ENROLLED SENATE
BILL NO. 1261

By: Smith of the Senate

and

Steidley of the House

An Act relating to civil procedure and fees; amending 12 O.S. 1991, Sections 1148.5A, 1178.2, as amended by Section 11, Chapter 338, O.S.L. 1995, 1759, as amended by Section 3, Chapter 136, O.S.L. 1995, and 2004 (12 O.S. Supp. 1995, Sections 1178.2 and 1759), which relate to forcible entry and detainer, garnishment, the Small Claims Procedure Act and the Oklahoma Pleading Code; allowing posting of certain summons by private process server; changing contents of certain garnishment affidavit; requiring certain form of pleading for certain transferred action; providing for service by mail to certain garnishee; amending 20 O.S. 1991, Sections 92i and 1307, as last amended by Section 1, Chapter 193, O.S.L. 1995 (20 O.S. Supp. 1995, Section 1307), which relate to district judges and the court fund; requiring actual residency of certain judicial candidates; prohibiting certain persons from filing for judicial office; deleting requirement for filing of certain reports by court clerk; amending 28 O.S. 1991, Sections 86, 151, as amended by Section 10, Chapter 357, O.S.L. 1992, 152.1, 153, as last amended by Section 10, Chapter 286, O.S.L. 1995, 155.1, as amended by Section 3, Chapter 134, O.S.L. 1992, and 162, as last amended by Section 4, Chapter 10, O.S.L. 1993 (28 O.S. Supp. 1995, Sections 151, 153, 155.1 and 162), which relate to jurors' fees, court costs and filing fees; providing for payment of jurors for actual jury service; deleting requirement for mileage allowance; clarifying statutory reference; expanding purposes for certain changes; deleting duty of court clerk with regard to certain losses; requiring State Auditor and Inspector to adopt certain procedures with approval and directions by the Administrative Office of the Courts; authorizing certain charges for acceptance of certain checks and limiting amount of charge; increasing certain fees; providing exception for collection of certain fees; amending 41 O.S. 1991, Section 132, which relates to the Oklahoma Residential Landlord and Tenant Act; changing time period for remedy of certain breach by tenant; amending 58 O.S. 1991, Sections 911 and 912, as last amended by Section 11, Chapter 345, O.S.L. 1993 (58 O.S. Supp. 1995, Section 912), which relate

to termination of joint tenancies; modifying provisions relating to joint tenancy; authorizing termination of joint tenancy in certain instruments; repealing 20 O.S. 1991, Section 1217, as amended by Section 4, Chapter 286, O.S.L. 1995 (20 O.S. Supp. 1995, Section 1217), which relates to transfers from court fund to Law Library Fund; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1148.5A, is amended to read as follows:

Section 1148.5A If, in the exercise of reasonable diligence, service cannot be made upon the defendant personally nor upon any person residing upon the premises over fifteen (15) years of age, then in lieu of service by certified mail, service may be obtained for the sole purpose of adjudicating the right to restitution of the premises by the sheriff's posting <u>or by private process service posting of</u> said summons conspicuously on the building on the premises, and, if there be no building on said premises, then by posting the same at some conspicuous place on the premises sought to be recovered at least five (5) days prior to the date of trial, and by the claimant's mailing a copy of said summons to the defendant at his last-known address by certified mail at least five (5) days prior to said date of trial. Such service shall confer no jurisdiction upon the court to render any judgment against the defendant for the payment of money nor for any relief other than the restoration of possession of the premises to the claimant, unless the defendant appears at trial. Such service shall not be rendered ineffectual by the failure of the defendant to actually see or receive such posted process nor by his failure to actually receive or sign a return receipt for such mailed process.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 1178.2, as amended by Section 11, Chapter 338, O.S.L. 1995 (12 O.S. Supp. 1995, Section 1178.2), is amended to read as follows:

Section 1178.2 A. Where the garnishment summons is not on earnings, is not for the collection of child support and is issued under Section 1173.3 of this title, then unless the garnishee shall make the affidavit provided for in Section 1176 of this title, the garnishee shall, within ten (10) days from the service of the garnishee's summons, file an affidavit with the clerk of the court in which the action is pending and deliver or mail a copy thereof to the judgment creditor's attorney or to the judgment creditor if there is no attorney. The affidavit shall state:

1. Whether the garnishee was ~~the employer of or~~ indebted or under any liability to the defendant named in the notice in any manner or upon any account ~~for earnings or wages~~ specifying~~, as applicable, the beginning and ending dates of the pay period existing at the time of the service of the affidavit and summons, the total amounts earned in the pay period,~~ <u>if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether an absolute or contingent liability</u> and all of the facts and circumstances necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness, the garnishee

may set forth all of the facts and circumstances concerning the same, and submit the question to the court;

2. Whether the garnishee was indebted or under any liability to or had in garnishee's possession or control, any property belonging to the defendant. When the garnishee shall be in doubt respecting any such liability or indebtedness, the garnishee may set forth all of the facts and circumstances concerning the same, and submit the question to the court;

3. If the garnishee shall claim any setoff, defense, other indebtedness, liability, lien, or claim to such property, the facts and circumstances in the affidavit;

4. At the garnishee's option, any claim of exemption from execution on the part of the defendant, or other objection known to the garnishee against the right of the judgment creditor to apply the indebtedness or property disclosed;

5. If the garnishee shall disclose any indebtedness or the possession of any property to which the defendant or any other person makes claim, at the garnishee's option, the names and addresses of such other claimants and, so far as known, the nature of the claims; and

6. That the garnishee has mailed or hand-delivered a copy of the notice of garnishment and exemptions, application for hearing, and the manner and date of compliance.

B. The answer of the garnishee shall be on a form prescribed by the Administrative Office of the Courts.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1759, as amended by Section 3, Chapter 136, O.S.L. 1995 (12 O.S. Supp. 1995, Section 1759), is amended to read as follows:

Section 1759. A. Except as provided by subsection ~~B~~ C of this section, if a claim, a counterclaim, or a setoff is filed, prior to the expiration of the time prescribed by Section 1758 of this title, for an amount in excess of Four Thousand Five Hundred Dollars ($4,500.00), the action shall be transferred to another docket of the district court unless both parties agree in writing and file said agreement with the papers in the action that said claim, counterclaim, or setoff shall be tried under the small claims procedure. If such an agreement has not been filed, a judgment in excess of Four Thousand Five Hundred Dollars ($4,500.00) may not be enforced for the part that exceeds Four Thousand Five Hundred Dollars ($4,500.00). If the action is transferred to another docket of the district court, the person whose claim exceeded Four Thousand Five Hundred Dollars ($4,500.00) shall deposit with the clerk the court costs that are charged in other cases, less any sums that have been already paid to the clerk, or ~~his~~ the claim shall be dismissed and the remaining claims, if any, shall proceed under the small claims procedure.

B. If the action is transferred to another docket of the district court, the plaintiff shall file a petition that conforms to the standards for pleadings prescribed by the Oklahoma Pleading Code, Section 2001 et seq. of this title, within twenty (20) days from the timely filing of the claim, counterclaim, or setoff. The answer of the defendant shall be due within twenty (20) days after the filing of the petition and the reply of the plaintiff shall be due within ten (10) days after the answer is filed.

C. Except as provided by Section 1757 of this title, if a defendant does not file a counterclaim within the period prescribed by Section 1758 of this title, the action shall not be transferred to another docket of the district court.

SECTION 4. AMENDATORY 12 O.S. 1991, Section 2004, is amended to read as follows:

Section 2004.PROCESS

A. SUMMONS: ISSUANCE. Upon filing of the petition, the clerk shall forthwith issue a summons. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

B. SUMMONS: FORM. 1. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise, the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify ~~him~~ the defendant that in case of ~~his~~ failure to ~~do so~~ appear, judgment by default will be rendered against ~~him~~ the defendant for the relief demanded in the petition.

2. A judgment by default shall not be different in kind from or exceed in amount that prayed for in either the demand for judgment or in cases not sounding in contract in a notice which has been given the party against whom default judgment is sought. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

C. BY WHOM SERVED: PERSON TO BE SERVED.

1. SERVICE BY PERSONAL DELIVERY. a. At the election of the plaintiff, process, other than a subpoena, shall be served by a sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose. The court shall freely make special appointments to serve all process, other than a subpoena, under this paragraph.

b. A summons to be served by the sheriff or deputy sheriff shall be delivered to the sheriff by the court clerk or an attorney of record for the plaintiff. When a summons, subpoena, or other process is to be served by the sheriff or deputy sheriff of another county, the court clerk shall mail it, together with his voucher for the fees collected for ~~said~~ the service, to the sheriff of that county. The sheriff shall deposit the voucher in the Sheriff's Service Fee Account created pursuant to Section 514.1 of Title 19 of the Oklahoma Statutes. The sheriff or deputy sheriff shall serve the process in the manner that other process issued out of the court of ~~his~~ the sheriff's own county is served. A summons to be served by a person licensed to make service of process in civil cases or by a person specially appointed for that purpose shall be delivered by an attorney of record for the plaintiff to such person.

c. Service shall be made as follows:

(1) Upon an individual other than an infant who is less than fifteen (15) years of age or an incompetent person, by delivering a copy of the summons and of the petition ~~to him~~ personally or by leaving copies thereof at ~~his~~ the person's dwelling house or usual place of abode with some person then residing therein who is fifteen (15) years of age or older or by delivering a copy of the summons and of the petition to an agent authorized by appointment or by law to receive service of process;

(2) Upon an infant who is less than fifteen (15) years of age, by serving the summons and petition

~~upon him~~ personally and upon either of ~~his~~ the infant's parents or ~~his~~ guardian, or if they cannot be found, then upon the person having the care or control of the infant or with whom ~~he~~ the infant lives; and upon an incompetent person by serving the summons and petition ~~upon him~~ personally and upon ~~his~~ the incompetent person's guardian;

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and of the petition to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant;

(4) Upon the United States or an officer or agency thereof in the manner specified by Federal Rule of Civil Procedure 4;

(5) Upon a state, county, school district, public trust or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the petition to the officer or individual designated by specific statute; however, if there is no statute, then upon the chief executive officer or a clerk, secretary, or other official whose duty it is to maintain the official records of the organization; and

(6) Upon an inmate incarcerated in an institution under the jurisdiction and control of the Department of Corrections, by delivering a copy of the summons and of the petition to the warden or superintendent or the designee of the warden or superintendent of the institution where the inmate is housed. It shall be the duty of ~~such~~ the receiving warden or superintendent or ~~his~~ a designee to promptly deliver ~~said~~ the summons and petition to the inmate named therein. The warden or superintendent or his designee shall reject service of process for any inmate who is not actually present in said institution.

2. SERVICE BY MAIL. a. At the election of the plaintiff, a summons and petition may be served by mail by the plaintiff's attorney, any person authorized to serve process pursuant to subparagraph a of paragraph 1 of this subsection, or by the court clerk upon a defendant of any class referred to in division (1), (3), or (5) of subparagraph c of paragraph 1 of this subsection. Service by mail shall be effective on the date of receipt or if refused, on the date of refusal of the summons and petition by the defendant.

b. Service by mail shall be accomplished by mailing a copy of the summons and petition by certified mail, return receipt requested and delivery restricted to the addressee. When there is more than one defendant, the summons and a copy of the petition or order shall be mailed in a separate envelope to each defendant.

If the summons is to be served by mail by the court clerk, the court clerk shall enclose the summons and a copy of the petition or order of the court to be served in an envelope, prepared by the plaintiff, addressed to the defendant, or to the resident service agent if one has been appointed. The court clerk shall prepay the postage and mail the envelope to the defendant, or service agent, by certified mail, return receipt requested and delivery restricted to the addressee. ~~Such~~ The return receipt shall be prepared by the plaintiff. Service by mail to a garnishee shall be accomplished by mailing a copy of the summons and notice by certified mail, return receipt requested, and at the election of the judgment creditor by restricted delivery, to the addressee.

c. Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. Acceptance or refusal of service by mail by a person who is fifteen (15) years of age or older who resides at the defendant's dwelling house or usual place of abode shall constitute acceptance or refusal by the party addressed. In the case of an entity described in division (3) of subparagraph c of paragraph 1 of this subsection, acceptance or refusal by any officer or by any employee of the registered office or principal place of business who is authorized to or who regularly receives certified mail shall constitute acceptance or refusal by the party addressed. A return receipt signed at such registered office or principal place of business shall be presumed to have been signed by an employee authorized to receive certified mail. In the case of a state municipal corporation, or other governmental organization thereof subject to suit, acceptance or refusal by an employee of the office of the officials specified in division (5) of subparagraph c of paragraph 1 of this subsection who is authorized to or who regularly receives certified mail shall constitute acceptance or refusal by the party addressed. If delivery of the process is refused, upon the receipt of notice of such refusal and at least ten (10) days before applying for entry of default, the person elected by plaintiff pursuant to subparagraph a of this paragraph to serve the process shall mail to the defendant by first-class mail a copy of the summons and petition and a notice prepared by the plaintiff that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside upon motion of the defendant if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person. Such motion shall be filed within one (1) year after the defendant has notice of the default or judgment by default but in no event more than two (2) years after the judgment.

3. SERVICE BY PUBLICATION. a. Service of summons upon a named defendant may be made by publication when it is stated in the petition, verified by the plaintiff or his attorney, or in a separate affidavit by the plaintiff or his attorney filed with the court, that with due diligence service cannot be made upon the defendant by any other method.

b. Service of summons upon the unknown successors of a named defendant, a named decedent, or a dissolved partnership, corporation, or other association may be made by publication when it is stated in a petition, verified by the plaintiff or ~~his~~ the plaintiff's attorney, or in a separate affidavit by the plaintiff or ~~his~~ the plaintiff's attorney filed with the court, that the person who verified the petition or the affiant does not know and with due diligence cannot ascertain the following:

(1) whether a person named as defendant is living or dead, and, if dead, the names or whereabouts of his successors, if any,

(2) the names or whereabouts of the unknown successors, if any, of a named decedent,

(3) whether a partnership, corporation, or other association named as a defendant continues to have legal existence or not; or the names or whereabouts of its officers or successors,

(4) whether any person designated in a record as a trustee continues to be the trustee; or the names or whereabouts of the successors of the trustee, or

(5) the names or whereabouts of the owners or holders of special assessment or improvement bonds, or any other bonds, sewer warrants or tax bills.

c. Service pursuant to this paragraph shall be made by publication of a notice, signed by the court clerk, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county. All named parties and their unknown successors who may be served by publication may be included in one notice. The notice shall state the court in which the petition is filed and the names of the plaintiff and the parties served by publication, and shall designate the parties whose unknown successors are being served. The notice shall also state that the named defendants and their unknown successors have been sued and must answer the petition on or before a time to be stated (which shall not be less than forty-one (41) days from the date of the first publication), or judgment, the nature of which shall be stated, will be rendered accordingly. If jurisdiction of the court is based on property, any real property subject to the jurisdiction of the court and any property or debts to be attached or garnished must be described in the notice.

(1) When the recovery of money is sought, it is not necessary for the publication notice to state the

separate items involved, but the total amount that is claimed must be stated. When interest is claimed, it is not necessary to state the rate of interest, the date from which interest is claimed, or that interest is claimed until the obligation is paid.

(2) It is not necessary for the publication notice to state that the judgment will include recovery of costs in order for a judgment following the publication notice to include costs of suit.

(3) In an action to quiet title to real property, it is not necessary for the publication notice to state the nature of the claim or interest of either party, and in describing the nature of the judgment that will be rendered should the defendant fail to answer, it is sufficient to state that a decree quieting plaintiff's title to the described property will be entered. It is not necessary to state that a decree forever barring the defendant from asserting any interest in or to the property is sought or will be entered if the defendant does not answer.

(4) In an action to foreclose a mortgage, it is sufficient that the publication notice state that if the defendant does not answer, the defendant's interest in the property will be foreclosed. It is not necessary to state that a judgment forever barring the defendant from all right, title, interest, estate, property and equity of redemption in or to said property or any part thereof is requested or will be entered if the defendant does not answer.

d. Service by publication is complete when made in the manner and for the time prescribed in subparagraph c of this paragraph. Service by publication shall be proved by the affidavit of any person having knowledge of the publication. No default judgment may be entered on such service until proof of service by publication is filed with and approved by the court.

e. Before entry of a default judgment or order against a party who has been served solely by publication under this paragraph, the court shall conduct an inquiry to determine whether the plaintiff, or someone acting in his behalf, made a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of any named parties who have been served solely by publication under this paragraph. Before entry of a default judgment or order against the unknown successors of a named defendant, a named decedent, or a dissolved partnership, corporation or association, the court shall conduct an inquiry to ascertain whether the requirements described in subparagraph b of this paragraph have been satisfied.

f. A party against whom a default judgment or order has been rendered, without other service than by publication in a newspaper, may, at any time within three (3) years after the date of the judgment or order, have the judgment or order opened and be let in to defend. Before the judgment or order is opened, the applicant shall notify the adverse party of ~~his~~

the intention to make ~~such~~ an application and shall file a full answer to the petition, pay all costs if the court requires them to be paid, and satisfy the court by affidavit or other evidence that during the pendency of the action ~~he~~ the applicant had no actual notice thereof in time to appear in court and make ~~his~~ a defense. The title to any property which is the subject of and which passes to a purchaser in good faith by or in consequence of the judgment or order to be opened shall not be affected by any proceedings under this subparagraph. Nor shall proceedings under this subparagraph affect the title of any property sold before judgment under an attachment. The adverse party, on the hearing of an application to open a judgment or order as provided by this subparagraph, shall be allowed to present evidence to show that during the pendency of the action the applicant had notice thereof in time to appear in court and make his defense.

g. The term "successors" includes all heirs, executors, administrators, devisees, trustees, and assigns, immediate and remote, of a named individual, partnership, corporation, or association.

h. Service outside of the state does not give the court in personam jurisdiction over a defendant who is not subject to the jurisdiction of the courts of this state or who has not, either in person or through an agent, submitted himself to the jurisdiction of the courts of this state.

4. SERVICE ON THE SECRETARY OF STATE. a. Service of process on a domestic or foreign corporation may be made by serving the Secretary of State as the corporation's agent, if:

(1) there is no registered agent for the corporation listed in the records of the Secretary of State; or

(2) neither the registered agent nor an officer of the corporation could be found at the registered office of the corporation, when service of process was attempted.

b. Before resorting to service on the Secretary of State the plaintiff must have attempted service either in person or by mail on the corporation at:

(1) the corporation's last-known address shown on the records of the Franchise Tax Division of the Oklahoma Tax Commission, if any is listed there; and

(2) the corporation's last-known address shown on the records of the Secretary of State, if any is listed there; and

(3) the corporation's last address known to the plaintiff.

If any of these addresses are the same, the plaintiff is not required to attempt service more than once at any address. The plaintiff shall furnish the Secretary of State with a certified copy of the return or returns showing the attempted service.

c. Service on the Secretary of State shall be made by filing two (2) copies of the summons and petition with the Secretary of State, notifying the Secretary of State that service is being made pursuant to the

provisions of this paragraph, and paying the Secretary of State the fee prescribed in paragraph 7 of Section 1142 of Title 18 of the Oklahoma Statutes, which fee shall be taxed as part of the costs of the action, suit or proceeding if the plaintiff shall prevail therein. If a registered agent for the corporation is listed in the records of the Secretary of State, the plaintiff must also furnish a certified copy of the return showing that service on the registered agent has been attempted either in person or by mail, and that neither the registered agent nor an officer of the corporation could be found at the registered office of the corporation.

d. Within three (3) working days after receiving the summons and petition, the Secretary of State shall send notice by letter, certified mail, return receipt requested, directed to the corporation at its registered office or the last-known address found in the office of the Secretary of State, or if no address is found there, to the corporation's last-known address provided by the plaintiff. The notice shall enclose a copy of the summons and petition and any other papers served upon the Secretary of State. The corporation shall not be required to serve its answer until forty (40) days after service of the summons and petition on the Secretary of State.

e. Before entry of a default judgment or order against a corporation that has been served by serving the Secretary of State as its agent under this paragraph, the court shall determine whether the requirements of this paragraph have been satisfied. A default judgment or order against a corporation that has been served only by service on the Secretary of State may be set aside upon motion of the corporation, if the corporation demonstrates to the court that it had no actual notice of the action in time to appear and make its defense. The motion shall be filed within one (1) year after the corporation has notice of the default judgment or order but in no event more than two (2) years after the default judgment or order.

f. The Secretary of State shall maintain an alphabetical record of such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which the process has been served upon him, the fact that service has been effected pursuant to the provisions of this paragraph, the return date thereof, and the date when the service was made. The Secretary of State shall not be required to retain such information for a period longer than five (5) years from his receipt of the service of process.

g. The provisions of this paragraph shall not apply to a foreign insurance company doing business in this state.

5. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back of the summons or the voluntary appearance of a defendant is equivalent to service.

6. SERVICE BY OTHER METHODS. If service cannot be made by personal delivery or by mail, a defendant of any class referred to in division (1) or (3) of subparagraph c of paragraph 1 of this

subsection may be served as provided by court order in any manner which is reasonably calculated to give ~~him~~ the defendant actual notice of the proceedings and an opportunity to be heard.

D. SUMMONS AND PETITION. The summons and petition shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. The failure to serve a copy of the petition with the summons is not a ground for dismissal for insufficiency of service of process, but on motion of the party served, the court may extend the time to answer or otherwise plead. If a summons and petition are served by personal delivery, the person serving the summons shall state on the copy that is left with the person served the date that service is made. This provision is not jurisdictional, but if the failure to comply with it prejudices the party served, the court, on motion of the party served, may extend the time to answer or otherwise plead.

E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

1. Service of the summons and petition may be made anywhere within this state in the manner provided by subsection C of this section.

2. When the exercise of jurisdiction is authorized by subsection F of this section, service of the summons and petition may be made outside this state:

a. by personal delivery in the manner prescribed for service within this state,

b. in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction,

c. in the manner prescribed by paragraph 2 of subsection C of this section,

d. as directed by the foreign authority in response to a letter rogatory,

e. in the manner prescribed by paragraph 3 of subsection C of this section only when permitted by subparagraphs a and b of paragraph 3 of subsection C of this section, or

f. as directed by the court.

3. Proof of service outside this state may be made in the manner prescribed by subsection G of this section, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction.

4. Service outside this state may be made by an individual permitted to make service of process under the law of this state or under the law of the place in which the service is made or who is designated to make service by a court of this state.

5. When subsection C of this section requires that in order to effect service one or more designated individuals be served, service outside this state under this section must be made upon the designated individual or individuals.

6. a. A court of this state may order service upon any person who is domiciled or can be found within this state of any document issued in connection with a proceeding in a tribunal outside this state. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside this state and shall direct the manner of service.

b. Service in connection with a proceeding in a tribunal outside this state may be made within this state without an order of court.

c. Service under this paragraph does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside this state.

F. ASSERTION OF JURISDICTION. A court of this state may exercise jurisdiction on any basis consistent with the Constitution of this state and the Constitution of the United States.

G. RETURN. 1. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process, but the failure to make proof of service does not affect the validity of the service.

2. When process has been served by a sheriff or deputy sheriff and return thereof is filed in the office of the court clerk, a copy of the return shall be sent by the court clerk to the plaintiff's attorney within three (3) days after the return is filed. If service is made by a person other than a sheriff, deputy sheriff, or licensed process server, such person shall make affidavit thereof. The return shall set forth the name of the person served and the date, place, and method of service.

3. If service was by mail, the person mailing the summons and petition shall endorse on the copy of the summons or order of the court that is filed in the action the date and place of mailing and the date when service was receipted or service was rejected, and he shall attach to the copy of the summons or order a copy of the return receipt or returned envelope, if and when received by him, showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also show the date and place of any subsequent mailing pursuant to paragraph 2 of subsection C of this section. When the summons and petition are mailed by the court clerk, the court clerk shall notify the plaintiff's attorney within three (3) days after receipt of the returned card or envelope showing that the card or envelope has been received.

H. AMENDMENT. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is not made upon a defendant within one hundred eighty (180) days after the filing of the petition and the plaintiff cannot show good cause why such service was not made within that period, the action may be dismissed as to that defendant without prejudice upon the court's own initiative with notice to the plaintiff or upon motion. The action shall not be dismissed where a summons was served on the defendant within one hundred eighty (180) days after the filing of the petition and a court later holds that the summons or its service was invalid. After a court quashes a summons or its service, a new summons may be served on the defendant within a time specified by the judge. If the new summons is not served within the specified time, the action shall be deemed to have been dismissed without prejudice as to that defendant. This subsection shall not apply with respect to a defendant who has been outside of this state for one hundred eighty (180) days following the filing of the petition.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 92i, is amended to read as follows:

Section 92i. To file as a candidate for the office of district judge or associate district judge, one must have been a registered voter and actual resident of the appropriate county for at least six (6) months prior to the first day of the filing period. Should no one file for any such office, and should a vacancy thereby created be filled by appointment according to law, there shall be no such residency or durational registration requirement imposed on the appointee, providing said appointee is otherwise qualified, nor shall any person appointed to fill a vacancy in the office of district judge or associate district judge be required to comply with such residency or durational registration requirement in becoming a candidate for a full term following such appointment. No one who has been removed from judicial office or who has resigned from office pending disciplinary proceedings shall qualify to file as a candidate for judicial office.

SECTION 6. AMENDATORY 20 O.S. 1991, Section 1307, as last amended by Section 1, Chapter 193, O.S.L. 1995 (20 O.S. Supp. 1995, Section 1307), is amended to read as follows:

Section 1307. A. Within thirty (30) days after the end of each quarter of every fiscal year, the court clerk of each county shall report to the Supreme Court, in such manner as prescribed by the Supreme Court, the receipts that have been deposited in the court fund and the disbursements therefrom for the preceding quarter of the year and the total amount in the fund at the end of the quarter. Ten percent (10%) of the amount collected in the court fund shall be transferred to the State Judicial Retirement Fund at the end of each quarter.

B. In the report for the last quarter of every fiscal year, the court clerk shall, in addition to other information required, submit the following data:

1. The gross receipts to the court fund during the entire last fiscal year;

2. The total amount of expenses paid during the entire last fiscal year, including, but not limited to, bond and interest expense and payments to the county general fund; and

3. The total amount of money transferred, and to be transferred, to the State Judicial Fund and the State Judicial Retirement Fund for the entire last fiscal year as set forth in Section 1308 of this title.

~~C. The court clerk of each county shall submit to the Administrative Office of the Courts a copy of the Treasurer's Reconciliation Report, which shows monthly receipts and expenditures, by the fifteenth day of each month.~~

SECTION 7. AMENDATORY 28 O.S. 1991, Section 86, is amended to read as follows:

Section 86. A. Jurors shall be paid the following fees out of the Court Cash Fund:

1. For each day's attendance before any court of record, Twelve Dollars and fifty cents ($12.50); ~~for~~ and

2. For each ~~mile necessarily traveled in going to or returning from the place of attendance, twenty-two cents ($0.22), and such mileage shall be allowed each day that said mileage is incurred~~ day of actual jury service before any court of record Twenty Dollars ($20.00).

B. The Court Fund Board of the district court may contract for or provide reimbursement for parking for district court jurors to be paid from the Court Fund. Parking so provided to jurors shall be in lieu of any reimbursement to jurors for parking fees.

SECTION 8. AMENDATORY 28 O.S. 1991, Section 151, as amended by Section 10, Chapter 357, O.S.L. 1992 (28 O.S. Supp. 1995, Section 151), is amended to read as follows:

Section 151. A. It shall be the duty of the clerks of the district court and other trial courts of record of this state to charge and collect the fees ~~as herein provided~~ imposed by this title, and none others, in all cases, except those ~~wherein~~ in which the defendant is charged with a misdemeanor or traffic violation, and except cases ~~coming within the purview of~~ under the Small Claims Procedure Act, Section 1751 et seq. of Title 12 of the Oklahoma Statutes.

B. 1. Payment for any fee herein provided may be made by a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of ~~such~~ the payment as a service charge for the acceptance and verification of ~~such~~ the credit card. For purposes of this ~~paragraph~~ subsection, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services, or anything else of value and which is accepted by over one thousand merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees~~; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such card~~.

2. Written procedures for acceptance or rejection of credit cards shall be established by the Office of the State Auditor and Inspector with approval and direction to court clerks to be issued by the Administrative Office of the Courts.

C. Payment for any fee herein provided may be made by a personal or business check. The court clerk, at the court clerk's discretion, may:

1. Add an amount equal to the amount of the service charge incurred, not to exceed three percent (3%) of the amount of the check as a service charge for the acceptance and verification of the check; or

2. Add an amount of no more than Five Dollars ($5.00) as a service charge for the acceptance and verification of a check. For purposes of this subsection, "personal or business check" shall not mean a money order, cashier's check, or bank certified check.

SECTION 9. AMENDATORY 28 O.S. 1991, Section 152.1, is amended to read as follows:

Section 152.1 In civil cases other than those in the small claims division, the court clerk shall collect and deposit in the court fund the following charges in addition to the flat fee:

1. For posting notices and filing certificates required by statute $20.00
2. For mailing by any type of mail writs, warrants, orders, process, command, or notice for each person ~~$5.00~~ $7.00
   except ordinary mailing of first-class mail in probate cases, for each case— $5.00
3. For the actual cost of all postage in each case in excess of ~~$5.00~~ $7.00
4. For serving or endeavoring to serve each writ, warrant, order, process, command, or notice for each person in one or more counties $20.00
   provided that if more than one person is served at the same address, one flat fee of Twenty Dollars ($20.00) may be charged;

5. For sheriff's fees on court-ordered sales of real or personal property $50.00
6. When a jury is requested $50.00
7. For issuing each summons for each person $5.00
8. For services of a court reporter at each trial held in the case $20.00

The fees prescribed in paragraphs 4 and 5 of this section shall be paid by the court clerk into the Sheriff's Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county where service is made or attempted or where the sheriff's sale occurs. All other fees shall be deposited into the local court fund in the county where collected.

SECTION 10. AMENDATORY 28 O.S. 1991, Section 153, as last amended by Section 10, Chapter 286, O.S.L. 1995 (28 O.S. Supp. 1995, Section 153), is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for <u>standing and parking violations and for</u> charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to <u>the</u> date of judgment:

1. For each defendant convicted of exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others $57.00
2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others $73.00
3. For each defendant convicted of <u>a</u> misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others $83.00
4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others $103.00
5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others $183.00
6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others $183.00
7. For the services of a court reporter at each trial held in the case $20.00
8. For each time a jury is requested $30.00
9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice $20.00 or mileage as established by the Oklahoma Statutes, whichever is greater.

B. Of the amount collected pursuant to paragraphs 2 through 5 of subsection A of this section, the sum of Three Dollars ($3.00) shall be deposited to the credit of the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund except that the sheriff's fee provided for in this section and the amount provided for in Section 153.2 of this title, when collected, shall be transferred to the Sheriff's Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which service is made or attempted.

D. Costs required to be collected pursuant to this section shall not be dismissed or waived.

E. As used in this section, "convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence.

F. A court clerk may accept in payment for any fee, fine or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such card.

G. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars ($13.00) per conviction to the court fund.

SECTION 11. AMENDATORY 28 O.S. 1991, Section 155.1, as amended by Section 3, Chapter 134, O.S.L. 1992 (28 O.S. Supp. 1995, Section 155.1), is amended to read as follows:

Section 155.1 The clerk of the district court shall charge the sum of ~~Fifty Dollars ($50.00)~~ <u>One Hundred Dollars ($100.00)</u> for preparing, assembling, indexing<u>,</u> and transmitting the record for appellate review. This fee shall be paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

SECTION 12. AMENDATORY 28 O.S. 1991, Section 162, as last amended by Section 4, Chapter 10, O.S.L. 1993 (28 O.S. Supp. 1995, Section 162), is amended to read as follows:

Section 162. A. The clerks of the courts shall collect as costs in every juvenile delinquency, child in need of supervision, or deprived case in which the juvenile is adjudicated, irrespective of whether or not the sentence is deferred, or child in need of mental health treatment case pursuant to the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the

Oklahoma Statutes, irrespective of whether the child is committed for inpatient mental health treatment, or in every such case in which a petition is filed at the demand of the parents of a juvenile and said petition is subsequently dismissed prior to adjudication at said parents' request, the following flat charge and no more, except for the charges provided for in this section, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants and orders, and other services to date of judgment:

For each case where one or more juveniles are adjudicated deprived..... $50.00

For each juvenile who is certified to stand trial as an adult..... $75.00

In each juvenile case wherein parental rights are terminated..... $50.00

For each juvenile adjudicated in need of supervision..... $50.00

For each child found to be a child in need of mental health treatment..... $50.00

For each juvenile adjudicated for an offense which would be a misdemeanor if committed by an adult, including violation of any traffic law, whether charged individually or conjointly with others..... $50.00

For each juvenile adjudicated for an offense which would be a felony if committed by an adult, whether charged individually or conjointly with others..... $75.00

For the services of a court reporter at each trial held in the case..... $20.00

When a jury is requested..... $30.00

A sheriff's fee for serving or endeavoring to serve all writs, warrants, orders, process, commands, or notices or pursuing any fugitive from justice..... $20.00 or mileage as established by Oklahoma Statutes, whichever is greater.

B. Such costs shall be levied against the juvenile, the parent, or both, but shall not be levied against the legal guardian or any state or private agency having custody of any juvenile subject to such proceedings.

C. Prior to adjudication, parties in juvenile delinquency, child in need of supervision, child in need of treatment, and deprived cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund, except the sheriff's fee, when collected, shall be transferred to the general fund of the county in which service is made or attempted to be made.

D. The clerk of the district court shall charge the sum of ~~Thirty Dollars ($30.00)~~ One Hundred Dollars ($100.00) for preparing, assembling, indexing, and transmitting the record for appellate review. This fee shall be paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

E. Fees and costs collected in juvenile cases may be withdrawn from the court fund and used for operations of the juvenile bureaus,

in counties wherein a statutory juvenile bureau is in operation, upon approval by the Chief Justice of the Oklahoma Supreme Court.

F. In those seventy-four counties in which court services are provided by contract between the Oklahoma Supreme Court and the Department of Human Services, funds received from court costs in juvenile cases may be withdrawn from the court fund and paid to the Department of Human Services upon approval by the Chief Justice of the Oklahoma Supreme Court. Said funds are to be expended by the Department of Human Services to supplement community-based programs, such as juvenile offender victim restitution work programs, youth services programs, day treatment programs, group home services, and detention services. Specific annual training of Department workers in community-based services providing the above court-related services is also to be included for expenditure of funds received from court costs in juvenile cases by the Department of Human Services.

SECTION 13. AMENDATORY 41 O.S. 1991, Section 132, is amended to read as follows:

Section 132. A. Except as otherwise provided in the Oklahoma Residential Landlord and Tenant Act, if there is a noncompliance by the tenant with the rental agreement or with Section 127 of this title which noncompliance can be remedied by repair, replacement of a damaged item, or cleaning and the tenant fails to comply as promptly as conditions require in the case of an emergency or within ~~fourteen (14)~~ ten (10) days after written notice served as provided in subsection E of Section 111 of this title by the landlord specifying the breach and requiring that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and thereafter submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date rent is due, or if the rental agreement has terminated, for immediate payment. If the landlord ~~avails himself of the remedy~~ remedies the breach as provided in this subsection ~~he~~, the landlord may not terminate the rental agreement by reason of the tenant's failure to remedy the breach.

B. Except as otherwise provided in the Oklahoma Residential Landlord and Tenant Act, if there is a material noncompliance by the tenant with the rental agreement or with any provision of Section 127 of this title, ~~which noncompliance materially affects health or safety,~~ the landlord may deliver to the tenant a written notice served as provided in subsection E of Section 111 of this title specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date not less than ~~thirty (30)~~ fifteen (15) days after receipt of the notice unless remedied within ~~fourteen (14)~~ ten (10) days. If the breach is not remedied within ~~fourteen (14)~~ ten (10) days from receipt of the notice, the rental agreement shall terminate as provided in the notice. If within ~~said fourteen (14)~~ the ten (10) days the tenant adequately remedies the breach complained of, or if the landlord remedies the breach according to the provisions of subsection A of this section, the rental agreement shall not terminate by reason of ~~said~~ the breach. Any subsequent breach of the lease or noncompliance under this section shall be grounds, upon written notice to the tenant, for immediate termination of the lease.

C. Notwithstanding other provisions of this section, if there is a noncompliance by the tenant with the rental agreement or with any of the provisions of Section 127 of this title, which noncompliance causes or threatens to cause imminent and irremediable harm to the premises or to any person and which noncompliance is not

remedied by the tenant as promptly as conditions require after ~~he~~ the tenant has notice of it, the landlord may terminate the rental agreement by immediately filing a forcible entry and detainer action.

SECTION 14. AMENDATORY 58 O.S. 1991, Section 911, is amended to read as follows:

Section 911. In all cases where any person being a life tenant or joint tenant in any interest in real property, including but not limited to mortgages owned by two or more persons as joint tenants with right of survivorship, shall die either testate or intestate, leaving no property or estate on which administration proceedings have been had or commenced, any of the remaindermen having an interest in the real estate subject to such life estate, or any survivor of such joint tenancy, or any person claiming any right, title or interest in said real estate by, through or under such remainderman or survivor may have the fact of the death of said life tenant or joint tenant judicially determined by filing a petition in the district court of the county in which said real estate or some part thereof is situated, or of the county of the residence of said decedent, alleging the facts of such life estate or joint tenancy, describing such real estate, alleging the death of such life tenant or joint tenant as the case may be, and setting forth the names and addresses, if known, of all of the heirs of said decedent, if intestate, and of his heirs, devisees and legatees, if testate, and of all other persons by him known to claim any interest in said real estate, which petition shall be sworn to by petitioner, his agent or attorney.

Upon the filing of such petition the court shall enter an order fixing the date and hour for hearing same, which date shall be not less than ten (10) days from the date of entry of said order. The court clerk shall thereupon issue a notice under his hand and seal, which notice shall be directed to "the heirs, devisees, legatees and assigns" of said decedent, "and to all persons claiming any right, title or interest in or to the real estate hereinafter described", and shall recite the filing of said petition and the entry of the order setting same for hearing, and shall notify said persons of the date, hour and place of hearing said petition and contain a description of the real estate described therein.

Said notice shall be published in one (1) issue of a newspaper of general circulation in said county, the date of such publication to be at least ten (10) days prior to the date set for said hearing, and at least ten (10) days prior to the date set for said hearing a copy thereof shall be mailed to each of the heirs, devisees, legatees and other persons interested in said real estate as named in said petition, at their respective addresses shown thereon, unless there be filed an affidavit of the petitioner, or his attorney, showing that the post office addresses of any of such persons are unknown to the petitioner or his attorney. Proofs of such publication and of mailing shall be filed in the district court prior to the entry of any order or decree upon said petition.

Upon hearing of such petition being had, the court shall hear the evidence and proof of death, and shall make and enter an order and decree determining the fact of the death of such life tenant or joint tenant, as the case may be, and the termination of the life estate or joint tenancy in said real property, as the case may be, a certified copy of which decree shall be filed in the office of the county clerk of the county in which said real property or any part thereof is situated.

Such order or decree shall, upon entry, be conclusive of the facts therein found as to all purchasers, encumbrancers or lienors

of said real estate acquiring their titles, encumbrances or liens in good faith, relying upon said decree.

SECTION 15. AMENDATORY 58 O.S. 1991, Section 912, as last amended by Section 11, Chapter 345, O.S.L. 1993 (58 O.S. Supp. 1995, Section 912), is amended to read as follows:

Section 912. A. If title to any interest in real property is held by two or more persons in joint tenancy with right of survivorship, including but not limited to mortgages owned by two or more persons in joint tenancy with right of survivorship, any surviving joint tenant or the personal representative or duly appointed attorney in fact of any surviving joint tenant, may evidence the termination of the interest of a deceased joint tenant in such real property by filing the documents described in subsection C of this section.

B. If title to any real property is held by two or more persons where at least one of them holds a life tenancy interest in such property and at least one of them holds a remainder interest in such property, any surviving life tenant or remainderman, or the personal representative or duly appointed attorney of any survivor of them may evidence the termination of the interest of any deceased life tenant in such real property by filing the documents described in subsection C of this section.

C. A person entitled, by subsection A or B of this section, to evidence the termination of the interest of a decedent in real property pursuant to this section may do so by filing 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 Article 3 of the Public Health Code, Section 1-301 et seq. of Title 63 of the Oklahoma Statutes, or by the State Department of Health or comparable agency of the place of the death of the joint tenant or life tenant; ~~and~~

2. An affidavit by the surviving joint tenant, life tenant or remainderman or the personal representative or duly appointed attorney in fact of the surviving joint tenant, life tenant or remainderman describing the real property, stating that the decedent named in such certificate of death is one and the same person as the deceased joint tenant or life tenant named in a previously recorded document which created or purported to create such joint tenancy or life tenancy in such real property and identifying such recorded document by book and page where recorded, that the survivor making or on whose behalf the affidavit is made and the decedent were husband and wife, if such is the case, 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 the power of attorney shall accompany the affidavit and be filed with the county clerk. An affidavit properly sworn before a notarial officer shall, notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, be received for record and recorded by the county clerk without having been acknowledged and, when recorded, it shall be effective as if it had been acknowledged. An affidavit filed either before or after the effective date of this act which was either acknowledged or sworn or both acknowledged and sworn before a notarial officer is hereby validated and the title to such real property shall be deemed marketable unless otherwise defective~~.~~; and

3. If such real property is held in joint tenancy other than by two persons only who were husband and wife or other than by two

persons only who were husband and wife with one as the life tenant and the other as the remainderman, a waiver or release issued by the Oklahoma Tax Commission of the estate tax lien as to the deceased joint tenant or life tenant must be filed with the affidavit required by paragraph 2 of this subsection, unless the estate tax lien has otherwise been released by operation of law.

D. The filing of the documents described in subsection C of this section shall constitute conclusive evidence of the death of such joint tenant or life tenant and of the termination of the interest of such deceased joint tenant or life tenant in such real property. The title of such real property shall be deemed marketable unless otherwise defective.

SECTION 16. REPEALER 20 O.S. 1991, Section 1217, as amended by Section 4, Chapter 286, O.S.L. 1995 (20 O.S. Supp. 1995, Section 1217), is hereby repealed.

SECTION 17. This act shall become effective November 1, 1996.

Passed the Senate the 24th day of May, 1996.

President of the Senate

Passed the House of Representatives the 30th day of May, 1996.

Speaker of the House of Representatives