

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 941

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Al Park

AN ACT

RELATING TO REAL PROPERTY; PROVIDING FOR A TRANSFER ON DEATH DEED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 45, Article 6 NMSA 1978 is enacted to read:

" [NEW MATERIAL] REAL PROPERTY--TRANSFER ON DEATH DEED. --

A. An interest in real property may be titled in transfer on death form by recording a deed signed and acknowledged by the record owner of the interest and designating a grantee beneficiary or beneficiaries of the interest. The deed transfers ownership of that interest upon the death of the owner. A transfer on death deed need not be supported by consideration.

B. The signature, consent or agreement of or

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 notice to a grantee beneficiary of a transfer on death deed is
2 not required for any purpose during the lifetime of the record
3 owner.

4 C. An interest in real property is titled in
5 transfer on death form by executing, acknowledging and
6 recording in the office of the county clerk in the county
7 where the real property is located, prior to the death of the
8 owner, a deed in substantially the following form:

9 "TRANSFER ON DEATH DEED

10(Name of owner).... as owner transfers on death to
11(name of beneficiary)...., as grantee beneficiary, the
12 following described interest in real property. THIS TRANSFER
13 ON DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY
14 OWNERSHIP UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL PRIOR
15 BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST IN
16 REAL PROPERTY.

17 (description)

18 Witness.....hand..... and
19 seal.....this.....day of 20....
20 (Seal)

21 (Here add acknowledgment(s))".

22 D. A designation of the grantee beneficiary may be
23 revoked by the record owner at any time prior to the death of
24 the record owner, by the record owner executing, acknowledging
25 and recording in the office of the county clerk in the county

1 where the real property is located an instrument describing
2 the interest and revoking the designation. The signature,
3 consent or agreement of or notice to the grantee beneficiary
4 or beneficiaries is not required.

5 E. A designation of the grantee beneficiary may be
6 changed by the record owner at any time prior to the death of
7 the owner, by the record owner executing, acknowledging and
8 recording a subsequent transfer on death deed. The signature,
9 consent or agreement of or notice to the grantee beneficiary
10 or beneficiaries is not required. A subsequent transfer on
11 death beneficiary designation revokes a prior designation to
12 the extent there is a conflict between the two designations.

13 F. A transfer on death deed executed, acknowledged
14 and recorded in accordance with this section is not revoked by
15 the provisions of a will.

16 G. A joint tenancy in real property is not
17 effected by a transfer on death deed, and the rights of a
18 surviving joint tenant shall prevail over a grantee
19 beneficiary named in a transfer on death deed. If a joint
20 tenant has executed a transfer on death deed, and if that
21 joint tenant is the last surviving joint tenant, then the
22 transfer on death deed is effective on that joint tenant's
23 death.

24 H. Title to the interest in real estate recorded
25 in transfer on death form shall vest in the designated grantee

underscored material = new
[bracketed material] = delete

1 beneficiary or beneficiaries on the death of the record owner.

2 I. Grantee beneficiaries of a transfer on death
3 deed take the record owner's interest in the real estate at
4 death subject to all conveyances, assignments, contracts,
5 mortgages, liens and security pledges made by the record owner
6 or to which the record owner was subject during the record
7 owner's lifetime and to any interest conveyed by the record
8 owner that is less than all of the record owner's interest in
9 the property.

10 J. If the assets of the estate are insufficient, a
11 transfer resulting from a transfer on death deed is not
12 effective against the estate of a deceased party to the extent
13 needed to pay any claims against the estate and the statutory
14 allowances to the surviving spouse and children.

15 K. If a grantee beneficiary dies prior to the
16 death of the record owner and an alternative grantee
17 beneficiary has not been designated on the deed, the transfer
18 shall lapse. "