

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1145

By: Representative C. Douglas
By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO RESTRICT A JOINT TENANT'S ABILITY TO SEVER
A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP IN REAL
PROPERTY; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO RESTRICT A JOINT TENANT'S ABILITY TO
SEVER A JOINT TENANCY WITH RIGHT OF
SURVIVORSHIP IN REAL PROPERTY; AND TO
DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-12-106, concerning joint tenants with right of survivorship, is amended to add an additional subsection to read as follows:

(d) A severance of a joint tenancy with right of survivorship by a joint tenant shall be effective only if:

(1) The instrument of severance is recorded in the office of the county recorder of the county in which the real property is located prior to the death of the severing joint tenant;

(2) The instrument of severance is executed by all of the joint tenants;

(3) The severance is ordered by a court of competent jurisdiction; or

(4) A severance is effected pursuant to the bankruptcy of a



joint tenant.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the common law allowing a joint tenant to sever a joint tenancy with right of survivorship by conveying his or her interest without the consent or knowledge of other joint tenants is detrimental to the financial and emotional wellbeing of the other joint tenants; and that this act is immediately necessary because joint tenancies with rights of survivorship are severed every day without the consent or knowledge of the joint tenants that rely on the right of survivorship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.