

**2017 Legislative Report
Oklahoma Title Examination Standards Committee
1st Session of the 56th Legislature
February 18, 2017**

Please do not hesitate to contact me if you know of a bill that should be included, think a bill should be included under a different section, would like to suggest a different interpretation of a bill, or have a proposed edit to the referenced title standard(s).

Legislative Deadlines*

Deadline for bill draft requests	December 9, 2016
Substantive language deadline	December 30, 2016
Bill introduction deadline	January 19, 2017
Legislative session begins	February 6, 2017
Senate bills out of Senate committees	March 2, 2017
House bills out of House committees	March 3, 2017
Third reading of measures in chamber of origin	March 23, 2017
House bills out of Senate committees	April 13, 2017
Senate bills out of House committees	April 14, 2017
Third reading of measures in opposite chamber	April 27, 2017
Sine Die	May 26, 2017

*some exceptions apply Source: <http://okpolicy.org/resources/2017-oklahoma-legislative-primer/>

Introductory Notes

Bills that may potentially affect current title standards are shown first. Those are followed by other bills broadly related to real property, attorneys, and the judiciary and are sorted by subject. The summaries do not necessarily reflect all changes, deletions or additions presented by the bills.

Updates will be provided at regular TES Committee monthly meetings. Outside of these meetings, you can check for updates at www.oklegislature.gov either by entering the bill number and checking the history or by using the "Track Bills" feature which will email you updates.

All summaries and interpretations are those of this author. If you are specifically interested in any bill, please read the bill in its entirety to confirm its scope and effect.

Proposed Legislature Potentially Affecting Current Title Standards

Corporations – Standard 12.4

- HB 1809 Oklahoma Benefit Corporation Act creates a new class of corporations called Benefit Corporations formed or converted for the purpose of creating a general public benefit.
Status: Second reading referred to Business, Commerce and Tourism
- SB 343 Oklahoma Benefit Corporation Act creates a new class of corporations called Benefit Corporations formed or converted for the purpose of creating a general public benefit.
Status: Second reading referred to Business, Commerce and Tourism

Estate Tax – Standards 15.4, 25.5

- HB 1327 Amends 68 O.S. §804.1 to include extinguishment of estate tax liens for deaths occurring before 1/1/10 subsequent to the lapse of 10 years after the date of death and no order exempting estate shall be required for marketable title.
Status: Second reading referred to Appropriations and Budget; referred to Appropriations and Budget Finance Subcommittee; recommended do pass

Marriage – Standard 3.2, Comment 2

- HB 1418 Allows for an Affidavit of Common Law Marriage to be filed with the court clerk. Sets forth requirements for the affidavit. Provides that any entity requiring proof of marriage be required to also accept the affidavit of common law marriage.
Status: Second reading referred to Judiciary – Civil and Environmental
- HB 1257 Sets forth proof of common law marriage; Prohibits common law marriage (between man and woman??) beginning 1/1/18; certain common law marriages remain valid after 1/1/18; allows for affidavit of common law marriage.
Status: Second reading referred to Judiciary – Civil and Environmental

Other Proposed Legislation of Interest

Abstracting

- SB 161 Extends sunset date for Oklahoma Abstractors Board from 7/1/19 to 7/1/21.
Status: Second reading referred to General Government

Acknowledgments

- HB 1366 Changes requirement for a deed, mortgage or other instrument affecting real estate to be "acknowledged" to be "acknowledged or verified under oath or affirmation." Changes language regarding acknowledgements relating to military business of the state. Increases required notary bond from \$1000 to \$10,000. Other changes including fees,

contracts to provide notarial services, and software issues. Adds administer oaths "of affirmations; to take a verification upon oath or affirmation to witness or attest a signature; to certify or attest a copy" to notary public authority. Numerous changes to definitions in the Uniform Law on Notarial Acts, including definitions related to video and electronic signatures. Multiple deletions of "stamp" from "official stamp or seal." Official certificate and seal of notary public is "presumptive evidence of the facts stated in cases where, by law, the notary public is authorized to certify the facts." Grandfathers in electronic notarial acts performed before 1/1/18 under the Uniform Electronic Transactions Act. Creates a new section of law called the Uniform Law on Notarial Acts, which supercedes the Electronic Signatures in Global and Nation Commerce Act with exceptions, and sets forth the procedure, scope, and requirements of video notarial acts.

Status: Second reading referred to Rules

Appraisals

HB 1358 Appointments of disinterested person to appraise when general or special execution is levied upon lands shall be made on a rotating basis from a list of persons maintained by the sheriff and can't be related with the third degree to the sheriff, any person having an interest in the lands, or to another disinterested person valuing the same lands. In counties with a population of 65,000 or more, the disinterested person must be a certified real estate appraiser, a licensed real estate broker, or real estate agent licensed for more than two years.

Status: Second reading referred to Judiciary – Civil and Environmental

HB 1707 Appraisers in foreclosure must be "unassociated and disinterested outside party or parties which shall make a determination of the current market value" using "at least three independent, disparate and credible sources, each of which has estimated the current market value of the subject property independently from one another." Allows for electronic and phone bidding at sales.

Status: Second reading referred to Banking, Financial Services, and Pensions; recommended do pass

SB 533 Requires invoice disclosing compensation to appraiser when services are performed independently or not within an employer/employee relationship. Appraisal Management Company cannot prohibit an employee from including an invoice which describes the fee.

Status: Second reading referred to Business, Commerce and Tourism

SB 0571 Real Estate Appraiser Board to define type of educational and equivalent experience to meet the Appraiser Qualification Board and Appraisal Foundation approval for a new category, Special Appraisers, supervised by the Board of other designated persons. Special Appraisers will have no examination requirement but must complete 75 classroom hours of specified courses.

Status: Second reading referred to Business, Commerce and Tourism

Attorneys

- HB 2109 Changes "the State of Oklahoma" to "this state" in 5 O.S. §12 (Supreme Ct. power to pass on qualifications and fitness of applicants to the bar).
Status: Second reading referred to Rules
- HB 1791 Changes "the State of Oklahoma" to "this state" in 70 O.S. §18-114.3 (JD degree).
Status: Second reading referred to Rules
- HB 1574 Modifies rules regarding state contracts for legal representation by private attorneys and requires the list of attorneys desiring to furnish services and the schedule of fees for each attorney to be maintained and available to the public.
Status: Second reading referred to Judiciary – Civil and Environmental; amended by the committee; recommended do pass
- SB 821 Creates the Private Attorney Retention Sunshine Act related to state agencies or agents wishing to retain a lawyer or law firm to perform legal services on behalf of the State where fees and expenses will exceed or reasonably expected to exceed \$5,000.00.
Status: Second reading referred to Judiciary Committee then to Appropriations Committee

Civil Procedure

- HB 1235 Amends 12 O.S. §2004 to allow for an alternative method other than personal delivery, mail, or publication upon certain defendants and upon filing an affidavit that with due diligence service cannot otherwise be made.
Status: Second reading referred to Judiciary – Civil and Environmental
- HB 2275 Amends 12 O.S. §990A to provide filing procedures for appeals to the Supreme Court regarding counter-designation of records.
Status: Second reading referred to Judiciary – Civil and Environmental; recommendation to pass; passed House, referred to Senate
- SB 365 Amends 12 O.S. §2001 from "Code shall be construed" to Code shall be "construed, administered and employed by the court and the parties." Amends 12 O.S. §2008 to expand the particularities required in pleadings that set forth claims for relief. Changes requirement for pleading to be concise and direct. Amends 12 O.S. §2009 to incorporate changes to 2008 and to stay discovery and other proceedings when a 12B6 motion to dismiss, motion for judgment on pleadings, or motion for more definite statement has been filed.
Status: Second reading referred to Judiciary

Condemnation / Eminent Domain

- HB 1271 Repeals 11 O.S. §21-222 Moratorium on Municipal Condemnation Proceedings.
Status: Second reading referred to Utilities

- HB 2194 Amends 27 O.S. §11 to allow for attorney fees where the jury award is for any amount over the commissioner's award (previously 10%). Amends 27 O.S. §13 (amendments not specified in the introduced bill). Amends 27 O.S. §16 to allow for comparable sales and actual amount paid or awarded for other tracts of the same intended use to be included in the fair market value calculation. Amends 27 O.S. §18 to include in the Landowner's Bill of Rights Title 69 proceedings and the right to demand a jury trial. Amends commissioner's duties listed in 66 O.S. §53. Amends 66 O.S. §55 related to jury trial, costs, "legitimate business purpose planned", and annual reports to Attorney General. Amends 69 O.S. §1203 regarding notice to landowner, jury trials, burden of proof, costs, payment of award, fair market value, annual reports to Attorney General, and good faith negotiations.
- Status: Second reading referred to Wildlife
- SB 290 Amends 66 O.S. §55 changing taxing of costs on jury trial and allowing for last offer to settle. Amends 27 O.S. §11 changing language regarding award of 10% more than commissioner's award to exceeds by any amount the last offer to settle.
- Status: Second reading referred to Judiciary
- SB 318 Authorization for ODOT to complete the acquisition and rehabilitation of the 90 mile "Sunbelt Line" between Shawnee and McAlester.
- Status: Second reading referred to Transportation Committee; recommended do pass; title stricken; referred then to Appropriations Committee
- HB 1534 Enacts a new law creating the Oklahoma Public and Private Facilities and Infrastructure Act relating to public facilities or transportation currently available or to be made available to a governmental entity for public use. States it will not alter the eminent domain laws or grant power under eminent domain to any person not already authorized.
- Status: Second reading referred to Business, Commerce and Tourism; amended by committee; recommendation to pass
- SB 422 Enacts a new law creating the Oklahoma Public and Private Facilities and Infrastructure Act (see HB 1534 above).
- Status: Second reading referred to General Government
- SB 430 Enacts a new law creating the Oklahoma Public and Private Facilities and Infrastructure Act (see HB 1534 above).
- Status: Second reading referred to General Government
- SB 548 Enacts a new law creating Prosperity Districts which will be municipal corporations in the form of a special district that can form enforceable contracts, sue and be sued and exercise exclusively the jurisdiction, power and authority specified in the act. Limitations on Prosperity Districts include no ability to levy tax, exercise eminent domain, etc.
- Status: Second reading referred to General Government Committee then to Appropriations Committee

Constitution

SJR 13 Puts to a vote of the people an amendment to Section 1, Article 1, of the Oklahoma Constitution changing "State of Oklahoma is an inseparable part of the Federal Union" to "State of Oklahoma is a part of the Federal Union."

Status: Second reading referred to Rules

Corporations

SB 769 Expands 18 O.S. §1014.1 to include interpretation and enforcement of instruments in addition to the certificate of incorporation and bylaws.

Status: Second reading referred to Business, Commerce and Tourism

Counties

HB 1436 Allows County Clerk to employ general counsel. Adds 4 paragraphs regarding recording fees for counties with a population of more than 400,000: \$15.00 for deeds 4 pages or less and \$2 per page for additional pages; and \$40.00 for mortgages of twenty pages or less and \$2 per page for additional pages. (Note that it does not modify the listing of the current fees to counties of 400,000 population or less.)

Status: Second reading referred to Appropriations and Budget; Referred to Appropriations and Budget General Government Subcommittee

HB 1516 Prohibits county commissioners from declaring any property to be surplus during the period the elections of any two county commissioners occur at the same time.

Status: Second reading referred to County and Municipal Government

SB 417 Enacts a new law to allow board of county commissioners to transfer ownership of real property designated as a common area or greenbelt for neighborhood development to the municipality that created the common area or greenbelt.

Status: Second reading referred to General Government; amended; recommended do pass; title stricken

SB 538 Repeals 19 O.S. §570 Abolition of Office of County Surveyor.

Status: Second reading referred to General Government

Execution

SB 116 Amends 12 O.S. §760 (judgments when "appraisement waived" appears in instrument) order of sale or execution issuance from 6 months from the rendition of "said judgment" to 6 months from the rendition of the "initial judgment."

Status: Second reading referred to Judiciary

Foreclosure

HB 1707 Modifies procedure by requiring oath of impartiality and requiring appraisals be based on current market value. Modifies sale and bidding procedures. Repeals statutory language re judgment in foreclosure and appraisal of property.

Status: Second reading referred to Banking, Financial Services and Pensions; recommended do pass

Judiciary

HB 1699 Modifies the Supreme Court to be made up of 5 Justices, one from each Congressional District as exists on 1/1/19. Switches districts of then sitting district Justices and staggers the terms of the Justices.

Status: Second reading referred to Judiciary – Civil and Environmental

HB 1823 Decreases district judges in District 24 (Okfuskee, Okmulgee, and Creek Counties) to 4. Increases district judges in District 25 (Canadian) to 2.

Status: Second reading referred to Judiciary – Civil and Environmental; recommended do pass

HB 1932 Mandatory retirement at age 75 for any Justice or Judge of the Supreme Court, Court of Criminal Appeals, or Court of Civil Appeals.

Status: Second reading referred to Judiciary – Civil and Environmental

SB 699 Mandatory retirement for all appellate Justices and Judges when the sum of their years of judicial service and age equals 80.

Status: Second reading referred to Judiciary, recommended do pass

SB 213 Supreme Court Judicial Districts will be 5 which conform with the congressional districts and 4 statewide at-large districts.

Status: Second reading referred to Judiciary, recommendation to pass

SB 702 Changes the counties in the 9 Supreme Court Judicial Districts. (Counties that would change district are Pawnee, Coal, Sequoyah, Washita, and Pottawatomie.)

Status: Second reading referred to Judiciary, recommendation to pass

SB 779 Changes the included counties and number of district judges for certain judicial districts. (Counties affected are Comanche, Stephens, Cotton, Jefferson, Grady, and Caddo.)

Status: Second reading referred to Judiciary, recommendation to pass

SB 700 Changes makeup of the Judicial Nominating Commission. Terminates all current attorney members of the JNC and provides that 3 attorney members will be appointed by the President Pro Tempore of the Senate and 3 attorney members will be appointed by the Speaker of the House of Representatives.

Status: Second reading referred to Judiciary, recommendation to pass

SB 708 Requires District Judge to have been lead counsel in at least 3 jury trials brought to verdict prior to filing for such office or appointment.

Status: Second reading referred to Judiciary, recommendation to pass

Liens

HB 1281 Creates Oklahoma Construction Registry Act. Does not apply to residential (single family or multifamily of four or fewer units). Project registration is voluntary. Registration will afford different lien rights than current lien rights.

Status: Second reading referred to Judiciary – Civil and Environmental

HB 1673 Extends filing time for subcontractor liens from 90 days to 6 months.

Status: Second reading referred to Judiciary – Civil and Environmental

SB 581 Decreases time a county clerk can discharge M&M liens from 10 years to 3 years.

Status: Second reading referred to Judiciary

HB 1701 Removes the 1 year waiting period related to homestead liens filed by OHCA and allows the liens to be assignable. Removes language that lien "shall not sever a joint tenancy nor affect the right of survivorship." Allows for a reduced amount to pay off the lien if necessitated by the value of the property at the time of a sale or transfer.

Status: Second reading referred to Health Services and Long-Term Care; recommended do pass

Minors

SB 122 Oklahoma Uniform Transfers to Minors Act. Parents as successor custodian: either parent if they are still married; if divorced, primary custody parent or if joint custody, parent determined by written agreement between the parents.

Status: Second reading referred to Judiciary

Municipalities

HB 1262 Repeals 11 O.S. 22-110.1 Municipalities Prohibited from Requiring Registration of Real Property.

Status: Second reading referred to County and Municipal Government

HB 1381 Permits municipalities to require the registration of dilapidated and abandoned buildings after the municipality provides notice and hearing during the abatement process.

Status: Second reading referred to Business, Commerce and Tourism

SB 420 Amends 11 O.S. §22-111 regarding municipality cleaning trash and weeds and cutting grass to include "entity responsible for easements or rights of way on a property" to the definition of Owner.

Status: Second reading referred to General Government

Oil and Gas

- SB 285 Amends the Oklahoma Brine Development Act to the Oklahoma Brine and Produced Water Development Act to reduce disposal of brine water and encourage reuse, recycling and reclaiming of the water and its constituents.
Status: Second reading referred to Energy
- SB 284 Amends the 2011 Shale Revenue Development Act to the Horizontal Well Development Act to expand to include any common source of supply that is designated by the OCC as potentially suited for development through a multiunit horizontal well or extended lateral horizontal unit or part of an order approving the multiunit horizontal well or extended lateral horizontal unit.
Status: Second reading referred to Energy
- SB 680 Amends the 2011 Shale Reservoir Development Act to the Extended Lateral Horizontal Well Development Act to expand to include any common source of supply designated by the OCC as suited for development through a multiunit horizontal well or part of an order approving a multiunit horizontal well.
Status: Second reading referred to Energy
- HB 1356 Amends 52 O.S. §87.1 to require notice of application be sent by regular mail to every owner of an occupied structure within 1,500' of proposed drilling site. Amends 52 O.S. §320.1 to require wellbore of active well to be at least 500 feet from any occupied structure unless waived by surface owner.
Status: Second reading referred to Energy and Natural Resources
- HB 1639 Enacts new law allowing municipality, county or other political subdivision to prevent oil and gas drilling therein and provide its own rules and regulations regarding well spacing units, drilling and production.
Status: Second reading referred to Energy and Natural Resources
- SB 193 Enacts new law allowing cities and towns to prevent oil or gas drilling and provide its own rules and regulations regarding well spacing units, drilling, and production.
Status: Second reading referred to Energy
- HB 1902 Enacts a new law defining as a taking any ordinance, rule, etc., by a municipality, county, or other political subdivision (other than the OCC) that substantially interferes with the use and enjoyment of the mineral estate; imposes or enforces a limitation that adversely impacts the use and development of minerals; or prohibits access to develop the mineral estate resulting in substantially increased costs of oil and gas operations or substantial reduction in fair market value of the mineral estate.
Status: Second reading referred to Rules
- SB 731 Amends Production Revenue Standards Act. Includes royalty proceeds erroneously withheld to provisions regarding royalty proceeds incorrectly paid regarding liability of party whose error or omission caused the error. Removes "compounded annually" from interest rate. Allows the holder of proceeds to interplead such proceeds where marketability has remained uncured for 120 days. Allows operator to remit to the

Unclaimed Property Fund proceeds where title has remained unmarketable for 2 years after written notice by operator. Adds provision that interest shall not apply when mineral owner or assignee elects to take in kind or where mineral owner or assignee cannot be located after reasonable inquiry.

Status: Second reading referred to Energy

SB 768 Amends 2011 Shale Reservoir Development Act to require the plan of development of any shale reservoir include the condition under which the proposed unit will terminate.

Status: Second reading referred to Energy

SB 794 Amends jurisdiction of OCC; substances allowed to be injected into Class II well must be "from Oklahoma."

Status: Second reading referred to Energy

Real Property

HB 1927 Creates the Uniform Commercial Real Estate Receivership Act regarding the appointment and power of receivers for some commercial real estate.

Status: Second reading referred to Rules

SB 362 Commercial RE Creates Uniform Commercial Real Estate Receivership Act regarding the appointment and power of receivers for some commercial real estate.

Status: Second reading referred to Judiciary

HB 1412 Creates the Real Estate Owner's Rights Act allowing "an owner of residential real property or farm property who resides in this state and whose real property is located in this state" to personally perform certain improvements, construction, repairs, etc.

Status: Second reading referred to Business, Commerce and Tourism

SB 104 Creates Real Estate Owner's Rights Act allowing "an owner of residential real property or farm property who resides in this state and whose real property is located in this state" to personally perform certain improvements, construction, repairs, etc.

Status: Second reading referred to Business, Commerce and Tourism

SB 139 Exempts from the requirement to have a real estate license persons or business entities that "do not actually buy, sell or act with intent to acquire or transfer, or to assist another in acquiring or transferring, title ownership to real estate."

Status: Second reading referred to Business, Commerce and Tourism

SB 266 Extends sunset date of OK Real Estate Commission to 7/1/21 and requires the registration of "all associate groups affiliated under the same brokerage for the purpose of allowing the Commission to better align and track the affiliated groups within each brokerage."

Status: Second reading referred to General Government

HB 1337 Creates Freedom to Display the American Flag Act.

Status: Second reading referred to Business, Commerce and Tourism

- SB 269 New law requiring seller of real property to disclose if there is no public road or other public means of access.
Status: Second reading referred to Business, Commerce and Tourism
- HB 1334 Allows Board of Education of any school district to transfer title to unimproved real property to a municipal or other local housing authority in order for such housing authority to construct single family dwellings or multifamily dwellings on such property.
Status: Second reading referred to Appropriations and Budget; referred to Appropriations and Budget Education Subcommittee
- HB 1722 Changes consent required for purchase of real property by the United States from consent of the Legislature to both houses of the Legislature and the Governor.
Status: Second reading referred to Rules
- HB 1852 Empowers Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate to approve transactions to sell, lease, transfer, etc., any or all of the property of the Grand River Dam Authority. Removes provision limiting lands transferred to any entity other than a public authority.
Status: Second reading referred to Appropriations and Budget
- SB 509 Includes wind and battery storage plants in types of plants Grand River Dam Authority can acquire an interest in. Allows Authority to enter into notes, loans, commercial paper and credit or liquidity support. Amends how and when directors are elected. Amends deposit funds requirements.
Status: Second reading referred to Energy Committee then to Appropriations Committee
- SB 75 Amends the scenic river designation for the Illinois River from above "its confluence with the Barron Fork Creek" to above "the Horseshoe Bend Public Use Area Boat Ramp of Tenkiller Ferry Lake."
Status: Second reading referred to Energy

Tax

- SB 91 Requires notice to be sent to the last known address of the owner of the property on which a manufactured home is located if personal property taxes on the manufactured home not owned by the property owner are delinquent.
Status: Second reading referred to Appropriations; title stricken; recommended do pass as amended

Title Companies

- HB 1826 Requires title company to provide certified copies of all recorded covenants and restrictions to the buyer as part of the closing (previously was upon request of the buyer).
Status: Second reading referred to Judiciary – Civil and Environmental

Title Insurance

HB 2303 Removes requirement that attorneys examine abstracts prior to issuing title insurance.
Status: Second reading referred to Banking, Financial Services, and Pensions

Trusts

SB 358 Removes requirement that fieldwork and reporting standards in GAS be used as it relates to annual audits of trusts created for public functions with the state, county, or municipality as beneficiary.
Status: Second reading referred to General Government

Wills

HB 1227 Creates Wills and Estate Planning Registry Act – shell bill.
Status: Second reading referred to Rules

Wind Energy

SB 593 Modifies notice of intent to build wind energy facility to certain operators or lessees of oil and gas leases.
Status: Second reading referred to Energy

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With special thanks to Ryan Schaller for his forms and guidance.