

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2871

By: McEachin

4
5 AS INTRODUCED

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7 An Act relating to civil procedure; authorizing
8 procedures for judicial order with respect to
9 conveyance of non-homestead real property; stating
10 purpose of cause of action; specifying applicable
11 time period; requiring petition; prescribing required
12 content of petition; requiring service of process on
13 nonjoining spouse; providing for written
14 verification; authorizing judicial order; providing
15 for effect of judicial order; providing for
16 codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1149.1 of Title 12, unless there
is created a duplication in numbering, reads as follows:

In case of real property owned by a married person which is not
the homestead of both of the married persons, the owner spouse, upon
application to the district court of the county in which the non-
homestead real property is located, and upon due proof that the real
property described is not, or was not, the homestead of the non-
owner spouse, may obtain an order from the court adjudicating the
property is, or was, the sole and separate property of the owner

1 spouse; and permitting the applicant to sell, convey, lease, lease
2 for oil and gas mining purposes, or mortgage the non-homestead real
3 property without the joinder of the non-owner spouse. This cause of
4 action shall be available to cure titles to property believed to be
5 unmarketable due to the lack of spousal joinder during the period of
6 time less than ten (10) years prior to the filing of the petition.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1149.2 of Title 12, unless there
9 is created a duplication in numbering, reads as follows:

10 The applicant shall present and file in the district court a
11 verified petition setting forth the name of the spouse who will not,
12 or did not, execute or sign a deed or other instrument of conveyance
13 with respect to the non-homestead real property, a description of
14 the real property, the county in which the real property is located,
15 and such other facts relating to the circumstances and needs of the
16 applicant and the family that may support the petition.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1149.3 of Title 12, unless there
19 is created a duplication in numbering, reads as follows:

20 At least thirty (30) days before the hearing of the petition,
21 the applicant or attorney for the applicant shall serve a copy of
22 the petition upon the spouse who, by law, need not execute the deed
23 or other instrument of conveyance with respect to the real property
24 described in the petition.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1149.4 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 If, within the thirty-day period set out in Section 3 of this
5 act, the non-owner spouse shall file a written verification that the
6 property to be conveyed, or conveyed not fewer than ten (10) years
7 prior to the filing of the petition, was not, in fact, his or her
8 homestead, then the court may immediately enter an order pursuant to
9 Section 5 of this act.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1149.5 of Title 12, unless there
12 is created a duplication in numbering, reads as follows:

13 If the court shall make the order validating the sale or other
14 conveyance with respect to the non-homestead real property as
15 provided in this act, the order shall be entered upon the minutes of
16 the court adjudicating the sale, conveyance, lease or mortgage made,
17 or to be made, was, or will be, valid and effectual because the
18 property affected thereby is or was the sole and separate property
19 of the person making such sale, conveyance, lease or mortgage.

20 SECTION 6. This act shall become effective November 1, 2018.

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