
SENATE BILL NO. 63--SENATOR AMODEI

FEBRUARY 7, 2003

Referred to Committee on Judiciary

SUMMARY—Permits recording of affidavit of death by surviving spouse who holds homestead in community property or who takes community real property by intestate succession. (BDR 10-247)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to property; permitting the recording of an affidavit of death by a surviving spouse who holds a homestead in community property or who takes community real property by intestate succession; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 111.365 is hereby amended to read as follows:
2 111.365 1. In the case of real property owned by two or more
3 persons as joint tenants, ~~or~~ as community property with right of
4 survivorship, *as a homestead in community property or as*
5 *community property that passes to the surviving spouse by*
6 *intestate succession*, it is presumed that all title or interest in and to
7 that real property of each of one or more deceased joint tenants or
8 the deceased spouse has terminated, and vested solely in the
9 surviving joint tenant or spouse or vested jointly in the surviving
10 joint tenants, if there has been recorded in the office of the recorder
11 of the county or counties in which the real property is situate an
12 affidavit, subscribed and sworn to by a person who has knowledge
13 of the facts required in this subsection, which sets forth the
14 following:



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- 1 (a) The family relationship, if any, of the affiant to each
- 2 deceased joint tenant or the deceased spouse;
- 3 (b) A description of the instrument or conveyance by which the
- 4 joint tenancy , ~~for~~ right of survivorship *or community property*
- 5 *interest* was created;
- 6 (c) A description of the property subject to the joint tenancy ,
- 7 ~~for~~ right of survivorship ~~for~~ *or community property interest*; and
- 8 (d) The date and place of death of each deceased joint tenant or
- 9 the deceased spouse.

10 2. Each month, a county recorder shall send all the information
11 contained in each affidavit received by him pursuant to subsection 1
12 during the immediately preceding month to the Welfare Division of
13 the Department of Human Resources in any format and by any
14 medium approved by the Welfare Division.

15 **Sec. 2.** NRS 40.525 is hereby amended to read as follows:
16 40.525 1. If title or an interest in real or personal property is
17 affected by the death of any person, any other person who claims
18 any interest in the real or personal property, if his interest is affected
19 by the death of that person, or the State of Nevada, may file in the
20 district court of any county in which any part of the real or personal
21 property is situated a verified petition setting forth those facts and
22 particularly describing the real or personal property, the interest of
23 the petitioner and the interest of the deceased therein.
24 2. The clerk shall set the petition for hearing by the court.
25 Notice of hearing of the petition must be mailed, by certified mail,
26 return receipt requested, postage prepaid, to the heirs at law of the
27 deceased person at their places of business or residences, if known,
28 and if not, by publication for at least 3 successive weeks in such
29 newspaper as the court orders. The clerk shall send a copy of the
30 notice of hearing or of the affidavit to the Welfare Division of the
31 Department of Human Resources by certified mail, return receipt
32 requested, postage prepaid, if the State is not the petitioner, at the
33 time notice is mailed to the heirs at law or the notice is published.
34 Failure on the part of any such heir at law to contest the petition
35 precludes any such heir at law from thereafter contesting the validity
36 of the joint interest or its creation or termination.
37 3. The court shall take evidence for or against the petition, and
38 may render judgment thereon establishing the fact of the death and
39 the termination of the interest of the deceased in the real or personal
40 property described in the petition.
41 4. A certified copy of the decree may be recorded in the office
42 of the recorder of each county in which any part of the real or
43 personal property is situated.
44 5. As an alternative method of terminating the interest of the
45 deceased person, if title or an interest in real or personal property



1 held in joint tenancy , ~~or~~ as community property with right of
2 survivorship , *as a homestead in community property or as*
3 *community real property that passes to the surviving spouse by*
4 *intestate succession* is affected by the death of a joint tenant or
5 spouse, any person who has knowledge of the facts may record in
6 the office of the county recorder in the county where the property is
7 situated an affidavit meeting the requirements of NRS 111.365,
8 accompanied by a certified copy of the death certificate of the
9 deceased person.

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