

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1817

By: Braddock

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to conveyances; amending Section 1,  
9 Chapter 304, O.S.L. 1994, as amended by Section 6,  
10 Chapter 334, O.S.L. 1996 (60 O.S. Supp. 1998, Section  
11 674.2), which relates to property delivered to the  
12 Oklahoma Tax Commission; increasing amount of certain  
13 property which may be claimed by affidavit;  
14 authorizing transfer of property based on affidavit;  
15 setting forth certain conditions to be included in  
16 affidavit; providing for effective date for  
17 application of certain affidavits; exempting certain  
18 persons; abolishing doctrine of constructive  
19 possession; extinguishing certain existing claims;  
20 providing exception; providing for codification; and  
21 providing an effective date.

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

23 SECTION 1. AMENDATORY Section 1, Chapter 304, O.S.L.  
24 1994, as amended by Section 6, Chapter 334, O.S.L. 1996 (60 O.S.  
25 Supp. 1998, Section 674.2), is amended to read as follows:

26 Section 674.2 If any person claims an interest in any property  
27 delivered to the Oklahoma Tax Commission in which the owner of the  
28 property is determined to be deceased, the Commission shall pay over  
29 or deliver to the claimant the property as provided in Section 651  
30 et seq. of Title 60 of the Oklahoma Statutes upon receipt of the  
31 following:

32 1. A certified copy of letters of administration or letters  
testamentary from the probate of the estate of the decedent naming  
the claimant as the personal representative of the estate of the  
decedent; or

1           2. A certified copy of the decree of distribution from the  
2 probate of the estate of the decedent determining the claimant to be  
3 entitled to receive such property through the estate of the  
4 decedent; or

5           3. If the value of the property is ~~One Thousand Dollars~~  
6 ~~(\$1,000.00)~~ Five Thousand Dollars (\$5,000.00) or less, a signed  
7 affidavit executed by the claimant stating that the claimant is  
8 entitled to receive such property, the reason the claimant is  
9 entitled to receive such property, that there has been no probate of  
10 the estate of the deceased owner, that no such probate is  
11 contemplated and that claimant will indemnify the state for any  
12 loss, including attorney fees, should another claimant assert a  
13 prior right to the property.

14           SECTION 2.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 67 of Title 16, unless there is  
16 created a duplication in numbering, reads as follows:

17           Any purchaser for value acquiring a severed mineral interest in  
18 real estate from a person who claims such interest, immediately or  
19 remotely, through a recorded affidavit of death and heirship or a  
20 recital of death and heirship in a recorded title transaction, as  
21 that term is defined in Section 78 of Title 16 of the Oklahoma  
22 Statutes, shall acquire a valid and marketable title to such  
23 interest as against any person claiming adversely to such recorded  
24 affidavit or recital on the following conditions:

25           1. The affidavit or recital states that the decedent died  
26 without a will;

27           2. The affidavit or recital lists the names of the decedent's  
28 heirs and their relationship to the decedent;

29           3. The affidavit or recital states that the maker is related  
30 to the decedent or otherwise has personal knowledge of the facts  
31 stated therein;

1           4. The affidavit or the title transaction that contains the  
2 recital has been recorded for at least ten (10) years in the office  
3 of the county clerk in the county in which the real property is  
4 located; and

5           5. No instrument inconsistent with the heirship alleged in the  
6 affidavit or recital has been filed in the office of the county  
7 clerk in the county in which the real property is located.

8           This section shall apply to affidavits recorded before the  
9 effective date of this act as well as to those recorded thereafter,  
10 except that, with respect to those recorded before such date, the  
11 ten-year period specified above shall not expire until one (1) year  
12 after the effective date of this act. This section shall not apply  
13 as against any person in possession of the land, by occupancy or by  
14 occupancy of a tenant, at the time such purchaser acquires an  
15 interest in such land.

16           SECTION 3.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 68 of Title 16, unless there is  
18 created a duplication in numbering, reads as follows:

19           The doctrine of constructive possession is abolished only  
20 insofar as it applies to the Simplification of Land Titles Act,  
21 Section 61 et seq. Of Title 16 of the Oklahoma Statutes. Any claims  
22 based upon constructive possession before the effective date of this  
23 act shall be extinguished unless a notice of the claim is filed with  
24 the county clerk of the county where the land or interest is located  
25 within one (1) year from the effective date of this act. The notice  
26 of the claim shall set forth basis thereof and specifically refer to  
27 this section.

28           SECTION 4. This act shall become effective November 1, 1999.

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30           47-1-6484       MAH       6/11/15  
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