

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1223

By: Perryman

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6 AS INTRODUCED

7 An Act relating to conveyances; amending 16 O.S.
8 2011, Section 67, which relates to claim and purchase
9 of severed mineral interests; modifying requirements
10 for claiming severed mineral interest through certain
11 affidavit; modifying requirements certain affidavit
12 contains; prohibiting additional claims of interest
13 after certain sales; and providing an effective date.

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

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

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

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 of
9 this section.

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

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

19 2. The affidavit or recital ~~must~~ shall list the names of the
20 decedent's heirs and their relationship to the decedent. If there
21 is more than one child listed therein, the affidavit shall indicate
22 whether the child was born to the surviving spouse. It shall be
23 indicated whether any children were adopted by decedent;

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

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

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

15 D. If an heir sells his or her intestate interest pursuant to
16 Section 8 of Title 84 of the Oklahoma Statutes, then the intestate
17 share shall be deducted and shall no longer be subject to the
18 affidavit. After the sale, the aforementioned intestate heirs or
19 their successors shall be estopped from claiming any additional
20 interest through the affidavit.

21 This section shall apply to affidavits recorded before November
22 1, 1999, as well as to those recorded thereafter, except that, with
23 respect to those recorded before such date, the ten-year period
24 specified above shall not expire until one (1) year after November

1 1, 1999. This section shall not apply as against any person in
2 possession of the land, by occupancy or by occupancy of a tenant, at
3 the time such purchaser acquires an interest in such land.

4 SECTION 2. This act shall become effective November 1, 2019.

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