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JULY "MESSAGE FROM THE BOARD"

Greetings from District #3 of the Oklahoma Abstractors Board. This year we concluded our formal Rulemaking Process with a few clarifications to procedures and interpretations that have been informally employed for many years. Our hope is that these changes will provide better clarification to assist Certificate Holders and Licensed Abstractors in the management of their operations and the service to their customers. The deleted language is shown as a strike-through and the additions are shown as an underline.

Change #1 – Determining who is required to hold an abstract license, based upon the job function performed:

5:11-3-1. Who must hold abstract license

(a) Any person in the employ of a holder of a certificate of authority or permit, or ~~A~~ holder of a certificate of authority ~~or permit~~ who is an individual actively engaged in the process of preparing abstracts, or the holder of a permit who is an individual actively engaged in the construction of an abstract plant, shall be required to have an individual abstract license.

(b) ~~The holder of a certificate of authority or permit shall provide the Board with a list of the names of licensed and unlicensed employees in such form as directed by the Board.~~ Any person who is employed by a holder of a permit or certificate of authority whose sole function is limited to reviewing documents to determine the type of instrument, date, parties, recording information and legal description, and entering such information into a manual or computer indexing system shall not be required to hold an abstract license. Such activity shall be conducted under the supervision of a licensed abstractor. Prior to the final entry of such documents to the abstract plant, a licensed abstractor must review, verify and accept such entries as final on behalf of the holder of the permit or certificate of authority. Any matter entered into the indexing system by an unlicensed person without proper licensed supervision may be deemed a violation of this Act.

(c) The holder of a certificate of authority or permit shall provide the Board with a list of the names of licensed and unlicensed employees in such form as directed by the Board.

Change #2 – Accommodates licensees who are on a leave of absence or without employment for a limited period of time

5:11-3-8. Change of employment status

(a) Upon change of employment, regardless of reason or place of relocation, a licensee shall report such change to the Board within ten (10) days of the effective date of the change.

(b) Upon written request by the licensee more than 30 days prior to the expiration of a licensee's license, the Board may place a licensee on inactive status. Such status may be requested for one additional renewal period upon request and payment of the required renewal fees. The request for inactive status shall be in writing, on a form furnished by the Board.

(c) During active military service, any licensee shall not be required to pay the fees but shall request the inactive status prior to each term for which the license is to be issued.

(d) At any time the licensee complies with all requirements of the Oklahoma Abstractors Act, an inactive licensee may request active status, which request shall be in writing, on forms furnished by the Board.

Change #3 – Requires a Certificate Holder to advise the board when there has been a sale or transfer of a controlling interest in an entity that holds a Certificate of Authority

5:11-3-10. Report of change of controlling interest

(a) The holder of a certificate of authority or a permit shall report a change of controlling interest to the Board within 60 days after the change of control becomes effective, unless such time period is extended upon request to the Board. Such report shall include:

(1) the number of shares or percentage interest sold and by whom and

(2) the number of shares or percentage interest purchased and by whom.

(b) As used in this section, the term "controlling interest" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of the holder of a certificate of authority or permit as represented by an ownership interest. A change in ownership of 40% or more of the voting stock, entity interest, or individual interest of a holder of a certificate of authority or permit shall be reported as a change of controlling interest to the Board.

Change #4 – Clarifies who may provide "Final Title Evidence" for title insurance purposes.

(e) Final certification for title insurance. For purposes of a title insurance policy, ~~an abstractor a~~ certificate of authority holder in the county where the insured property is located shall prepare either of the following:

(1) an extension of the abstract or supplemental abstract; or

(2) a final title report after a final title search has been conducted. The final title report shall include all information required for an abstract of title pursuant to the Act and these rules, and shall be certified up to and including the effective date of the title insurance policy.

Change #5 – These three new sections address activities of a Permit Holder.

5:11-7-2. Renewal of permit to develop abstract plant

A permit holder must actively pursue construction of the abstract plant. Failure to do so may result in revocation of permit or non-renewal by the board.

5:11-7-3. Business activities of a permit holder

During the period of development of the abstract plant by a holder of a permit, until a certificate of authority is issued to such permit holder, the business activities of a permit holder and licensees under its supervision are limited to the construction of the abstract plant and activities directly related thereto. A

permit holder shall not sell or provide products or services to the public or for its own benefit from its plant under development and may not charge or collect fees for such products or services.

5:11-7-4. Permit not transferrable

A permit is not transferrable. An individual, association, partnership, corporation, or other entity desiring to purchase the assets of a permit holder shall be required to file a new application for a permit to develop abstract plant pursuant to section 34 of the Act and Subchapter 7 of these rules.

Change #6 – Sets for the procedures for the application and approval or denial of an abstractor’s license.

5:11-13-1. Application for abstractor license

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

(b) Qualified application.

(1) Approved application. If the Board shall be of the opinion that an applicant for license is qualified, the application shall be approved.

(2) Incomplete application. An applicant submitting either an incomplete application or an application requiring further information and/or investigation, shall either:

(A) Sign a form acknowledging that the application has not received final approval; however, the applicant requests permission to sit for the examination. If thereafter the application is not approved, the examination grade will be voided and fee will not be refunded or

(B) Wait for final approval of the application by the Board.

(c) Denial of application. 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.

The full text of all of the Rules, together with the governing statute, Title 1, can be found on the appropriate link on our website. This Fall, the Rules Committee will consider formal rulemaking for the 2011 legislative session. We welcome any suggestions you may have and would encourage your involvement.

Thank you for the opportunity to serve an industry that is vital and critical to the success of the State of Oklahoma.

Monica Wittrock