

1 **SENATE FLOOR VERSION**

2 February 28, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 733

By: Rader and Dugger of the
Senate

6 and

7 Bush of the House

8
9 [professions and occupations - Oklahoma Inspectors
10 Act - licensing requirements - provisional license -
11 license renewal of unemployed inspectors - separate
classification of inspector license - restrictions on
license holders - effective date]

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

20 2. "Committee" means the Oklahoma Inspector Examiners
21 Committee;

22 3. "Building and construction inspection" means the inspection
23 of plumbing, electrical, mechanical or structural aspects of
24

1 building and construction, for the purpose of enforcing compliance
2 with the applicable building codes or standards;

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

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

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

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

22 8. "Inactive building and construction inspector" means a
23 previously licensed building and construction inspector, having
24 successfully passed an examination by a Committee-approved national

1 certification program, who ~~is currently not employed by a political~~
2 ~~subdivision and therefore~~ does not meet all requirements of the
3 Oklahoma Inspectors Act to perform building and construction
4 inspections pursuant to the Oklahoma Inspectors Act until all
5 requirements are met;

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

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

23 11. "Authorized ~~agent~~ provider" means one who is not a
24 governmental employee but an independent contractor who, ~~through~~

1 ~~contract,~~ is ~~designated~~ recognized by a political subdivision that
2 issues building permits and who meets the requirements under the
3 Oklahoma Inspectors Act and rules promulgated on the requirements of
4 such licensure.

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

8 Section 1036. A. Applicants for certification and license
9 shall:

10 ~~1. Show~~ show proof of certification or licensing by a program
11 or governmental entity approved by the Construction Industries
12 Board, or by successful completion of an examination approved by the
13 Oklahoma Inspector Examiners Committee; ~~and~~

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

15 The Board shall issue a license to any person who has met the
16 requirements of ~~paragraphs 1 and 2 of~~ this subsection and who has
17 paid the fees required by the Oklahoma Inspectors Act and has
18 otherwise complied with the applicable requirements of the Oklahoma
19 Inspectors Act. Provided, the Board may issue a provisional license
20 limited to ~~two (2) years~~ six (6) months to enable an applicant to
21 meet the licensing requirements of this subsection while seeking
22 certification by examination.

23 B. Examinations shall be uniform and shall be practical in
24 nature but shall be sufficiently strict to test the qualifications

1 and fitness of the applicant as a building and construction
2 inspector. The examination shall be in whole or in part in writing.
3 Examination dates shall be set by the Committee or by the
4 examination provider. Any applicant failing to pass the examination
5 shall not be permitted to take another examination for a period of
6 thirty (30) days, and thereafter any such applicants subsequently
7 failing to pass the examination shall not be permitted to take a
8 subsequent examination for a period of ninety (90) days.

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

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

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

22 B. An application for the renewal of a license which is
23 received more than thirty (30) days following the date of expiration
24 and which is accompanied by a fee established pursuant to Section

1 1000.5 of this title, and proof of current continuing education
2 requirements, may be accepted and the license reissued without
3 examination.

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

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

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

21 Section 1041. Any municipality or other governmental entity
22 which employs any person as a building and construction inspector
23 for functions normally performed by a building and construction
24

1 inspector shall notify the Construction Industries Board of the
2 employment.

3 Any municipality or other political subdivision of the state
4 with a population of ten thousand (10,000) or less according to the
5 most current census published by the Oklahoma Employment Security
6 Board shall be exempt from the provisions of the Oklahoma Inspectors
7 Act, unless such municipality or other political subdivision of the
8 state employs the services of a circuit rider inspector or relies on
9 the use of an authorized ~~agent~~ provider.

10 SECTION 5. AMENDATORY Section 5, Chapter 346, O.S.L.
11 2017 (59 O.S. Supp. 2018, Section 1046), is amended to read as
12 follows:

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

23 B. As used in this section, "authorized ~~agent~~ provider" means
24 one who is not a governmental employee but an independent contractor

1 who, ~~through contract,~~ is ~~designated~~ recognized by a political
2 subdivision that issues building permits and who meets the
3 requirements under the Oklahoma Inspectors Act and rules promulgated
4 on the requirements of such licensure. An authorized ~~agent~~ provider
5 is excluded from the population limitations of Section 1041 of ~~Title~~
6 ~~59 of the Oklahoma Statutes~~ this title and is required to be
7 licensed regardless of the population of the political subdivision.

8 C. To obtain an authorized ~~agent~~ provider inspector license,
9 the individual or entity shall:

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

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

19 3. Complete an authorized ~~agent~~ provider inspector license
20 application for the examination, license or renewal of license. The
21 application shall be completed in writing on forms furnished by the
22 Construction Industries Board. Each application shall be
23 accompanied by a fee and proof of continuing education for renewals
24 as required in the Oklahoma Inspectors Act and rules. ~~Every~~

1 ~~applicant shall provide to the Construction Industries Board, on new~~
2 ~~and renewal applications, a notarized certification by a political~~
3 ~~subdivision's city or county manager, clerk or director of~~
4 ~~inspections department that the applicant will be performing as an~~
5 ~~authorized agent of that political subdivision.~~

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

11 E. Authorized ~~agent~~ provider inspectors licensed by the state
12 are deemed to be acting as independent contractors and not as
13 officers, employees or agents of the state or any political
14 subdivision. ~~The~~ Neither the state nor the political subdivision
15 assumes ~~no~~ any liability for the actions or omissions of licensed
16 authorized ~~agents~~ providers.

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

18 1. In addition to complying with the provisions of the Oklahoma
19 Inspectors Act, provide proof of insurance coverage of up to One
20 Million Dollars (\$1,000,000.00) in professional liability insurance,
21 in addition to One Million Dollars (\$1,000,000.00) in errors and
22 omissions insurance as set by rule. Proof of valid and current
23 insurance coverage must be provided upon application for
24 registration and renewal of registration in the form of an insurance

1 certificate listing the State of Oklahoma as the certificate holder.
2 Further, proof of compliance with the workers' compensation laws of
3 Oklahoma or exemption is required. Lapse of insurance shall result
4 in the change of license status to inactive;

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

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

11 4. Provide written reports acceptable to the political
12 subdivision according to the political subdivision requirements;

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

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
February 28, 2019 - DO PASS AS AMENDED

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24