

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3331

By: Perryman

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8 COMMITTEE SUBSTITUTE

9 An Act relating to title insurance; requiring certain
10 waiver be obtained; providing for contents of waiver;
11 requiring certain retention of waiver; amending 36
12 O.S. 2011, Section 5001, as last amended by Section
13 1, Chapter 285, O.S.L. 2018 (36 O.S. Supp. 2019,
14 Section 5001), which relates to certificates of
15 authority; modifying certain authorized party;
16 providing for codification; and providing an
17 effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5009 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A title insurer producer, title insurer or person who conducts a
23 real estate closing covering a one-to-four family residential
24 property where a loan policy of title insurance is issued in
conjunction with a mortgage loan made simultaneously with the
purchase of all or part of a one-to-four family residential property

1 securing the loan shall obtain a waiver in writing when a purchaser
2 elects to decline the purchase of an owner's policy. Such waiver
3 shall include the following:

4 1. A statement that owner's title insurance is available;

5 2. A statement that the purchaser is not protected by the title
6 policy of the lender;

7 3. The approximate additional premium for the concurrently
8 issued owner's title insurance policy compared to the premium for
9 the loan policy without the owner's title insurance policy;

10 4. A statement that the purchaser understands the risk of not
11 purchasing an owner's policy and declines the purchase of an owner's
12 policy; and

13 5. A place for the purchaser to decline an owner's policy and
14 the signature of the purchaser.

15 The waiver signed by the purchaser, or a copy thereof, shall be
16 retained in the file of the company conducting the closing at least
17 five years after the effective date of the lender's title insurance
18 policy.

19 SECTION 2. AMENDATORY 36 O.S. 2011, Section 5001, as
20 last amended by Section 1, Chapter 285, O.S.L. 2018 (36 O.S. Supp.
21 2019, 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 a title insurance producer appointed by a
10 title insurer, shall not be deemed to be a title insurer.

11 C. Every commitment and policy of title insurance issued by any
12 insurance 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 a title insurance
16 producer for a title insurance company holding a valid license and
17 authorized to do business in the state; provided, that no commitment
18 or policy of title insurance shall be issued in the State of
19 Oklahoma except:

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

1 authority as provided in Section 33 of Title 1 of the Oklahoma
2 Statutes, from the effective date of a prior owner's policy of title
3 insurance issued by a title insurer licensed in this state provided
4 by the insured, the prior title insurance producer or the prior
5 title insurer, at the time a valid order is placed pursuant to the
6 provisions of the Oklahoma Abstractors Law brought forward to the
7 effective date of the abstract plant. Subject to the conditions and
8 stipulations, the exclusions from coverage, exceptions from coverage
9 and endorsements to the policy, any policy issued based on a prior
10 owner's policy and a supplemental abstract shall insure the insured
11 against loss or damage sustained or incurred by reason of
12 unmarketability of title from sovereignty to the effective date of
13 the policy, not to exceed the amount of insurance stated in the
14 policy; or

15 2. If a prior owner's policy of title insurance is not
16 provided, then a title insurance commitment and policy may be issued
17 after examination by an attorney licensed to practice in this state
18 of a duly certified abstract of title prepared by a bonded and
19 licensed abstractor as defined in the Oklahoma Abstractors Law.

20 D. If the current owner or insured, or the owner's or insured's
21 authorized ~~agent~~ representative requests, in writing, a copy of any
22 previously issued owner's policy, the title insurance producer or
23 the title insurer that issued the policy shall provide the
24 requesting party with a copy of the schedules in the previously

1 issued policy within five (5) business days, unless there exists an
2 unavoidable delay.

3 E. As used in this section, the term "representative" shall
4 mean a person authorized to act on behalf of or in place of another
5 in the current transaction.

6 F. Every title insurance producer, title insurer or person who
7 conducts a real estate closing that presents, for filing in the
8 office of the county clerk, an instrument of conveyance or vesting
9 title in connection with a transaction in which an owner's policy of
10 title insurance is to be issued by a title insurance producer or
11 title insurer that is based upon such instrument shall place a
12 legend within the instrument that sets forth the following
13 information:

14 Deed presented for filing by: [Name of title insurance
15 producer, title insurer or person conducting closing]

16 File Number: [File Number of title insurance producer, title
17 insurer or person conducting closing]

18 [Name of Title Insurer designated in the Commitment for Title
19 Insurance]

20 G. The Insurance Department shall maintain, for each title
21 insurance producer or title insurer holding a valid license and
22 authorized to do business in the state, contact information for the
23 office or person responsible for making available copies of owner's
24 policies pursuant to this statute and shall make such contact

1 information generally available to the public on its website and by
2 telephone request.

3 H. The Insurance Commissioner may promulgate rules and
4 regulations to carry out the provisions of this section.

5 SECTION 3. This act shall become effective November 1, 2020.

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7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/26/2020 - DO
8 PASS, As Amended.

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