

2019 Legislative Report

1st Update

1st Session of the 57th Legislature

Report Update Dated: February 13, 2019

Report based on official OK State Legislature website. Votes may have occurred by the report date that were not yet posted for review on the website.

For the use of:

The Title Examination Standards Committee

The Real Property Section of the Oklahoma Bar Association

Oklahoma City Real Property Lawyers Association

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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).

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Legislative Deadlines*

Legislative session begins	February 4, 2019
Senate bills out of Senate committees	February 28, 2019
House bills out of House committees	Not stated on online calendar yet
Third reading of measures in chamber of origin:	March 14, 2019
House bills out of Senate committees	April 11, 2019
Senate bills out of House committees	Not stated on online calendar yet
Third reading of measures in opp. chamber:	April 25, 2019
Sine Die	May 31, 2019

*some exceptions apply

Introductory Notes, Explanations, and Disclaimers

This report is made for various audiences and I've divided the bills to hopefully help practitioners find the bills that matter the most to them. Bills that may potentially affect current title standards are shown first. Those are followed by other bills broadly related to real property. Following that, I've grouped together bills dealing with Oil and Gas, the Corporation Commission, and Water. Finally, the last section covers bills impacting Civil Procedure and the practice of law. This report is first for the benefit of the Title Examination Standards Committee. If a bill could possibly be under both "Title Law" and another section, it will most likely be listed under the "Title Law" section. 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. When updated, a new version of this report will be posted to the OBA Real Property message boards.

All summaries and interpretations are those of this author. The purpose of this report is to let interested attorneys know which bills may impact the stated practice areas. It is not an exhaustive study of the potential impacts of the bills listed below. If you are specifically interested in any bill, please read the bill in its entirety to confirm its scope and effect. I have tried to provide notes if I thought it might be unclear why I was including a certain bill.

Please note that Oklahoma Legislative Procedure allows for substitute bills to replace existing bills at pretty much any point. Because of this, bills that were believed to be dead can be resurrected and the content or purpose of a bill can change overnight as long as there are enough votes to pass the substituted bill.

Shell Bills/Placeholder Bills

Because of the ability to substitute bills described above, it is common practice for Oklahoma legislators (primarily House members) to file "Shell" or "Placeholder" Bills. These are bills that generally have titles like the "Oil and Gas Modernization Act" but contain nothing else. Speaker McCall has filed 5 shell bills for every Title in the Statutes, purportedly to give the new Governor options for introducing his agenda. As I become aware that shell bills have been replaced with substantive bills, this report will be updated. If the title of a shell bill obviously relates to Real Property, it will be included and tracked, but it is impractical to track every shell bill filed in the legislature.

Disclaimer/What's Not Covered

- Wind Energy/Solar Energy
- Environmental Issues concerning Water
- Computation, application, and exemption from various taxes affecting real estate interests such as the GPT and Ad Valorem taxes.

Section I: Title Law

Civil Procedure – Title 12

SB 855 The “Uniform Partition of Heirs Property Act” would create a new procedure for partitioning property that has been inherited by heirs in Co-Tenancy. This is a bill promulgated by a uniform law committee. If you google the name of the act, you can find several articles from lawyers in the approximately 10 states where it is already law explaining how it works. Will provide more in-depth information on this if it survives Committee.

Sen. Murdock; Senate Committee: Judiciary

Conveyances – Title 16

SB 915 Online Notary Act; picked up Representative Kannady as a House author

Sen. Rosino; Senate Committee: Judiciary

HB 1222 This bill attempts to resolve title issues created by married grantors conveying title without spousal joinder. The bill provides that the non-joining spouse can cure the title defect with an affidavit, as described further in the bill, or by executing a deed, with or without the original granting spouse.

UPDATE: Bill has PASSED out of committee.

Rep. Perryman; House Committee: Judiciary

HB 1223* Revisions to the requirements for claiming a severed mineral interest through certain affidavits. Members of the Title Examination Standards Committee submitted language for this bill to Representative Perryman.

Rep. Perryman; House Committee: Judiciary

*This was incorrectly listed as HB 1233 on the first version of this report.

Corporations – Title 18

SB 838 New Series LLC law

Sen. Dahm; Senate Committee: Judiciary

Public Health and Safety – Title 63

Note: The following bills are included to the extent they impact “Access to Death Certificates”, a perennial Title Standards topic.

SB 275 Provides for a procedure for obtaining a judicial order for when a death certificate is required to settle property or a financial interest and the person has allegedly died in the state of Oklahoma 25 years ago.

UPDATE: Bill has PASSED out of committee

Daniels. Senate Committee: Judiciary;

House version of the bill HB 2216 by Rep May. House Committee: Public Health

HB 1175 Two amendments to the statutes on Death Certificates: (1) creates a procedure for correcting scrivener's errors on death certificates; and (2) provides that lineal descendants and spouses can access vital records. Revises additional language for consistency and clarity.

Rep. Perryman; House Committee: Government Efficiency

Section II: Real Estate, Abstracting, Title Insurance, Eminent Domain, Liens, County Clerks

Abstracting – Title 1

HB 1434 Extends the sunset date of the Oklahoma Abstractors Board from July 1, 2019 to July 1, 2020. UPDATE: Bill has PASSED out of Committee. Committee substitute reduced the extension from 6 years to 1 year. I've reached out to a member of the committee to see if I can learn more about the reason for that change.

Rep. Gann; House Committee: Administrative Rules

Abstracting Shell Bills – HB 1462, HB 1463, HB 1464, HB 1465, HB 1466

Cities and Towns – Title 11

SB 594 Protects 100% federally disabled and disabled veterans from tax resales.

Sen. Simpson; Senate Committee: General Government

Civil Procedure – Title 12

SB 346 Amends 12 O.S. § 759 to allow appraisals before Sheriff's Sales to be done by a "legal entity". Provides additional requirements. UPDATE: This Bill is now coauthored by Speaker McCall in the house (increases odds of passing).

Sen. Bice; Senate Committee: Judiciary

Conveyances – Title 16

HB1220 Amends the statute on liability of a party that makes a false statement in an affidavit. 16 O.S. Section 85 currently reads "The court may award punitive damages, costs and attorney fees." Bill would change to "The court may award punitive damages, but shall award costs and attorney fees."

Rep. Hardin (Tommy); House Committee: Judiciary

Conveyances Shell Bills – HB 1551, HB 1552, HB 1553, HB 1554, HB 1555

Corporations – Title 18

SB 69 Members of LLCs are entitled to appraisal rights and to obtain payment of the fair value of membership interest in certain cases.

Sen. Sharp; Senate Committee: Judiciary

Counties and County Officers – Title 19

SB 3 Amends the statute governing the fees for electronic records provided by the County Clerk (19 O.S. § 245) to replace the word “page” with “image”. Coauthored by Kannady in the House.

Sen. Rosino; Senate Committee: General Government

SB 10 Changes “county planning commission” to “county and zoning commission” throughout 19 O.S. 865.51 and 865.52. Replaces the requirement for a majority popular vote to set up a new county and zoning commission with new requirements.

Sen. Thompson; Senate Committee: General Government

SB 164 Fire Prevention Districts – Provides a new procedure for adding additional lands to an existing Fire District, including in situations where the adjacent land is in one county, but the Fire District is actually in the neighboring county.

Sen. Pederson; Senate Committee: General Government

SB 264 Repeals 19 O.S. 570, which is the statute that abolishes the office of County Surveyor and requires the records of the Surveyor be transferred into the records of the County Clerk. I have emailed Senator Dahm’s office requesting more information about the intent of this bill. It’s unclear to me whether the Senator is trying to resurrect this office or just deleting old statutes.

Sen. Dahm; Senate Committee: General Government

SB 667 Would change the minimum margins for documents filed with the County Clerk to 2 inches on top and 1 inch on all other sides.

Sen. Rader; Senate Committee: General Government

Eminent Domain - Title 27

HB 2264 Applies to Wind Energy Transmission Lines only. Requires a potential condemner to “successfully conduct good-faith private negotiations” with at least 80% of the landowners whose tracts are to be utilized in the project.

Rep. Patzkowsky; House Committee: Utilities

Landlord and Tenant – Title 41

SB 178 Amends 41 O.S. § 121 to increase from \$100.00 to “\$300.00 or one month’s rent, whichever is less” the maximum reasonable cost of a repair under this statute, which provides a procedure for tenants to attempt to make repairs when a landlord is in material noncompliance.

Sen. Ikley-Freeman; Senate Committee: Judiciary
(Companion HB1134 by Rep. Bennett); House Committee: Business and Commerce

Liens – Title 42

SB 980 Before a contractor can sue on a mechanics and materialmen’s lien, he/she must obtain substantial documentation of proof by independent source that the work substantially conforms to the contracted terms

Sen. Scott; Senate Committee: Judiciary

HB 1115 Creates a Construction Registry for project provider liens. (This bill or something similar have been filed every year that I’ve tracked legislation.).

Rep. West; House Committee: Rules (This is where House Bills go to die)

HB 2289 Removes the requirements to have liens on “Section 91 Personal Property” notarized.

Rep. Wright; House Committee: Judiciary

Professions and Occupations – Title 59

SB 104 Real Estate Commission - Deletes the existing language and provides a new paragraph: “Using prizes, money, gifts or other valuable consideration as an inducement to secure customers or clients to purchase specific property; however, licensees may use prizes, money, gifts or other valuable consideration for marketing purposes provided they are not contingent or limited to individuals making an offer or purchasing a specific property.”
UPDATE – Committee Substitute PASSED out of Business and Commerce Committee

Sen. Rosino

SB 105 Adds Appraisers to the list of Professional Services covered under the Professional Entity Act

Sen. Stanislawski; Senate Committee: General Government

SB 737 Similar to SB 105. Adds a definition of certified real estate appraiser to the list of Professional Services covered under the Professional Entity Act.

Rep. Leewright; Senate Committee: Business, Commerce and Tourism

HB 1937 Title 59, Section 858-301 states that it is unlawful for any person to act as a real estate licensee unless that person has been licensed under the Oklahoma Real Estate License Code. Sub paragraph 1 lists exceptions for dealing with real estate that aren’t unlawful. This bill would add the following language at the end of those exceptions: “however, nothing in this section shall permit any person..[et al] to publicly market for sale an equitable interest in a contract for the purchase of real property without disclosing the nature of the equitable interest to both property and owner and prospective purchaser on a form provided by the Oklahoma Real Estate Commission.”

Rep. Manger; House Committee: Business and Commerce

HB 2239 "Real Estate Practices Act" shell bill. Rep. Russ

Property – Title 60

SB 490 Creates a new law that would shift the burden of paying the decedent's expenses from the Personal Representative to the Trustee in certain circumstances. Would also require the trustee to file a "notice of trust" document with the County Clerk of Oklahoma County that would establish a tolling for statute of limitations against the decedent.

Sen. Quinn; Senate Committee: Judiciary

HB 2121 Amends the notice procedures related to the unclaimed property fund.

Rep. Ortega; House Committee: Government Efficiency

HB 2138 Removes requirement for governing body of beneficiary to approve incurring indebtedness by a city or county beneficiary public trust.

Rep. Sneed; County and Municipal Government

Property Shell Bills – HBs 1740, 1741, 1742, 1743, 1744, 2237 ("Land Title Agents Act"), 2361.

Mortgages – Title 46

SB 123 Amends 46 O.S. 44 to modify the time given to a mortgagor in default to cure a breach or default from 35 days to 6 months, without accrual of interest.

Sen. Young; Senate Committee: Judiciary

Roads and Bridges – Title 69

SB 351 If the primary purpose of the construction of a new state highway is to bypass a municipality, the state now has to give the municipality 90 days notice and receive a letter of support from the municipality formally approving the project or go through an alternative economic impact study and procedure.

Sen. Bergstrom; Senate Committee: Transportation then to Appropriations

HB 1330 Under certain circumstances, when the Department of Transportation takes land and ends up not using it all, the adjoining landowner has right of first refusal to purchase the surplus property. One requirement is that the land be less than one acre. This bill would increase that to less than 3 acres.

Rep. Johns; House Committee: Transportation

Trusts and Pools – Title 79

SB 317 Description taken from Bill Tracking Service, bill posted to Legislature website is incomplete (2/4/19): requires the meaning and effect of the terms of a trust be determined by the law of the jurisdiction designated in the terms of the trust or the law of the jurisdiction where the trust is administered in the absence of a controlling designation in the terms of the trust.

Sen. Daniels; House Committee: Transportation

Section III - Oil and Gas, the Corporation Commission, and Water

Corporation Commission – Title 17

SB 521 Creates a new law which states “Any rules promulgated by the Corporation Commission shall not be more stringent than any Environmental Protection Agency standards or regulations.”

Sen. Paxton; Senate Committee: Energy

SB 881 Adds new notice requirements in application for a Certificate of Convenience and Necessity

Sen. Paxton; Senate Committee: Energy

HB1219 Corporation Commission shall promulgate rules to investigate claims of damages to an existing well caused by drilling or other well operations of a nearby well. Plaintiff must get a report determining that damage occurred before filing an action in District Court.

Rep. Hardin (Tommy); House Committee: Energy and Natural Resources

Corporation Commission Shell Bills – HB 1188, 1556, HB 1557, HB 1558, HB 1559, HB 1560, 1984, 2118, 2680, 2681,

Oil and Gas – Title 52

SB 354 Creates a new “advisory board” for fracking sand mining activities to advise new permit seekers on the appropriate procedures, to direct practices to be more economically and environmentally friendly, and to ensure the use of the most appropriate technologies in fracking sand mining.

Sen. Murdock; Senate Committee: Energy

SB 503 Amends the provisions of 52 O.S. 87.1 (b) to apply to “all producing wells, leases and pooling orders regardless of the date pooled, drilled or of the date of the underlying leases or pooling orders.” Also changes who is required to pool their interests under section (e).

Sen. Pederson; Senate Committee: Energy

Parallel: HB 1378 by Taylor; House Committee: Energy and Natural Resources

SB 517 Requires consent of landowner to use existing right of ways for temporary pipelines.

Sen. Paxton; Senate Committee: Transportation

SB 518 Apparent Companion Bill for SB 517 (creating new law in Title 52) for **Title 69 – Roads and Bridges**. Provides procedure and requirements for temporary pipelines in existing right of ways only with consent of landowner.

Sen. Paxton; Senate Committee: Transportation

HB 2150 Adds a new law to Title 52. It will be considered a taking under Article 2 of the Oklahoma Constitution and relevant statutes whenever a municipality, county or other political subdivision, other than the Corporation Commission, adopts or implements an ordinance, resolution, rule, regulation or other form of official policy concerning oil and gas operations that has the effect of: (1) substantially interfering with the use and enjoyment of the mineral estate; (2) imposes or enforces a limitation that adversely impacts the use and development of minerals; or (3) prohibiting access to develop the mineral estate, thereby substantially increasing the costs of operations or substantially reducing the fair market value of the mineral estate.

Rep. Pfeiffer; House Committee: Energy and Natural Resources

HB 2151 Makes changes to the list of previous acts, programs, funds, and inspections subject to the Oklahoma Petroleum Storage Tank Consolidation Act

Rep. Pfeiffer; House Committee: Utilities

HB 2233 Adds paragraph (H) to 570.10: "Royalty interest owners who are over the age of sixty-five and who are receiving royalty checks from a producing oil and gas well shall have no expense deduction greater than 10% deducted from their royalty proceeds payments."

Rep. Russ; House Committee: Rules (Where House bills go to die)

Oil and Gas Shell Bills – HBs 1244, 1245, 1367, 1368, 1369, 1370, 1379, 1381, 1384, 1705, 1706, 1707, 1708, 1709, 2101, 2205, 2583

Water – Title 82

SB 328 Adds a Notice requirement in applications before the OWRB to take and use water stored in an aquifer pursuant to a site-specific aquifer storage and recovery plan.

Sen. McCortney; Senate Committee: Energy

SB 330 Notice requirement on taking water. Similar to 328 but amends a different part of the statute.

Sen. McCortney; Senate Committee: Energy

SB 998 Adds the language "including, but not limited to, a limited liability company or foreign corporation" after the word "corporation" under the definition of the "Person" under the Oklahoma Groundwater provisions of Title 82.

Sen. Murdock; Senate Committee: Energy

HB 1403 New Law defining various Water terms, permitting procedures, and directing the OWRB to promulgate rules.

Rep. Humphrey; House Committee: Energy and Natural Resources

Joint Resolutions

HJR 1012 Call for a state question to phase out Corporation Commission Elections by 2020 and replace them with Governor Appointments.

Rep. Lepak; House Committee: Rules

SJR 14 Increase Corporation Commission to 5 members. The 2 new members will be appointed by the Governor and not a vote of the people.

Sen. Allen; Senate Committees: Rules then Appropriations Committee

Section IV - Civil Procedure and the Practice of Law

Attorneys and the State Bar – Title 5

SB 514 Defines the “unauthorized practice of law” as “when a person solicits or accepts compensation for giving legal advice of any kind or acting on behalf of a client in any judicial or administrative proceeding without being licensed to practice law in this state.” This is a misdemeanor not to exceed 6 months in jail or a \$1,000.00 fine.

NOTE: This bill was intended to target people offering fraudulent immigration law services, and Senator Brooks did not intend for the potential overbroad application of the bill. He will not be pushing it this session.

Sen. Brooks; Senate Committee: Judiciary

Attorneys and State Bar Shell Bills - HB 1487, HB 1488, HB 1489, HB 1490, HB 1491

Civil Procedure – Title 12

SB 233 Court Costs. Amends 12 O.S. 66 to eliminate the provision that court costs for actions involving the state or any of its departments to be paid out of the “first funds collected in satisfaction of any judgment obtained by this state.” The new language requires court costs to be paid at the time of filing.

Sen. Thompson; Senate Committee: Judiciary

SB248 Amends the General Rules of Pleading in 12 O.S. § 2008 in multiple ways. Most noticeably, this bill would require statements in pleadings to be “made with particularity” and include “all material facts known to the pleading party that support the claim”. Also includes changes to “Pleading Special Matters” under §2009.

Sen. Daniels; Senate Committee: Judiciary

SB 300 Amends the Oklahoma Discovery Code to cap the number of requests to produce or permit inspection or copying at thirty (30). May request more following motion to the court.

Sen. Daniels; Senate Committee: Judiciary

HB 1092 Attorney fees in contested small claims cases cannot be limited.

Rep. Osburn; House Committee: Judiciary

HB 1986 Residential Real Estate Foreclosure Process Amendments Act of 2019” – Shell Bill
Rep. Ford; House Committee: Rules

Counties and County Officers – Title 19

HB 1303 Board of County Commissioners would appoint the office of county indigent defender instead of local judges.
Rep. Lowe; House Committee: Judiciary

Labor – Title 40

SB 651 “Right to Earn a Living Act.” This bill is concerned with occupational licenses and provides a procedure for a plaintiff to sue a licensing entity if the regulations are not “demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives.” Including on report for now as an abundance of caution until it’s clear if the Oklahoma Bar Association is impacted.
Sen. Dahm; Senate Committee: Business, Commerce and Tourism Committee then to the Appropriations Committee

Professions and Occupations – Title 59

Note: The following three bills by Senator Pugh would make it easier for, in varying cases, members of the military or their spouses to transfer professional licenses to the state of Oklahoma. Included to the extent that they may impact who can practice law, as well as our clients who hold professional licenses.

SB 661 Provides exemptions from professional licensure and license fees for members of the military and military spouses in certain circumstances.
Sen. Pugh; Senate Committee: Business, Commerce and Tourism Committee then to the Appropriations Committee

SB 666 Reciprocal professional licenses for military spouses. Does not list which occupations it applies to. Spouse must be in good standing in another state.
Sen. Pugh; Senate Committee: Business, Commerce and Tourism Committee

SB 670 Removes the word “Post” from the “Post Military Service Occupation, Education and Credentialing Act” and adds a new section to that law which would allow the spouse of a military member transferring to this state to petition the appropriate administrative body for a temporary license or certification.
Sen. Pugh; Senate Committee: Business, Commerce and Tourism Committee then to the Appropriations Committee

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