

2022 REPORT OF THE TITLE EXAMINATION STANDARDS COMMITTEE OF THE REAL PROPERTY LAW SECTION

Proposed Amendments to Title Standards for 2023, to be presented for approval by the House of Delegates, Oklahoma Bar Association prior to or at the 2022 OBA Annual Meeting. Additions are underlined, deletions are indicated by ~~strikeout~~. Formatting requests that are not to be printed are contained within {curly brackets}.

The Title Examination Standards Sub-Committee of the Real Property Law Section proposes the following revisions and additions to the Title Standards for action by the Real Property Law Section prior to or at its annual meeting in 2022.

Proposals approved by the Section will be presented to the House of Delegates prior to or at the 2022 OBA Annual Meeting. Proposals adopted by the House of Delegates become effective immediately.

An explanatory note precedes each proposed Title Standard, indicating the nature and reason for the change proposed.

Proposal No. 1.

The Committee recommends a new Standard 17.4.1 be included to assist title examiners with the documents required for the acceptance of an interest pursuant to a Transfer-on-Death Deed.

17.4.1 ACCEPTING AN INTEREST PURSUANT TO A TRANSFER-ON-DEATH DEED

To accept the transfer of a conveyance to multiple grantee beneficiaries in a Transfer-on-Death Deed, each individual beneficiary must accept and record the Affidavit affirming the acceptance of the conveyed real property interest under the Transfer-on-Death Deed.

Authority: 58 O.S. §1252.

Comment No. 1: All beneficiaries must execute and record an acceptance in order to receive their respective interest under a Transfer on Death Deed. As an example, A executes a Transfer on Death Deed naming X, Y, and Z as beneficiaries. X and Y execute and record the acceptance required under the statute. Z does not. In this situation, the 1/3 interest that would have gone to Z reverts to A's estate to be distributed by proceedings pursuant to applicable law and statute. Under this scenario, the 1/3 interest which reverts to A's estate may ultimately be distributed to a party other than or in addition to Z.

Comment No. 2: It is irrelevant whether the grantees/beneficiaries execute a single document, or they execute their respective acceptances on separate documents.

Proposal No. 2.

The Committee recommends a new Standard 17 be included to assist title examiners with understanding when notice should be provided to the Regional Director of the Bureau of Indian Affairs.

17. NOTICE TO THE REGIONAL DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS

CAVEAT: The examiner is advised that notice must be given to the Regional Director of the Bureau of Indian Affairs of certain probate proceedings of a member of the Five Civilized Tribes in which a final order was entered after August 4, 1947.

In any such probate proceeding in which a final order was entered after August 4, 1947, but on or before December 31, 2019, which proceeding includes property restricted in the hands of a decedent of one-half or more quantum of Indian blood, written notice must have been served on the Regional Director of the Bureau of Indian Affairs (or its predecessor) within ten (10) days of the filing of the probate proceeding. Failure to serve notice is jurisdictional, rendering the proceedings nonbinding on the United State of America and void as to any restricted property interest. However, service beyond the ten-day requirement is a procedural defect which is waived by subsequent general entry of appearance, election not to remove, or removal by the United States.

Authority: Act of August 4, 1947, 61 Stat 731 (Stigler Act).
Anderson v. Peck, 53 F.2d 257 (N.D. Okla. 1931).
United States v. Thompson, 128 F.2d 173 (10 Cir. 1942).

In any such probate proceeding in which a final order was entered after December 31, 2019 (regardless of the decedent's date of death), which includes property restricted in the hands of the decedent of any quantum of Indian blood, written notice must have been served on the Regional Director of the Bureau of Indian Affairs within ten (10) days of the filing of the probate proceeding. Failure to serve notice is jurisdictional, rendering the proceedings nonbinding on the United State of America and void as to any restricted property interest. However, service beyond the ten-day requirement is a procedural defect which is waived by subsequent general entry of appearance, election not to remove, or removal by the United States.

Authority: H.R. 2606 Public Law 116-399 (Amendment to Stigler Act).
Anderson v. Peck, 53 F.2d 257 (N.D. Okla. 1931).
United States v. Thompson, 128 F.2d 173 (10 Cir. 1942).