

ENGROSSED HOUSE  
BILL NO. 1616

By: Steidley of the House  
and  
Smith of the Senate

An Act relating to conveyances; amending 16 O.S.

1991, Section 4, which relates to execution requirements for certain instruments; modifying execution requirements; providing for execution of instruments by certain attorney-in-fact; prescribing procedures related to execution by attorney-in-fact; and providing an effective date.

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

SECTION 1. AMENDATORY 16 O.S. 1991, Section 4, is amended to read as follows:

Section 4. A. No deed, mortgage, or conveyance of real estate or any interest in real estate, other than a lease for a period not to exceed one (1) year, shall be valid unless in writing and subscribed by the grantors. No deed, mortgage, or contract affecting the homestead exempt by law, except a lease for a period not exceeding one (1) year, shall be valid unless in writing and subscribed by both husband and wife, if both are living and not divorced, or legally separated, except as otherwise provided for by law.

B. Subject to subsection D of this section, an attorney-in-fact may execute a valid deed, mortgage or contract affecting the homestead exempt by law on behalf of:

1. A husband;
2. A wife; or
3. A husband and wife.

C. In order for the execution of an instrument affecting the exempt homestead by an attorney-in-fact to be valid, the power of attorney authorizing execution of a deed, mortgage, or contract affecting the homestead exempt by law shall be recorded with the county clerk of the county or counties in which the affected property is located prior to execution of the applicable instrument.

D. An attorney-in-fact may execute a deed, mortgage, or contract affecting the homestead exempt by law on behalf of either a husband or wife if the instrument is also executed by:

1. The spouse of the party upon whose behalf the instrument is being executed by an attorney-in-fact; or
2. Another attorney-in-fact authorized to act on behalf of a party whose execution of the instrument is required by law.

E. Nonjoinder of the spouse shall not invalidate the purchase of a home with mortgage loan insurance furnished by the Veteran's Administration or written contracts and real estate mortgages executed by the spouse of a person who is certified by the United States Department of Defense to be a prisoner of war or missing in action. A deed affecting the homestead shall be valid without the signature of the spouse of the grantor, and the spouse shall be deemed to have consented thereto, when said deed has been recorded in the office of the county clerk of the county in which the real estate is located for a period of ten (10) years prior to a date six (6) months after May 25, 1953, and thereafter when the same shall have been so recorded for a period of ten (10) years, and no action shall have been instituted within said time in any court of record

having jurisdiction seeking to cancel, avoid, or invalidate such deed by reason of the alleged homestead character of the real estate at the time of such conveyance.

SECTION 2. This act shall become effective November 1, 1995.

Passed the House of Representatives the 7th day of March, 1995.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate