

BILL ANALYSIS

C.S.S.B. 462
By: Huffman
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that many low-income homeowners in Texas cannot afford a lawyer to prepare a will, or their heirs cannot afford a lawyer and court costs to probate a will. For these Texans, property often passes by intestate succession, which can lead to a cloud on the title due to multiple family members co-owning the property. These parties point out that consolidating ownership can be so costly and complicated that families abandon or otherwise lose their property. The parties observe that possessing clear title to property offers many benefits, including the ability to sell or encumber the property, to use the property as collateral on a loan, or to qualify for property tax exemptions.

The parties suggest that a transfer on death (TOD) deed instrument would provide an alternative to probate for real property and would enable property owners to affordably and efficiently pass clean title to real property from one generation to the next. The parties consider a TOD deed a will substitute for real property, allowing a property owner to transfer real property to a named beneficiary upon the owner's death without the need for the beneficiary to go through a probate administration. C.S.S.B. 462 seeks to establish a TOD deed instrument in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 462 amends the Estates Code to authorize an individual to transfer the individual's interest in real property to one or more beneficiaries effective at the transferor's death by a transfer on death (TOD) deed, applicable to a TOD deed executed and acknowledged on or after September 1, 2015, by a transferor who dies on or after September 1, 2015. The bill specifies that, for purposes of its provisions, the term "transfer on death deed" does not refer to any deed that transfers an interest in real property on the death of an individual other than a deed authorized under the bill's provisions. The bill makes a TOD deed revocable regardless of whether the deed or another instrument contains a contrary provision. The bill establishes that a TOD deed is a nontestamentary instrument and that the capacity required to make or revoke a TOD deed is the same as that required to make a contract. The bill prohibits a TOD deed from being created through use of a power of attorney. The bill requires a TOD deed, to be effective, to contain the essential elements and formalities of a recordable deed, state that the transfer of an interest in real property to the designated beneficiary is to occur at the transferor's death, and be recorded before the transferor's death in the deed records in the county clerk's office of the county where the real property is located. The bill establishes that a TOD deed is effective without notice or delivery to or acceptance by the designated beneficiary during the transferor's life or without consideration.

C.S.S.B. 462 sets out the conditions under which an instrument is effective in revoking a recorded TOD deed, or any part of it, and prohibits a will from revoking or superseding a TOD deed. The bill establishes that a final judgment of a court dissolving a marriage between the transferor and a designated beneficiary after a TOD deed is recorded operates to revoke the TOD deed as to that designated beneficiary if notice of the judgment is recorded before the transferor's death in the deed records in the county clerk's office of the county where the deed is recorded. The bill establishes that revocation by a transferor of a TOD deed made by more than one transferor does not affect the deed as to the interest of another transferor who does not make that revocation, that a TOD deed made by joint owners with right of survivorship is revoked only if it is revoked by all of the living joint owners, and that the bill's provisions relating to revocation by certain instruments and to the effect of a will or marriage dissolution do not limit the effect of an inter vivos transfer of the real property.

C.S.S.B. 462 sets out the effects of a TOD deed during a transferor's life and voids an otherwise valid TOD deed as to any interest in real property that is conveyed by the transferor during the transferor's lifetime after the TOD deed is executed and recorded if a valid instrument conveying the interest is recorded in the deed records in the county clerk's office of the same county in which the TOD deed is recorded and if the recording of the instrument occurs before the transferor's death. The bill sets out provisions that are applicable on the death of the transferor to an interest in real property that is the subject of a TOD deed and owned by the transferor at death and sets out provisions relating to a TOD deed if a transferor is a joint owner. The bill establishes that a TOD deed transfers real property without covenant of warranty of title even if the deed contains a contrary provision.

C.S.S.B. 462 establishes that a beneficiary of a TOD deed takes the real property, subject to statutory provisions relating to the validity of unrecorded instruments, subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the real property is subject at the transferor's death and that the recording of the TOD deed is considered to have occurred at the transferor's death. The bill sets out provisions relating to how such a transfer affects the claims of creditors of the transferor and authorizes a designated beneficiary to disclaim all or part of the designated beneficiary's interest as provided by statutory provisions relating to disclaimers and assignments. The bill sets out provisions relating to liability for creditor claims, allowances in lieu of exempt property, and family allowances and establishes that real property transferred at the transferor's death by a TOD deed is not considered property of the probate estate for any purpose, including for purposes relating to recovery of medical assistance under the Medicaid program. The bill authorizes a court to award costs and reasonable and necessary attorney's fees in amounts the court considers equitable and just for any proceeding brought under the bill's provisions relating to liability for creditor claims, allowances in lieu of exempt property, and family allowances.

C.S.S.B. 462 authorizes an optional form to be used to create a TOD deed and an optional form to be used to create an instrument of revocation and sets out the contents of both forms. The bill's provisions do not affect any method of transferring real property otherwise permitted under state law. The bill modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, except for certain specified parts of that act, and establishes that the bill's provisions do not authorize electronic delivery of certain notices described in that act.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 462 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. TRANSFER ON DEATH DEED

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. SHORT TITLE. This chapter may be cited as the Texas Real Property Transfer on Death Act.

Sec. 114.002. DEFINITIONS. (a) In this chapter:

(1) "Beneficiary" means a person who receives real property under a transfer on death deed.

(2) "Designated beneficiary" means a person designated to receive real property in a transfer on death deed.

(3) "Joint owner with right of survivorship" or "joint owner" means an individual who owns real property concurrently with one or more other individuals with a right of survivorship. The term does not include a tenant in common or an owner of community property with or without a right of survivorship.

(4) "Person" has the meaning assigned by Section 311.005, Government Code.

(5) "Real property" means an interest in real property located in this state.

(6) "Transfer on death deed" means a deed authorized under this chapter.

(7) "Transferor" means an individual who makes a transfer on death deed.

(b) In this chapter, the terms "cancel" and "revoke" are synonymous.

Sec. 114.003. APPLICABILITY. This chapter applies to a transfer on death deed made before, on, or after September 1, 2015, by a transferor who dies on or after September 1, 2015.

Sec. 114.004. NONEXCLUSIVITY.

Sec. 114.005. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sec. 114.006. RELATION TO ELECTRONIC SIGNATURES IN

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. TRANSFER ON DEATH DEED

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. SHORT TITLE. This chapter may be cited as the Texas Real Property Transfer on Death Act.

Sec. 114.002. DEFINITIONS. (a) In this chapter:

(1) "Beneficiary" means a person who receives real property under a transfer on death deed.

(2) "Designated beneficiary" means a person designated to receive real property in a transfer on death deed.

(3) "Joint owner with right of survivorship" or "joint owner" means an individual who owns real property concurrently with one or more other individuals with a right of survivorship. The term does not include a tenant in common or an owner of community property with or without a right of survivorship.

(4) "Person" has the meaning assigned by Section 311.005, Government Code.

(5) "Real property" means an interest in real property located in this state.

(6) "Transfer on death deed" means a deed authorized under this chapter and does not refer to any other deed that transfers an interest in real property on the death of an individual.

(7) "Transferor" means an individual who makes a transfer on death deed.

(b) In this chapter, the terms "cancel" and "revoke" are synonymous.

Sec. 114.003. APPLICABILITY. This chapter applies to a transfer on death deed executed and acknowledged on or after September 1, 2015, by a transferor who dies on or after September 1, 2015.

Sec. 114.004. NONEXCLUSIVITY.

Sec. 114.005. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sec. 114.006. RELATION TO ELECTRONIC SIGNATURES IN

GLOBAL AND NATIONAL COMMERCE
ACT.

SUBCHAPTER B. AUTHORIZATION,
EXECUTION, AND REVOCATION OF
TRANSFER ON DEATH DEED

Sec. 114.051. TRANSFER ON DEATH
DEED AUTHORIZED.

Sec. 114.052. TRANSFER ON DEATH
DEED REVOCABLE.

Sec. 114.053. TRANSFER ON DEATH
DEED NONTESTAMENTARY.

Sec. 114.054. CAPACITY OF
TRANSFEROR. The capacity required to
make or revoke a transfer on death deed is
the same as the capacity required to make a
contract.

Sec. 114.055. REQUIREMENTS.

Sec. 114.056. NOTICE, DELIVERY,
ACCEPTANCE, OR CONSIDERATION
NOT REQUIRED.

Sec. 114.057. REVOCATION BY
CERTAIN INSTRUMENTS; EFFECT OF
WILL OR MARRIAGE DISSOLUTION.

SUBCHAPTER C. EFFECT OF
TRANSFER ON DEATH DEED;
LIABILITY OF TRANSFERRED
PROPERTY FOR CREDITORS' CLAIMS

Sec. 114.101. EFFECT OF TRANSFER
ON DEATH DEED DURING
TRANSFEROR'S LIFE.

Sec. 114.102. TRANSFER ON DEATH
DEED VOID ON CONVEYANCE OF
PROPERTY SUBJECT OF DEED. If a
transferor during the transferor's lifetime
conveys to any person all of the transferor's
interest in real property that is the subject of
a transfer on death deed, the transfer on
death deed is void as to that interest in real
property.

GLOBAL AND NATIONAL COMMERCE
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SUBCHAPTER B. AUTHORIZATION,
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Sec. 114.051. TRANSFER ON DEATH
DEED AUTHORIZED.

Sec. 114.052. TRANSFER ON DEATH
DEED REVOCABLE.

Sec. 114.053. TRANSFER ON DEATH
DEED NONTESTAMENTARY.

Sec. 114.054. CAPACITY OF
TRANSFEROR; USE OF POWER OF
ATTORNEY. (a) The capacity required to
make or revoke a transfer on death deed is
the same as the capacity required to make a
contract.

(b) A transfer on death deed may not be
created through use of a power of attorney.

Sec. 114.055. REQUIREMENTS.

Sec. 114.056. NOTICE, DELIVERY,
ACCEPTANCE, OR CONSIDERATION
NOT REQUIRED.

Sec. 114.057. REVOCATION BY
CERTAIN INSTRUMENTS; EFFECT OF
WILL OR MARRIAGE DISSOLUTION.

SUBCHAPTER C. EFFECT OF
TRANSFER ON DEATH DEED;
LIABILITY OF TRANSFERRED
PROPERTY FOR CREDITORS' CLAIMS

Sec. 114.101. EFFECT OF TRANSFER
ON DEATH DEED DURING
TRANSFEROR'S LIFE.

Sec. 114.102. EFFECT OF SUBSEQUENT
CONVEYANCE ON TRANSFER ON
DEATH DEED. An otherwise valid
transfer on death deed is void as to any
interest in real property that is conveyed by
the transferor during the transferor's lifetime
after the transfer on death deed is executed
and recorded if:

(1) a valid instrument conveying the
interest is recorded in the deed records in the
county clerk's office of the same county in
which the transfer on death deed is
recorded; and

(2) the recording of the instrument occurs before the transferor's death.

Sec. 114.103. EFFECT OF TRANSFER ON DEATH DEED AT TRANSFEROR'S DEATH. (a) Except as otherwise provided in the transfer on death deed, this section, or any other statute or the common law of this state governing a decedent's estate, on the death of the transferor, the following rules apply to an interest in real property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) if the designated beneficiary survives the transferor by 120 hours, the interest in the real property is transferred to the designated beneficiary in accordance with the deed;

(2) the interest of a designated beneficiary that fails to survive the transferor by 120 hours lapses, notwithstanding Section 111.052;

(3) subject to Subdivision (4), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship; and

(4) notwithstanding Subdivision (2), if the transferor has identified two or more designated beneficiaries to receive concurrent interests in the real property, the share of a designated beneficiary who predeceases the transferor lapses and is subject to and passes in accordance with Subchapter D, Chapter 255, as if the transfer on death were a devise made in a will.

(b) If a transferor is a joint owner with right of survivorship who is survived by one or more other joint owners, the real property that is the subject of the transfer on death deed belongs to the surviving joint owner or owners. If a transferor is a joint owner with right of survivorship who is the last surviving joint owner, the transfer on death deed is effective.

(c) If a transfer on death deed is made by two or more transferors who are joint owners with right of survivorship, the last surviving joint owner may revoke the transfer on death deed subject to Section 114.057.

(d) A transfer on death deed transfers real property without covenant or warranty of title even if the deed contains a contrary provision.

Sec. 114.104. TRANSFER ON DEATH DEED PROPERTY SUBJECT TO LIENS

Sec. 114.103. EFFECT OF TRANSFER ON DEATH DEED AT TRANSFEROR'S DEATH. (a) Except as otherwise provided in the transfer on death deed, this section, or any other statute or the common law of this state governing a decedent's estate, on the death of the transferor, the following rules apply to an interest in real property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) if the designated beneficiary survives the transferor by 120 hours, the interest in the real property is transferred to the designated beneficiary in accordance with the deed;

(2) the interest of a designated beneficiary that fails to survive the transferor by 120 hours lapses, notwithstanding Section 111.052;

(3) subject to Subdivision (4), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship; and

(4) notwithstanding Subdivision (2), if the transferor has identified two or more designated beneficiaries to receive concurrent interests in the real property, the share of a designated beneficiary who predeceases the transferor lapses and is subject to and passes in accordance with Subchapter D, Chapter 255, as if the transfer on death deed were a devise made in a will.

(b) If a transferor is a joint owner with right of survivorship who is survived by one or more other joint owners, the real property that is the subject of the transfer on death deed belongs to the surviving joint owner or owners. If a transferor is a joint owner with right of survivorship who is the last surviving joint owner, the transfer on death deed is effective.

(c) If a transfer on death deed is made by two or more transferors who are joint owners with right of survivorship, the last surviving joint owner may revoke the transfer on death deed subject to Section 114.057.

(d) A transfer on death deed transfers real property without covenant of warranty of title even if the deed contains a contrary provision.

Sec. 114.104. TRANSFER ON DEATH DEED PROPERTY SUBJECT TO LIENS

AND ENCUMBRANCES AT TRANSFEROR'S DEATH; CREDITORS' CLAIMS. (a) Subject to Section 13.001, Property Code, a beneficiary takes the real property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the real property is subject at the transferor's death. For purposes of this subsection and Section 13.001, Property Code, the recording of the transfer on death deed is considered to have occurred at the transferor's death.

(b) If a personal representative has been appointed for the transferor's estate, an administration of the estate has been opened, and the real property transferring under a transfer on death deed is subject to a lien or security interest, including a deed of trust or mortgage, the personal representative shall give notice to the creditor of the transferor as the personal representative would any other secured creditor under Section 308.053. The creditor shall then make an election under Section 355.151 in the period prescribed by Section 355.152 to have the claim treated as a matured secured claim or a preferred debt and lien claim, and the claim is subject to the claims procedures prescribed by this section.

(c) If the secured creditor elects to have the claim treated as a preferred debt and lien claim, Sections 355.154 and 355.155 apply as if the transfer on death were a devise made in a will, and the creditor may not pursue any other claims or remedies for any deficiency against the transferor's estate.

(d) If the secured creditor elects to have the claim treated as a matured secured claim, Section 355.153 applies as if the transfer on death were a devise made in a will, and the claim is subject to the procedural provisions of this title governing creditor claims.

Sec. 114.105. DISCLAIMER.

Sec. 114.106. LIABILITY FOR CREDITOR CLAIMS AND FAMILY ALLOWANCES. (a) To the extent the transferor's estate is insufficient to satisfy a claim against the estate, expenses of administration, any estate tax owed by the estate, or a family allowance to a surviving spouse, minor children, or incapacitated adult children, the personal representative

AND ENCUMBRANCES AT TRANSFEROR'S DEATH; CREDITORS' CLAIMS. (a) Subject to Section 13.001, Property Code, a beneficiary takes the real property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the real property is subject at the transferor's death. For purposes of this subsection and Section 13.001, Property Code, the recording of the transfer on death deed is considered to have occurred at the transferor's death.

(b) If a personal representative has been appointed for the transferor's estate, an administration of the estate has been opened, and the real property transferring under a transfer on death deed is subject to a lien or security interest, including a deed of trust or mortgage, the personal representative shall give notice to the creditor of the transferor as the personal representative would any other secured creditor under Section 308.053. The creditor shall then make an election under Section 355.151 in the period prescribed by Section 355.152 to have the claim treated as a matured secured claim or a preferred debt and lien claim, and the claim is subject to the claims procedures prescribed by this section.

(c) If the secured creditor elects to have the claim treated as a preferred debt and lien claim, Sections 355.154 and 355.155 apply as if the transfer on death deed were a devise made in a will, and the creditor may not pursue any other claims or remedies for any deficiency against the transferor's estate.

(d) If the secured creditor elects to have the claim treated as a matured secured claim, Section 355.153 applies as if the transfer on death deed were a devise made in a will, and the claim is subject to the procedural provisions of this title governing creditor claims.

Sec. 114.105. DISCLAIMER.

Sec. 114.106. LIABILITY FOR CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT PROPERTY AND FAMILY ALLOWANCES. (a) To the extent the transferor's estate is insufficient to satisfy a claim against the estate, expenses of administration, any estate tax owed by the estate, or an allowance in lieu of exempt property or family allowance to a surviving

may enforce that liability against real property transferred at the transferor's death by a transfer on death deed to the same extent the personal representative could enforce that liability if the real property were part of the probate estate.

- (b) If a personal representative does not commence a proceeding to enforce a liability under Subsection (a) on or before the 90th day after the date the representative receives a demand for payment, a proceeding to enforce the liability may be brought by a creditor, a distributee of the estate, a surviving spouse of the decedent, a guardian or other appropriate person on behalf of a minor child or adult incapacitated child of the decedent, or any taxing authority.
- (c) If more than one real property interest is transferred by one or more transfer on death deeds or if there are other nonprobate assets of the transferor that may be liable for the claims, expenses, and other payments specified in Subsection (a), the liability for those claims, expenses, and other payments may be apportioned among those real property interests and other assets in proportion to their net values at the transferor's death.
- (d) A proceeding to enforce liability under this section must be commenced not later than the second anniversary of the transferor's death, except for any rights arising under Section 114.104(d).
- (e) In connection with any proceeding brought under this section, a court may award costs and reasonable and necessary attorney's fees in amounts the court considers equitable and just.

SUBCHAPTER D. FORMS FOR TRANSFER ON DEATH DEED

Sec. 114.151. OPTIONAL FORM FOR TRANSFER ON DEATH DEED. The following form may be used to create a transfer on death deed.
REVOCABLE TRANSFER ON DEATH DEED

- spouse, minor children, or incapacitated adult children, the personal representative may enforce that liability against real property transferred at the transferor's death by a transfer on death deed to the same extent the personal representative could enforce that liability if the real property were part of the probate estate.
- (b) Notwithstanding Subsection (a), real property transferred at the transferor's death by a transfer on death deed is not considered property of the probate estate for any purpose, including for purposes of Section 531.077, Government Code.
- (c) If a personal representative does not commence a proceeding to enforce a liability under Subsection (a) on or before the 90th day after the date the representative receives a demand for payment, a proceeding to enforce the liability may be brought by a creditor, a distributee of the estate, a surviving spouse of the decedent, a guardian or other appropriate person on behalf of a minor child or adult incapacitated child of the decedent, or any taxing authority.
- (d) If more than one real property interest is transferred by one or more transfer on death deeds or if there are other nonprobate assets of the transferor that may be liable for the claims, expenses, and other payments specified in Subsection (a), the liability for those claims, expenses, and other payments may be apportioned among those real property interests and other assets in proportion to their net values at the transferor's death.
- (e) A proceeding to enforce liability under this section must be commenced not later than the second anniversary of the transferor's death, except for any rights arising under Section 114.104(d).
- (f) In connection with any proceeding brought under this section, a court may award costs and reasonable and necessary attorney's fees in amounts the court considers equitable and just.

SUBCHAPTER D. FORMS FOR TRANSFER ON DEATH DEED

Sec. 114.151. OPTIONAL FORM FOR TRANSFER ON DEATH DEED. The following form may be used to create a transfer on death deed.
REVOCABLE TRANSFER ON DEATH DEED

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

IMPORTANT NOTICE TO OWNER: You should carefully read all the information included in the instructions to this form. You may want to consult a lawyer before using this form.

MUST RECORD DEED: Before your death, this deed must be recorded with the county clerk where the property is located, or it will not be effective.

1. Owner (Transferor) Making this Deed:

Printed nameMailing address

2. Legal Description of the Property:

3. Address of the Property (if any) (include county):

4. Primary Beneficiary (Transferee) or Beneficiaries (Transferees)

I designate the following beneficiary or beneficiaries, if the beneficiary survives me:

Printed nameMailing address

5. Alternate Beneficiary or Beneficiaries (Optional)

If no primary beneficiary survives me, I designate the following alternate beneficiary or beneficiaries:

Printed nameMailing address

6. Transfer on Death

At my death, I convey to the primary beneficiary or beneficiaries my interest in the property, to have and hold forever. If at my death I am not survived by any primary

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

IMPORTANT NOTICE TO OWNER: You should carefully read all the information included in the instructions to this form. You may want to consult a lawyer before using this form.

MUST RECORD DEED: Before your death, this deed must be recorded with the county clerk where the property is located, or it will not be effective.

MARRIED PERSONS: If you are married and want your spouse to own the property on your death, you must name your spouse as the primary beneficiary. If your spouse does not survive you, the property will transfer to any listed alternate beneficiary or beneficiaries on your death.

1. Owner (Transferor) Making this Deed:

Printed nameMailing address

2. Legal Description of the Property:

3. Address of the Property (if any) (include county):

4. Primary Beneficiary (Transferee) or Beneficiaries (Transferees)

I designate the following beneficiary or beneficiaries, if the beneficiary survives me:

Printed nameMailing address

5. Alternate Beneficiary or Beneficiaries (Optional)

If no primary beneficiary survives me, I designate the following alternate beneficiary or beneficiaries:

Printed nameMailing address

6. Transfer on Death

At my death, I grant and convey to the primary beneficiary or beneficiaries my interest in the property, to have and hold forever. If at my death I am not survived by

beneficiary, I grant and convey to the alternate beneficiary or beneficiaries, if designated, my interest in the property, to have and hold forever. If the primary and alternate beneficiaries do not survive me, this transfer on death deed shall be deemed canceled by me.

7. Signature of Owner Making this Deed:

Signature Date

BELOW LINE FOR NOTARY ONLY

Acknowledgement

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____.

Notary Public, State of

After recording, return to:

(insert name and mailing address)

INSTRUCTIONS FOR TRANSFER ON DEATH DEED

DO NOT RECORD THESE INSTRUCTIONS

Instructions for Completing the Form

1. Owner (Transferor) Making this Deed: Enter your first, middle (if any), and last name here, along with your mailing address.
2. Legal Description of the Property: Enter the formal legal description of the property. This information is different from the mailing and physical address for the property and is necessary to complete the form. To find this information, look on the deed you received when you became an owner of the property. This information may also be available in the office of the county clerk for the county where the property is located. Do NOT use your tax bill to find this information. If you are not absolutely sure, consult a lawyer.
3. Address of the Property: Enter the physical address of the property.
4. Primary Beneficiary or Beneficiaries: Enter the first and last name of each person you want to get the property when you die.

any primary beneficiary, I grant and convey to the alternate beneficiary or beneficiaries, if designated, my interest in the property, to have and hold forever. If the primary and alternate beneficiaries do not survive me, this transfer on death deed shall be deemed canceled by me.

7. Printed Name and Signature of Owner Making this Deed:

Printed Name Date

Signature

BELOW LINE FOR NOTARY ONLY

Acknowledgment

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____.

Notary Public, State of

After recording, return to:

(insert name and mailing address)

INSTRUCTIONS FOR TRANSFER ON DEATH DEED

DO NOT RECORD THESE INSTRUCTIONS

Instructions for Completing the Form

1. Owner (Transferor) Making this Deed: Enter your first, middle (if any), and last name here, along with your mailing address.
2. Legal Description of the Property: Enter the formal legal description of the property. This information is different from the mailing and physical address for the property and is necessary to complete the form. To find this information, look on the deed you received when you became an owner of the property. This information may also be available in the office of the county clerk for the county where the property is located. Do NOT use your tax bill to find this information. If you are not absolutely sure, consult a lawyer.
3. Address of the Property: Enter the physical address of the property.
4. Primary Beneficiary or Beneficiaries: Enter the first and last name of each person you want to get the property when you die.

If you are married and want your spouse to get the property when you die, enter your spouse's first and last name (even if you and your spouse own the property together).

5. Alternate Beneficiary or Beneficiaries: Enter the first and last name of each person you want to get the property if no primary beneficiary survives you.

6. Transfer on Death: No action needed.

7. Signature of Owner: Do not sign your name or enter the date until you are before a notary.

8. Acknowledgement: This deed must be signed before a notary. The notary will fill out this section of the deed.

Sec. 114.152. OPTIONAL FORM OF REVOCATION. The following form may be used to create an instrument of revocation under this chapter.

CANCELLATION OF TRANSFER ON DEATH DEED

IMPORTANT NOTICE TO OWNER: You should carefully read all the information included in the instructions to this form. You may want to consult a lawyer before using this form.

MUST RECORD FORM: Before your death, this cancellation form must be recorded with the county clerk where the property is located, or it will not be effective. This cancellation is effective only as to the interests in the property of owners who sign this cancellation form.

1. Owner (Transferor) Making this Cancellation:

Printed nameMailing address

2. Legal Description of the Property:

3. Address of the Property (if any) (include county):

4. Cancellation
I cancel all my previous transfers of this property by transfer on death deed.

5. Signature of Owner (Transferor) Making this Cancellation:

Signature Date

If you are married and want your spouse to get the property when you die, enter your spouse's first and last name (even if you and your spouse own the property together).

5. Alternate Beneficiary or Beneficiaries: Enter the first and last name of each person you want to get the property if no primary beneficiary survives you.

6. Transfer on Death: No action needed.

7. Printed Name and Signature of Owner: Do not sign your name or enter the date until you are before a notary. Include your printed name.

8. Acknowledgment: This deed must be signed before a notary. The notary will fill out this section of the deed.

Sec. 114.152. OPTIONAL FORM OF REVOCATION. The following form may be used to create an instrument of revocation under this chapter.

CANCELLATION OF TRANSFER ON DEATH DEED

IMPORTANT NOTICE TO OWNER: You should carefully read all the information included in the instructions to this form. You may want to consult a lawyer before using this form.

MUST RECORD FORM: Before your death, this cancellation form must be recorded with the county clerk where the property is located, or it will not be effective. This cancellation is effective only as to the interests in the property of owners who sign this cancellation form.

1. Owner (Transferor) Making this Cancellation:

Printed nameMailing address

2. Legal Description of the Property:

3. Address of the Property (if any) (include county):

4. Cancellation
I cancel all my previous transfers of this property by transfer on death deed.

5. Printed Name and Signature of Owner (Transferor) Making this Cancellation:

Printed Name Date

Signature

BELOW LINE FOR NOTARY ONLY

Acknowledgement
STATE OF
COUNTY OF
This instrument was acknowledged before
me on the day of ,
20 ,
by .

Notary Public, State of
After recording, return to:
(insert name and mailing address)

INSTRUCTIONS FOR CANCELING A
TRANSFER ON DEATH (TOD) DEED
DO NOT RECORD THESE
INSTRUCTIONS
Instructions for Completing the Form
1. Owner (Transferor) Making this
Cancellation: Enter your first, middle (if
any), and last name here, along with your
mailing address.
2. Legal Description of the Property: Enter
the formal legal description of the property.
This information is different from the
mailing and physical address for the
property and is necessary to complete the
form. To find this information, look on the
deed you received when you became an
owner of the property. This information
may also be available in the office of the
county clerk for the county where the
property is located. Do NOT use your tax
bill to find this information. If you are not
absolutely sure, consult a lawyer.
3. Address of the Property: Enter the
physical address of the property.
4. Cancellation: No action needed.
5. Signature of Owner: Do not sign your
name or enter the date until you are before a
notary.

6. Acknowledgement: This cancellation
form must be signed before a notary. The
notary will fill out this section of the form.

SECTION 2. Section 22.027(b), Estates
Code, is amended.

SECTION 3. Section 122.001(1), Estates
Code, is amended.

BELOW LINE FOR NOTARY ONLY

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this information. If you are not absolutely
sure, consult a lawyer.
3. Address of the Property: Enter the
physical address of the property.
4. Cancellation: No action needed.
5. Printed Name and Signature of Owner:
Do not sign your name or enter the date
until you are before a notary. Include your
printed name.
6. Acknowledgment: This cancellation form
must be signed before a notary. The notary
will fill out this section of the form.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. This Act takes effect
September 1, 2015.

SECTION 4. Same as engrossed version.