

As Reported by the Senate Judiciary--Civil Justice Committee

124th General Assembly

Regular Session

2001-2002

Am. H. B. No. 470

**REPRESENTATIVES Faber, Grendell, Willamowski, Seitz, Manning,
Womer Benjamin, Hughes, Callender, Schmidt, Coates**

A B I L L

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.

1
2
3
4

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:

5
6
7

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

8
9
10
11
12
13
14
15
16
17
18
19

As Reported by the Senate Judiciary--Civil Justice Committee

the grantor does warrant and will defend the same to the grantee 20
and the grantee's heirs, assigns, and successors, forever, against 21
the lawful claims and demands of all persons. 22

"GENERAL WARRANTY DEED 23

..... (marital status), of County, 24
..... for valuable consideration paid, grant(s), with 25
general warranty covenants, to, whose tax-mailing 26
address is, the following real property: 27

(description of land or interest therein and encumbrances, 28
reservations, and exceptions, if any) 29

Prior Instrument Reference: Volume, Page 30

....., wife (husband) of the grantor, releases all 31
rights of dower therein. 32

Executed ~~before me on this~~ day of 33
~~..... by, who, under penalty of~~ 34
~~perjury in violation of section 2921.11 of the Revised Code,~~ 35
~~represented to me to be said person.~~ 36

..... 37

(Signature of ~~Judge or Officer~~ 38

~~Taking the Acknowledgment~~ Grantor) 39

(Execution in accordance with Chapter 5301. of the Revised 40
Code)" 41

Sec. 5302.07. A deed in substance following the form set 42
forth in this section, when duly executed in accordance with 43
Chapter 5301. of the Revised Code, has the force and effect of a 44
deed in fee simple to the grantee, the grantee's heirs, assigns, 45
and successors, to the grantee's and the grantee's heirs', 46
assigns', and successors' own use, with covenants on the part of 47
the grantor with the grantee, the grantee's heirs, assigns, and 48
successors, that, at the time of the delivery of that deed the 49
premises were free from all encumbrances made by the grantor, and 50

As Reported by the Senate Judiciary--Civil Justice Committee

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

As Reported by the Senate Judiciary--Civil Justice Committee

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 100

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.~~

..... 105

(Signature of ~~Judge or Officer~~ 106

~~Taking the Acknowledgment~~ Grantor) 107

(Execution in accordance with Chapter 5301. of the Revised
 Code)" 109

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

As Reported by the Senate Judiciary--Civil Justice Committee

deed in fee simple to the grantee, the grantee's heirs, assigns, 113
 and successors, and to the grantee's and the grantee's heirs', 114
 assigns', and successors' own use, but without covenants of any 115
 kind on the part of the grantor. 116

"QUIT-CLAIM DEED 117

..... (marital status), of County, 118
 for valuable consideration paid, grant(s) to 119
, whose tax-mailing address is, the 120
 following real property: 121

(description of land or interest therein and encumbrances, 122
 reservations, and exceptions, if any) 123

Prior Instrument Reference: Volume, Page 124

....., wife (husband) of the grantor, releases all 125
 rights of dower therein. 126

Executed ~~before me on this~~ day of 127
~~..... by, who, under penalty of~~ 128
~~perjury in violation of section 2921.11 of the Revised Code,~~ 129
~~represented to me to be said person.~~ 130

..... 131

(Signature of ~~Judge or Officer~~ 132

~~Taking the Acknowledgment~~ Grantor) 133

(Execution in accordance with Chapter 5301. of the Revised 134
 Code)" 135

Sec. 5302.12. A mortgage in substance following the form set 136
 forth in this section, when duly executed in accordance with 137
 Chapter 5301. of the Revised Code, has the force and effect of a 138
 mortgage to the use of the mortgagee and the mortgagee's heirs, 139
 assigns, and successors, with mortgage covenants and upon the 140
 statutory condition, as defined in sections 5302.13 and 5302.14 of 141
 the Revised Code, to secure the payment of the money or the 142

As Reported by the Senate Judiciary--Civil Justice Committee

performance of any obligation specified in the mortgage. The 143
parties may insert in the mortgage any other lawful agreement or 144
condition. 145

"MORTGAGE 146

....., (marital status), 147
of (current mailing address), for 148
Dollars paid, grant(s), with mortgage covenants, to, 149
of (current mailing address), the following 150
real property: 151

(Description of land or interest in land and encumbrances, 152
reservations, and exceptions, if any.) 153

(A reference to the last recorded instrument through which 154
the mortgagor claims title. The omission of the reference shall 155
not affect the validity of the mortgage.) 156

This mortgage is given, upon the statutory condition, to 157
secure the payment of dollars with interest as 158
provided in a note of the same date. 159

"Statutory condition" is defined in section 5302.14 of the 160
Revised Code and provides generally that, if the mortgagor pays 161
the principal and interest secured by this mortgage, performs the 162
other obligations secured by this mortgage and the conditions of 163
any prior mortgage, pays all the taxes and assessments, maintains 164
insurance against fire and other hazards, and does not commit or 165
suffer waste, then this mortgage shall be void. 166

....., wife (husband) of the mortgagor, 167
releases to the mortgagee all rights of dower in the described 168
real property. 169

Executed ~~before me on this~~ day of 170
~~..... by, who, under penalty of~~ 171
~~perjury in violation of section 2921.11 of the Revised Code,~~ 172
~~represented to me to be said person.~~ 173

As Reported by the Senate Judiciary--Civil Justice Committee

.....	174
(Signature of Judge or Officer	175
Taking the Acknowledgment	176
<u>Mortgagor</u>)	
(Execution in accordance with Chapter 5301. of the Revised	177
Code)"	178
Sec. 5302.17. A deed conveying any interest in real property	179
to two or more persons, and in substance following the form set	180
forth in this section, when duly executed in accordance with	181
Chapter 5301. of the Revised Code, creates a survivorship tenancy	182
in the grantees, and upon the death of any of the grantees, vests	183
the interest of the decedent in the survivor, survivors, or the	184
survivor's or survivors' separate heirs and assigns.	185
"SURVIVORSHIP DEED	186
..... (marital status), of County,	187
..... for valuable consideration paid,	188
grant(s), (covenants, if any), to	189
(marital status) and (marital status), for	190
their joint lives, remainder to the survivor of them, whose	191
tax-mailing addresses are, the following real	192
property:	193
(description of land or interest therein and encumbrances,	194
reservations, and exceptions, if any)	195
Prior Instrument Reference:	196
....., wife (husband) of the grantor, releases all	197
rights of dower therein.	198
Executed before me on this day of	199
..... by, who, under penalty of	200
perjury in violation of section 2921.11 of the Revised Code,	201
represented to me to be said person.	202

As Reported by the Senate Judiciary--Civil Justice Committee

.....	203
(Signature of Judge or Officer	204
Taking the Acknowledgment <u>Grantor</u>)	205
(Execution in accordance with Chapter 5301. of the Revised	206
Code) "	207
Any persons who are the sole owners of real property, prior	208
to April 4, 1985, as tenants with a right of survivorship under	209
the common or statutory law of this state or as tenants in common	210
may create in themselves and in any other person or persons a	211
survivorship tenancy in the real property by executing a deed as	212
provided in this section conveying their entire, separate	213
interests in the real property to themselves and to the other	214
person or persons.	215
Except as otherwise provided in this section, when a person	216
holding real property as a survivorship tenant dies, the transfer	217
of the interest of the decedent may be recorded by presenting to	218
the county auditor and filing with the county recorder either a	219
certificate of transfer as provided in section 2113.61 of the	220
Revised Code, or an affidavit accompanied by a certified copy of a	221
death certificate. The affidavit shall recite the names of the	222
other survivorship tenant or tenants, the address of the other	223
survivorship tenant or tenants, the date of death of the decedent,	224
and a description of the real property. The county recorder shall	225
make index reference to any certificate or affidavit so filed in	226
the record of deeds. When a person holding real property as a	227
survivorship tenant dies and the title to the property is	228
registered pursuant to Chapter 5309. of the Revised Code, the	229
procedure for the transfer of the interest of the decedent shall	230
be pursuant to section 5309.081 of the Revised Code.	231
Sec. 5302.22. (A) A deed conveying any interest in real	232
property, and in substance following the form set forth in this	233

As Reported by the Senate Judiciary--Civil Justice Committee

division, when duly executed in accordance with Chapter 5301. of 234
the Revised Code and recorded in the office of the county 235
recorder, creates a present interest as sole owner or as a tenant 236
in common in the grantee and creates a transfer on death interest 237
in the beneficiary or beneficiaries. Upon the death of the 238
grantee, the deed vests the interest of the decedent in the 239
beneficiary or beneficiaries. The deed described in this division 240
shall in substance conform to the following form: 241

"Transfer on Death Deed 242

..... (marital status), of County, 243
..... (for valuable consideration paid, if any), 244
grant(s) (with covenants, if any), to whose 245
tax mailing address is, transfer on death to 246
....., beneficiary(s), the following real property: 247

(Description of land or interest in land and encumbrances, 248
reservations, and exceptions, if any.) 249

Prior Instrument Reference: 250
....., wife (husband) of the grantor, releases all 251
rights of dower therein. 252

Executed ~~before me on this~~ day of 253
..... by, who, under penalty of 254
~~perjury in violation of section 2921.11 of the Revised Code,~~ 255
~~represented to me to be said person.~~ 256

..... 257

(Signature of ~~Judge or Officer~~ 258

~~Taking the Acknowledgment~~ Grantor) 259

(Execution in accordance with Chapter 5301. of the Revised 260
Code)" 261

(B) Any person who, under the Revised Code or the common law 262
of this state, owns real property or any interest in real property 263
as a sole owner or as a tenant in common may create an interest in 264

As Reported by the Senate Judiciary--Civil Justice Committee

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

As Reported by the Senate Judiciary--Civil Justice Committee

filed in the record of deeds. 297

Upon the death of any individual holding real property or an 298
interest in real property that is subject to a transfer on death 299
beneficiary designation made under a transfer on death deed as 300
provided in this section, if the title to the real property is 301
registered pursuant to Chapter 5309. of the Revised Code, the 302
procedure for the transfer of the interest of the deceased owner 303
shall be pursuant to section 5309.081 of the Revised Code. 304

Section 2. That existing sections 5302.05, 5302.07, 5302.09, 305
5302.11, 5302.12, 5302.17, and 5302.22 of the Revised Code are 306
hereby repealed. 307

Section 3. Sections 1 and 2 of this act shall go into effect 308
on February 1, 2002. 309

Section 4. This act is hereby declared to be an emergency 310
measure necessary for the immediate preservation of the public 311
peace, health, and safety. The reason for such necessity is to 312
preclude any potential confusion that may arise from an 313
interpretation of the amendments made to sections 5302.05, 314
5302.07, 5302.09, 5302.11, 5302.12, 5302.17, and 5302.22 of the 315
Revised Code by Sub. H.B. 279 of the 124th General Assembly, which 316
goes into effect on February 1, 2002. Therefore, this act shall go 317
into immediate effect. 318