

1 ENGROSSED HOUSE
2 BILL NO. 1223

By: Perryman of the House

3 and

4 Howard of the Senate

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7 [conveyances - claim and purchase of severed mineral
8 interests - prohibiting additional claims of
9 interest after certain sales - effective date]
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 16 O.S. 2011, Section 67, is
14 amended to read as follows:

15 Section 67. A. ~~After~~ Subject to Section 8 of Title 84 of the
16 Oklahoma Statutes, after the date of death of a person who was an
17 owner of a severed mineral interest in real estate, a person who
18 claims such interest, immediately or remotely, through an affidavit
19 of death and heirship recorded pursuant to Sections 82 and 83 of
20 this title, shall acquire a valid and marketable title to such
21 interest as against any person claiming adversely to such recorded
22 affidavit on the conditions set forth in subsection ~~E~~ D or F of this
23 section.
24

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

10 C. ~~In~~ If an heir sells and conveys aforesaid intestate interest
11 pursuant to Section 8 of Title 84 of the Oklahoma Statutes, then
12 said intestate share shall be deducted from the decedent's interest
13 and shall no longer be subject to the affidavit. As a result, said
14 heir and his or her successor shall be estopped from claiming any
15 additional interest through the affidavit.

16 D. If a decedent died intestate, in order to establish
17 marketable title pursuant to this section:

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

1 2. The affidavit ~~or recital must~~ shall list the names of the
2 decedent's heirs and their relationship to the decedent. If there
3 is a surviving spouse and there is a child born to the decedent
4 listed therein, the affidavit shall indicate whether the child was
5 born of the surviving spouse or a different parent. The affidavit
6 shall indicate whether any children were adopted by the decedent;

7 3. The affidavit ~~or recital must~~ shall state that the maker is
8 related to the decedent ~~or otherwise~~ and shall state this
9 relationship. Otherwise, if the maker has personal knowledge of the
10 facts stated therein, he or she shall state the source of personal
11 knowledge;

12 4. The affidavit ~~or the title transaction that contains the~~
13 ~~recital must~~ shall contain a description of the land for which the
14 title may be affected by matters covered in the affidavit and shall
15 have been recorded for at least ten (10) years in the office of the
16 county clerk in the county in which the real property is located;
17 and

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

23 E. If a decedent died testate, then any person claiming an
24 interest through the decedent shall first deliver and file the

1 decedent's original will to the district court having jurisdiction
2 of the estate. Second, said person shall mail a copy of the
3 affidavit executed under subsection F of this section along with a
4 certified copy of the delivered will to all of the decedent's heirs
5 at law and all devisees named in the will. Third, said person shall
6 record with the county clerk the affidavit, a certified copy of the
7 will and the appropriate certified mail domestic return receipt
8 showing that all heirs and devisees received the above-noted
9 affidavit and copy of the will. Any affidavit satisfying subsection
10 F of this section shall be effective to pass the mineral interest as
11 distributed under the will. If an heir is now deceased, then notice
12 shall be required to be given to the deceased heir's heir.

13 However, if the decedent was survived by a spouse who was not
14 provided at least his or her intestate share in the will or survived
15 by an afterborn or omitted child that was not named in the will,
16 then said surviving spouse or child shall execute and record an
17 instrument consenting to the delivered will.

18 F. In order to establish marketable title pursuant to this
19 section as to a testate decedent:

20 1. The affidavit shall state that the decedent died with a
21 will, list the district court to which the will has been delivered
22 and filed and shall include a certified copy of said will described
23 in subsection E if this section;

24 2. The affidavit shall list the decedent's heirs at law;

1 3. The affidavit shall list those devisees taking under the
2 will;

3 4. The affidavit shall state that the maker is related to the
4 decedent and state this relationship or otherwise has personal
5 knowledge of the facts stated therein;

6 5. The affidavit shall contain a description of the land for
7 which the title may be affected by matters covered in the affidavit
8 and shall have been recorded for at least ten (10) years in the
9 office of the county clerk in the county in which the real property
10 is located; and

11 6. During the ten-year period following the recording of the
12 affidavit, no instrument inconsistent with the heirship alleged in
13 the affidavit is filed in the office of the county clerk in the
14 county in which the real property is located.

15 G. The affidavit described in subsection D and subsection F
16 applies solely to a severed mineral interest and said affidavit
17 should be recorded as a stand-alone instrument.

18 This section shall apply to affidavits recorded before November
19 1, 1999, as well as to those recorded thereafter, except that, with
20 respect to those recorded before such date, the ten-year period
21 specified above shall not expire until one (1) year after November
22 1, 1999. This section shall not apply as against any person in
23 possession of the land, by occupancy or by occupancy of a tenant, at
24 the time such purchaser acquires an interest in such land.

1 SECTION 2. AMENDATORY 58 O.S. 2011, Section 393, as last
2 amended by Section 2, Chapter 73, O.S.L. 2017 (58 O.S. Supp. 2018,
3 Section 393), is amended to read as follows:

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

14 1. The fair market value of property located in this state
15 owned by the decedent and subject to disposition by will or
16 intestate succession at the time of the decedent's death, less liens
17 and encumbrances, does not exceed Fifty Thousand Dollars
18 (\$50,000.00);

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

21 3. Each claiming successor is entitled to payment or delivery
22 of the property in the respective proportions set forth in the
23 affidavit; and
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1 4. All taxes and debts of the estate have been paid or
2 otherwise provided for or are barred by limitations.

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

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

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

23 E. Any person who knowingly submits and signs a false affidavit
24 as provided in this section shall be fined not more than Three

1 Thousand Dollars (\$3,000.00) or imprisoned for not more than six (6)
2 months, or both. Restitution of the amount fraudulently attained
3 shall be made to the rightful beneficiary by the guilty person.

4 SECTION 3. This act shall become effective November 1, 2019.

5 Passed the House of Representatives the 12th day of March, 2019.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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