

AN ACT

To amend sections 5302.05, 5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code to modify the statutory forms of certain real property instruments and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5302.05, 5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code be amended to read as follows:

Sec. 5302.05. A deed in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, has the force and effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, to the grantee's and the grantee's heirs', assigns', and successors' own use, with covenants on the part of the grantor with the grantee, the grantee's heirs, assigns, and successors, that, at the time of the delivery of that deed the grantor was lawfully seized in fee simple of the granted premises, that the granted premises were free from all encumbrances, that the grantor had good right to sell and convey the same to the grantee and the grantee's heirs, assigns, and successors, and that the grantor does warrant and will defend the same to the grantee and the grantee's heirs, assigns, and successors, forever, against the lawful claims and demands of all persons.

"GENERAL WARRANTY DEED

..... (marital status), of County, for valuable consideration paid, grant(s), with general warranty covenants, to, whose tax-mailing address is, the following real property:

(description of land or interest therein and encumbrances, reservations, and exceptions, if any)

Prior Instrument Reference: Volume, Page

....., wife (husband) of the grantor, releases all rights of dower therein.

Executed ~~before me on this~~ day of by,
~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....

(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Sec. 5302.07. A deed in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, has the force and effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, to the grantee's and the grantee's heirs', assigns', and successors' own use, with covenants on the part of the grantor with the grantee, the grantee's heirs, assigns, and successors, that, at the time of the delivery of that deed the premises were free from all encumbrances made by the grantor, and that the grantor does warrant and will defend the same to the grantee and the grantee's heirs, assigns, and successors, forever, against the lawful claims and demands of all persons claiming by, through, or under the grantor, but against none other.

"LIMITED WARRANTY DEED

..... (marital status), of County, for valuable consideration paid, grant(s), with limited warranty covenants, to, whose tax-mailing address is, the following real property:

(description of land or interest therein and encumbrances, reservations, and exceptions, if any)

Prior Instrument Reference: Volume, Page

....., wife (husband) of said grantor, releases to said grantee all rights of dower therein.

~~Executed before me on this day of by, who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....
(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Sec. 5302.09. A deed in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, has the force and effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, to the grantee's and the grantee's heirs', assigns', and successors' own use, with covenants on the part of the grantor with the grantee, the grantee's heirs, assigns, and successors, that, at the time of the delivery of that deed, the grantor was duly appointed, qualified, and acting in the fiduciary capacity described in that deed, and

was duly authorized to make the sale and conveyance of the premises; that in all of the grantor's proceedings in the sale of the premises the grantor has complied with the requirements of the statutes in such case provided.

"DEED OF EXECUTOR, ADMINISTRATOR, TRUSTEE,
GUARDIAN, RECEIVER, OR COMMISSIONER

....., executor of the will of, (administrator of the estate of) (trustee under) (guardian of) (receiver of) (commissioner), by the power conferred by, and every other power, for dollars paid, grants, with fiduciary covenants, to, whose tax-mailing address is, the following real property:

(description of land or interest therein and encumbrances, reservations, and exceptions, if any)

Prior Instrument Reference: Volume, Page

Executed ~~before me on this~~ day of by,
~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....
(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Sec. 5302.11. A deed in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, has the force and effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, and to the grantee's and the grantee's heirs', assigns', and successors' own use, but without covenants of any kind on the part of the grantor.

"QUIT-CLAIM DEED

..... (marital status), of County, for valuable consideration paid, grant(s) to, whose tax-mailing address is, the following real property:

(description of land or interest therein and encumbrances, reservations, and exceptions, if any)

Prior Instrument Reference: Volume, Page

....., wife (husband) of the grantor, releases all rights of dower therein.

Executed ~~before me on this~~ day of by,
~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....

(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Sec. 5302.12. A mortgage in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, has the force and effect of a mortgage to the use of the mortgagee and the mortgagee's heirs, assigns, and successors, with mortgage covenants and upon the statutory condition, as defined in sections 5302.13 and 5302.14 of the Revised Code, to secure the payment of the money or the performance of any obligation specified in the mortgage. The parties may insert in the mortgage any other lawful agreement or condition.

"MORTGAGE

....., (marital status), of (current mailing address), for Dollars paid, grant(s), with mortgage covenants, to of (current mailing address), the following real property:

(Description of land or interest in land and encumbrances, reservations, and exceptions, if any.)

(A reference to the last recorded instrument through which the mortgagor claims title. The omission of the reference shall not affect the validity of the mortgage.)

This mortgage is given, upon the statutory condition, to secure the payment of dollars with interest as provided in a note of the same date.

"Statutory condition" is defined in section 5302.14 of the Revised Code and provides generally that, if the mortgagor pays the principal and interest secured by this mortgage, performs the other obligations secured by this mortgage and the conditions of any prior mortgage, pays all the taxes and assessments, maintains insurance against fire and other hazards, and does not commit or suffer waste, then this mortgage shall be void.

....., wife (husband) of the mortgagor, releases to the mortgagee all rights of dower in the described real property.

Executed ~~before me on this~~ day of by, ~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....
(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Mortgagor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Sec. 5302.17. A deed conveying any interest in real property to two or more persons, and in substance following the form set forth in this section, when duly executed in accordance with Chapter 5301. of the Revised Code, creates a survivorship tenancy in the grantees, and upon the death of any of the grantees, vests the interest of the decedent in the survivor, survivors, or the survivor's or survivors' separate heirs and assigns.

"SURVIVORSHIP DEED

..... (marital status), of County, for valuable consideration paid, grant(s), (covenants, if any), to (marital status) and (marital status), for their joint lives, remainder to the survivor of them, whose tax-mailing addresses are, the following real property:

(description of land or interest therein and encumbrances, reservations, and exceptions, if any)

Prior Instrument Reference:

....., wife (husband) of the grantor, releases all rights of dower therein.

Executed ~~before me on this~~ day of by ~~.....~~, ~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....
(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

Any persons who are the sole owners of real property, prior to April 4, 1985, as tenants with a right of survivorship under the common or statutory law of this state or as tenants in common may create in themselves and in any other person or persons a survivorship tenancy in the real property by executing a deed as provided in this section conveying their entire, separate interests in the real property to themselves and to the other person or persons.

Except as otherwise provided in this section, when a person holding real property as a survivorship tenant dies, the transfer of the interest of the decedent may be recorded by presenting to the county auditor and filing with the county recorder either a certificate of transfer as provided in section 2113.61 of the Revised Code, or an affidavit accompanied by a certified copy of a death certificate. The affidavit shall recite the names of the other survivorship tenant or tenants, the address of the other survivorship tenant or

tenants, the date of death of the decedent, and a description of the real property. The county recorder shall make index reference to any certificate or affidavit so filed in the record of deeds. When a person holding real property as a survivorship tenant dies and the title to the property is registered pursuant to Chapter 5309. of the Revised Code, the procedure for the transfer of the interest of the decedent shall be pursuant to section 5309.081 of the Revised Code.

Sec. 5302.22. (A) A deed conveying any interest in real property, and in substance following the form set forth in this division, when duly executed in accordance with Chapter 5301. of the Revised Code and recorded in the office of the county recorder, creates a present interest as sole owner or as a tenant in common in the grantee and creates a transfer on death interest in the beneficiary or beneficiaries. Upon the death of the grantee, the deed vests the interest of the decedent in the beneficiary or beneficiaries. The deed described in this division shall in substance conform to the following form:

"Transfer on Death Deed

..... (marital status), of County, (for valuable consideration paid, if any), grant(s) (with covenants, if any), to whose tax mailing address is, transfer on death to, beneficiary(s), the following real property:

(Description of land or interest in land and encumbrances, reservations, and exceptions, if any.)

Prior Instrument Reference:

....., wife (husband) of the grantor, releases all rights of dower therein.

Executed ~~before me on this~~ day of ~~by~~, ~~who, under penalty of perjury in violation of section 2921.11 of the Revised Code, represented to me to be said person.~~

.....
(Signature of ~~Judge or Officer~~
~~Taking the Acknowledgment~~
Grantor)

(Execution in accordance with Chapter 5301. of the Revised Code)"

(B) Any person who, under the Revised Code or the common law of this state, owns real property or any interest in real property as a sole owner or as a tenant in common may create an interest in the real property transferable on death by executing and recording a deed as provided in this section conveying the person's entire, separate interest in the real property to one or more individuals, including the grantor, and designating one or more

other persons, identified in the deed by name, as transfer on death beneficiaries.

A deed conveying an interest in real property that includes a transfer on death beneficiary designation need not be supported by consideration and need not be delivered to the transfer on death beneficiary to be effective.

(C) Upon the death of any individual who owns real property or an interest in real property that is subject to a transfer on death beneficiary designation made under a transfer on death deed as provided in this section, the deceased owner's interest shall be transferred only to the transfer on death beneficiaries who are identified in the deed by name and who survive the deceased owner or that are in existence on the date of death of the deceased owner. The transfer of the deceased owner's interest shall be recorded by presenting to the county auditor and filing with the county recorder an affidavit, accompanied by a certified copy of a death certificate for the deceased owner. The affidavit shall recite the name and address of each designated transfer on death beneficiary who survived the deceased owner or that is in existence on the date of the deceased owner's death, the date of the deceased owner's death, a description of the subject real property or interest in real property, and the names of each designated transfer on death beneficiary who has not survived the deceased owner or that is not in existence on the date of the deceased owner's death. The affidavit shall be accompanied by a certified copy of a death certificate for each designated transfer on death beneficiary who has not survived the deceased owner. The county recorder shall make an index reference to any affidavit so filed in the record of deeds.

Upon the death of any individual holding real property or an interest in real property that is subject to a transfer on death beneficiary designation made under a transfer on death deed as provided in this section, if the title to the real property is registered pursuant to Chapter 5309. of the Revised Code, the procedure for the transfer of the interest of the deceased owner shall be pursuant to section 5309.081 of the Revised Code.

SECTION 2. That existing sections 5302.05, 5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act shall go into effect on February 1, 2002.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to preclude any potential confusion that may arise from an interpretation of the amendments made to sections 5302.05, 5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code by Sub. H.B. 279 of the 124th General Assembly, which goes into effect on February 1, 2002. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. H. B. No. 470

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____