

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1655

By: Lucas

AS INTRODUCED

An Act relating to marriage and family; amending 43 O.S. 1991, Section 121, as amended by Section 3, Chapter 252, O.S.L. 1992 (43 O.S. Supp. 1992, Section 121), which relates to disposition of certain property in certain actions; prohibiting use or availability of certain real property for satisfaction of the mortgage; requiring filing; providing specified time limit; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 121, as amended by Section 3, Chapter 252, O.S.L. 1992 (43 O.S. Supp. 1992, Section 121), is amended to read as follows:

Section 121. A. When a divorce is granted, the wife shall be restored to her maiden or former name if she so desires.

B. The court shall enter its decree confirming in each spouse the property owned by him or her before marriage and the undisposed-of property acquired after marriage by him or her in his or her own right.

C. Either spouse may be allowed such alimony out of real and personal property of the other as the court shall think reasonable,

having due regard to the value of such property at the time of the divorce.

D. 1. Alimony may be allowed from real or personal property, or both, or in the form of money judgment, payable either in gross or in installments, as the court may deem just and equitable.

2. As to such property, whether real or personal, which has been acquired by the parties jointly during their marriage, whether the title thereto be in either or both of said parties, the court shall, subject to a valid antenuptial contract in writing, make such division between the parties as may appear just and reasonable, by a division of the property in kind, or by setting the same apart to one of the parties, and requiring the other thereof to be paid such sum as may be just and proper to effect a fair and just division thereof.

E. 1. The provisions of this subsection shall apply only to divorce decrees entered on or after January 1, 1994, and only to real property purchased on or after January 1, 1994.

2. Except as otherwise specifically provided by order of the court, after entry of a decree of divorce and pursuant to the division of spousal property agreement, no future income or assets of the nonacquiring party of real property which had been acquired jointly during the marriage, shall be available for the satisfaction of the mortgage given for the price of such real property at the time of conveyance.

3. Notice of the filing of the petition for dissolution of the marriage shall be given to any mortgagor of real property acquired jointly during the marriage.

4. The court shall provide that marital property assigned to each spouse pursuant to the decree is available for satisfaction of the mortgagor to the extent of the obligation of the real property at the date of the decree.

F. The court may set apart a portion of the separate estate of a spouse to the other spouse for the support of the children of the marriage where custody resides with that spouse.

SECTION 2. This act shall become effective January 1, 1994.

44-1-5818

KSM