

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 87
HOUSE BILL 2143

AN ACT

AMENDING SECTION 33-431, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-431, Arizona Revised Statutes, is amended to
3 read:

4 33-431. Grants and devises to two or more persons: estates in
5 common: community property with right of
6 survivorship: joint tenants with right of
7 survivorship

8 A. Except as otherwise provided in this section, all grants and
9 devises of real property made to two or more persons create estates in common
10 and not in joint tenancy, except grants or devises in trust, or to executors,
11 or to husband and wife.

12 B. A grant or devise to two or more persons may by express words vest
13 the estate in the survivor ~~upon~~ ON the death of a grantee or devisee when
14 expressly declared in the grant, transfer or devise to be a joint tenancy
15 with right of survivorship. An estate in joint tenancy with right of
16 survivorship may also be created by grant or transfer from a sole owner to
17 himself and others, or from two or more owners to themselves or to one or
18 more of them and others.

19 C. A grant or devise to a husband and wife may by express words vest
20 the estate in the surviving spouse on the death of one of the spouses when
21 expressly declared in the grant, transfer or devise to be an estate in
22 community property with right of survivorship. An estate in community
23 property with right of survivorship may also be created by grant or transfer
24 from a husband and wife, when holding title as community property or
25 otherwise, to themselves or from either husband or wife to both husband and
26 wife.

27 D. In the case of real property owned by a husband and wife as
28 community property with right of survivorship, the right of survivorship is
29 extinguished as provided in section 14-2804 or on the recordation in the
30 office of the recorder of the county or counties where the real property is
31 located an affidavit entitled "affidavit terminating right of survivorship"
32 executed by either spouse under oath ~~which~~ THAT sets forth a stated intent by
33 the spouse to terminate the survivorship right, a description of the
34 instrument by which the right of survivorship was created including the date
35 the instrument was recorded and the county recorder's book and page or
36 instrument reference number and the legal description of the real property
37 affected by the affidavit. The recordation shall not extinguish the
38 community interest of either spouse.

39 E. IN THE CASE OF REAL PROPERTY OWNED AS JOINT TENANTS WITH RIGHT OF
40 SURVIVORSHIP, THE RIGHT OF SURVIVORSHIP IS EXTINGUISHED AS PROVIDED IN
41 SECTION 14-2804 OR ON THE RECORDATION IN THE OFFICE OF THE RECORDER OF THE
42 COUNTY OR COUNTIES WHERE THE REAL PROPERTY IS LOCATED AN AFFIDAVIT ENTITLED
43 "AFFIDAVIT TERMINATING RIGHT OF SURVIVORSHIP" EXECUTED BY ANY JOINT TENANT
44 UNDER OATH THAT SETS FORTH A STATED INTENT BY THAT JOINT TENANT TO TERMINATE
45 THE SURVIVORSHIP RIGHT, A DESCRIPTION OF THE INSTRUMENT BY WHICH THE RIGHT OF
46 SURVIVORSHIP WAS CREATED INCLUDING THE DATE THE INSTRUMENT WAS RECORDED AND

1 THE COUNTY RECORDER'S BOOK AND PAGE OR INSTRUMENT REFERENCE NUMBER AND THE
2 LEGAL DESCRIPTION OF THE REAL PROPERTY AFFECTED BY THE AFFIDAVIT. IF THERE
3 ARE MORE THAN TWO JOINT TENANTS, THE RECORDATION OF THE AFFIDAVIT SHALL
4 EXTINGUISH ONLY THE JOINT TENANCY AND SURVIVORSHIP RIGHT OF THE PERSON WHO
5 EXECUTES THE AFFIDAVIT, AND THE JOINT TENANCY AND SURVIVORSHIP RIGHT SHALL
6 CONTINUE AMONG ALL REMAINING JOINT TENANTS WHO HAVE NOT EXECUTED AN AFFIDAVIT
7 OF TERMINATION.

8 F. WITH RESPECT TO A DECEASED JOINT TENANT, THE TERMINATION OR
9 EXTINGUISHMENT BY DEATH OF THAT TENANT'S JOINT TENANCY WITH RIGHT OF
10 SURVIVORSHIP MAY BE EVIDENCED BY THE RECORDATION OF BOTH OF THE FOLLOWING
11 ITEMS IN THE OFFICE OF THE RECORDER OF THE COUNTY OR COUNTIES WHERE THE REAL
12 PROPERTY IS LOCATED:

13 1. AN AFFIDAVIT EXECUTED BY ONE OR MORE OF THE SURVIVING JOINT TENANTS
14 THAT INCLUDES THE NAME OF THE DECEASED JOINT TENANT, THE DATE OF DEATH OF THE
15 DECEASED JOINT TENANT, A DESCRIPTION OF THE INSTRUMENT BY WHICH THE RIGHT OF
16 SURVIVORSHIP WAS CREATED INCLUDING THE DATE THE INSTRUMENT WAS RECORDED AND
17 THE COUNTY RECORDER'S BOOK AND PAGE OR INSTRUMENT REFERENCE NUMBER, THE LEGAL
18 DESCRIPTION OF THE REAL PROPERTY AFFECTED BY THE AFFIDAVIT, AND THE CAUSE OF
19 DEATH OF THE DECEASED JOINT TENANT.

20 2. AN ATTACHED DEATH CERTIFICATE OF THE DECEASED JOINT TENANT.

APPROVED BY THE GOVERNOR APRIL 11, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2013.