the
11 change in employment along with a request to renew as inactive
12 status. An inactive license status may be changed to active status
13 upon notification of employment to the Construction Industries
14 Board.~~

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

18 Section 1041. Any municipality or other governmental entity
19 which employs any person as a building and construction inspector
20 for functions normally performed by a building and construction
21 inspector shall notify the Construction Industries Board of the
22 employment.

23 Any municipality or other political subdivision of the state
24 with a population of ten thousand (10,000) or less according to the

1 most current census published by the Oklahoma Employment Security
2 Board shall be exempt from the provisions of the Oklahoma Inspectors
3 Act, unless such municipality or other political subdivision of the
4 state employs the services of a circuit rider inspector or relies on
5 the use of an authorized agent provider.

6 SECTION 5. AMENDATORY Section 5, Chapter 346, O.S.L.
7 2017 (59 O.S. Supp. 2018, Section 1046), is amended to read as
8 follows:

9 Section 1046. A. For purposes of a building and construction
10 inspector performing functions normally performed by a building and
11 construction inspector for a political subdivision pursuant to the
12 Oklahoma Inspectors Act, the Construction Industries Board shall
13 create for one acting as or performing the work of a building and
14 construction inspector a separate classification of inspector
15 license to act as an authorized ~~agent~~ provider of a political
16 subdivision, and such licensure shall be governed by the Oklahoma
17 Inspectors Act and rules promulgated on the requirements of such
18 licensure.

19 B. As used in this section, "authorized ~~agent~~ provider" means
20 one who is not a governmental employee but an independent contractor
21 who, ~~through contract,~~ is ~~designated~~ recognized by a political
22 subdivision that issues building permits and who meets the
23 requirements under the Oklahoma Inspectors Act and rules promulgated
24 on the requirements of such licensure. An authorized ~~agent~~ provider

1 is excluded from the population limitations of Section 1041 of ~~Title~~
2 ~~59 of the Oklahoma Statutes~~ this title and is required to be
3 licensed regardless of the population of the political subdivision.

4 C. To obtain an authorized ~~agent~~ provider inspector license,
5 the individual shall:

6 1. ~~Be engaged in an independently established business~~
7 ~~approved, individually accepted and designated~~ recognized by a
8 political subdivision, ~~meet~~ as meeting all requirements for a state
9 inspector's license in the category of the inspections being
10 performed and be free of direction and control of any contractor who
11 is requesting the inspection;

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

15 3. Complete an authorized ~~agent~~ provider inspector license
16 application for the examination, license or renewal of license. The
17 application shall be completed in writing on forms furnished by the
18 Construction Industries Board. Each application shall be
19 accompanied by a fee and proof of continuing education for renewals
20 as required in the Oklahoma Inspectors Act and rules. ~~Every~~
21 ~~applicant shall provide to the Construction Industries Board, on new~~
22 ~~and renewal applications, a notarized certification by a political~~
23 ~~subdivision's city or county manager, clerk or director of~~

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1 ~~inspections department that the applicant will be performing as an~~
2 ~~authorized agent of that political subdivision.~~

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

8 E. Authorized ~~agent~~ provider inspectors licensed by the state
9 are deemed to be acting as independent contractors and not as
10 officers, employees or agents of the state or any political
11 subdivision. ~~The~~ Neither the state nor the political subdivision
12 assumes ~~ne~~ any liability for the actions or omissions of licensed
13 authorized ~~agents~~ providers.

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

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

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

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

9 4. Provide written reports acceptable to the political
10 subdivision according to the political subdivision requirements;

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

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

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

22 G. Beginning November 1, 2019, and until administrative rules
23 concerning authorized provider licensure have been finally adopted
24 pursuant to the Administrative Procedures Act, authorized agent

1 licensure shall be equivalent to authorized provider licensure
2 pursuant to the Oklahoma Inspectors Act, and existing administrative
3 rules set forth in the Oklahoma Administrative Code relating to
4 authorized agent licensure shall remain in effect.

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

6 Passed the House of Representatives the 22nd day of April, 2019.

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9 _____
10 Presiding Officer of the House of
Representatives

11 Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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