

SHORT TITLE: Property; joint tenancy; providing for survival of consensual security interest; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 625

By: Hendrick

AS INTRODUCED

An Act relating to joint tenancy; amending 60 O.S. 1991, Section 74, which relates to joint tenancy and tenancy by entirety; clarifying language; declaring judgment lien extinguished on death of joint tenant prior to execution; declaring consensual security interest survives death of joint tenant; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 1991, Section 74, is amended to read as follows:

Section 74. A. A joint interest is one owned by several persons in either real or personal property in equal shares, being a joint title created by a single instrument, will or transfer when expressly declared in the instrument, will or transfer to be a joint tenancy, or as between husband and wife a tenancy by entirety or joint tenancy as the grantor may elect, or when granting or devising to executors or trustees as joint tenants.

B. A tenancy by entirety can only be created between husband and wife.

~~Such~~ C. A joint tenancy or tenancy by entirety may be created by transfer to persons as joint tenants or tenants by entirety from an owner or a joint owner to himself and one or more persons, or from tenants in common to themselves, or by coparceners in voluntary

partition, and such estates may be created by or for persons who have elected to become bound under any community property act now in existence or which may hereafter be enacted. An adjudication of incompetency shall not operate to terminate such an estate.

D. Where a deed, transfer, or conveyance grants an estate in joint tenancy or tenancy by entirety in the granting clause thereof, the granting clause shall control over the habendum clause containing language inconsistent ~~to~~ with the granting clause.

E. In the event of the death of a joint tenant or tenant by entirety, leaving estate subject to probate, a certified copy of letters testamentary or of administration shall constitute prima facie evidence of ~~such~~ the death.

F. The provisions of this ~~act~~ section shall apply to all estates in joint tenancy or tenancy by entirety in either real or personal property heretofore or hereafter created.

G. A judgment lien on a debtor's joint tenancy interest is extinguished if the joint tenant dies before execution of the lien. A consensual security interest in joint tenancy property survives the death of the joint tenant who granted the security interest.

H. Nothing herein contained shall prevent execution, levy, and sale of the interest of the judgment debtor in ~~such~~ these estates and ~~such~~ a sale shall constitute a severance.

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

45-1-0506

KSM