

**UPDATE ON
OKLAHOMA TITLE EXAMINATION
STANDARDS
(Adopted November 2007)**

AND

CURRENT HOT TITLE TOPICS

BY:

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"A Status Report: On-Line Images of Land Documents in Oklahoma County" & "Where Are We Going Next in Electronic Filing", 36 Briefcase (OCBA) 7 & 8 (July & August 2004)
"Real Estate Homesteads in Oklahoma: Conveying and Encumbering Such Interest", 75 The Oklahoma Bar Journal 1357 (May 15, 2004)
"Have Judgment Lien Creditors Become 'Bona Fide Purchasers'?", 68 Oklahoma Bar Journal 1071 (March 29, 1997)*; and
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Okla. Bar Assn. 1990 Earl Sneed *Continuing Legal Education Award*;
Okla. Bar Assn. 1990 Golden Gavel Award: *Title Examination Standards Committee*;
Who's Who In: The World, America, The South & Southwest, American Law, American Education, and Emerging Leaders in America

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I. INTRODUCTION

The determination of the existence of, and the holder of, “valid” title (i.e., enforceable between the grantor and grantee), and of “marketable” title (i.e., determinable “of record”) to a parcel of real property, requires the application of the current law of the State where the land is located. (60 O.S.§21)

Such “law” consists of statutes, cases, attorney general opinions and title examination standards.

The following materials include a brief overview and discussion of the following limited areas of the “law” applicable to such determination of marketable title:

- (1) Title Examiner’s Responsibility
- (2) Liability of Title Examiner and Abstractor to Non-Clients
- (3) Statute of Limitation on Title Opinions
- (4) Need for Uniform Standards
- (5) Authority of Title Examination Standards
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II. TITLE EXAMINER'S RESPONSIBILITIES

A. **GENERAL RESPONSIBILITY**

In general, it appears that "marketable title" means (1) the public record affirmatively shows a solid chain of title (i.e., continuous and uninterrupted) and (2) the public record does not show any claims in the form of outstanding unreleased liens or encumbrances. This "good record title" can be conveyed and backed up by the delivery of a deed to the grantee containing sufficient warranties to ensure that the grantor must make the title "good in fact", if hidden non-record defects or non-record liens and encumbrances surface later.

Title insurance, like most types of insurance, insures against loss due to certain specified conditions. One of these conditions which triggers liability is "3. Unmarketable Title". Such term is defined in such policy under "CONDITIONS: 1. DEFINITION OF TERMS: ... (k) 'Unmarketable Title': Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title." (ALTA Owner's Policy (6-17-06)) Such definition is sufficiently circular to require an examiner or a court to interpret the applicable State's law in each instance to determine whether specific performance would be enforced in such jurisdiction.

According to the Oklahoma Attorney General (in a 1983 Opinion), only a licensed attorney can examine an abstract and can issue an "opinion on the marketability of title" regarding title to real estate. This question arose during the process of interpreting the then-existing Oklahoma Statute requiring the examination of a duly-certified abstract of title before a title insurance policy can be issued. 36 O.S. § 5001 (C) provided (until 2007):

Every policy of title insurance or certificate of title issued by any company authorized to do business in this state shall be countersigned by some person, partnership, corporation or agency actively engaged in the abstract of title business in Oklahoma as defined and provided in Title 1 or by an attorney licensed to practice in the State of Oklahoma duly appointed as agent of a title insurance company, provided that no policy of title insurance shall be issued in the State of Oklahoma except after examination of a duly-certified abstract of title prepared by a bonded and licensed abstractor as defined herein. (underlining added).

The Attorney General opined (1983 OK AG 281, ¶6-7) as follows:

Your second question raises the issue of whether the title examination for purposes of issuing a title policy must be done by a licensed attorney. A previous opinion of the Attorney General held:

"All such examinations of abstract...shall be conducted by a licensed attorney prior to issuance of the policy of title insurance." A.G. Opin. No. 78-151 (June 6, 1978).

This opinion was based on the assertion that a title insurance policy "expresses an opinion as to the marketability of title." A.G. Opin. No. 78-151, supra. In reality, title insurance simply insures the policyholder against defects in the title. It does not express an opinion that the title is marketable. Land Title Company of Alabama v. State ex rel. Porter, 299 So.2d 289,295 (Ala.1974). While the rationale of the previous opinion is incorrect, we adhere to the conclusion expressed in that opinion that the examination of the abstract pursuant to 36 O.S. 5001(C) (1981) must be done by a licensed attorney. We reach this conclusion because the examination required by statute would only be useful if the examiner expressed an opinion on the marketability of the title. This constitutes the practice of law by the examiner. Land Title Company of Alabama v. State ex rel . Porter, supra at 295; Kentucky State Bar Association v. First Federal Savings & Loan, 342 S.W.2d 397 (Ky.App. 1961). The theory that the corporation is actually examining the title for itself through an agent or employee and thus not engaged in the practice of law is invalid since laypersons or nonprofessionals cannot perform legal services for their employers. Kentucky State Bar Association v. Tussey, 476 S.W.2d 177 (Ky.App. 1972). There is no prohibition, however, against licensed staff attorneys furnishing title opinions for the company as long as these opinions are not sold or given to third parties. The Florida Bar v. McPhee, 195 So.2d 552 (Fla. 1967); Steer v. Land Title Guarantee & Trust Co., 113 N.E.2d 763 (Ohio Com.Pl. 1953). (underlining added)

Since the issuance of the above Attorney General Opinion in 1983, 36 O.S. § 5001(C) was amended, effective July 1, 2007, to specifically require the examination described in Section

5001(C) to be conducted by a licensed Oklahoma attorney, thereby – for the first time – statutorily expressly prohibiting laymen and non-Oklahoma licensed attorneys from undertaking title exams or issuing title opinions for title insurance purposes.

Such Attorney General's Opinion speaks not only to title examination for title insurance purposes but for all title opinions for third parties, where the standard is marketable title.

B. LIABILITY OF TITLE EXAMINERS TO NON-CLIENTS

While there is no foolproof way to avoid liability to non-clients, it is usually a good practice to have both the inside address of the title opinion (i.e., the addressee) and limiting language, elsewhere in the opinion, expressly designate the sole person or company authorized to rely on the opinion.

However, even where the opinion is addressed to a specific person or entity, it is possible that due to the particular circumstances surrounding the transaction, the attorney who is representing one party, such as the lender -- and rendering an opinion directed solely to that lender -- might be held to be liable to the opposing party, such as the borrower, as well.

As noted in an Oklahoma case considered by the 10th Circuit U.S. Court of Appeals, Vanguard Production, Inc. v. Martin, 894 F.2d 375 (10th Cir. 1990):

The Oklahoma Supreme Court replied that the pledgee's complaints stated a cause of action under Oklahoma law. Privity of contract does not apply to tort actions under Oklahoma law. See Keel v. Titan Constr. Corp., 639 P.2d 1228, 1232 (Okla. 1981). The Bradford court stated that to determine an attorney's negligence the jury must determine whether the attorney's conduct was "the conduct of an ordinarily prudent man based upon the dangers he should reasonably foresee TO THE PLAINTIFF OR ONE IN HIS POSITION in view of all the circumstances of the case such as to bring the plaintiff within the orbit of defendant's liability." Id. at 191 (emphasis in original).

In our view a contract for legal services is a contract for services giving rise to the duty of workmanlike performance. The record in this case reveals extensive

communications between the attorneys [for the lender], Martin and Morgan, and the purchaser, Vanguard [the borrower], concerning the [lender's] title opinion. The record also shows that all parties, including Martin, Morgan, [the borrower] Vanguard, and [the lender] Glenfed, were concerned about the Texas Rose Petroleum suit. Thus, we find that an ordinarily prudent attorney in the position of the defendants would reasonably have apprehended that[the borrower] Vanguard was among the class of nonclients which, as a natural and probable consequence of the attorneys' actions in preparing the title opinion for Glenfed, could be injured. Thus, we hold that the defendants owed a duty of ordinary care, Bradford, 653 P.2d at 190, and workmanlike performance, Keel, 639 P.2d at 1231, to Vanguard in the performance of their contract for legal services with Glenfed. We stress that our holding only addresses the question of the duty of the defendants owed to Vanguard and not the question of whether Martin's, Morgan's and Ames, Ashabranner's acts were the proximate cause of Vanguard's injuries. See Bradford, 653 P.2d at 190-91; Keel, 639 P.2d at 1232. (underlining added)

An interesting Oklahoma Court of Appeals case was decided in 1991, American Title Ins. v. M-H Enterprises, 1991 OK CIV APP 58, 815 P.2d 1219. Therein it was held that a buyer of real property can sue (i.e., via counter claim) the title insurer for negligence in the preparation of a title policy, even if the title insurance policy was issued only in favor of the buyer's lender. This rule was applied where: (1) no abstract was prepared, (2) an attorney's title examination was not undertaken, and (3) the insurer/abstractor missed a recorded first mortgage. The facts of the case showed that, after the buyer/borrower lost the house through a foreclosure of the missed first mortgage, the insurer paid the insured second mortgage holder to settle under the terms of the title insurance policy and had such lender assign the worthless second note and second mortgage to the title insurer. The title insurer then sued the buyer/borrower under the warranty of title in the second mortgage. The appellate court held that while the buyer/borrower was not a named insured, the insurer's own negligence (i.e., no abstract and no examination) caused the loss, and that the insurer did not buy the note and mortgage as a holder in due course, because (1) no value was paid for the acquisition of the note and mortgage (i.e., the payment was to settle its

obligations under the title policy) and (2) the second note and mortgage were already in default when the insurer took an assignment of them.

The message in these two cases appears to be that a party that conducts either the examination or insures the title, can be held liable for an error in such effort to a third party. This is true even where the title examiner and title insurer had not expressly entered into any contractual relationship with such third party. Based upon these two cases, it appears that this liability might arise even where the attorney or insurer specifically directed his opinion or policy to only one of the participants in the transaction.

C. STATUTE OF LIMITATIONS ON TITLE OPINIONS

In terms of the nature of (i.e., tort vs. contract), and the statute of limitations on, attorneys' errors in examination of title, it should be noted that in 1985 the Oklahoma Supreme Court held:

In Oklahoma, an action for malpractice, whether medical or legal, though based on a contract of employment, is an action in tort and is governed by the two-year statute of limitations at 12 O.S.A. 1981, § 95 Third. (Seanor v. Browne, 154 Okl. 222, 7 P.2d 627 (1932)). This limitation period begins to run from the date the negligent act occurred or from the date the plaintiff should have known of the act complained of. (McCarroll v. Doctors General Hospital, 664 P.2d 382 (Okl. 1983)). The period may be tolled, however, by concealment by the attorney of the negligent acts which injured the client. This Court has previously held, in Kansas City Life Insurance Co. v. Nipper, 174 Okl. 634, 51 P.2d 741 (1935) that:

One relying on fraudulent concealment to toll the statute of limitation must not only show that he did not know facts constituting a cause of action, but that he exercised reasonable diligence to ascertain such facts.

(underlining added)

(Funnell v. Jones, 1985 OK 73, 737 P.2d 105)

However, in 1993 the Oklahoma Supreme Court "clarified" their holding in Funnell by

declaring:

Appellees argue the instant case should be controlled by Funnell v. Jones, 737 P.2d 105 (Okla. 1985), cert. denied, 484 U.S. 853, 108 S.Ct. 158, 98 L.Ed.2d 113 (1987), a case where we applied the two year tort limitation period to a legal malpractice case. Appellees' reliance on Funnell is misplaced. The opinion in Funnell gives no indication a separate contract theory was alleged there or that the plaintiffs there attempted to rely on the three year limitation period for oral contracts. Thus, our statement in Funnell to the effect an action for malpractice, whether legal or medical, though based on a contract of employment, is an action in tort, must be taken in the context it was made, to wit: determining whether the two year limitation for torts was tolled based on allegations of fraudulent concealment on the part of defendant attorneys and that no acts alleged against defendants occurred within the two years immediately preceding filing of the lawsuit. Id. at 107-108. We did not decide in Funnell a proceeding against a lawyer or law firm is limited only to a proceeding based in tort no matter what the allegations of a petition brought against the lawyer or law firm. We have never so held and, in fact, to so rule would be tantamount to treating lawyers differently than we have treated other professions, something we refuse to do.

We have held a party may bring a claim based in both tort and contract against a professional and that such action may arise from the same set of facts. Flint Ridge Development Company, Inc. v. Benham-Blair and Affiliates, Inc., 775 P.2d 797, 799-801 (Okla. 1989) (architectural, engineering and construction supervision services). In essence, the holding of Flint Ridge is if the alleged contract of employment merely incorporates by reference or by implication a general standard of skill or care which a defendant would be bound independent of the contract a tort case is presented governed by the tort limitation period. Id. at 799-801. However, where the parties have spelled out the performance promised by defendant and defendant commits to the performance without reference to and irrespective of any general standard, a contract theory would be viable, regardless of any negligence on the part of a professional defendant. Id. As pertinent here, the specific promise alleged or reasonably inferred from the petition and documents attached thereto was to search the records of the County Clerk for an approximate nine (9) year period and report those records on file affecting the title for loan purposes. Simply, if this was the promised obligation a contractual theory of liability is appropriate which is governed by the three year limitation period applicable to oral contracts. (underlining added)

(Great Plains Federal Savings & Loan v. Dabney, 846 P.2d 1088, 1092 (Okla. 1993))

III. NEED FOR TITLE EXAMINATION STANDARDS

A. **IMPETUS FOR UNIFORM STANDARDS: PROBLEMS WITH SEEKING PERFECT TITLE**

The problems resulting from a quest for perfect title can impact the examiner and his clients in several ways:

1. The legal fees charged to the public are higher because each examination for a parcel must always go back all the way to sovereignty (or, in some states, back to the root of title);
2. The costs to cure minor defects are often relatively large compared to the risk being extinguished;
3. The unexpected costs to remedy problems which already existed when the vendor came into title, which were waived by the vendor's attorney, are certainly not welcomed when the buyer gets ready to sell; and
4. The prior examiner looks inept and/or the subsequent examiner looks unreasonable, when a preexisting defect is waived by one attorney and "caught" by the next.

(John C. Payne, "The Why, What and How of Uniform Title Standards", 7 Ala.L.Rev. 25 (1954) (herein "The Why of Standards")).

The State of Oklahoma used to have one of the most strict standards for "marketable title" which was caused by the interpretation of the language of several early Oklahoma Supreme Court cases. The current title standard in Oklahoma has been changed, as of November 10, 1995, to be less strict. It now provides:

1.1 MARKETABLE TITLE DEFINED

"A marketable title is one free from apparent defects, grave doubts and litigious uncertainty, and consists of both legal and equitable title fairly deducible of record."

In response to this obvious need to avoid procedures that alienated the public and caused distance to grow between examiners, a movement began and mushroomed in a couple of decades

throughout the country to adopt uniform title examination standards.

The first set of Statewide Standards was adopted in 1938 by the Connecticut Bar Association. On November 16, 1946 the General Assembly and House of Delegates of the Oklahoma Bar Association ("OBA") approved 21 Title Examination Standards ("Standards") for the first time in state history. 17 O.B.J. 1751. Of these 21, there were 10 without any specific citation of authority expressly listed. There are currently over 100 Standards in Oklahoma, and about 13 of these have no specific citation of authority (i.e., no citation of supporting Oklahoma statutes or case law).

Over the years, since 1938, a total of 31 States have adopted statewide sets of Standards. Of these, there are currently 19 States which have sets of Standards which have been updated in the last 5 years. In the recent past, 4 States have adopted their first sets of Standards including: Vermont (1995), Arkansas (1995), Texas (1997) and Louisiana (2001). See the attached National Title Examination Standards Resource Center Report, and see my web site at www.EppersonLaw.com for more details on the status of Standards in other States.

Effective July 1, 2007, the Oklahoma state legislature amended existing statutes to require that an owner's title insurance policy must be based upon an up-to-date abstract with an attorney's opinion, if "the previously insured owner does not provide a copy of the owner's policy of title insurance...". (36 O.S. Section 5001.C) Such new statute encourages the reliance on a prior owner's title insurance policy as the "base" from which a subsequent abstract can be extended or supplemented, and on which a subsequent title examiner can rely, for the issuance of a new title insurance policy. This legislation also ends the repeated re-examination of the prior record and thereby eliminates "second guessing" by subsequent title examiners. Rules to

implement this use of prior owners (not lenders) title insurance policy are expected to be developed by the new Oklahoma Abstractors Board.

B. AUTHORITY OF STANDARDS

In Oklahoma, new and revised Standards are developed and considered each year at 9 monthly Title Examination Standards Committee ("Standards Committee") meetings held from January to September. These proposals are then presented annually by the Standards Committee to the OBA Real Property Law Section ("Section") at the Section's annual meeting, usually held in November of each year. Immediately thereafter, the Section forwards to the OBA House of Delegates ("House"), for the House's consideration and approval, on the day following the Section meeting, any new or revised Standards which were approved at the Section's meeting.

All Oklahoma Supreme Court opinions are binding on and must be followed by all trial court judges (and by the intermediate Courts of Civil Appeals), meaning that such decisions are "precedential". However, an opinion of one of the multiple intermediate 3-judge panels of the Oklahoma Courts of Civil Appeals is only "persuasive" during a future trial judge's decisions, and not strictly binding.

Oklahoma Title Examination Standards have received acceptance from the Oklahoma Supreme Court which has held:

While [the Oklahoma] Title Examination Standards are not binding upon this Court, by reason of the research and careful study prior to their adoption and by reason of their general acceptance among members of the bar of this state since their adoption, we deem such Title Examination Standards and the annotations cited in support thereof to be persuasive. (underlining added)

Knowles v. Freeman, 1982 OK 89, 649 P.2d 532

The Standards become strictly binding between the parties:

(1) IF the parties' contract incorporates the Standards as the measure of the required quality of title, for example:

(a) Standard 2.2 REFERENCE TO TITLE STANDARDS provides: *"It is often practicable and highly desirable that, in substance, the following language be included in contracts for a sale of real estate: 'It is mutually understood and agreed that no matter shall be construed as an encumbrance or defect in title so long as the same is not so construed under the real estate title examination standards of the Oklahoma Bar Association where applicable;'"* (emphasis added) and

(b) the Oklahoma Real Estate Commission standard residential contract provides: *"10. TITLE EVIDENCE: ...E. SELLER TO CORRECT ISSUES WITH TITLE (IF APPLICABLE), POSSIBLE CLOSING DELAY. Upon receipt by Seller, or in care of Seller's Broker, if applicable, of any title requirements reflected in an Attorney's Title Opinion or Title Insurance Commitment, based upon the standard of marketable title set out in the Title Examination Standards of the Oklahoma Bar Association,..."* (emphasis added) or

(2) IF proceeds from the sale of oil or gas production are being held up due to an allegedly unmarketable title [52 O.S. 570.10.D.2a; also see: Hull, et al. v. Sun Refining, 789 P.2d 1272 (Okla. 1990) ("Marketable title is determined under §540 [now §570.10] pursuant to the Oklahoma Bar Association's title examination standards.")].

In these above instances, the parties might be subject to suits to specifically enforce or to

rescind their contracts, to seek damages, or to pay increased interest on the withheld oil and gas proceeds (i.e., 6% increases to 12%, if title is determined to have been marketable, when proceeds were withheld), with the Court's decision being based on the "marketability" of title as measured, where applicable, by the Standards.

However, it should be noted that *"It is, therefore, the opinion of the Attorney General that where there is a conflict between a title examination standard promulgated by the Oklahoma Bar Association and the Oklahoma Statutes, the statutory provisions set out by the Legislature shall prevail."* Okl. A.G. Opin. No. 79-230.

IV. **NEWEST CHANGES TO TITLE STANDARDS**

The revised Standards and new Standards, discussed below, are considered and approved by the Standards Committee during the January-September period. The proposed changes and additions are then published in the Oklahoma Bar Journal in October, and are then considered and approved by the Section at its annual meeting in November. They are thereafter considered and approved by the OBA House of Delegates in November. These changes and additions became effective immediately upon adoption by the House of Delegates. A notice of the House's approval of the proposed new and revised Standards is thereafter published in the Oklahoma Bar Journal. It is expected that the new "TES Handbook", containing the updated versions of these Standards, will be printed and mailed to all Section members by sometime in January.

The following sections display and discuss the Proposals which are to be submitted to and approved by the Section and the House of Delegates. The text for the discussion is taken from the Annual Report published in the Oklahoma Bar Journal in October. This text was prepared by the General Counsel for the OBA Real Property Law Section, Joyce Palomar, a full-time

professor of law at the University of Oklahoma, with the assistance of Jack Wimbish, a Committee member from Tulsa. Note that where an existing standard is being revised, a “legislative” format is used below. Additions are underlined, and deletions are shown by [brackets].

A brief explanatory note precedes each Proposed Standard, indicating the nature and reason for the change proposed.

2007 REPORT OF THE TITLE EXAMINATION STANDARDS COMMITTEE OF THE REAL PROPERTY LAW SECTION

Proposed Amendments to Title Standards for 2007, to be presented for approval by the House of Delegates, Oklahoma Bar Association at the Annual Meeting, November 9, 2007. Additions are underlined, deletions are by strikeout.

The Title Examination Standards Committee of the Real Property Law Section proposed the following revisions and additions to the Title Standards for action by the Real Property Law Section at its annual meeting in Oklahoma City on Thursday, November 8, 2007.

These Proposals were approved by the Section and were presented to and approved by the House of Delegates at the OBA Annual Meeting on Friday, November 9, 2007. Proposals adopted by the House of Delegates become effective immediately.

An explanatory note precedes each proposed Standard, indicating the nature and reason for the change proposed.

[NOTE THAT THE FIRST TWO PROPOSALS ARE FOR TOTALLY NEW STANDARDS AND THE THIRD ONE IS FOR A REVISION]

Proposal 1.

The committee recommends adding a new Standard 24.13 to clarify to examiners what parties have standing to bring a mortgage foreclosure action.

Standard 24.13. Standing of Nominee or Agent:

An agent or nominee has standing to bring a cause of action to foreclose the lien of a mortgage, if the agent or nominee remains the record holder of the mortgage lien.

Comment: An examiner's opinion of the adequacy of such foreclosure proceedings shall be formed in the same manner as in a review of any other foreclosure action.

Authority: 12 O.S. Section 2017A; *Mortgage Electronic Registration Systems, Inc. v. Azize*, Case No. 2D05-4544 (Fla. App. 2/21/2007) (Fla. App., 2007); *Greer v. O'Dell*, 305 F.3rd 1297 (11th Cir. 2002).

Proposal 2.

The committee recommends adding a new Standard 29.2.1. to give examiners guidance on when a Certificate Tax Deed or Resale Tax Deed may be relied upon without further requirement.

Standard 29.2.1. Reliance on Certificate Tax Deed or Resale Tax Deed:

A title examiner may rely, without further requirement, on a certificate tax deed or resale tax deed as a conveyance of the real property described in such deed, provided:

- A. title to such real property is, or has been, held of record by a purchaser for value who acquired such title from or through the grantee in such tax deed; and,
- B. such certificate tax deed or resale tax deed has been of record in the county in which the land is situated for a period of not less than ten years.

Authority: 16 O.S. Section 62 (d)

Caveat: The title acquired via a certificate tax deed or resale tax deed may be subject to the interest of any person in possession of the land claiming title adversely to the title acquired through such deed. 16 O.S. Section 62(d). Also see the following unpublished case: *Johnson v. August*, 2005 OK CIV APP 97.

Proposal 3.

The committee recommends amending Standard 35.2 to reflect the change in the title of the applicable legislation and to update the citations of authority for this standard.

Standard 35.2 [Soldiers and Sailors] Servicemembers Civil Relief Act

The [Soldiers and Sailors' Civil Relief Act of 1940] Servicemembers' Civil Relief Act, and amendments thereto, are solely for the benefit of those in military service; and, if the court has presumed to take jurisdiction and there is nothing in the record that would affirmatively indicate that any party affected by the court proceeding was in military service, the form of the affidavit as to military service or its entire absence from the record does not justify the rejection of title.

Authority: *Hynds v. City of Ada ex rel. Mitchell*, 195 Okla. 465, 158 P.2d 907 (1945), 1945 OK 167; *Wells v. McArthur*, 77 Okla. 279, 188 P.322 (1920), 1920 OK 96; *State ex rel Commissioners of the Land Office v. Warden*, 197 Okla. 97, 168 P.2d 1010 (1946), 1946 OK 155; *Snapp v. Scott*, 196 Okla. 658, 167 P.2d 870 (1946), 1946 OK 114.

VI. PENDING CHANGES TO TITLE STANDARDS

(As of March 7, 2008)

TITLE EXAMINATION STANDARDS COMMITTEE
of the
Real Property Law Section of the O.B.A.

Sub-Comm.	Std.	Status	Description
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=====PENDING=====

MAR 15/OKC

<u>Epperson</u>	Leg	Mar Report	LEGISLATIVE UPDATE <i>Any recently enacted legislation, or bills likely to be introduced, will be discussed.</i>
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<u>Wimbish</u> Doyle Hardwick Stitt	15.2	Mar Report	TITLE TO TRUST HELD UNDER AN EXPRESS PRIVATE TRUST (INTO TRUST BUT OUT OF TRUSTEE) <i>The question was raised as to whether to pass title where the title has been held in the name of the trust (not in the name of the trustee) and then the title is conveyed, or encumbered, not by (i.e., not in the name of) the trust but by the trustee (as if the trustee is the owner/grantor). This determination is being conducted several transactions later. [raised by Cory Hicks, attorney in Guymon]</i>
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<u>Carson</u> Rheinberger Reid Ademuyiwa	12.2	Mar Report	REBUTTABLE PRESUMPTIONS CONCERNING CORPORATE INSTRUMENTS EXECUTED IN PROPER FORM (“ASSISTANT” VICE PRESIDENT) <i>The question was raised as to whether an “assistant” vice president is presumed to have authority to execute corporate real property documents.. [raised by OLTA Board]</i>
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<u>Astle</u> Raunikar Brown Sharp	NEW	Mar Report	GUARDIANSHIP SALES <i>Do we need a Guardianship Sale Standard and how should the examiner handle a guardianship sale under “PSE” (43A OS Section 10-101 et seq)—Protective Services For Vulnerable Adults Act.[raised by Dale Astle]</i>
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<u>Epperson</u>	30.13	Mar Report	ABSTRACTING <i>Due to Regulations and specific rulings by the State Auditor(who regulated the Abstractors until January 1, 2008), it appears that TES 30.13 which directs abstractors to prepare “short” “30-year” abstracts for the use of examining attorneys, is incorrect, and should be eliminated.</i>
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APR 19/STROUD_____

<u>McEachin</u>	NEW	Apr Report	MRTA <i>Does the decision in the recent <u>Rocket</u> case impact the assumption that the MRTA is “self-executing” and whether the MRTA is applicable to severed minerals? Also see the earlier <u>Anderson</u> case and <u>Bennett</u> cases. Also, does the stray deed language of the MRTA, as it was recently amended, destroy the use of the MRTA by making “root of title” documents unreliable, if they fail to come from the correct prior root of title?</i>
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<u>Wimbish</u> Hardwick Astle	15.2	Apr Draft	TITLE TO TRUST HELD UNDER AN EXPRESS PRIVATE TRUST (TRUST AS PRIOR GRANTOR WITHOUT FILING A MEMORANDUM) <i>The question was raised as to whether to pass title where the title has been held in the name of the trust (not in the name of the trustee) and, although no “memorandum of trust” was ever filed, the title was subsequently conveyed from the Trust by a purported trustee. This determination is being conducted several transactions later. [raised by OLT Board]</i>
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<u>Epperson</u>	NEW	Apr Report	<p>JUDGMENTS/DECREES & CONSTRUCTIVE NOTICE</p> <p><i>Under the MRTA, the SLTA, and under the terms of the Uniform Abstractors Certificate, do documents that are <u>not</u> filed with the County Clerk (e.g., probate proceedings) constitute constructive notice and become part of the official chain of title. Also, if a judgment or decree – affecting title to real property -- is required by statute to be placed in the county clerk’s land records in order to constitute constructive notice, but has not been filed there, does the inclusion of such document in an abstract give to the examiner and the client actual notice of the same liens and ownership changes? If so, as of what date? Can you rely upon a decree as part of a chain of title, if it was never recorded in the land records?</i></p>
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MAY 17/TULSA

<u>Astle Doyle Sharp</u>	NEW	May Report	<p>LEGAL DESCRIPTIONS</p> <p><i>Surveyors are starting to use alternative grid reference systems which produce different metes and bounds descriptions. Do we need a Standard dealing with legal descriptions in general and those new ones relating to the “plane coordinate system”?</i></p>
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JUN 21/STROUD

<u>Wimbish Doyle</u>	25.5	Jun Report	<p>OKLAHOMA ESTATE TAX LIEN</p> <p><i>The question was raised as to how to reflect the legislated end of State Estate Taxes and the resulting liens.</i></p>
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=====APPROVED=====

=====UNSCHEDULED=====

(Epperson) ???	New	Dormant	MARSHAL/COMMISSONERS FEDERAL SALES <i>The question was raised as to what the title examiner should require to support a marshal/commissioner's federal sale (see Rules 201 and 202, and 69). [raised by several people including Jerry Risling]</i>
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COMMITTEE OFFICERS:

Chair: Kraettli Q. Epperson, OKC (405) 848-9100 fax: (405) 848-9101
kqelaw@aol.com

Comm. Sec'y: Janet Sharp, Norman (405) 625-4236 fax: (405) 359-9073

sharplawfirm@yahoo.com

(C:\MYDOCUMENTS\BAR&PAPERS\OBA\TES\2008\Agenda2008 03(Mar))

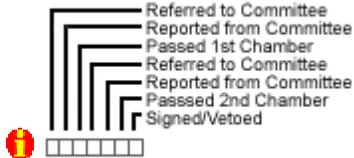
VII. PENDING LEGISLATION

THE JOURNAL RECORD
LEGISLATIVE REPORT

Oklahoma County Clerk's Office
Bill Status Report

03-18-2008 - 09:41:30

A - Indicates action since request date.



Track: Oklahoma County

[HB 2580](#)

[Hyman](#)
[Ballenger](#)

Relates to counties & information necessary for indexing by county clerks; requires certain information for legal descriptions.

Remarks: This is a County Clerk Association Bill which defines a properties "specific" legal description and may be described as "lot and block or quarter section". Their intent is to eliminate filings that cover whole sections when the filer is uncertain about the specific legal description. We are not sure how this will work in practice.

Track Name(s): Oklahoma County

Bill History: 02-25-08 S Advanced to the Senate

[HB 2587](#)

[Braddock](#)

Relates to conveyances; creates Uniform Real Property Electronic Recording Act; authorizes & validates electronic documents; grants county clerk certain powers relating to recording documents; requires Archives & Records to adopt standards.

Remarks: This is model legislation from the National Conference of Commissioners on State Laws (NCCUSL) for the Uniform Real Property Electronic Recording Act.

Track Name(s): Oklahoma County

Bill History: 03-06-08 S Advanced to the Senate

[HB 2639](#)

[Peters](#)

Relates to probate procedure; creates the Non-Testamentary

		Transfer of Property Act.
	Track Name(s):	Oklahoma County
	Bill History:	03-12-08 S Advanced to the Senate
<u>HB 2726</u>	<u>Winchester</u>	Relates to probate procedure & creditor claims against estates; modifies effect of failure to mail certain notice; provides certain notice; providing when certain time period for limitation of actions begins.
	Track Name(s):	Oklahoma County
	Bill History:	03-12-08 S Advanced to the Senate
<u>SB 1575</u>	<u>Jolley</u> <u>Worthen</u>	Relates to abstracting & the Oklahoma Abstractors Law; modifies requirement relating to certain required set of abstract books or indexes.
	Remarks:	This bill defines records needed for an "abstract plant" as all documents affecting title to real property which are filed, recorded "and currently available for reproduction." The title has been stricken from this bill.
	Track Name(s):	Oklahoma County
	Bill History:	03-13-08 H Received in the House - Referred House Economic Development and Financial Srv
<u>SB 1770</u>	<u>Lerblance</u> <u>Banz</u>	Relates to revenue and taxation and delinquent property taxes by modifying procedures relating to county treasurer sale of certain property; modifies requirements for certain notice of sale of property; permits deposit of fees.
	Remarks:	County Treasurer's CGLC bill doing away with October lien sale. Amendments relate to additional repealers concerning the October Sale and includes an Emergency Clause upon passage.
	Track Name(s):	Oklahoma County
	Bill History:	03-12-08 H Rereferred to Committee on House Appropriations and Budget
<u>SB 1825</u>	<u>Ivester</u> <u>Braddock</u>	Relates to property by creating the Oklahoma Uniform Trust Code; authorizes court intervention in certain circumstances; establishes certain requirements for spendthrift provision.
	Track Name(s):	Oklahoma County
	Bill History:	03-12-08 S Passed/Adopted (Vote: Y: 36/N: 8)
<u>SB 1893</u>	<u>Ballenger</u> <u>Liebmann</u>	Relates to powers and duties of the Department of Environmental Quality by restricting local government ability to modify standards for solid waste disposal sites;

EMERGENCY.

Remarks: Counties may adopt standards for the location, design, construction, and maintenance of solid waste disposal sites.

Track Name(s): Oklahoma County

Bill History: 03-10-08 H Received in the House - Referred House Natural Resources

[SB 1953](#)

[Mazzei](#)
[Terrill](#)

Relates to revenue and taxation and the ad valorem tax; consolidates duplicate sections; EMERGENCY.

Remarks: CGLC Supports. When improvements are divided by taxing jurisdiction line they are valued in taxing jurisdiction where physical majority is located. The title was stricken from the bill.

Track Name(s): Oklahoma County

Bill History: 03-10-08 H Received in the House - Referred House Appropriations and Budget

[SB 1975](#)

[Corn](#)
[Brannon](#)

Relates to abstracting; makes language gender neutral; makes certain access to instruments of record for certain purpose only; prohibits selling of records for certain pupose.

Remarks: This bill would prohibit any company holding a permit to build an abstract plant from selling copies of instruments of record from the County Clerk's Office for profit to the public over the Internet or other such forum. A few County Clerks have had problems with their abstract companies. This bill is not being supported by the County Officers Association.

Track Name(s): Oklahoma County

Bill History: 03-10-08 H Received in the House - Referred House Economic Development and Financial Srv

[SB 2150](#)

[Corn](#)
[Brannon](#)

Relates to fees; relates to county clerks by authorizing fees for electronic copies.

Remarks: We do not know who is behind this bill. This establishes a fee for furnishing "electronic" copies of records at \$1.00 per page. The title was stricken from this bill.

Track Name(s): Oklahoma County

Bill History: 03-13-08 H Received in the House - Referred House General Government and Transportation

- End of Report -

VIII. PENDING ABTRACTOR'S REGULATIONS

A. ABSTRACTOR'S BOARD

(SB 909: Crain and Sykes of the Senate and Blackwell, Roan, Coody, Martin (Steve) and Sears of the House; certain sections are Effective: July 1, 2007, and others are Effective January 1, 2008—amending existing law (74 O.S. Sections 227.10, 227.11, 227.12, 227.13, 227.14, 227.15, 227.17, 227.18, 227.20, 227.21, 227.22, 227.23, 227.25, 227.26, 227.27, and 227.28, and creating new law (1 O.S. Sections 22, 23, and 26, and recodifying many sections from Title 74 into Title 1):

1. A 9-person Abstractors Board is established to take over the regulatory responsibilities of the State Auditor and Inspector, as of January 1, 2008;
2. The 9-person Board is composed of 6 abstractors, 1 licensed real estate broker, 1 attorney, and 1 officer of a bank;
3. The Board members are appointed by the Governor and take office effective January 1, 2008, to serve 4-years terms with staggered terms for the initial employees;
4. The Board can hire staff; and
5. The annual certificate of authority fee is increased.

B. ABTRACTOR'S BOARD APPROVED REGULATIONS

Abstractors Board General Provisions Emergency Rules CHAPTER 10. SUBCHAPTER 1

[February 19, 2008]

CHAPTER 10. ADMINISTRATION OF ABSTRACTORS LAW

SUBCHAPTER 1. GENERAL PROVISIONS

5:10-1-1. Purpose

The rules of this chapter have been adopted for the purpose of implementing the Oklahoma Abstractors Act, Title 1, of the Oklahoma Statutes. These rules have been promulgated in order to establish criteria, fees, and procedures for the granting of certificates, permits, and licenses.

5:10-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Abstractor**" means the holder of a certificate of authority, temporary certificate of authority, permit, or abstract license.

"**Act**" means the Oklahoma Abstractors Act.

"**Board**" means the Oklahoma Abstractors Board.

"**Licensee**" means a person who holds a current abstract license.

5:10-1-3. Authority, interpretation, and severability of rules

The rules in this Chapter are adopted pursuant to the provisions the Oklahoma Abstractors Act, Title I of the Oklahoma Statutes, and the Administrative Procedures Act. Should a court having jurisdiction or the Attorney General of Oklahoma find any part of the rules of this Chapter to be inconsistent with the provisions of law as they presently exist or are hereafter amended, they shall be interpreted to comply with the statutes as they presently exist or are hereafter amended and the partial or total invalidity of any section or sections of this Chapter shall not affect the valid sections.

SUBCHAPTER 3. ABSTRACT LICENSES, CERTIFICATES OF AUTHORITY, AND PERMITS

5:10-3-1. Who must hold abstract license

(a) A holder of a certificate of authority or permit who is an individual or partner actively engaged in the process of preparing abstracts, shall also be required to have an individual abstract license.

(b) Any person employed by a holder of a certificate of authority or permit for the purpose of searching county records for compiling abstracts shall hold an abstract license. An employee whose sole function is to put the work product of others into typewritten or other readable form shall not be required to hold an abstract license.

(c) For all or any part of calendar year 2008 and for the following calendar years each initial application for an individual abstract license shall be accompanied by a fee of One Hundred Fifty Dollars (\$150.00).

(d) For all or any part of calendar year 2008 and for the following calendar years each renewal application for an individual abstract license shall be accompanied by a fee of One Hundred Fifty Dollars (\$150.00).

5:10-3-2. Examinations for abstract license

(a) The test for an abstract license shall be given at least quarterly and at such other times as and at such locations as designated by the Board. The Board shall set the test dates for the calendar year at the first regular meeting of the Board of each calendar year.

(b) Tests shall be graded either pass or fail. Seventy per cent (70%) of the questions must be answered correctly to pass. If failed, the test can be taken again in thirty (30) days, not to exceed three times in a calendar year.

5:10-3-3. Bonds required for permits and certificates of authority

1) County records bond

(A) Each application for a certificate of authority shall be accompanied by a bond concerning county records only.

(B) Each application for a permit shall be accompanied by a bond concerning county records only.

(C) The bond shall be valid for one (1) year and extend coverage to the various county offices for damages by reason of mutilation, injury, or destruction of any record or records of the several county offices to which the applicant may have access.

(D) If a surety bond is provided it shall be issued by a surety company licensed to do business in the State of Oklahoma.

(E) The original bond shall be filed in the office of the Board. The Board or a person designated by the Board to perform such duties shall mail a certified copy of the bond to the County Clerk's office for filing.

(2) Errors and omissions bond or insurance

(A) Each application for a certificate of authority shall be accompanied by a bond or insurance to pay damages for possible errors in abstracts prepared by the holder of the certificate of authority

(B) If coverage for damages for possible errors in abstracts prepared by the holder of a certificate of authority will be by bond, then the bonds shall be on forms either prescribed by, or approved in advance by the Board.

(C) Upon compliance with the provisions of Section 27 of Title 1 of the Oklahoma Statutes and the rules set out in this Chapter the Board shall accept either a personal or surety bond by issuing a written statement of acceptance;

(D) A personal bond must provide that the certificate of authority or permit holder be the obligor and that the Board be the obligee. The personal bond, conditioned on the obligor performing its duties without error, must be accompanied by either cash or a Certificate of Deposit delivered to the Board.

(E) A Certificate of Deposit must be issued by a federally insured financial institution in the State of Oklahoma and must have a maturity term of a minimum of one year.

(i) The Certificate of Deposit shall on its face show either the Board as its holder or it shall be endorsed in favor of the Board.

(ii) The original Certificate of Deposit shall be delivered to the Board with an executed personal bond form.

(F) Interest on such Certificate of Deposit shall be paid to the obligor. Payment to a third party will be allowed on a personal bond upon presentation of either a final order of a District Court of the State of Oklahoma finding that the conditions of the bond have not been met, or upon written settlement with the obligor. Prior to payment unless the obligor presents to the Board either a surety bond or an alternative method of securing the personal bond equal to the amount of the claim against the bond the Board shall take action to suspend the certificate of authority of the obligor.

(G) The personal bond and a facsimile of the Certificate of Deposit become part of the file of the holder of the certificate of authority or permit for whom they are given. These documents are available for examination and copying by the public.

5:10-3-4. Application fees for Permits, Certificates of Authority, and Renewals

(a) For all or any part of calendar year 2008 and for the following calendar years a separate application and fee shall be submitted for each certificate of authority and permit, or renewal thereof, for each county in which the applicant desires to do business. The fee shall be as follows:

(1) County Population of less than 10,000	\$ 400.00
(2) County Population of 10,000 but less than 30,000	\$ 800.00
(3) County Population of 30,000 but less than 60,000	\$1,200.00
(4) County Population of 60,000 but less than 100,000	\$1,600.00
(5) County Population of 100,000 but less than 200,000	\$2,400.00
(6) County Population of 200,000 or more	\$3,200.00

5:10-3-5. Licensing associations, corporations, partnerships

An applicant for permit or certificate of authority issued to an association, partnership, corporation or other entity shall be required to comply with the same laws, rules, regulations, and orders as individuals. Such entities shall designate in writing an individual as service agent to receive service of summons and notice of hearings or state on the application form that it will accept service at its business address on the application form.

5:10-3-6. Transfer of Certificate of Authority

An applicant for a transfer of a certificate of authority by an individual, association, partnership, corporation, or other entity shall be required to comply with the same laws, rules, regulations, and orders applicable to the previous holder of the certificate of authority. The applicant shall also provide an affidavit as to due diligence efforts made to determine that the abstract plant acquired meets all the requirements of the Act.

5:10-3-7. Licensing nonresidents

(a) Anyone who is not a resident of the State of Oklahoma but who obtains a certificate of authority, permit or abstract license shall:

- (1) give written consent that actions, suits at law and administrative proceedings may be commenced against such nonresident in any county in this state where any cause of action may arise or be claimed to have arisen out of any actions occurring as a result of alleged activities under the Act. Such consent shall be applicable to a nonresident, his agents or employees; and
- (2) appoint, in writing, a service agent in the State of Oklahoma to receive service of summons or notice of hearing.

(b) A nonresident shall designate a service agent in accordance with provisions of Section 2004 of Title 12 of the Oklahoma Statutes.

5:10-3-8. Any application for renewal of a certificate or license received prior to the effective date of these rules shall be considered timely filed and the certificate or license for which renewal is being applied for shall continue in full force and effect until revoked or renewed by the Board.

5:10-3-9. Forms

(a) Certificate of Authority.

- (1) The Board shall prescribe the initial application form for a certificate of authority to be used when an entity applies for a certificate of authority for the first time.
- (2) The Board shall prescribe the form to be used for a temporary certificate of authority.
- (3) The Board shall prescribe the renewal form to be used for the annual renewal of the certificate of authority.
- (4) The Board shall prescribe the transfer form to be used when the ownership of holder of a certificate of authority changes.

(b) Permit.

- (1) An application for a permit prescribed by the Board shall be used when an applicant desires to engage in the business of abstracting and does not hold a current certificate of authority in the appropriate county.
- (2) When applying for a permit the applicant must include an affidavit on a form prescribed by the Board prepared by the appropriate District Court Clerk and County Clerk certifying the completeness or incompleteness of the county records.
- (3) A general statement of the law, and instructions directing how the forms should be completed shall be included with each application for a permit.
- (4) If the affidavits of the District Court Clerk or the County Clerk filed with the application for permit indicate that the records in either office are incomplete or if after an administrative hearing, it is determined that the records in those offices are incomplete; then the applicant shall obtain all those records otherwise unavailable from the offices of the District Court Clerk and County Clerk prior to the issuance of the permit.

(5) The applicant for a permit shall provide the Board with proof that each person engaged in the search of county records for the purpose of establishing a plant is a holder of an abstract license.

(c) License. An application for an abstract license is used when an individual applies for an abstract license for the first time. A renewal form is used for the annual renewal of an abstract license.

(d) Renewal. An application for renewal shall be submitted on an application for renewal form prescribed by the Board with the appropriate fee.

(e) Bonds. A certificate of authority holder wishing to take advantage of the alternative pursuant to rule 5:10-3-3 of this Chapter, must use the Board bond form unless prior approval is received from the Board for the use of another form.

(f) Other forms. The Board shall provide such other forms as necessary to implement the provisions of the Act.

SUBCHAPTER 5. REGULATION OF LICENSEES, CERTIFICATE HOLDERS, AND PERMIT HOLDERS

5:10-5-1. Inspections

(a) The Board shall cause inspections of records and premises of all permit holders and certificate holders at the discretion of the Board.

(b) Upon request from the Board, a permit holder or certificate holder shall provide access to the records and premises of their business. Failure to do so in a timely manner shall constitute an offense subject to fine, suspension, revocation or such other sanction as may be determined by law.

(c) Certificate holders shall maintain for five (5) years a copy of the certificate page of such abstract, evidence of research, the certificate page of any abstract used for duplication, and billing information.

5:10-5-2. Penalties for failure to pay renewal fees

The Board shall assess and collect penalties against licensees and certificate holders for the failure to pay renewal fees. Such penalties shall be posted in the Board office. If the amount of the penalty is changed, thirty (30) days notice shall be given before the change shall be effective.

5:10-5-3. Preparation of abstracts

(a) **Type of Abstract.** A certificate of authority holder shall cause the preparation of an abstract which shall cover a fee simple estate, or upon the request of a customer, a fee simple estate less and except oil, gas, coal, and other mineral interests. The abstract certificate, caption sheet, or both shall reflect the nature of the abstract along with an appropriate disclaimer regarding that which is excluded.

(b) **Contents of Abstract.** For the time period covered by the certification, an abstract shall include the following:

(1) all instruments that have been filed for record or have been recorded in the Office of the County Clerk which legally impart constructive notice of matters affecting title to the subject property, any interest therein or encumbrances thereon;

(2) the records of the District Court Clerk and the County Clerk that disclose executions, court proceedings, pending suits, liens of any kind affecting the title to said real estate;

(3) judgments or transcripts of judgments against any of the parties appearing within the chain of title of the abstract, either indexed and docketed prior to October 1, 1978, on the judgment docket of the District Court Clerk or filed for record or recorded on or after October 1, 1978, in the Office of the County Clerk of said county; and

(4) all ad valorem tax liens due and unpaid against said real estate, tax sales thereof unredeemed, tax deeds, unpaid special assessments certified to the Office of the County Treasurer, due and unpaid, tax sales thereof unredeemed, and tax deeds given thereon and unpaid personal taxes which are a lien on said real estate.

(c) Federal Court Records. For property located in Muskogee, Okmulgee, Oklahoma, and Tulsa counties, for the time period covered by the certification, an abstract or special certificate shall include the records of the Clerk of the United States District Court and the records of the Clerk of the United States Bankruptcy Court in Muskogee Okmulgee, Oklahoma, and Tulsa counties, respectively, that disclose:

(1) executions, court proceedings, pending suits and bankruptcy proceedings in said courts affecting title to the subject property;

(2) judgments or transcripts of judgments against any of the parties appearing within the chain of title of the abstract, either indexed and docketed prior to October 1, 1978 on the judgment docket of the Clerk of the respective United States District Court or filed for record or recorded on or after October 1, 1978 in the office of the County Clerk of the respective county, affecting title to said real estate.

(d) **Other Services.** Any service performed by the holder of a certificate of authority that does not meet the standard established in the Act and the rules of the Board shall not be designated an "abstract" and shall not include an abstract certificate.

5:10-5-4. Minimum standards for preparation of abstracts.

(a) Copies of documents included in an abstract of title prepared by a holder of a Certificate of Authority shall be as legible as the source document on file in the offices of the County Clerk or the District Court Clerk except for source documents larger than 8 ½" x 14".

APPENDICES

1. ON-LINE ACCESS TO COUNTY CLERK RECORDS IN OKLAHOMA
2. NATIONAL TITLE EXAMINATION STANDARDS RESOURCE CENTER
REPORT
3. SCHEDULE OF T.E.S. COMMITTEE MEETINGS
4. MEMBERSHIP OF T.E.S. COMMITTEE
5. LIST OF SELECTED ARTICLES (ON-LINE), BY KRAETTLI Q. EPPERSON

APPENDIX 1
ON-LINE ACCESS TO COUNTY CLERK RECORDS IN OKLAHOMA

Part of the benefit of new computer driven on-line technology is the advent of the digitizing and indexing of land documents upon their recording with the local county clerk, with the subsequent result that the county land records (grantor/grantee and tract indices, including images of the documents) are becoming accessible through on-line systems from remote sites, including the title examiner's own office.

In addition, due to federal prodding, the possibility of initial recording of digital documents, rather than recording paper documents or even scanned versions of such documents, is increasing. New model state statutes to implement such mandates are coming from the Uniform Laws Commission, and include the Uniform Electronic Transactions Act (UETA) and its more recent cousin the Uniform Real Property Electronic Recording Act (URPERA).

For instance, the two largest counties in Oklahoma allow electronic recording of land documents, and many of the 77 counties in Oklahoma have their indices and document images available on line. A recent survey by this author in Oklahoma produced a report describing how to access such on-line indices. Such report is available at the author's website: www.EppersonLaw.com . Such website acts as the unofficial website for the Real Property Law Section of the Oklahoma Bar Association.

**APPENDIX 2
NATIONAL TITLE EXAMINATION STANDARDS RESOURCE CENTER
REPORT**

(MORE INFORMATION AVAILABLE ON-LINE AT www.EppersonLaw.com)

**THE NATIONAL TITLE EXAMINATION STANDARDS RESOURCE
CENTER**

(Effective July 31, 2007)

STATUS REPORT

	State	Last Revised		Standards		#Pgs.
		Pre-2002	2002+	#Ch.	#Stand.	
1.	Arkansas	12-20-00	-	22	110	65
2.	Colorado	-	07-01-06	15	134	71
3.	Connecticut	-	12-31-04	28	140	440
4.	Florida	-	11-00-03	22	152	187
5.	Georgia	-	08-00-05	39	194	144
6.	Idaho ¹	c. 1946	-	-	-	-
7.	Illinois	01-00-77	-	14	26	35
8.	Iowa	-	10-00-05	15	99	75
9.	Kansas	-	00-00-05	23	71	122
10.	Louisiana	00-00-01	-	25	233	99
11.	Maine	-	02-13-07	09	71	88
12.	Massachusetts	-	11-07-06	NA	73	101
13.	Michigan	-	05-00-04	28	252	442
14.	Minnesota	-	06-23-06	NA	96	84
15.	Missouri	05-15-80	-	NA	26	17
16.	Montana	c. 1955	-	NA	76	78
17.	Nebraska	-	01-30-04	16	98	115
18.	New Hampshire	-	07-15-07	13	179	36
19.	New Mexico	00-00-50	-	06	23	05
20.	New York	01-30-76	-	NA	68	16
21.	North Dakota	-	12-00-06	18	190	229
22.	Ohio	-	11-07-03	NA	53	44
23.	Oklahoma	-	11-17-06	23	116	109
24.	Rhode Island	-	07-00-03	14	72	72
25.	South Dakota	-	06-21-03	NA	66	58
26.	Texas	-	06-22-07	16	89	88
27.	Utah	06-18-64	-	NA	59	13
28.	Vermont	-	04-04-03	28	38	31
29.	Washington	09-25-42	-	NA	29	09
30.	Wisconsin	02-00-46	-	NA	15	08
31.	Wyoming	07-01-80	-	22	81	99
Total		12	19			

¹The Title Standards for this state are not available due to the fact that the standards are too old to find in print.

*Prepared by Kraettli Q. Epperson, Attorney-at-Law, OKC, OK
(405) 840-2470; kqelaw@aol.com*

APPENDIX 3
SCHEDULE OF T.E.S. COMMITTEE MEETINGS

2008 TES Committee Meeting Schedule
(Third Saturday: January through September)

January 19 - Tulsa

February 16 - Stroud

March 15- OKC

April 19- Stroud

May 17 - Tulsa

June 21- Stroud

July 19- OKC

August 16- Stroud

September 20 - Tulsa

APPENDIX 4
MEMBERSHIP OF T.E.S. COMMITTEE

2007 Title Examination Standards Committee

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APPENDIX 5
**LIST OF SELECTED ARTICLES (AVAILABLE ON-LINE),
AUTHORED BY KRAETTLI Q. EPPERSON**

KRAETTLI Q. EPPERSON:
PROFESSIONAL LECTURES & PUBLICATIONS: SELECTED LIST
(Last Revised March 7, 2008)

ABSTRACTING

- 160. "Contract Provisions, Abstracting, & Title Examination in Oklahoma", Title Examination in Oklahoma, Lorman Education Services, Oklahoma City, Oklahoma (December 3, 2003)
- 104. "**An Attack by the State Auditor on the '30-Year Abstract'**", 68 Oklahoma Bar Journal 517 (February 22, 1997)
- 6. "**Abstract Certificate Officially Changed**," 54 Oklahoma Bar Journal 1713 (June 1983)

CORPORATE EXECUTION

- 68. "**Corporate Attest, Seal Still Needed For Real Estate Documents**", 84 Oklahoma Banker 17 (February 4, 1994)

ENVIRONMENTAL ISSUES

- 62. "Environmental Laws Affecting Real Estate Title," Legal Institute of Pickens County, I.T., Joint Oklahoma Bar Association and Carter County Bar Associations, Ardmore, Oklahoma (May 21, 1993)

FUTURE OF REAL PROPERTY

- 176. "A Status Report: On-Line Images of Land Documents in Tulsa and Oklahoma Counties and Beyond", The Oklahoma Bar Association Real Property Law Section Title Examination Standards Committee: Richard Cleverdon Roundtable Seminar, Tulsa, Oklahoma (June 24, 2005), Oklahoma City, Oklahoma (June 30, 2005)
- 171. "A Status Report: On-Line Images of Land Documents in Tulsa and Oklahoma Counties and Beyond", The Oklahoma City Commercial Lawyers Association, Oklahoma City, Oklahoma (December 21, 2004)
- 164. "A Status Report: On-Line Images of Land Documents in Oklahoma County", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (June 11, 2004)

159. "A Look at Selected Future Changes Likely to Affect the Oklahoma Real Estate Attorney", Emerging Topics in Real Estate Law, OBA Real Property Law Section, Oklahoma City, Oklahoma (November 6, 2003) and Tulsa, Oklahoma (November 7, 2003)
132. "The Changing Face of Real Property With an Emphasis on Title Examination, and Title Assurance", Southern Nazarene University, Bethany, Oklahoma (February 17, 2000)
129. "Technology In Today's Real Estate Practice", Commercial Real Estate Seminar, OBA Real Property Section, Oklahoma City, Oklahoma (December 15, 1999) and Tulsa, Oklahoma (December 16, 1999)

HOMESTEAD ISSUES

162. "**Real Estate Homesteads in Oklahoma: Conveying and Encumbering Such Interest**", 75 The Oklahoma Bar Journal 1357 (May 15, 2004)

HOMEOWNERS ASSOCIATIONS & CONDOMINIUMS

184. "Amending the Governing Documents for Condominiums and Homeowners' Associations", Lorman Education Systems, Special Issues for Condominiums and Homeowners' Associations in Oklahoma, Oklahoma City, Oklahoma (February 24, 2006)
17. "Pets, Parking and Pools: Association Rules and Regulations," Representing Homeowners Associations: Condominiums, Townhomes and Other PUDs, Oklahoma City University Law School, Oklahoma City, Oklahoma (September 9, 1986)

LEASES

95. "Residential Leases—The Landlord's Perspective", Oklahoma Bar Association, Tulsa, Oklahoma (February 23, 1996) and Oklahoma City, Oklahoma (March 1, 1996)
8. "Landlord's Lien," Landlord-Tenant Remedies (also Program Chairman), Oklahoma Bar Association, Tulsa, Oklahoma (March 16, 1984), Oklahoma City, Oklahoma (March 25, 1984)

LIENS: FIXTURES, JUDGMENTS, MATERIALMEN, MORTGAGES

106. "**Have Judgment Lien Creditors Become 'Bona Fide Purchasers'?**", 68 Oklahoma Bar Journal 1071 (March 29, 1997)

100. **"Mortgage Lenders Must Now Secure Two Judgments to Enforce Their Real Estate Mortgage"**, 87 Oklahoma Banker 11 (January 3, 1997)
67. "A Brief Analysis of USA v. Ward, 985 F.2d 500 (10th Cir. 1993): The Federal Loan Programs' Inextinguishable Mortgage Lien", Presented to the Oklahoma City Commercial and Banking Lawyers Group, Oklahoma City, Oklahoma (January 20, 1994)
64. **"Federal Money Judgment Liens Under the Federal Debt Collection Procedure Act: A 40-Year Super-Lien"**, 64 Oklahoma Bar Journal 3195 (October 23, 1993)
58. **"Local Real Property Recordings Required For Federal Money Judgments,"** 63 Oklahoma Bar Journal 2697 (September 30, 1992)
52. **"One Step Beyond: Judicial Creation of a Judgment Lien in Divorce Decrees,"** 62 Oklahoma Bar Journal 2631 (September 14, 1991)
32. **"Judgment Lien Creation Now Requires a Judgment Affidavit,"** 59 Oklahoma Bar Journal 3643 (December 1988)
13. "Mechanics' and Materialmen's Lien: An Overview With A Discussion Of Selected Problems," Real Estate Titles And Conveyancing, Oklahoma City University Law School, Oklahoma City, Oklahoma (January 18, 1985); and Oklahoma City Title Attorney's Association, Oklahoma City, Oklahoma (February 8, 1985)
9. **"UCC Fixtures Filings Require An Acknowledgment,"** 55 Oklahoma Bar Journal 695 (March 1984)

OIL & GAS ISSUES

3. **"Lenders Mineral Title Insurance: A Mini-Primer,"** 53 Oklahoma Bar Journal 3089 (December 1982)

RESIDENTIAL PROPERTY CONDITION DISCLOSURE

148. "Oklahoma Residential Property Condition Disclosure Act: An Overview", Churchill-Brown Realtors Training Meeting, Oklahoma City, Oklahoma (June 18, 2002)

TAX SALES

92. "Tax Resales: Invisible and Invincible Liens that may be Surviving the Sale -- A Forum for Input for Possible Solutions", Oklahoma City Title Attorney's Association, Oklahoma City, Oklahoma (October 13, 1995)

82. **"Statute, Practices on Tax Sale Notices Raise Concerns"**, 85 Oklahoma Banker 9 (June 9, 1995)

TITLE EXAMINATION: SELECTED ISSUES

195. "Update on Oklahoma Title Related Cases: FOR 2006-2007, The Oklahoma Bar Association Real Property Law Section Annual Meeting, Oklahoma City, Oklahoma (November 8, 2007)
194. "Marketable Title: What is it? And Why Should Mineral Title Examiners Care?", The 2007 Rock Mountain Mineral Law Foundation Institute, Westminster, Colorado (September 13, 2007)
175. "Selected Title Examination Issues", Examining and Resolving Title Issues in Oklahoma, National Business Institute, Oklahoma City, Oklahoma (June 7, 2005)
87. **"Title Examination Standards: A Second Status Report"**, ABA Land Transactions Group (C-Committees) Newsletter, Number 5, July 1995
86. **"Title Examination Standards: Suggestions on Adopting and Maintaining Standards"**, ABA Land Transactions Group (C-Committees) Newsletter, Number 5, July 1995
78. "The History and Direction of Title Examination Standards in America", Presented at: The Arkansas Bar Association 1995 Real Estate Seminar, Hot Springs, Arkansas (March 31-April 1, 1995)
46. **"Title Examination Standards in America: A Status Report,"** 16 Probate and Property Magazine, ABA Real Property, Probate and Trust Magazine, Sept./Oct. 1990
1. **"The Title Standards Committee: A Status Report,"** 53 Oklahoma Bar Journal 1827 (July 1982)

OKLAHOMA TITLE AUTHORITY: UPDATES

198. "Update on Oklahoma Title Authority: Statutes, Cases, Attorney General Opinions, & Title Examination Standards: Revisions for 2006-2007", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 11, 2008)
188. "Update on Oklahoma Title Authority: Statutes, Cases, Attorney General Opinions, & Title Examination Standards: Revisions for 2006", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 12, 2007)

TITLE EXAMINATION STANDARDS: UPDATES

182. "Update on Oklahoma Title Examination Standards: Revisions for 2006 (November 4, 2005)", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 13, 2006)
172. "Update on Oklahoma Title Examination Standards: Revisions for 2005 (November 12, 2004)", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 10, 2005)
161. "Update on Oklahoma Title Examination Standards: Revisions for 2004 (November 14, 2003)", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (February 13, 2004)
152. "Update on Oklahoma Title Examination Standards: Revisions for 2003 (November 22, 2002)", The Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 10, 2003)
144. "Update on Oklahoma Title Examination Standards: Revisions for 2002 (November 16, 2001)", Oklahoma City Real Property Lawyers Association, Oklahoma City, Oklahoma (January 11, 2002)
137. "Update on Oklahoma Title Examination Standards: Revisions for 2001 (November 17, 2000)", Oklahoma City Real Property Attorneys (Lawyers) Association, Oklahoma City, Oklahoma (January 12, 2001)
136. "Update on Oklahoma title Examination Standards: Revisions for 2000 (November 12, 1999)", The Conference on Consumer Finance Law, Oklahoma City, Oklahoma (November 2, 2000)

TITLE INSURANCE: SELECTED ISSUES

183. "Favorite Title Examination Standards Relating to Title Insurance", Oklahoma Land Title Association Advanced Title Insurance Seminar, Oklahoma City, Oklahoma (February 8, 2006)
126. "An Overview of Selected Title Insurance Issues In Oklahoma", The Oklahoma Association of Professional Mortgage Women, Oklahoma City, Oklahoma (February 9, 1999)
123. "Avoiding Title Pitfalls" & "Title Insurance", Oklahoma Association of Realtors/Real Estate Seminar, Stillwater, Oklahoma (October 8, 1998)

TRUST ISSUES

115. "Can Bankers Trust Trusts? Or A Brisk Walk Thru 'Never-Never' Revocable Trust Land", Oklahoma City Commercial Law Attorney's Association, Oklahoma City, Oklahoma (April 21, 1998)