

4010

2011-2012 Regular Sessions

I N S E N A T E

March 14, 2011

Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to requiring registrars of title to real property to provide written notice to the assessor of the local assessing unit upon the death of the registered owner of real property

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

1 Section 1. Section 423 of the real property law, as amended by chapter
2 780 of the laws of 1951, the opening paragraph as added by chapter 640
3 of the laws of 1991, the second undesignated paragraph as amended by
4 chapter 115 of the laws of 1981, is amended to read as follows:
5 S 423. Death of owner of registered property; transfer of property.
6 Upon the death of an owner of registered real property, it shall be
7 incumbent upon the surviving spouse or the joint tenant with right of
8 survivorship to present to the registrar a petition on the annexed form,
9 for the transfer of the title into the name of the survivor. The regis-
10 rar shall upon payment of the required fees, memorialize said petition
11 showing the change of ownership, delete the name of the deceased, and
12 recertify title to the new owner on the existing certificate of title.
13 UPON THE DEATH OF AN OWNER OF REGISTERED REAL PROPERTY, WHO HELD A LIFE
14 ESTATE IN SUCH PROPERTY, IT SHALL BE INCUMBENT UPON THE REMAINDERMAN TO
15 PRESENT TO THE REGISTRAR A PETITION, FOR THE TRANSFER OF THE TITLE INTO
16 THE NAME OF THE REMAINDERMAN. THE REGISTRAR SHALL UPON PAYMENT OF THE
17 REQUIRED FEES, MEMORIALIZE SAID PETITION SHOWING THE CHANGE OF OWNER-
18 SHIP, DELETE THE NAME OF THE DECEASED, AND RECERTIFY TITLE TO THE NEW
19 OWNER ON THE EXISTING CERTIFICATE OF TITLE. Upon the death of an owner
20 of registered real property, it shall be incumbent upon the executor or
21 administrator of the estate of the deceased, to present to the registrar
22 a petition on the annexed form, for the transfer of title into the name
23 of the executor or administrator, or upon filing of a deed executed by

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD07217-01-1

1 the said executor or administrator, in the name of the grantee therein.
2 The registrar shall upon payment of the required fees, memorialize said
3 petition showing the change of ownership, and issue a new certificate of
4 title to the executor or administrator. Upon the death of an owner of
5 registered real property, having died intestate, it shall be incumbent
6 upon the heirs-at-law to obtain a verified petition and order, consented
7 to by the registrar, the state attorney general and signed by a justice
8 of the supreme court. Sufficient and conclusive evidence as to the
9 heirs-at-law must be made part of the proceeding. Upon filing of said
10 completed proceeding with the registrar, together with filing fees, the
11 registrar shall issue a certificate of title as directed by the order.
12 Upon the coming to age, or freedom from disability of a person whose
13 guardian, committee or conservator is a registered owner as above
14 described, or upon a transfer of the powers and duties of an executor,
15 trustee or other person acting in a representative capacity, or upon any
16 other transfer of registered ownership or nominal change of ownership by
17 death or process of law or otherwise in a case not otherwise provided
18 for by this article, a petition may be made to the court for an order
19 directing the registrar as to the persons in whose name or names and in
20 what manner the title shall be registered and a new certificate issued;
21 and the court, on such petition and on due notice to the persons who in
22 the opinion of the court shall be parties in interest and after a hear-
23 ing, if deemed necessary or proper, shall enter an order prescribing the
24 name or names and the manner in which the title shall be registered.
25 Any petition permitted under this section shall, in addition to any
26 other proper allegations, set forth the names and known places of resi-
27 dence of the petitioner and the persons having or claiming any interest
28 in the registered premises under a certificate of title, or a registered
29 instrument, or by operation of law; and the people of the state of New
30 York, with reference to which latter party a further allegation shall be
31 made in substantial conformity with the statement pertaining to the
32 state of New York provided for under subdivision [(d)] (C) of section
33 three hundred seventy-nine of this article. Such petition shall be filed
34 with the clerk of the county in which the original registration was had,
35 and a copy thereof shall be filed with the registrar of such county, who
36 shall memorialize said copy of petition upon the last original certif-
37 icate to which it relates, which memorial shall also have the same
38 effect as a notice of pendency of an action under [the civil practice
39 act] ARTICLE SIXTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES. Immediate-
40 ly upon the filing of such petition and a copy thereof as aforesaid, the
41 court shall provide for due notice to be given to the parties in inter-
42 est by entering an order, either directing the registrar to give notice
43 of the hearing upon the petition to the parties named therein, and to
44 any additional parties named in the order who in the opinion of the
45 court shall be parties in interest, by publishing and mailing such
46 notice at the expense of the petitioner, in the manner prescribed in
47 section three hundred eighty-five of this article for the publication
48 and mailing of the notice of hearing in an original registration
49 proceeding; or in the alternative, directing that service of the notice
50 be made personally in the manner provided for the personal service of a
51 summons under article [twenty-five] THREE of the civil practice [act]
52 LAW AND RULES, respecting which latter procedure involving personal
53 service the court, in its proper discretion, may provide that the notice
54 be made returnable at any time not less than eight days after completion
55 of service thereof and may fix the time when service thereof will be
56 deemed complete. The form of the notice of hearing contemplated herein

1 shall be substantially the same as that provided for under section three
2 hundred eighty-six of this article, except that it may be entitled
3 "Transfer of Registration of Land Title," and that the object of the
4 proceeding may be stated therein to be to obtain registration of title
5 in, and the issuance of a new certificate of title to, the petitioner or
6 any persons entitled thereto, any appropriate language being sufficient.
7 The notice may be subscribed by either the registrar, or the attorney
8 for the petitioner, as the case may require. The certificate of the
9 registrar that he has served the notice as directed by the court, by
10 publishing and mailing, shall be filed in the case, with any necessary
11 affidavits in support of the same, on or before the return day, and
12 shall be proof of such service. The court in a proper case may dispense
13 with the mailing of the notice of hearing, in substantial conformity
14 with the practice prescribed in rule fifty of the rules of civil prac-
15 tice, and may also cause other or further notice of the petition to be
16 given.

17 WITHIN TEN BUSINESS DAYS OF NOTICE TO THE REGISTRAR OF THE CHANGE OF
18 OWNERSHIP OF REAL PROPERTY PURSUANT TO THIS SECTION, SUCH REGISTRAR
19 SHALL PROVIDE WRITTEN NOTICE OF SUCH CHANGE OF OWNERSHIP TO THE ASSESSOR
20 OF THE LOCAL ASSESSING UNIT IN WHICH THE REAL PROPERTY IS SITUATE. SUCH
21 WRITTEN NOTICE SHALL INCLUDE THE NAME AND ADDRESS OF THE NEW OWNER, AND
22 SHALL BE PROVIDED ON A FORM ESTABLISHED BY THE OFFICE OF REAL PROPERTY
23 SERVICES.

24 S 2. This act shall take effect on the first of January next succeed-
25 ing the date on which it shall have become a law.