

As Introduced

124th General Assembly
Regular Session
2001-2002

H. B. No. 470

REPRESENTATIVES Faber, Grendell

A B I L L

To amend sections 147.55, 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 147.55, 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. 147.55. The forms of acknowledgment set forth in this
section may be used and are sufficient for their respective
purposes under any section of the Revised Code. The forms shall be
known as "statutory short forms of acknowledgment" and may be
referred to by that name. The authorization of the forms in this
section does not preclude the use of other forms.

“(A) For an individual acting in ~~his~~ the individual's own
right:

“State of

County of

The foregoing instrument was executed and acknowledged before
me this (date) by (name of person ~~acknowledged~~ acknowledging

under penalty of violating section 2921.13 of the Revised Code). 21

(Signature of person taking acknowledgment) 22

(Title or rank) 23

(Serial number, if any)" 24

(B) "For a corporation: 25

"State of 26

County of 27

The foregoing instrument was executed and acknowledged before 28

me this (date) by (name of officer or agent, title of officer or 29

agent) of (name of corporation acknowledging), a (state or place 30

of incorporation) corporation, on behalf of the corporation under 31

penalty of violating section 2921.13 of the Revised Code. 32

(Signature of person taking acknowledgment) 33

(Title or rank) 34

(Serial number, if any)" 35

(C) "For a partnership: 36

"State of 37

County of 38

The foregoing instrument was executed and acknowledged before 39

me this (date) by (name of acknowledging partner or agent), 40

partner (or agent) on behalf of (name of partnership), a 41

partnership under penalty of violating section 2921.13 of the 42

Revised Code. 43

(Signature of person taking acknowledgment) 44

(Title or rank) 45

(Serial number, if any)" 46

(D) "For an individual acting as principal by an attorney in 47

fact: 48

"State of 49

County of 50

The foregoing instrument was executed and acknowledged before 51

me this (date) by (name of attorney in fact) as attorney in fact 52
on behalf of (name of principal) under penalty of violating 53
section 2921.13 of the Revised Code. 54

(Signature of person taking acknowledgment) 55

(Title or rank) 56

(Serial number, if any)" 57

(E) "By any public officer, trustee, or personal 58
representative: 59

"State of 60

County of 61

The foregoing instrument was executed and acknowledged before 62
me this (date) by (name and title of position) under penalty of 63
violating section 2921.13 of the Revised Code. 64

(Signature of person taking acknowledgment) 65

(Title or rank) 66

(Serial number, if any)" 67

Sec. 5302.05. A deed in substance following the form set 68
forth in this section, when duly executed in accordance with 69
Chapter 5301. of the Revised Code, has the force and effect of a 70
deed in fee simple to the grantee, the grantee's heirs, assigns, 71
and successors, to the grantee's and the grantee's heirs', 72
assigns', and successors' own use, with covenants on the part of 73
the grantor with the grantee, the grantee's heirs, assigns, and 74
successors, that, at the time of the delivery of that deed the 75
grantor was lawfully seized in fee simple of the granted premises, 76
that the granted premises were free from all encumbrances, that 77
the grantor had good right to sell and convey the same to the 78
grantee and the grantee's heirs, assigns, and successors, and that 79
the grantor does warrant and will defend the same to the grantee 80
and the grantee's heirs, assigns, and successors, forever, against 81
the lawful claims and demands of all persons. 82

"GENERAL WARRANTY DEED 83

..... (marital status), of County, 84
..... for valuable consideration paid, grant(s), with 85
general warranty covenants, to, whose tax-mailing 86
address is, the following real property: 87

(description of land or interest therein and encumbrances, 88
reservations, and exceptions, if any) 89

Prior Instrument Reference: Volume, Page 90

....., wife (husband) of the grantor, releases all 91
rights of dower therein. 92

Executed ~~before me on this~~ day of 93
~~..... by, who, under penalty of~~ 94
~~perjury in violation of section 2921.11 of the Revised Code,~~ 95
~~represented to me to be said person.~~ 96

..... 97

(Signature of ~~Judge or Officer~~ 98

~~Taking the Acknowledgment~~ Grantor) 99

(Execution in accordance with Chapter 5301. of the Revised 100
Code)" 101

Sec. 5302.07. A deed in substance following the form set 102
forth in this section, when duly executed in accordance with 103
Chapter 5301. of the Revised Code, has the force and effect of a 104
deed in fee simple to the grantee, the grantee's heirs, assigns, 105
and successors, to the grantee's and the grantee's heirs', 106
assigns', and successors' own use, with covenants on the part of 107
the grantor with the grantee, the grantee's heirs, assigns, and 108
successors, that, at the time of the delivery of that deed the 109
premises were free from all encumbrances made by the grantor, and 110
that the grantor does warrant and will defend the same to the 111
grantee and the grantee's heirs, assigns, and successors, forever, 112
against the lawful claims and demands of all persons claiming by, 113
through, or under the grantor, but against none other. 114

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| | 115 |
| "LIMITED WARRANTY DEED | 116 |
| (marital status), of County, | 117 |
| for valuable consideration paid, grant(s), with | 118 |
| limited warranty covenants, to, whose tax-mailing | 119 |
| address is, the following real property: | 120 |
| (description of land or interest therein and encumbrances, | 121 |
| reservations, and exceptions, if any) | 122 |
| Prior Instrument Reference: Volume, Page | 123 |
|, wife (husband) of said grantor, releases to said | 124 |
| grantee all rights of dower therein. | 125 |
| Executed before me on this day of | 126 |
| by, who, under penalty of | 127 |
| perjury in violation of section 2921.11 of the Revised Code, | 128 |
| represented to me to be said person. | 129 |
| | 130 |
| (Signature of Judge or Officer | 131 |
| Taking the Acknowledgment Grantor) | 132 |
| (Execution in accordance with Chapter 5301. of the Revised | 133 |
| Code)" | 134 |
| Sec. 5302.09. A deed in substance following the form set | 135 |
| forth in this section, when duly executed in accordance with | 136 |
| Chapter 5301. of the Revised Code, has the force and effect of a | 137 |
| deed in fee simple to the grantee, the grantee's heirs, assigns, | 138 |
| and successors, to the grantee's and the grantee's heirs', | 139 |
| assigns', and successors' own use, with covenants on the part of | 140 |
| the grantor with the grantee, the grantee's heirs, assigns, and | 141 |
| successors, that, at the time of the delivery of that deed, the | 142 |
| grantor was duly appointed, qualified, and acting in the fiduciary | 143 |
| capacity described in that deed, and was duly authorized to make | 144 |
| the sale and conveyance of the premises; that in all of the | 145 |

grantor's proceedings in the sale of the premises the grantor has 146
complied with the requirements of the statutes in such case 147
provided. 148

"DEED OF EXECUTOR, ADMINISTRATOR, TRUSTEE, 149

GUARDIAN, RECEIVER, OR COMMISSIONER 150

....., executor of the will of, 151
(administrator of the estate of) (trustee under) 152
(guardian of) (receiver of) (commissioner), by 153
the power conferred by, and every other power, for 154
..... dollars paid, grants, with fiduciary covenants, to 155
....., whose tax-mailing address is, the following 156
real property: 157

(description of land or interest therein and encumbrances, 158
reservations, and exceptions, if any) 159

Prior Instrument Reference: Volume, Page 160

Executed ~~before me on this~~ day of 161
~~..... by, who, under penalty of~~ 162
~~perjury in violation of section 2921.11 of the Revised Code,~~ 163
~~represented to me to be said person.~~ 164

..... 165

(Signature of ~~Judge or Officer~~ 166

~~Taking the Acknowledgment Grantor~~) 167

(Execution in accordance with Chapter 5301. of the Revised 168
Code)" 169

Sec. 5302.11. A deed in substance following the form set 170
forth in this section, when duly executed in accordance with 171
Chapter 5301. of the Revised Code, has the force and effect of a 172
deed in fee simple to the grantee, the grantee's heirs, assigns, 173
and successors, and to the grantee's and the grantee's heirs', 174
assigns', and successors' own use, but without covenants of any 175
kind on the part of the grantor. 176

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| "QUIT-CLAIM DEED | 177 |
| (marital status), of County, | 178 |
| for valuable consideration paid, grant(s) to | 179 |
|, whose tax-mailing address is, the | 180 |
| following real property: | 181 |
| (description of land or interest therein and encumbrances, | 182 |
| reservations, and exceptions, if any) | 183 |
| Prior Instrument Reference: Volume, Page | 184 |
|, wife (husband) of the grantor, releases all | 185 |
| rights of dower therein. | 186 |
| Executed before me on this day of | 187 |
| by, who, under penalty of | 188 |
| perjury in violation of section 2921.11 of the Revised Code, | 189 |
| represented to me to be said person. | 190 |
| | 191 |
| (Signature of Judge or Officer | 192 |
| Taking the Acknowledgment Grantor) | 193 |
| (Execution in accordance with Chapter 5301. of the Revised | 194 |
| Code)" | 195 |
| Sec. 5302.12. A mortgage in substance following the form set | 196 |
| forth in this section, when duly executed in accordance with | 197 |
| Chapter 5301. of the Revised Code, has the force and effect of a | 198 |
| mortgage to the use of the mortgagee and the mortgagee's heirs, | 199 |
| assigns, and successors, with mortgage covenants and upon the | 200 |
| statutory condition, as defined in sections 5302.13 and 5302.14 of | 201 |
| the Revised Code, to secure the payment of the money or the | 202 |
| performance of any obligation specified in the mortgage. The | 203 |
| parties may insert in the mortgage any other lawful agreement or | 204 |
| condition. | 205 |
| "MORTGAGE | 206 |

....., (marital status), 207
of (current mailing address), for 208
Dollars paid, grant(s), with mortgage covenants, to, 209
of (current mailing address), the following 210
real property: 211

(Description of land or interest in land and encumbrances, 212
reservations, and exceptions, if any.) 213

(A reference to the last recorded instrument through which 214
the mortgagor claims title. The omission of the reference shall 215
not affect the validity of the mortgage.) 216

This mortgage is given, upon the statutory condition, to 217
secure the payment of dollars with interest as 218
provided in a note of the same date. 219

"Statutory condition" is defined in section 5302.14 of the 220
Revised Code and provides generally that, if the mortgagor pays 221
the principal and interest secured by this mortgage, performs the 222
other obligations secured by this mortgage and the conditions of 223
any prior mortgage, pays all the taxes and assessments, maintains 224
insurance against fire and other hazards, and does not commit or 225
suffer waste, then this mortgage shall be void. 226

....., wife (husband) of the mortgagor, 227
releases to the mortgagee all rights of dower in the described 228
real property. 229

Executed ~~before me on this~~ day of 230
~~..... by, who, under penalty of~~ 231
~~perjury in violation of section 2921.11 of the Revised Code,~~ 232
~~represented to me to be said person.~~ 233

..... 234

(Signature of ~~Judge or Officer~~ 235

Taking the Acknowledgment 236

Mortgagor)

(Execution in accordance with Chapter 5301. of the Revised Code)" 237
238

Sec. 5302.17. A deed conveying any interest in real property 239
to two or more persons, and in substance following the form set 240
forth in this section, when duly executed in accordance with 241
Chapter 5301. of the Revised Code, creates a survivorship tenancy 242
in the grantees, and upon the death of any of the grantees, vests 243
the interest of the decedent in the survivor, survivors, or the 244
survivor's or survivors' separate heirs and assigns. 245

"SURVIVORSHIP DEED 246

..... (marital status), of County, 247
..... for valuable consideration paid, 248
grant(s), (covenants, if any), to 249
(marital status) and (marital status), for 250
their joint lives, remainder to the survivor of them, whose 251
tax-mailing addresses are, the following real 252
property: 253

(description of land or interest therein and encumbrances, 254
reservations, and exceptions, if any) 255

Prior Instrument Reference: 256

....., wife (husband) of the grantor, releases all 257
rights of dower therein. 258

Executed ~~before me on this~~ day of 259
~~..... by, who, under penalty of~~ 260
~~perjury in violation of section 2921.11 of the Revised Code,~~ 261
~~represented to me to be said person.~~ 262

..... 263

(Signature of ~~Judge or Officer~~ 264

~~Taking the Acknowledgment~~ Grantor) 265

(Execution in accordance with Chapter 5301. of the Revised 266

Code) " 267

Any persons who are the sole owners of real property, prior 268
to April 4, 1985, as tenants with a right of survivorship under 269
the common or statutory law of this state or as tenants in common 270
may create in themselves and in any other person or persons a 271
survivorship tenancy in the real property by executing a deed as 272
provided in this section conveying their entire, separate 273
interests in the real property to themselves and to the other 274
person or persons. 275

Except as otherwise provided in this section, when a person 276
holding real property as a survivorship tenant dies, the transfer 277
of the interest of the decedent may be recorded by presenting to 278
the county auditor and filing with the county recorder either a 279
certificate of transfer as provided in section 2113.61 of the 280
Revised Code, or an affidavit accompanied by a certified copy of a 281
death certificate. The affidavit shall recite the names of the 282
other survivorship tenant or tenants, the address of the other 283
survivorship tenant or tenants, the date of death of the decedent, 284
and a description of the real property. The county recorder shall 285
make index reference to any certificate or affidavit so filed in 286
the record of deeds. When a person holding real property as a 287
survivorship tenant dies and the title to the property is 288
registered pursuant to Chapter 5309. of the Revised Code, the 289
procedure for the transfer of the interest of the decedent shall 290
be pursuant to section 5309.081 of the Revised Code. 291

Sec. 5302.22. (A) A deed conveying any interest in real 292
property, and in substance following the form set forth in this 293
division, when duly executed in accordance with Chapter 5301. of 294
the Revised Code and recorded in the office of the county 295
recorder, creates a present interest as sole owner or as a tenant 296
in common in the grantee and creates a transfer on death interest 297

in the beneficiary or beneficiaries. Upon the death of the 298
grantee, the deed vests the interest of the decedent in the 299
beneficiary or beneficiaries. The deed described in this division 300
shall in substance conform to the following form: 301

"Transfer on Death Deed 302

..... (marital status), of County, 303
..... (for valuable consideration paid, if any), 304
grant(s) (with covenants, if any), to whose 305
tax mailing address is, transfer on death to 306
....., beneficiary(s), the following real property: 307

(Description of land or interest in land and encumbrances, 308
reservations, and exceptions, if any.) 309

Prior Instrument Reference: 310
....., wife (husband) of the grantor, releases all 311
rights of dower therein. 312

Executed ~~before me on this~~ day of 313
..... by, who, under penalty of 314
~~perjury in violation of section 2921.11 of the Revised Code,~~ 315
~~represented to me to be said person.~~ 316

..... 317

(Signature of ~~Judge or Officer~~ 318

~~Taking the Acknowledgment Grantor)~~ 319

(Execution in accordance with Chapter 5301. of the Revised 320
Code)" 321

(B) Any person who, under the Revised Code or the common law 322
of this state, owns real property or any interest in real property 323
as a sole owner or as a tenant in common may create an interest in 324
the real property transferable on death by executing and recording 325
a deed as provided in this section conveying the person's entire, 326
separate interest in the real property to one or more individuals, 327
including the grantor, and designating one or more other persons, 328

identified in the deed by name, as transfer on death 329
beneficiaries. 330

A deed conveying an interest in real property that includes a 331
transfer on death beneficiary designation need not be supported by 332
consideration and need not be delivered to the transfer on death 333
beneficiary to be effective. 334

(C) Upon the death of any individual who owns real property 335
or an interest in real property that is subject to a transfer on 336
death beneficiary designation made under a transfer on death deed 337
as provided in this section, the deceased owner's interest shall 338
be transferred only to the transfer on death beneficiaries who are 339
identified in the deed by name and who survive the deceased owner 340
or that are in existence on the date of death of the deceased 341
owner. The transfer of the deceased owner's interest shall be 342
recorded by presenting to the county auditor and filing with the 343
county recorder an affidavit, accompanied by a certified copy of a 344
death certificate for the deceased owner. The affidavit shall 345
recite the name and address of each designated transfer on death 346
beneficiary who survived the deceased owner or that is in 347
existence on the date of the deceased owner's death, the date of 348
the deceased owner's death, a description of the subject real 349
property or interest in real property, and the names of each 350
designated transfer on death beneficiary who has not survived the 351
deceased owner or that is not in existence on the date of the 352
deceased owner's death. The affidavit shall be accompanied by a 353
certified copy of a death certificate for each designated transfer 354
on death beneficiary who has not survived the deceased owner. The 355
county recorder shall make an index reference to any affidavit so 356
filed in the record of deeds. 357

Upon the death of any individual holding real property or an 358
interest in real property that is subject to a transfer on death 359
beneficiary designation made under a transfer on death deed as 360

provided in this section, if the title to the real property is 361
registered pursuant to Chapter 5309. of the Revised Code, the 362
procedure for the transfer of the interest of the deceased owner 363
shall be pursuant to section 5309.081 of the Revised Code. 364

Section 2. That sections 147.55, 5302.05, 5302.07, 5302.09, 365
5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code are 366
hereby repealed. 367

Section 3. This act is hereby declared to be an emergency 368
measure necessary for the immediate preservation of the public 369
peace, health, and safety. The reason for such necessity is to 370
preclude any potential confusion that may arise from an 371
interpretation of the amendments made to sections 5302.05, 372
5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the 373
Revised Code by Sub. H.B. 279 of the 124th General Assembly, which 374
goes into effect on February 1, 2002. Therefore, this act shall go 375
into immediate effect. 376