

**TRANSFER-ON-DEATH DEEDS FOR REAL
PROPERTY**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ross I. Romero

House Sponsor: _____

LONG TITLE

General Description:

This bill provides for the transfer of real property to a designated beneficiary upon the death of the grantor.

Highlighted Provisions:

This bill:

- provides for a property owner's granting of a deed transferring an interest in real property upon the property owner's death;
- addresses the effect of a deed transferring an interest in real property upon the grantor's death, both during the grantor's life and upon death; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-5.1, as last amended by Chapter 38, Laws of Utah 2006

ENACTS:

57-1-46, Utah Code Annotated 1953

S.B. 276



57-1-47, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-1-5.1** is amended to read:

57-1-5.1. Termination of an interest in real estate -- Affidavit.

(1) Joint tenancy, tenancy by the entirety, life estate, ~~[or]~~ determinable or conditional interest, or a grantor's ownership interest expressed in a transfer-on-death deed in real estate may be terminated by an affidavit that meets the requirements of Subsection (2) which shall be recorded in the office of the recorder of the county in which the affected property is located.

(2) Each affidavit required by Subsection (1) shall:

- (a) cite the interest which is being terminated;
- (b) contain a legal description of the real property that is affected;
- (c) reference the entry number and the book and page of the instrument creating the interest to be terminated; and
- (d) if the termination is the result of a death, have attached as an exhibit, a copy of the death certificate or other document witnessing the death.

Section 2. Section **57-1-46** is enacted to read:

57-1-46. Transfer-on-death deed.

(1) (a) An interest in real property may be titled in a transfer-on-death deed signed by the record owner of the interest, designating a grantee beneficiary or beneficiaries of the interest.

(b) A deed under Subsection (1)(a) transfers ownership of the interest upon the death of the owner.

(c) A transfer-on-death deed under this section need not be supported by consideration.

(2) The signature, consent, or agreement of or notice to a grantee beneficiary of a transfer-on-death deed is not required for any purpose during the lifetime of the record owner.

(3) (a) A designation of the grantee beneficiary in a transfer-on-death deed may be revoked at any time before the death of the record owner by executing and acknowledging an instrument describing the interest and revoking the designation.

(b) The signature, consent, or agreement of or notice to the grantee beneficiary or beneficiaries is not required to revoke a designation of the grantee beneficiary.

59 (4) (a) A designation of the grantee beneficiary may be changed at any time before the
60 death of the record owner by executing and acknowledging a subsequent transfer-on-death
61 deed.

62 (b) The signature, consent, or agreement of or notice to the grantee beneficiary or
63 beneficiaries is not required to execute and acknowledge a subsequent transfer-on-death deed.

64 (c) A subsequent transfer-on-death beneficiary designation revokes a prior designation
65 to the extent there is a conflict between the two designations.

66 (5) A transfer-on-death deed executed and acknowledged may not be revoked by the
67 provisions of a will or a trust.

68 (6) (a) A joint tenancy in real property is not affected by a transfer-on-death deed, and
69 the rights of a surviving joint tenant prevail over a grantee beneficiary named in a
70 transfer-on-death deed.

71 (b) If a joint tenant executes a transfer-on-death deed and that joint tenant is the last
72 surviving joint tenant, the transfer-on-death deed is effective upon that joint tenant's death.

73 (c) If each joint tenant has executed a transfer-on-death deed, only the last surviving
74 joint tenant's transfer-on-death deed is effective upon that joint tenant's death.

75 (7) Title to the interest in real property in a transfer-on-death deed vests in the
76 designated grantee beneficiary or beneficiaries upon the death of the record owner.

77 (8) A grantee beneficiary of a transfer-on-death deed takes the record owner's interest
78 in the real property at death, subject to all conveyances, assignments, contracts, mortgages,
79 liens, and security pledges made by the record owner or to which the record owner was subject
80 during the record owner's lifetime, including any:

81 (a) executory contract of sale;

82 (b) option to purchase;

83 (c) lease;

84 (d) license;

85 (e) easement;

86 (f) mortgage;

87 (g) deed of trust;

88 (h) lien;

89 (i) claim of the state; and

(j) interest conveyed by the record owner that is less than all of the record owner's interest in the property.

(9) If the assets of the estate of the record owner are insufficient to meet its obligations, a transfer resulting from a transfer-on-death deed is not effective against the estate of a deceased person to the extent needed to pay:

(a) any claims against the estate; and

(b) the statutory allowances to a surviving spouse and children.

(10) If a grantee beneficiary dies before the death of the record owner and an alternative grantee beneficiary is not designated on a transfer-on-death deed, the transfer lapses.

Section 3. Section **57-1-47** is enacted to read:

57-1-47. Form of transfer-on-death deed.

An interest in real property is titled in a transfer-on-death deed by executing and acknowledging a deed in substantially the following form:

TRANSFER-ON-DEATH DEED

_____ (insert name of owner), as owner transfers on death to

_____ (insert name of beneficiary or beneficiaries), as grantee beneficiary,
the following described interest in real property. THIS TRANSFER-ON-DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY OWNERSHIP INTEREST UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL PRIOR BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST IN REAL PROPERTY.

(description of real property).

Witness the hand of said owner this _____ (month/day/year).

(Seal)

(acknowledgment)

Legislative Review Note
as of 2-9-07 2:25 PM

Office of Legislative Research and General Counsel

S.B. 276 - Transfer-on-Death Deeds for Real Property

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
