

ENROLLED HOUSE
BILL NO. 1319

By: Shoemake of the House

and

Ballenger of the Senate

An Act relating to transfer of property to successor; amending 16 O.S. 2001, Section 67, which relates to acquisition of marketable title of certain mineral interests; providing for acquisition of marketable title by claimant of certain mineral interest through certain affidavit; modifying requirements for affidavit; amending 58 O.S. 2001, Section 393, as amended by Section 1, Chapter 417, O.S.L. 2004 (58 O.S. Supp. 2009, Section 393), which relates to payment of certain debts or transfer of certain interests to a decedent's successor; providing for filing of certain affidavit relating to certain mineral interest; and declaring an emergency.

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

SECTION 1. AMENDATORY 16 O.S. 2001, Section 67 is amended to read as follows:

Section 67. A. After the date of death of a person who was an owner of a severed mineral interest in real estate, a person who claims such interest, immediately or remotely, through an affidavit of death and heirship recorded pursuant to Sections 82 and 83 of this title, shall acquire a valid and marketable title to such interest as against any person claiming adversely to such recorded affidavit on the conditions set forth in subsection C of this section.

B. Any purchaser for value acquiring a severed mineral interest in real estate from a person who claims such interest, immediately or remotely, through a recorded affidavit of death and heirship or a recital of death and heirship in a recorded title transaction, as that term is defined in Section 78 of Title 16 of the Oklahoma Statutes, shall acquire a valid and marketable title to such interest as against any person claiming adversely to such recorded affidavit or recital on the following conditions set forth in subsection C of this section.

C. In order to establish marketable title pursuant to this section:

1. The affidavit or recital ~~states~~ must state that the decedent died without a will, or if the decedent had a will, that the will was never probated in Oklahoma and a copy of the will is attached to the affidavit or recital, or if the will was probated that the severed mineral interest was omitted from the final decree of the decedent and a copy of the will and final decree is attached to the affidavit or recital;

2. The affidavit or recital ~~lists~~ must list the names of the decedent's heirs and their relationship to the decedent;

3. The affidavit or recital ~~states~~ must state that the maker is related to the decedent or otherwise has personal knowledge of the facts stated therein;

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

5. ~~No~~ During the ten-year period following the recording of the affidavit or the title transaction that contains the recital, no instrument inconsistent with the heirship alleged in the affidavit or recital ~~has been~~ was filed in the office of the county clerk in the county in which the real property is located.

This section shall apply to affidavits recorded before ~~the effective date of this act~~ November 1, 1999, as well as to those recorded thereafter, except that, with respect to those recorded before such date, the ten-year period specified above shall not expire until one (1) year after ~~the effective date of this act~~ November 1, 1999. This section shall not apply as against any

person in possession of the land, by occupancy or by occupancy of a tenant, at the time such purchaser acquires an interest in such land.

SECTION 2. AMENDATORY 58 O.S. 2001, Section 393, as amended by Section 1, Chapter 417, O.S.L. 2004 (58 O.S. Supp. 2009, Section 393), is amended to read as follows:

Section 393. A. At any time ten (10) or more days after the date of death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, chose in action, or stock brand belonging to the decedent shall make payment of the indebtedness or shall deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, chose in action, or stock brand to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

1. The fair market value of property located in this state owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death, less liens and encumbrances, does not exceed Twenty Thousand Dollars (\$20,000.00);

2. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

3. Each claiming successor is entitled to payment or delivery of the property in the respective proportions set forth in the affidavit; and

4. All taxes and debts of the estate have been paid or otherwise provided for or are barred by limitations.

B. A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection A of this section.

C. The public official having cognizance over the registered title of any personal property of the decedent shall change the registered ownership from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection A of this section.

D. At any time after the date of death of a person who was an owner of a severed mineral interest in real estate, any person who claims an interest, immediately or remotely, through the decedent may file with the county clerk of the county where the mineral interest is located an affidavit of death and heirship in compliance with subsection C of Section 67 of Title 16 of the Oklahoma Statutes. Pursuant to Sections 82 and 83 of Title 16 of the Oklahoma Statutes, there shall be a rebuttable presumption that the facts stated in the recorded affidavit are true as they relate to the severed mineral interest, the death of the decedent, and the relationships, family history and heirship stated therein.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of May, 2010.

Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2010.

Presiding Officer of the Senate