

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2501

By: Frix

AS INTRODUCED

An Act relating to abstracting; amending 1 O.S. 2011, Sections 21 and 43, as amended by Section 1, Chapter 148, O.S.L. 2017 (1 O.S. Supp. 2020, Section 43), which relate to the Oklahoma Abstractors Act; adding definition; modifying retention and release of abstract; and providing an effective date.

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

SECTION 1. AMENDATORY 1 O.S. 2011, Section 21, is amended to read as follows:

Section 21. As used in the Oklahoma Abstractors 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

1 property, any interest therein or encumbrances thereon, which are  
2 filed, recorded and currently available for reproduction in the  
3 offices of the county clerk and the court clerk in the county for  
4 which such abstract plant is maintained. Such records shall consist  
5 of:

- 6 a. an index in which notations of or references to any  
7 documents that describe the property affected are  
8 included, according to the property described or in  
9 which copies or briefs of all such documents that  
10 describe the property affected are sorted and filed  
11 according to the property described, which is compiled  
12 from the instruments of record affecting real property  
13 in the county offices and not copied or reproduced  
14 from any county index~~+~~l and
- 15 b. an index or files in which all other documents,  
16 pending suits affecting real property and liens,  
17 except ad valorem taxes and special assessments, are  
18 posted, entered, or otherwise included, according to  
19 the name of the parties whose title to real property  
20 or any interest therein or encumbrances thereon is  
21 affected, which is compiled from the instruments of  
22 record affecting real property in the county offices  
23 and not copied from any county index;

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

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

7        5. "Board" means the Oklahoma Abstractors Board;

8        6. "Certificate of authority" is the authorization to engage in  
9 the business of abstracting in a county in this state, granted to a  
10 person, firm, corporation, or other entity, by the Oklahoma  
11 Abstractors Board;

12       7. "Permit" is the authorization to build an abstract plant in  
13 a specific county; ~~and~~

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

16       9. "Authorized agent" or "representative" of a current owner or  
17 insured means a real estate broker, real estate agent, lender,  
18 attorney, title insurer, title insurance agent, escrow agent, or  
19 other duly appointed agent of the current owner or insured under a  
20 policy of title insurance authorized to act on behalf of such  
21 current owner or insured in a current transaction.

22       SECTION 2.        AMENDATORY        1 O.S. 2011, Section 43, as  
23 amended by Section 1, Chapter 148, O.S.L. 2017 (1 O.S. Supp. 2020,  
24 Section 43), is amended to read as follows:

1       Section 43. A purchaser of real property shall have the  
2 opportunity to retain possession of the abstract for the property  
3 being purchased. The purchaser shall be notified about the option  
4 to retain possession at the scheduled closing; however, if a  
5 contractual obligation to a mortgage company requires retention of  
6 the abstract by that mortgage company, then the purchaser shall have  
7 an opportunity to take possession of the abstract upon complete  
8 performance of the contractual obligations. If a duly licensed  
9 abstract company is holding or storing the abstract, upon written  
10 request from the owner or ~~another party~~ the authorized agent of the  
11 owner, pursuant to a current transaction, the licensed abstractor  
12 shall release the abstract without unnecessary delay. All licensed  
13 abstractors and certificate of authority holders who refuse to do so  
14 shall be subject to the following:

15       1. A civil penalty to the requesting party of not less than One  
16 Hundred Dollars (\$100.00) and not more than One Thousand Dollars  
17 (\$1,000.00) for each occurrence;

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

23       3. Any administrative penalties and fines enforced by the  
24 Oklahoma Abstractors Board.

SECTION 3. This act shall become effective November 1, 2021.

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