

REAL ESTATE HOMESTEADS IN OKLAHOMA: CONVEYING AND ENCUMBERING
SUCH INTEREST

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THE NATURE OF HOMESTEADS IN OKLAHOMA

The “homestead” in Oklahoma has, in essence, two natures: one as a personal right in land and another as an exemption from collection. This dual nature causes confusion among laymen and attorneys alike. Only natural persons, either as an individual or as a family, are eligible to hold and claim such right in land. Corporations, partnerships and other artificial entities cannot assert such interest.

The homestead interest is a separate personal right in land and an exemption that is not shown in the land records, and it exists alongside but separate from the normal ownership interest wherein one or more persons hold record title to land. This homestead interest is overlaid on the recorded title interests, such as a fee simple absolute, and co-tenancies such as tenancy in common or joint tenancy.¹

Unlike dower and courtesy, homestead does not have its roots in the common law. The Oklahoma Supreme Court has explained that the homestead, as it exists in Oklahoma, is a creature of the State constitution and statutes, nothing like it being known at common law.² It is a purely constitutional and statutory creation based on public policy considerations.

Historically, wherein it was evident that public policy sought to protect both the wife and the family, there are three principal reasons for the creation of homestead laws:

1. To protect the family unit from forced eviction from its home through the enforcement of general creditors’ claims;

2. To provide protection to the widow after the death of her husband; and
3. To protect the wife from ill deeds of the husband.³

Currently, such homestead rights are equally available to either a single man or woman, or to a husband or wife.

There are four categories of homestead rights in Oklahoma, including the following: (1) an ad valorem tax exemption, whereby an owner elects which tract of land is his homestead, and the owner receives a discount on his annual county ad valorem real property taxes, with the specific land being designated by the taxpayer at the beginning of each calendar year; (2) a prohibition exempting the debtor's homestead (whether for a single individual or a family) from execution for general creditors' debts (as distinguished from special debts whereby a specific tract of land is voluntarily encumbered to serve as collateral for the debt), with the label of homestead being associated with the primary residence of the debtor; (3) the preservation of a life estate in the couple's homestead for the benefit of a surviving spouse (and any minor children) when a spouse dies, even where the deceased spouse was the holder of all of the record title; and (3) a protection of the spouses' homestead rights against voluntary encumbrancing or conveyancing by one spouse without the joinder of the other spouse, even where the spouse who is attempting to affect the title holds all of the record title.

The land reported to the county assessor as being the owner's homestead at the beginning of each year, for the purposes of the owner reducing his ad valorem taxes, is not necessarily the same land that is asserted to be the debtor's or spouse's homestead when the other types of homestead are being discussed or litigated.⁴ Such selection for ad valorem tax purposes is neither filed in the local land records, nor is it conclusive. Therefore, whenever a challenge arises concerning whether or not a tract of land is someone's homestead (i.e., for execution,

probate and marital homestead purposes), the final determination is an open fact question to be resolved by the fact finder (i.e., the judge or jury).

The last three of these four types of homesteads (i.e., excluding the ad valorem category) are the categories that are most often disputed and litigated, and, consequently, are the ones discussed in more detail below.

HOMESTEAD EXECUTION EXEMPTION

The Oklahoma Constitution provides the framework for the State legislature to follow in implementing the State's public policy concerning homestead interest by declaring the following:

*The homestead of the family shall be, and is hereby protected from forced sale for the payment of debts, except for the purchase money therefor or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon; nor shall the owner, if married, sell the homestead without the consent of his or her spouse, given in such manner as may be prescribed by law; Provided, Nothing in this article shall prohibit any person from mortgaging his homestead, the spouse, if any, joining therein; nor prevent the sale thereof on foreclosure to satisfy any such mortgage.*⁵ (underlining added)

This constitutional homestead is the land that is occupied by a single person or by the family as a home.⁶

The State legislature parroted the constitutional provision by adopting language that protects the principal residence of each person and family from attachment or execution and every other species of forced sale for the payment of debts⁷, except:

1. *For the purchase money of such homestead or a part of such purchase money.*
2. *For taxes or other legal assessments due thereon.*
3. *For work and material used in constructing improvements thereon.*⁸

Debts affecting land usually fall into two distinct categories: voluntary (e.g., a mortgage) or involuntary (e.g., a money judgment). Voluntary debts usually result in special liens on

specific property, while involuntary debts usually involve general liens that encumber all lands of the debtor in the county where the lien is perfected.

If a debt is secured by a voluntary lien (i.e., a mortgage) on land that is the mortgagor's homestead, such lien shall be valid and, therefore, enforceable – as to the mortgagor's interest -- only if one of these three sets of conditions are met: (1) the mortgagor is single at the time the mortgage is given, or (2) the mortgagor is married at the time the mortgage was given, and both spouses executed the mortgage, or (3) the mortgagor is married at the time the mortgage is given, and, although only the title-holding spouse signs the mortgage, such mortgage is a purchase money mortgage. A purchase money mortgage holder is protected because there would not have been any interest acquired in the land by the mortgagor at all except for the lender advancing the purchase money funds. In each of these three instances, it is assumed that the mortgagor holds record title to the interest being mortgaged, whether it is a full ownership or an undivided interest, such as a one-half undivided interest.

According to state statute, (1) the homestead of any person in this state, not within any city or town, shall consist of not more than one hundred sixty (160) acres of land, which may be in one or more parcels, to be selected by the owner, and (2) the homestead of any person within any city or town, owned and occupied as a residence only, or used for both residential and business purposes, shall consist of not exceeding one (1) acre of land, to be selected by the owner. If over 25% of the total square foot area of the improvements for which an urban homestead exemption is claimed is used for business purposes, the homestead exemption amount shall not exceed \$5,000.00. In other words, the urban land will be sold at a general execution sale and the owner receives the first \$5,000.00 of the sale proceeds.⁹

Under current law, an involuntary lien, such as a statutory money judgment lien, that has

been properly created by statute, will attach to the debtor's homestead but cannot be executed on so long as the land remains the debtor's homestead.¹⁰ When the judgment debtor adopts another tract of land as his residence, there is deemed to be an abandonment of the owner's homestead, and, consequently, the money judgment lien can then be executed on the previously exempt land through a sheriff's sale.

When homestead land is sold by the debtor to a third party, the current law in Oklahoma is unclear as to whether the attached lien becomes immediately executable on the previously exempt land or if such lien follows the proceeds of sale instead. If it develops that the law allows the lien to follow the proceeds of sale (and it does not remain attached to the former homestead), the next question is whether the proceeds can remain exempt from execution by being immediately reinvested in a new homestead, and whether any portion of the proceeds that are not fully devoted to the purchase of the new homestead can be reached by execution. Because these questions are as yet unanswered, the title examiner will probably take the cautious approach and assume that the previously exempt land becomes subject to execution upon resale. Therefore, when the debtor sells such exempt land, the buyer (or lender) will be likely to insist that the proceeds of the sale or loan must be first applied to the satisfaction and release of the existing money judgment that attached to the previously exempt land.

The law concerning attachment of money judgments to homestead real estate changed in 1997. The issues discussed in the prior paragraph arise in part because of the new statutory language. The pre-1997 Oklahoma law is discussed in a 10th Circuit bankruptcy case, and the court concluded that: (1) prior to the 1997 amendment, Oklahoma courts consistently held that a judgment lien did not attach to a judgment debtor's homestead, (2) the new version unambiguously states that judicial liens attach to all real property of a judgment debtor, including

the homestead (although execution cannot be undertaken), and (3) the version of the state judgment lien statute in effect at the time of the filing of a bankruptcy petition controls in such case.¹¹ A related question, unanswered in this 1999 bankruptcy case, is whether a statement of judgment that was filed before 1997 to create a judgment lien on all non-homestead real property of the debtor needs to be refiled after 1997 in order to create a judgment lien on the debtor's homestead real property.

PROBATE HOMESTEAD PROTECTION

When a spouse dies, the surviving spouse, and any minor children, have a right to the exclusive possession of the homestead for so long as such surviving spouse resides there, meaning until the homestead is abandoned or the surviving spouse dies. Even if the surviving spouse either dies or abandons the homestead, the last minor child holds such right until he comes of age.¹² Such right exists even if the surviving spouse has no record interest in the title. Such possessory right is like a life estate, and it is superior to the ownership and possessory rights of third parties who may be acquiring the record title due to the record owner's demise. This means the probate homestead is not subordinate even where (1) the deceased holds title with a surviving non-spouse joint tenant, or (2) the deceased devises the title to third parties in a will, or (3) title passes through intestate succession to a third party.

In addition to the surviving spouse's right to reside in the homestead for her life, any minor children also hold such a right until the last one reaches their majority. Such rights of possession of the minors would be senior to everyone including both the holder of a mortgage given by the surviving spouse, and the buyer at a sheriff's sale of such a mortgage.¹³

State statutes also provide that the homestead is not subject to the debts of the husband and wife, or either of them, existing at the time of the death of such husband or wife, except those debts which are secured by a specific lien thereon, such as a mortgage lien.¹⁴

MARITAL HOMESTEAD PROTECTION

Instruments Void Without Both Spouse's Signatures

Concerning the “marital homestead”, the State constitution directs – under Art. 12, §2 – that “*nor shall the owner, if married, sell the homestead without the consent of his or her spouse, given in such manner as may be prescribed by law*”, and “*Nothing in this article shall prohibit any person from mortgaging his homestead, the spouse, if any, joining therein; nor prevent the sale thereof on foreclosure to satisfy any such mortgage...*”. The State legislature enacted statutory language parroting such requirement so that for an instrument affecting real property to be valid between the parties, both spouses must “subscribe” (i.e., sign) any “*deed, mortgage or contract affecting the homestead*”.¹⁵

However, such “deed, mortgage, or contract”, which is missing the other spouses’ signature, and is therefore invalid or “void ab initio”, becomes unassailable after the passage of a certain period of time, therefore being really only “voidable”. The questionable document becomes valid after it has been of record in the county clerk’s land records for 10 years and has remained unchallenged during that period.¹⁶ Such 10-year curative statute has been tested before the Oklahoma Supreme Court and found valid.¹⁷

The Oklahoma Court of Appeals found that the absence of the other spouse’s signature will not defeat the enforcement of a purchase money mortgage against the homestead where the record title to the land is solely in the spouse who signed the mortgage.¹⁸

The Assumption Is That Every Parcel Owned by an Individual is a Homestead

Because it is impossible to determine from the public land records whether a particular tract of land is or is not homestead, and because marketable title is determined from such public records, a title examiner will usually treat all land – if owned by a married person or married couple – as being homestead. This presumption then creates the requirement to have the grantor’s marital status recited in the instrument, and, if married, to include the joinder of the spouse on every “deed, mortgage or contract.”¹⁹

Except as otherwise provided in Oklahoma Title Examination Standard 7.1 (i.e., excluding previously severed mineral interests), no deed, mortgage or contract by an individual grantor shall be approved as sufficient to vest marketable title in the grantee unless:

A. The body of the instrument contains the grantor's recitation to the effect that the individual grantor is unmarried; or

B. An affidavit made and recorded pursuant to 16 O.S.A. § 82 recites that the individual grantor was unmarried at the date of such conveyance; or

C. The individual grantor's spouse, identified as such in the body of the instrument, subscribes the instrument as a grantor; or

*D. The grantee is the spouse of the individual grantor and that fact is recited by the grantor in the body of the instrument.*²⁰

The State statutes provide that a husband or wife may convey, mortgage or make any contract relating to any real estate, other than the homestead, belonging to him or her, without being joined by the other in such conveyance, mortgage or contract.²¹

Consequently, if record title to a parcel of land is held by one spouse, and such land is not in fact the couple’s homestead, the title-holding spouse can convey – by his signature alone –

“valid” title to a third party. Such title would be enforceable between such grantor and grantee in any dispute between them, but such grantee would not have received “marketable” title.²²

However, there is no requirement in Oklahoma for a person to place a written binding election of their homestead in the public land records, declaring which parcel of land is his execution, probate or marital homestead (other than for ad valorem tax purposes). Efforts to adopt legislation requiring such an election have been attempted by the State legislature but have consistently failed, apparently because the legislature wants the protections to remain automatic. This absence of any means to determine the homestead status of a parcel, combined with the severe consequences resulting from a failure to secure the joinder of both spouses when conveying or encumbering the homestead (i.e., a totally void conveyance or encumbrance), justifies the standard practice of a title examiner treating every parcel which is owned by a married person as if it is the parties’ marital homestead.²³

This assumption that all land owned by a married person is potentially homestead, includes land that might be clearly non-residential in nature upon physical inspection, such as industrial, commercial or agricultural lands. This approach also causes the title examiner to always include a requirement for the current individual owner or owners (not corporations, partnerships or other artificial entities), who are signing a deed, mortgage or contract: (1) to disclose their marital status, and (2), if married, to have their spouse sign the document, in order to waive or encumber any claims of homestead interest.

Sometimes a grantor who is married will recite that they are married but then attempt to avoid the need to include their spouse’s signature by also reciting on the face of the instrument that the subject land is not the couple’s homestead, or by signing an affidavit to that effect. Oklahoma Title Examination Standard 7.2 provides that the title examiner can rely upon the

grantor's recital on the face of the instrument that he is "single", but cannot rely upon a recital or affidavit that the land involved is not the family's homestead. There is no way to examine the land records to refute or confirm the declaration that the grantor is single, and, therefore, for practical reasons, the recital is accepted as true, in the absence of contrary information in the record. Such contrary information might be another document in the record showing the grantor to be married at the time of the subject instrument. However, the possibility that the land might be homestead increases dramatically once the grantor admits that he is married. The non-signing spouse may claim that the land is the family homestead despite the signing spouse's contrary recital. Therefore, to avoid the possibility of a later dispute, once the grantor admits he is married, the spouse must be required to join on any instrument.²⁴

How To Show Joinder of Both Spouses

The statutes require the joinder of both spouses, but the statutes provide no guidance as to whether such status must be disclosed in a particular manner, and do not direct where within the document to declare such status. The usual practice is to show the marital status "in the body of the instrument" (per TES 7.1), in the portion where the grantors' names are listed (i.e., the granting clause).

The placement of both spouses' names in the granting clause will eliminate any question about the intention of the signing spouses. However, if one spouse's name is listed in the granting clause and the other's name is listed in the habendum clause (i.e., the clause providing "To have and to hold...forever..."), the signing of the conveyance by both spouses will still meet such joinder requirement.²⁵

A deed or mortgage often contains warranties and representations. The non-title-holding spouse may seek to limit her liability for such obligations by signing the document in the usual

place but to include her name somewhere in the document other than the granting clause, along with the inclusion of language showing that such joinder was solely to waive or subordinate her homestead interest, if any.²⁶

The term used to describe the grantor's marital status is usually "single" (and sometimes "unmarried", "divorced" or "widowed"), or, if appropriate, "married". The recitation in a deed of conveyance that the grantor is a "single" man is conclusive of such fact in the absence of proof to the contrary.²⁷ Upon the presentation of contrary evidence, the immediate purchaser from the married person, who had erroneously recited that he was single when he was in fact married, shall lose his interest because the conveyance or encumbrance upon which he relied will be found to be void.²⁸

Only those persons who are at least 18 years old can convey or encumber lands, including homestead and non-homestead lands. A minor (i.e., a person under 18 years old) who has been legally married or has otherwise had the rights of majority conferred on him can hold, and convey or encumber the homestead, either as a title holder or, if he is a non-title holder, for the purposes of waiving his marital homestead rights. Such minor can hold and convey or encumber his homestead only (1) if the lands were acquired after such marriage, or (2) after such majority was conferred, or (3), if the title were initially acquired by one of the spouses while still single, while such acquiring party was already of age.²⁹

Exceptions to Joinder by Both Spouses

If the land is the marital homestead, there are a few statutory exceptions to the requirement for the joinder of both spouses. However, in order to have the necessary facts determined and documented in a form that can be placed in the land records, a lawsuit is needed.

If one of the spouses either abandons the other spouse and the homestead for at least one

year, or leaves the state for any period of time, a statute states that such abandonment permits the remaining spouse to convey or encumber the homestead without the absent spouse's joinder.³⁰

This assumes that the occupying spouse holds all of the title to the land. If the occupying spouse only holds a partial interest in the title, such limited interest is all that could be affected.

However, while this statute has been found to be constitutional, there is no method short of a lawsuit -- which includes the missing spouse as a defendant -- to establish in the public land records the existence of such operative facts.

If a spouse becomes incapacitated, such incapacitated spouse does not have the ability to join in a conveyance or encumbrance affecting the homestead.³¹ Consequently, there is a statute allowing a court to authorize the competent spouse to convey or encumber the homestead (assuming the competent spouse owns all of the record title) without the joinder of a non-competent spouse.³² While the operative statute does not expressly require that such court order be placed in the local land records, such a filing could be used to establish marketable record title. By law, all decrees, orders and judgments affecting title to real property must be filed in the land records in order to give third parties constructive notice of their content.³³

Subscribing the Same Instrument

Whenever the homestead is being conveyed or encumbered, each document that attempts to affect the homestead must bear the signature of both of the spouses thereon. Due to the specific language of the statute calling for both of the spouses to sign the document, the courts have declared that the spouses must sign the same instrument and cannot comply with the statute by signing separate deeds, even if they are identical.³⁴ However, the instrument is valid if the single document was executed by both spouses, even if on different dates.³⁵

Where husband and wife both take part in preliminary negotiations for the sale of their

homestead, title to which is held solely in the name of the husband, and the wife's signature to the deed is written by the husband, with her knowledge (but without there being a power of attorney), and she verbally acknowledges the execution of such deed before the participating notary public, she thereby adopts such signature as her own. Therefore, such adopted signature meets this signing requirement.³⁶

A husband and wife can sign a deed to the homestead, and have an agreement that the deed is not to be delivered to the grantee named therein until the wife gave her later verbal consent. Then, if the husband, without the consent of the wife, delivers the deed to the grantee who has notice of the wife's conditional assent, the deed could be avoided by the wife even after the death of the husband, as being a deed in which she did not join³⁷

This public policy that prohibits enforcing an instrument attempting to affect the homestead in the absence of signatures from both spouses, also prevents the enforcement of a purchase contract on the homestead where it is only signed by one spouse. This bars both an equitable request for specific performance and a suit for damages against either of the spouses, including the signing spouse.³⁸

However, a real estate broker, who enters into a listing agreement with only one spouse to sell land that is revealed at a later time to be homestead, has an action to collect his or her commission from the signing spouse, even if the other spouse prevents the sale from being completed by refusing to execute the necessary conveyance.³⁹

Power of Attorney

Until 1993, Title Examination Standard 6.7, which deals with powers of attorney, included a caveat prohibiting the use of a power of attorney to convey a person's or a couple's homestead. This caveat was removed from the Standard because in 1993 the State legislature

amended a statute, dealing with the use of a Durable Power of Attorney, to include express language providing that: “*The power may grant complete or limited authority with respect to the principal's: ... 2. property, including homestead property, whether real, personal, intangible or mixed.*”⁴⁰ (underlined language was added in 1993) It appears, therefore, that if a Power of Attorney contains language that expressly provides that the attorney-in-fact can convey or encumber the homestead, the Power of Attorney can be relied upon to affect the homestead.

The argument supporting the prior prohibition on conveying or encumbering the homestead through the use of a power of attorney arose because of several Oklahoma appellate court cases stating that if one spouse signed one deed and the other spouse signed a separate deed both deeds were void. This rule applied even if the two deeds included the same grantee and the same legal description, and were signed on the same day, because both spouses must sign the same deed.⁴¹ The earlier argument reasoned that if one or both spouses signed a power of attorney and then the attorney-in-fact signed the deed or other similar document on behalf of one or both of the spouses, the two spouses did not both personally sign the same deed, because at least one spouse signed a power of attorney, rather than the deed itself. Consequently, under this now-defunct argument, the deed relying on the power of attorney would have been void.

SUFFICIENT INTEREST, AND SIZE AND VALUE OF HOMESTEAD

Sufficient Interest

Where a husband and wife are occupying the land that they are buying under a contract, their interest is a homestead interest. This means such right is protected against the vendor giving an oil and gas lease to a third party without the joinder of the husband and wife who have a homestead claim to the subject land.⁴²

Where a husband and wife get divorced, and the homestead is divided up by the court between the parties into divided interests, rather than undivided interests (i.e., a tract of 160 acres being divided into two separate parcels of 80 acres each) the land might remain the respective homesteads of each of the now-single parties for protection from general execution creditors. However, because the parties are no longer man and wife, there is no need for the former spouse to execute a conveyance of one spouse's separately owned and now divided property.⁴³

When property has once been impressed with the homestead character, it must be made to clearly appear that both the husband and wife have voluntarily intended to relinquish and abandon the homestead, and that another homestead has been acquired, before either spouse can convey the same without joining the other in the deed of conveyance, so long as the relationship of husband and wife exists.⁴⁴ Where a conveyance or mortgage of homestead by one spouse is void at the time of execution, the subsequent abandonment of the homestead will not validate the invalid conveyance.⁴⁵

A marital homestead interest only attaches to the surface interest, but includes the mineral interest, as long as it is still held by the surface owner. Consequently, if the title to the interest being affected (whether an easement or a mineral interest is being given), is held by an individual who also holds title to the surface, then both of the spouses must join in such conveyance or the document will be void. However, if the only interest already held by a married person is a non-surface interest, such as a previously severed mineral interest, or is a non-possessory interest, such as a driveway easement, the title holding spouse can validly convey or encumber such interest without the joinder of the non-title holding spouse.⁴⁶

Size and Value of Exempt Homestead

According to the current statute, amended in 1997, there are limits on the size and value of the homestead that is exempt from execution for general debts. A rural homestead is limited to one or more parcels totaling a maximum of 160 acres, while the urban homestead cannot exceed 1 acre. Such rural homestead can be owned and occupied and used for both residential and commercial agricultural purposes. The homestead of any person within any city or town, owned and occupied as a residence only, or used for both residential and business purposes, cannot include more than twenty-five percent (25%) of the total square foot area of the improvements being used for business purposes. Otherwise, the homestead exemption amount shall not exceed Five Thousand Dollars (\$5,000.00).⁴⁷

A 2003 case addressed the issue as to whether the 1997 amendment to 12 O.S. §706 allows a married couple to each claim a separate 160 acres of rural land for a total of 320 acres as being exempt from execution. The court answered the question in the negative, holding that only a single 160 acre exemption is allowed to the couple.⁴⁸

CONCLUSION

The issue of how to best protect personal and family homestead interests in Oklahoma continues to be actively debated, especially by lenders, title examiners, title companies and closers. There have been several unsuccessful attempts by the State legislature to pass legislation to require individuals or spouses to select the lands that comprise their homestead, and then to file such written declaration in the local county land records. This would allow creditors, buyers and spouses to deal with the other non-homestead tracts free and clear from homestead concerns. However, the parties continue to be allowed to change their intent as to which lands constitute their homestead on a moments notice.

So far, the public policy, which favors protecting the homestead, and the family, from general creditors and from improper actions by a title-holding spouse, is still superior to the need to foster certainty of title when dealing with potential homestead tracts.

¹ In re Carothers' Estate, 1946 OK 111, 167 P.2d 899

² In re Carothers' Estate, 1946 OK 111, 167 P.2d 899

³ Robert Kratovil and Raymond Werner, *Real Estate Law* (Prentis-Hall, Inc., 1983)

⁴ Okla. Const. Art. 12-A, §1; 68 O.S. §§2888-2889, 2892-2893, 2901

⁵ Okla. Const. Art. 12, §2

⁶ In re Gardner's Estate, 1926 OK 167, 250 P. 490; Finerty v. First Nat'l Bank, 1923 OK 613, 218 P. 859

⁷ 31 O.S. §1

⁸ 31 O.S. §5

⁹ 31 O.S. §2

¹⁰ 12 O.S. §706

¹¹ *McCart v. Jordana* (In re: Jordana) 2000 10 CIR 776, 216 F.3d 1087; *Sooner Federal Sav. & Loan Ass'n v. Mobley*, 1981 OK 124, 645 P.2d 1000; *Kelough v. Neff*, 1963 OK 41, 382 P.2d 135; Okla. Const. Art. 12, §§2 & 5; *In re Richardson*, 224 B.R. 804 (Bankr. N.D. Okla.1998); 12 O.S. §706

¹² 58 O.S. §311

¹³ *Shawnee Nat. Bank v. Van Zant*, 1921 OK 355, 202 P. 285; *Holmes v. Holmes*, 1910 OK 274, 111 P. 220

¹⁴ 58 O.S. §313

¹⁵ 16 O.S. §4

¹⁶ 16 O.S. §4

¹⁷ Saak v. Hicks, 1958 OK 18, 321 P.2d 425

¹⁸ Okla. Const. Art. 12, §§2 & 3; 31 O.S. §5; Cimarron Federal Sav. Ass'n v. Jones, 1991 OK CIV APP 67, 832 P.2d 426

¹⁹ 16 O.S., Ch. 1, App., Title Examination Standard 1.1; Grenard v. McMahan, 1968 OK 75, 441 P.2d 950

²⁰ 16 O.S., Ch. 1, App., Title Examination Standards 7.1 and 7.2

²¹ 16 O.S. §13; Irvin v. Thompson, 1972 OK 99, 500 P.2d 283; Farmers' State Bank of Ada v. Keen, 1917 OK 424, 167 P. 207; Glaze v. Drawver, 1941 OK 293, 117 P.2d 544

²² 16 O.S., Ch. 1, App., Title Examination Standard 1.1

²³ 16 O.S., Ch. 1, App., Title Examination Standard 1.1; Grenard v. McMahan, 1968 OK 75, 441 P.2d 950

²⁴ Brooks v. Butler, 1939 OK 132, 87 P.2d 1092; Hensley v. Fletcher, 1935 OK 458, 44 P.2d 63; 16 O.S., Ch. 1, App., Title Examination Standards 7.1 and 7.2

²⁵ Melton v. Sneed, 1940 OK 502, 109 P.2d 509

²⁶ Sample deed language might include: “Sue Smith, wife of Grantor, does hereby join in the conveyance of the property described in Exhibit “A” for the sole purpose of relinquishing and releasing any and all homestead right, title and interest of Sue Smith in the property conveyed; and Sue Smith otherwise hereby disclaims any and all representations contained in such conveyance.”

²⁷ Payne v. Allen, 1936 OK 782, 62 P.2d 1227

²⁸ Keel v. Jones, 1966 OK 73, 413 P.2d 549

²⁹ 16 O.S. §1; Lawson v. Bridges, 1935 OK 314, 43 P.2d 111; Starr v. Vaughn, 1925 OK 646, 241 P. 152

³⁰ 16 O.S. §6; Kerr v. Garrison, 1924 OK 208, 223 P. 609; Krauss v. Potts, 1913 OK 542, 135 P. 362; Matter of Wallace's Estate, 1982 OK 80, 648 P.2d 828; Kerr v. Garrison, 1924 OK 208, 223 P. 609; McWhorter v. Brady, 1913 OK 661, 140 P. 782; Gomes v. Davis, 1946 OK 149, 169 P.2d 200

³¹ Alton Mercantile Co. v. Spindel, 1914 OK 209, 140 P. 1168

³² 16 O.S. §§7-10; Alton Mercantile Co. v. Spindel, 1914 OK 209, 140 P. 1168

³³ 12 O.S. §181

³⁴ *Wilson v. Clark*, 1924 OK 233, 223 P. 668; *Thomas v. James*, 1921 OK 414, 202 P. 499; *Hawkins v. Corbit*, 1921 OK 345, 201 P. 649

³⁵ *Melton v. Sneed*, 1940 OK 502, 109 P.2d 509

³⁶ *Stidham v. Moore*, 1924 OK 482, 227 P. 128; *Jackson v. Central Commercial Oil Co.*, 1947 OK 257, 184 P.2d 974

³⁷ *Couch v. Addy*, 1912 OK 793, 129 P. 709

³⁸ *Abbott v. Independent Torpedo Co.*, 1924 OK 314, 224 P. 708; *Bishoff v. Myers*, 1924 OK 131, 223 P. 165; *Ray v. American Nat. Bank & Trust Co. of Sapulpa*, 1994 OK 100, 894 P.2d 1056; *Jenkins v. Seiglar*, 1943 OK 360, 142 P.2d 851; *Long v. Talley*, 1921 OK 363, 201 P. 990

³⁹ *Pliler v. Thompson*, 1921 OK 423, 202 P. 1016

⁴⁰ 58 O.S. §1072.1

⁴¹ *Wilson v. Clark*, 1924 OK 233, 223 P. 668; *Thomas v. James*, 1921 OK 414, 202 P. 499; *Hawkins v. Corbit*, 1921 OK 345, 201 P. 649

⁴² *Carter Oil Co. v. Popp*, 1918 OK 446, 174 P. 747

⁴³ *Steiner v. Steiner*, 1932 OK 310, 10 P.2d 641

⁴⁴ *Wilson v. Clark*, 1924 OK 233, 223 P. 668; *Long v. Talley*, 1921 OK 363, 201 P. 990

⁴⁵ *Shannon v. Potter*, 1921 OK 326, 200 P. 860; *Hall v. Powell*, 1899 OK 50, 57 P. 168

⁴⁶ *Farmers' Union Co-op. Royalty Co. v. Adams*, 1938 OK 9, 77 P.2d 68; *Treese v. Shoemaker*, 1921 OK 53, 195 P. 766; *Francen v. Oklahoma Star Oil Co.*, 1920 OK 334, 194 P. 193; *Carter Oil Co. v. Popp*, 1918 OK 446, 174 P. 747; *Kelly v. Mosby*, 1912 OK 465, 124 P. 984; *Billy v. Le Flore County Gas & Elec. Co.*, 1941 OK 225, 120 P.2d 774

⁴⁷ 31 O.S. §2; also see: "Homestead Exemption Changes", Ezzell, J. David, 68 OBJ 3797 (Nov. 22, 1997)

⁴⁸ *In re: Lannie D. Arnold & Deborah Ann Arnold*, 2003 OK 63, 73 P.3d 861

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