

ENGROSSED HOUSE
BILL NO. 1368

By: Davis of the House
and
Smith of the Senate

An Act relating to conveyances; amending 16 O.S.
1991, Section 1, which relates to who may convey;
authorizing legal entities to own and transfer real
property; defining term; providing for certain
dissolved entities; amending 16 O.S. 1991, Section
27a, which relates to recorded instruments which
are valid despite defects; modifying certain
defects cured after instrument recorded for certain
time period; providing for application to certain
instruments recorded at certain times; and
providing an effective date.

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

SECTION 1. AMENDATORY 16 O.S. 1991, Section 1, is
amended to read as follows:

Section 1. A. Any person at least eighteen (18) years of age,
being otherwise qualified thereto, and all persons upon whom the
rights of majority have been conferred, ~~and corporations, to the
extent and in the manner authorized by law, owning real estate in
the State of Oklahoma may mortgage, convey, or otherwise dispose of,
or make any contract relating to real estate or any interest therein~~
and any legal entity, may own and transfer real property. Provided,

that any persons of whatsoever age, who have been legally married and who are otherwise qualified, may ~~dispose of and make contracts relating to real estate~~ own and transfer real property acquired after marriage.

B. A transfer of real property may be made to, and title taken in, the name of a legal entity or of an office, in which case the title vests in the entity or the person from time to time holding the office.

C. As used in this section, "entity" or "legal entity" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, joint venture, or any other entity otherwise authorized by statute to hold title to real property.

D. Unless otherwise provided by statute, a defunct or dissolved entity continues in existence for the purpose of transferring real property.

SECTION 2. AMENDATORY 16 O.S. 1991, Section 27a, is amended to read as follows:

Section 27a. A. When any instrument ~~of writing~~ shall have been, ~~or may hereafter be on record~~ recorded in the office of the county clerk in the proper county for the period of five (5) years, and ~~there is a defect in such instrument because it~~ the instrument contains any of the following defects:

1. It has not been signed by the proper officer of any corporation, or because the corporate representative of a legal entity;

2. The representative is not authorized to execute the instrument on behalf of the legal entity;

3. A power of attorney has not been filed of record for an attorney in fact executing the instrument;

4. The seal of the ~~corporation~~ legal entity has not been impressed on such instrument, ~~or because~~ the record does not show such seal, ~~or because such;~~

5. The instrument is not acknowledged, ~~or because a;~~

6. A deed or conveyance does not bear endorsement of approval by the appropriate governmental planning authority having jurisdiction, ~~or because of any~~

7. Any defect in the execution, acknowledgment, recording or certificate of recording the same, such instrument shall, from and after the expiration of five (5) years from the filing thereof for record, be valid as though such instrument had, in the first instance, been in all respects duly executed, acknowledged, approved by the appropriate planning authority having jurisdiction, and certified, ~~and such instrument shall, after the expiration of five (5) years from the filing of the same for record, impart to subsequent purchasers, encumbrancers, and all other persons whomsoever, notice of such instrument of writing so far as and to the same extent that the same may then be recorded, copied or noted in such books of record, notwithstanding such defect.~~ Such instrument or the record thereof or a duly-authenticated copy thereof shall be competent evidence without requiring the original to be produced or accounted for to the same extent that written instruments, duly executed and acknowledged, or the record thereof, are competent: ~~Provided, that.~~ However, nothing herein contained shall be construed to affect any rights acquired by grantees, assignees or encumbrancers subsequent to the filing of such instrument for record and prior to the expiration of five (5) years from the filing of such instrument for record.

B. This section shall apply to instruments recorded before or after November 1, 1995. However, with respect to those recorded before such date, the five-year period specified above shall not expire until one (1) year after the effective date of this act.

SECTION 3. This act shall become effective November 1, 1995.

Passed the House of Representatives the 9th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate