



OKLAHOMA ABSTRACTORS BOARD

Oklahoma Abstractors Board
2401 N.W. 23rd Street, Suite 60B
P.O. Box 700076
Oklahoma City, OK 73107
Phone: (405) 522-5019
Fax: (405) 522-5503

Governor Brad Henry
State Capitol Building
2300 North Lincoln Blvd.
Oklahoma City, Oklahoma 73105

September 29, 2008

RECEIVED

SEP 30 2008

OFFICE OF THE
GOVERNOR

Re: **Emergency Rules**
Oklahoma Abstractors Board

Executive Director
Glynda Reppond

Dear Governor Henry:

Board Members:

District 1
Linda Carpenter

District 2
David Riley

District 3
Monica Wittrock
Chairman

District 4
Steve Boone
Vice Chairman

District 5
Mike Harris

District 6
J. Herschel Beard

Attorney
Gary Baer
Secretary

Bank Officer
Jerald Stringer

Real Estate Broker
Dennis Hall

Please find enclosed the proposed Emergency Rules for the Oklahoma Abstractors Board, passed by unanimous vote of the existing eight members of the Board at its Special Meeting held on September 26, 2008. As a part of such passage, the Board found that an imminent peril exists to the preservation of public health, safety or welfare, and that a compelling public interest requires these emergency rules pursuant to 75:253(A). These proposed rules are new and not an amendment of a previous version.

These proposed Emergency Rules specifically address the Application process for a new Permit to construct an abstract plant and for a Certificate of Authority. The Board has several applications currently pending before it and these rules are necessary to the processing of those applications.

As required by the Administrative Procedures Act, these rules are also being submitted to the Speaker of the House and the President Pro Tempore of the Senate. Should your staff have any questions, they may contact me at (405) 552-7740 or (405) 919-0762. My e-mail address is mwittrock@firstam.com.

Thank you in advance for your attention and support.

Respectfully,

Monica Wittrock
Rules Committee Chairman

Copies to: Speaker of the House
President Pro Tempore of the Senate

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Co-President Pro Tempore

**OKLAHOMA ABSTRACTORS BOARD
RULE IMPACT STATEMENT
TITLE 5. OKLAHOMA ABSTRACTORS BOARD
CHAPTER 10, SUBCHAPTERS 7 AND 9
ADMINISTRATION OF ABSTRACTORS LAW**

[NEW]

This statement has been prepared by the Oklahoma Abstractors Board to describe the impact anticipated from implementation of Chapter 10, Administration of Abstractors Law, codified as Title 1, Oklahoma Abstractors Act. This statement is required by 75:253(B)(2). Where possible, each topic will be discussed with reference to the general category, or groups of Rules.

A. Purpose of the Proposed Emergency Rules:

These Emergency Rules add new text to Chapter 10, Oklahoma Abstractors Board, to supplement and conform practices and procedures to the Oklahoma Abstractors Act. These are new rules and not an amendment of previous rules.

B. Persons Affected by Permanent Rules:

These rules will affect the holders of a Certificate of Authority, holders of Permits, applicants for Permits and Certificates of Authority, and Licensees under the Oklahoma Abstractors Act.

C. Persons Benefiting from Permanent Rules:

These rules will affect the applicants and holders of a Certificate of Authority, holders of Permits, and Licensees under the Oklahoma Abstractors Act.

D. Probable Economic Impact:

1. On Affected Classes: No economic impact is expected to flow from these amendments.

2. On Political Subdivision: There will be no economic impact on political subdivisions.

3. Fees: There are no provisions covering fees in Subchapters 7 and 9, Chapter 10.

E. Cost of Implementation and Enforcement:

The promulgation of the rules should have no significant revenue impact on the state and would create no cost to the agency.

F. Economic or Other Impact on Political Subdivisions:

No economic impact on, or need for cooperation from political subdivisions is anticipated.

G. Determination of effect on Small Business:

There is no significant or adverse effect on small businesses for the adoption of these rules.

H. Determination of Less Costly Means:

There are no less costly or non-regulatory methods or less intrusive methods for implementing the statutory amendments that necessitated these proposed rules. No formalized compliance cost minimization measures have previously been pursued.

I. Concerns of effect on public health, safety and environment:

The proposed rules are not anticipated to have any affect whatsoever on the public health, safety, or the environment – either beneficial or otherwise.

J. Determination of effect on public health, safety and environment:

No effect on the public health, safety, or the environment will result if these rule amendments are not implemented.

K. Determination of Emergency:

An imminent peril exists to the preservation of public health, safety or welfare, and a compelling public interest requires these emergency rules pursuant to 75:253(A).

L. Date: September 26, 2008

M. Prepared By: Monica Wittrock, Rules Committee Chairman **Phone Number:** (405) 552-7740

TITLE 5. OKLAHOMA ABSTRACTORS BOARD
CHAPTER 10. ADMINISTRATION OF ABSTRACTORS LAW

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Application for Permit to Develop Abstract Plant [NEW]

5:10-7-1 [NEW]

Subchapter 9. Application for Certificate of Authority [NEW]

5:10-9-1 [NEW]

AUTHORITY:

Title 1, Oklahoma Statutes, Sections 22 *et seq.*, "Oklahoma Abstractors Act "

DATES:

Adoption:

September 26, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

None.

INCORPORATIONS BY REFERENCE:

None.

FINDING OF EMERGENCY:

Imminent peril exists to the preservation of the public health, safety, or welfare and a compelling public interest requires these emergency rules to be adopted, for the reason that these rules provide procedures to be established to supplement and complete the Oklahoma Abstractors Act. Without such emergency rules, the Board cannot effectively and efficiently embark upon the regulation, licensure, and administration of those holders of certificates of authority, applicants for permits, and licensees.

ANALYSIS:

The proposed rules provide for the process by which an interested party may apply to the Oklahoma Abstractors Board for a permit to develop an abstract plant and a certificate of authority. These proposed rules also provide for the process by which an interested party may protest such application(s). These emergency rules are necessary to establish minimum standards and uniformity within the abstracting industry in the State of Oklahoma and to provide the public with clear and concise rules for the application and protest process.

CONTACT PERSON:

Monica Wittrock, Rules Committee Chairman (405) 232-3258

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. §253(D):

SUBCHAPTER 7. APPLICATION FOR PERMIT TO DEVELOP ABSTRACT PLANT

5:10-7-1. Application for Permit to Develop Abstract Plant

(a) Form. The application shall be on a form prescribed by the Board.

(b) Notice and Review. The chairman or designee shall review the application for compliance with applicable laws and rules. Additional information from the applicant or other persons may be requested by the reviewer as deemed appropriate. Within ten (10) days of receipt of the application, the Board shall:

(1) notify the court clerk, the county clerk, and all holders of a certificate of authority in the county wherein such business is to be conducted;

(2) post notice of the receipt of the application for a permit on the official website of the Board and provide an address where written information relative to the application can be sent.

(c) Comment Period. Any person desiring to provide information pertaining to the application shall submit the information in writing to the Board within twenty (20) days of the notice provided for in subsection (b) of this section. Additional information may be received upon approval of the Board or the Chairman. Comments shall include specific facts and specific legal authority, if known, supporting the request for approval or disapproval of the application.

(d) Board action on application. The application for a permit to develop an abstract plant shall be considered by the Board at the next meeting after completion of the review provided for in subparagraph (b) of this section.

(1) In the event an adverse comment is filed, the applicant and any person providing adverse comments shall be notified of the receipt of the adverse comment not more than ten (10) days from the date of receipt of such comment. Notice of the date, time, and place of the meeting at which the application and information will be considered by the Board shall be provided to all interested parties not less than ten (10) days before the consideration meeting is to be held.

(2) Presentation before the board.

(A) At the meeting where the application is being considered the applicant shall be limited to thirty (30) minutes to present information in support of the application. All persons opposing such application collectively shall be limited to thirty (30) minutes to present adverse comment or information. Additional time may be granted by the chairman upon good cause shown.

(B) The order of presentation of information regarding the application and opposition shall be established by the chairman.

(3) Criteria.

(A) The Board shall consider the following factors in arriving at its decision:

(i) compliance with the Oklahoma Abstractors Act and Rules of the Oklahoma Abstractors Board;

(ii) payment of applicable fees; and

(iii) adequacy of county records bond.

(B) The Board may consider other factors deemed relative to the consideration of the application including, but not limited to, additional information not obtained during the review.

(4) Decision of the Board. After consideration and action by the board on an application, the chairman shall issue an order reflecting the decision of the Board. A

copy of the order shall be mailed to the applicant and any person submitting adverse comments.

SUBCHAPTER 9. APPLICATION FOR CERTIFICATE OF AUTHORITY

5:10-9-1. Application for Certificate of Authority

(a) Form. The application shall be on a form prescribed by the Board.

(b) Notice and Review. The chairman or designee shall review the application for compliance with applicable laws and rules. Additional information from the applicant or other persons may be requested by the reviewer as deemed appropriate. Within ten (10) days of receipt of the application, the Board shall:

(1) notify the court clerk, the county clerk, and all holders of a certificate of authority in the county wherein such business is to be conducted;

(2) post notice of the receipt of the application for the certificate of authority on the official website of the Board and provide an address where written information relative to the application can be sent.

(c) Comment Period. Any Person desiring to provide information pertaining to the application shall submit the information in writing to the Board within twenty (20) days of the notice provided for in subsection (b) of this section. Additional information may be received upon approval of the Board or the Chairman. Comments shall include specific facts and specific legal authority, if known, supporting the request for approval or disapproval of the application.

(d) Board action on application. The application for a certificate of authority shall be considered by the Board at the next meeting after completion of the review provided for in subparagraph (b) of this section.

(1) In the event an adverse comment is filed, the applicant and any person providing adverse comments shall be notified of the receipt of the adverse comment not more than ten (10) days from the date of receipt of such comment. Notice of the date, time, and place of the meeting at which the application and information will be considered by the Board shall be provided to all interested parties not less than ten (10) days before the consideration meeting is to be held.

(2) Presentation before the board.

(A) At the meeting where the application is being considered the applicant shall be limited to thirty (30) minutes to present information in support of the application. All persons opposing such application collectively shall be limited to thirty (30) minutes to present adverse comment or information. Additional time may be granted by the chairman upon good cause shown.

(B) The order of presentation of information regarding the application and opposition shall be established by the chairman.

(3) Criteria.

(A) The Board shall consider the following factors in arriving at its decision:

(i) compliance with the Oklahoma Abstractors Act and Rules of the Oklahoma Abstractors Board;

(ii) payment of applicable fees;

(iii) adequacy of errors and omissions insurance, corporate surety, or personal bond for possible errors in abstracts prepared by the applicant;

(iv) adequacy of county records bond; and

(v) adequacy of abstract plant available for use.

(B) The Board may consider any other factors deemed relative to the consideration of the application including, but not limited to, additional information not obtained during the review or inspections.

(4) **Decision of the Board.** After consideration and action by the Board on an application, the chairman shall issue an order reflecting the decision of the Board. A copy of the order shall be mailed to the applicant and any person submitting adverse comments.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of new Chapter 10, Subchapters 7 and 9, which was adopted by the Oklahoma Abstractors board on September 26, 2008, under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S. §§250 et seq.,

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.



ATTESTATION OFFICE / CHAIRMAN
OKLAHOMA ABSTRACTORS BOARD

DATE: 09/26/08