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Spiegelman; Sens. Paradee, Walsh

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 337

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO JOINTLY HELD REAL-ESTATE  
AFFIDAVITS AND FILING AT THE REGISTER OF WILLS.

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

1           Section 1. Amend § 1905(e), Title 12 of the Delaware Code by making deletions as shown by strike through and  
2     insertions as shown by underline as follows:

3           § 1905. Inventory and appraisal; filing requirements, form, contents and supporting affidavits; notice of action  
4     affecting title.

5           (e) When ~~no letters testamentary or of administration are required for an estate and~~ real property passes to any a  
6     person by virtue of joint ownership with right of survivorship or tenancy by the entireties with ~~the a~~ decedent, ~~then~~ the  
7     personal representative ~~(as defined in § 101 of this title)~~ or the surviving joint tenant shall, within 3 months after the  
8     decedent's death, ~~shall~~ complete and file an affidavit in the office of the Register of Wills of the county in which the real  
9     property is located with a statement setting forth a general description of the real estate and the name ~~or names~~ of the  
10    surviving ~~owner or owners.~~ owner. A filer is not required to produce a certified or exemplified copy from the jurisdiction in  
11    which the decedent resided at the time of the decedent's death, or to make certifications regarding the decedent's probate  
12    status in another jurisdiction, to remove the decedent from the title of property held by joint ownership with right of  
13    survivorship or tenancy by the entireties.

SYNOPSIS

This Act makes it easier to properly clear title to real property after a person dies if the person held real property jointly with the right of survivorship. With more frequency, a deceased person may die as a resident in a county that is different from the county in which the deceased owned real property. This Act provides relief to those who are the surviving joint owner of a person who died in a county that is different than the county where the real property is located. The surviving joint owner of real property may not have anything to do with the deceased person's estate, or the probate of it, making it difficult for the surviving joint owner to obtain exemplified copies from different states or countries, which results in the loss of valuable time and money to the surviving joint owner.