ENGROSSED SENATE
BILL NO. 703

BY: RUBOTTOM of the SENATE

and

McCORKELL of the HOUSE

AN ACT RELATING TO PROBATE PROCEDURE; AMENDING 58 O.S. 1991, SECTION 912, WHICH RELATES TO THE PROCEDURE FOR TERMINATION OF JOINT TENANCIES; ESTABLISHING PROCEDURE FOR TERMINATION OF LIFE ESTATES; REQUIRING CERTAIN PERSONS TO FILE RELEASE OF ESTATE TAX LIEN; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 58 O.S. 1991, Section 912, is amended to read as follows:

Section 912. A. If any real property is held by ~~husband and wife~~ two or more persons in joint tenancy with right of survivorship, or as a life tenant with the other person holding the remainder interest, the surviving joint tenant, remainderman, or the personal representative or duly appointed attorney in fact of the surviving joint tenant or remainderman, may file in the office of the county clerk of the county in which said real property is located, the following:

1. A certified copy of the certificate of death of the joint tenant or life tenant issued by the court clerk as prescribed in Section 1-307 of Title 63 of the Oklahoma Statutes, or by the State

Department of Health or comparable agency of the place of the death of ~~said~~ the joint tenant or life tenant; and

2. An affidavit by the surviving joint tenant, remainderman or the personal representative or duly appointed attorney in fact of the surviving joint tenant or remainderman, acknowledged before a notary public describing the real property, stating that the decedent named in such certificate is one and the same person as the joint tenant or life tenant named in a previously recorded document, that the parties were in fact husband and wife, if such is the case, identifying such recorded document by book and page where recorded, and the date of death of the deceased joint tenant or life tenant. If the affidavit is filed by a personal representative or duly appointed attorney in fact, the letters of administration, letters testamentary, letters of guardianship or power of attorney shall accompany the affidavit and be filed with the county clerks.

3. If any real property is held by nonspouses in joint tenancy with right of survivorship or as a life tenant and remainderman, a waiver or release by the Oklahoma Tax Commission of the estate tax lien as to such deceased person must be filed by the surviving joint tenant, remainderman, or personal representative or duly appointed attorney in fact of the surviving joint tenant or remainderman which shall be in addition to the death certificate and affidavit required by this subsection.

B. The filing of such documents shall constitute conclusive evidence of the death of such joint tenant or life tenant and the termination of ~~said~~ the joint tenancy or life estate. The title of such real estate shall be deemed merchantable unless otherwise defective.

SECTION 2. This act shall become effective September 1, 1992.

Passed the Senate the 25th day of February, 1992.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1992.

Speaker of the House of Representatives