An Act

ENROLLED HOUSE
BILL NO. 1584

By: Park of the House

and

Jech of the Senate

An Act relating to labor; amending 40 O.S. 2011, Section 3-111, as amended by Section 9, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014, Section 3-111), which relates to the Employment Security Act of 1980; providing penalty for failure to provide certain notice; and providing an effective date.

SUBJECT: Employment Security Act of 1980

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 2011, Section 3-111, as amended by Section 9, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014, Section 3-111), is amended to read as follows:

Section 3-111. SUCCESSOR AND PREDECESSOR EMPLOYERS.

A. Any employing unit, whether or not an employing unit at the time of the acquisition, which acquires substantially all of the trade, organization, employees, business, or assets of any employer (excepting in such case any assets retained by that employer incident to the liquidation of the employer's obligations) and who continues the operations of the predecessor employer as a going business, shall be determined to be a successor employer. The successor employer shall acquire the experience rating account of the predecessor employer, including the predecessor's actual contribution and benefit experience, annual payrolls, and contribution rate. The successor employer shall also become jointly and severally liable with the predecessor employer for all current or delinquent contributions, interest, penalties and fees owed to

the Oklahoma Employment Security Commission by the predecessor employer.

Written notice of all current or delinquent contributions, interest, penalties and fees owed to the Commission by the predecessor employer shall be provided to the successor employer by the predecessor employer prior to the sale of the business. Failure to give such notice may subject the predecessor employer to a penalty as specified by the rules of the Commission. In addition, if the predecessor employer fails to provide the successor employer with notice as required by this section or such notice is knowingly false or fraudulent, the successor employer shall be entitled to actual damages and expenses incurred from the predecessor employer.

Any remuneration for services covered by the Employment Security Act of 1980 or other state unemployment compensation acts paid by the predecessor employer shall be considered as having been paid by the successor employer. The initial determination regarding whether or not an acquiring employer will become a successor to a predecessor account shall be made by the Commission or its duly authorized representative and notice of this determination shall be delivered to the acquiring employer or mailed to his or her last-known address.

B. Any employing unit, whether or not an employing unit at the time of the acquisition, which acquires substantially all of the trade, employees, organization, business, or assets of an employer, at one or more separate and distinct establishments and who continues the acquired operations of the predecessor as a going business, shall acquire that portion of the experience rating account of the predecessor employer that is applicable to the establishment or establishments, if the employing unit, immediately after the acquisition, is an employer; provided, however, that the employing unit shall not acquire a portion of the experience rating account unless written application therefor is received by the Commission within one hundred twenty (120) days after the date of the acquisition together with evidence sufficient for the Commission to determine which portion of the experience rating account of the predecessor is applicable to the acquired operations, and the Commission finds that the transfer will not tend to defeat or obstruct the object and purpose of the Employment Security Act of 1980; and provided further, that the portion of the experience rating account so transferred, including the taxable payrolls and benefit wages, shall not thereafter be used in computing a contribution rate for the transferring employer. For the purpose of

this subsection a separate and distinct establishment means all operations conducted by an employer at one business location which is readily identifiable as a separate business organization.

C. If the Commission finds that any report required to complete a determination of contribution rate has not been filed or if filed is incorrect or insufficient, and any such fact or information has not already been established or found in connection with some other proceeding pursuant to the provisions of the Employment Security Act of 1980, an estimate may be made of the information required on the basis of the best evidence reasonably available to it at the time. Notice shall be given of the determination as provided for contribution rate in subsection C of Section 3-102 of this title and the employer may appeal therefrom as provided in subsection D of Section 3-102 of this title.

D. A determination made under this section may be appealed pursuant to the provisions of Section 3-115 of this title.

SECTION 2. This act shall become effective November 1, 2015.

Passed the House of Representatives the 5th day of March, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 21st
day of April, 2015, at 3:17 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 27th
day of April, 2015, at 1:35 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 27th
day of April, 2015, at 2:07 o'clock P. M.
By: C. Benge