

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2303

By: McCall

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to abstracts; amending 1 O.S. 2011,
10 Section 43, which relates to retention of abstract;
11 requiring release of abstract upon written request;
12 providing penalties; amending 36 O.S. 2011, Section
13 5001, as amended by Section 1, Chapter 64, O.S.L.
14 2013 (36 O.S. Supp. 2016, Section 5001), which
15 relates to title insurance; requiring a copy of the
16 schedules in a previously issued title insurance
17 policy be provided if requested; and providing an
18 effective date.

19
20
21
22
23
24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 1 O.S. 2011, Section 43, is
amended to read as follows:

Section 43. A purchaser of real property shall have the
opportunity to retain possession of the abstract for the property
being purchased. The purchaser shall be notified about the option
to retain possession at the scheduled closing; however, if a
contractual obligation to a mortgage company requires retention of

1 the abstract by that mortgage company, then the purchaser shall have
2 an opportunity to take possession of the abstract upon complete
3 performance of the contractual obligations. If a duly licensed
4 abstract company is holding or storing the abstract, upon written
5 request from the owner or another party to a current transaction,
6 the licensed abstractor shall release the abstract without delay.
7 All licensed abstractors and certificate of authority holders who
8 refuse to do so shall be subject to the following:

9 1. A civil penalty to the requesting party of not less than One
10 Hundred Dollars (\$100.00) and not more than One Thousand Dollars
11 (\$1,000.00) for each occurrence;

12 2. Liability in any action for damages, loss or injury suffered
13 or incurred by any person by reason of failure to deliver the
14 abstract pursuant to the provisions of this section. Any civil
15 judgment rendered pursuant to this paragraph may be enforced in the
16 same manner in which other civil judgments may be enforced; and

17 3. Any administrative penalties and fines enforced by the
18 Oklahoma Abstractors Board.

19 SECTION 2. AMENDATORY 36 O.S. 2011, Section 5001, as
20 amended by Section 1, Chapter 64, O.S.L. 2013 (36 O.S. Supp. 2016,
21 Section 5001), is amended to read as follows:

22 Section 5001. A. Any foreign or domestic stock insurer
23 authorized by its corporate charter to engage in business as a title
24 insurer shall be entitled to the issuance of a certificate of

1 authority as a title insurer in this state upon meeting the
2 applicable requirements of Article 6, Authorization of Insurers and
3 General Requirements, of the Oklahoma Insurance Code, except that
4 existing title insurers may have their certificate of authority
5 renewed by maintaining surplus in regard to policyholders of not
6 less than Five Hundred Thousand Dollars (\$500,000.00).

7 B. A person engaged in the business of preparing or issuing
8 abstracts of, but not guaranteeing or insuring, title to property,
9 or a person acting only as agent for a title insurer, shall not be
10 deemed to be a title insurer.

11 C. Every policy of title insurance issued by any insurance
12 company authorized to do business in this state shall be
13 countersigned by some person, partnership, corporation or agency
14 actively engaged in the real estate title business and maintaining
15 an office in the state, who is a duly appointed agent of a title
16 insurance company holding a valid license and authorized to do
17 business in the state; provided, that no policy of title insurance
18 shall be issued in the State of Oklahoma except:

19 1. After examination by an attorney licensed to practice in
20 this state of a duly certified abstract extension or supplemental
21 abstract prepared by an abstractor licensed in the county where the
22 property is located, from a certified abstract plant in the county
23 where the property is located or per a temporary certificate of
24 authority as provided in Section 33 of Title 1 of the Oklahoma

1 Statutes, from the effective date of a prior owner's policy of title
2 insurance issued by a title insurer licensed in this state provided
3 by the insured pursuant to the policy at the time a valid order is
4 placed pursuant to the provisions of the Oklahoma Abstractors Law
5 brought forward to the effective date of the abstract plant.

6 Subject to the conditions and stipulations, the exclusions from
7 coverage, exceptions from coverage and endorsements to the policy,
8 any policy issued based on a prior owner's policy and a supplemental
9 abstract shall insure the insured against loss or damage sustained
10 or incurred by reason of unmarketability of title from sovereignty
11 to the effective date of the policy, not to exceed the amount of
12 insurance stated in the policy; or

13 2. If the previously insured owner does not provide a copy of
14 the owner's policy of title insurance, then a title insurance policy
15 may be issued after examination by an attorney licensed to practice
16 in this state of a duly certified abstract of title prepared by a
17 bonded and licensed abstractor as defined in the Oklahoma
18 Abstractors Law.

19 D. If the current owner or the owner's authorized agent
20 requests, in writing, a copy of any previously issued owner's
21 policy, the licensed title producer or the underwriting title
22 insurance company that issued the policy shall provide the
23 requesting party with a copy of the schedules in the previously
24 issued policy without delay.

1 E. As used in subsections B and C of this section, the term
2 "agent" shall mean a person authorized to act on behalf of or in
3 place of another.

4 SECTION 3. This act shall become effective November 1, 2017.
5

6 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
7 PENSIONS, dated 02/28/2017 - DO PASS, As Amended.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24