

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2405

BY: BENSON of the HOUSE

and

RUBOTTOM of the SENATE

AS INTRODUCED

AN ACT RELATING TO PROBATE PROCEDURE; AMENDING 58

O.S. 1991, SECTION 912, WHICH RELATES TO THE  
TERMINATION OF JOINT TENANCY; MODIFYING PROCEDURES  
FOR THE TERMINATION OF JOINT TENANCY OTHER THAN BY  
JUDICIAL DETERMINATION; PROVIDING PROCEDURES FOR  
THE TERMINATION OF LIFE TENANCY OTHER THAN BY  
JUDICIAL DETERMINATION; 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 or  
guardian 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 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 holder of the life estate. 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; ~~;~~ and

3. If any real property is held by persons other than spouses in joint tenancy with the right of survivorship or as a life tenant and remainderman, the surviving joint tenant(s), remainderman(men), or the personal representative(s) or duly appointed attorney(s) in fact or guardian(s) of the surviving joint tenant(s) or remainderman(men), in addition to the death certificate and affidavit required above, a waiver or release by the Oklahoma Tax Commission of the estate tax lien must be filed.

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

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

43-2-7221

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