

1 **SENATE FLOOR VERSION**

2 April 6, 2017

3 ENGROSSED HOUSE
4 BILL NO. 2303

By: McCall of the House

5 and

6 Newberry of the Senate

7
8 An Act relating to abstracts; amending 1 O.S. 2011,
9 Section 43, which relates to retention of abstract;
10 requiring release of abstract upon written request;
11 providing penalties; amending 36 O.S. 2011, Section
12 5001, as amended by Section 1, Chapter 64, O.S.L.
13 2013 (36 O.S. Supp. 2016, Section 5001), which
14 relates to title insurance; requiring a copy of the
15 schedules in a previously issued title insurance
16 policy be provided if requested; and providing an
17 effective date.

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

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

21 Section 43. A purchaser of real property shall have the
22 opportunity to retain possession of the abstract for the property
23 being purchased. The purchaser shall be notified about the option
24 to retain possession at the scheduled closing; however, if a
contractual obligation to a mortgage company requires retention of
the abstract by that mortgage company, then the purchaser shall have
an opportunity to take possession of the abstract upon complete

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

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

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

15 3. Any administrative penalties and fines enforced by the
16 Oklahoma Abstractors Board.

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

20 Section 5001. A. Any foreign or domestic stock insurer
21 authorized by its corporate charter to engage in business as a title
22 insurer shall be entitled to the issuance of a certificate of
23 authority as a title insurer in this state upon meeting the
24 applicable requirements of Article 6, Authorization of Insurers and

1 General Requirements, of the Oklahoma Insurance Code, except that
2 existing title insurers may have their certificate of authority
3 renewed by maintaining surplus in regard to policyholders of not
4 less than Five Hundred Thousand Dollars (\$500,000.00).

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

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

17 1. After examination by an attorney licensed to practice in
18 this state of a duly certified abstract extension or supplemental
19 abstract prepared by an abstractor licensed in the county where the
20 property is located, from a certified abstract plant in the county
21 where the property is located or per a temporary certificate of
22 authority as provided in Section 33 of Title 1 of the Oklahoma
23 Statutes, from the effective date of a prior owner's policy of title
24 insurance issued by a title insurer licensed in this state provided

1 by the insured pursuant to the policy at the time a valid order is
2 placed pursuant to the provisions of the Oklahoma Abstractors Law
3 brought forward to the effective date of the abstract plant.

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

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

17 D. If the current owner or the owner's authorized agent
18 requests, in writing, a copy of any previously issued owner's
19 policy, the licensed title producer or the underwriting title
20 insurance company that issued the policy shall provide the
21 requesting party with a copy of the schedules in the previously
22 issued policy without delay.
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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 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
6 April 6, 2017 - DO PASS
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