



CONVEYANCES

CONTRACT FOR DEED

(cite as: 1987 OK AG 103)

CONVEYANCES



¶8 ..we conclude that 16 O.S. 11A (1987) changes traditional common law concepts relating to contracts for deed, and makes the homestead exemption available to taxpayers holding property under certain contracts for deed. Because of this statutory change A.G. Opin. No. 71-271 should no longer be relied upon.

CONVEYANCES

 ¶10 “..providing that contracts for real property shall be treated as mortgages..”

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¶12 ..the statute is intended to eliminate the unfair burdens imposed under common law, on purchasers who used contracts for deed to finance their acquisitions of real property, and to place those purchasers on the same footing as those financing their acquisitions through purchase money mortgages.

CONVEYANCES



¶13 Oklahoma Supreme Court in Smith v. Frontier Federal Savings and Loan Ass'n., ..the contract for deed would be treated as purchase money mortgage, and the rights of the parties would be determined by mortgage law concepts.

**‘NON-TESTAMENTARY
TRANSFER-ON-DEATH-DEED’**

TITLE 58, §1251-§1258.

EFF, NOV.1, 2008

‘NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED’

What is the difference between testamentary and non-testamentary documents?

ANSWER: A testamentary document is a Last Will and Testament or some other document that meets the statutory requirements of a will. A testamentary trust is one that is set forth in a will and may continue long after the death of the testator. Many wealthy testators maintain control over their property after death through testamentary trusts.

Non-testamentary documents would be documents that are not related to a Last Will and Testament.

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

 §1252.A. A Transfer-on-death deed need not be supported by consideration.

 §1252.B. ..notice to a grantee beneficiary..of a transfer-on-death deed shall not be required for any purpose during the lifetime of the record owner.

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

 §1253. ..this deed may be withdrawn or rescinded whether or not money or any other consideration was paid or given.

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

- ☞ §1254.A. ..acknowledging and recording in the office of the county clerk in the county where the real estate is located an instrument revoking the designation.
- ☞ §1254.B. ..may be changed at any time prior to the death of the record owner...
- ☞ *The signature, consent or agreement of ...or notice to... the grantee beneficiary...is not required.*

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

-  §1254.C. ..Non-Testamentary Transfer of Property Act may not be revoked by the provisions of a will.
-  §1254.D. ..may be disclaimed in whole or part.
-  ..must occur within nine months after the death of the landowner. The disclaimer shall be filed with the office of the county clerk in which the transfer-on-death deed was recorded.

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

 §1255.A. The affidavit shall state the fact of the death of the record owner, state whether or not the record owner and the designated grantee were husband and wife..

If the record owner and designated grantee were not husband and wife, a copy of the death certificate of the record owner and an estate tax release shall be attached to the affidavit.

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

 §1255.B. ..beneficiaries of the transfer-on-death deed take the interest of the record owner...at death, subject to all conveyances.. made by the record owner...

'NON-TESTAMENTARY TRANSFER-ON-DEATH-DEED'

-  1258 ..shall not be considered a testamentary disposition and shall not be invalidated due to nonconformity with other provisions in Title 58 or Title 84 of the Oklahoma Statutes.

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