

By: Farrar

H.B. No. 3121

A BILL TO BE ENTITLED

AN ACT

relating to a revocable deed that transfers real property at the transferor's death.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 114.103(a), Estates Code, is amended to read as follows:

(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 share [interest] of any [a] designated beneficiary that fails to survive the transferor by 120 hours lapses, notwithstanding Section 111.052, 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; and

(3) subject to Subdivision (2) [(4)], concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship~~[, and~~

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

7 SECTION 2. Section 114.151, Estates Code, is amended to
8 read as follows:

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

11 REVOCABLE TRANSFER ON DEATH DEED
12 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU
13 MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS
14 INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC
15 RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE
16 NUMBER.

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

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

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

1 1. Owner (Transferor) Making this Deed:

2 _____

3 Printed name Mailing address

4 2. Legal Description of the Property:

5 _____

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

7 _____

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

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

12 _____

13 Printed name Mailing address

14 5. Alternate Beneficiary or Beneficiaries (Optional)

15 ~~[If no primary beneficiary survives me,~~ I designate the
16 following alternate beneficiary or beneficiaries, if the alternate
17 beneficiary survives me:

18 _____

19 Printed name Mailing address

20 6. Transfer on Death: (Choose an option under both A and B below,
21 and if you have designated any alternate beneficiaries, choose an
22 option under C.)

23 At my death, I grant and convey to the primary beneficiary or
24 beneficiaries my interest in the property, to have and hold
25 forever. ~~[If at my death I am not survived by any primary~~
26 ~~beneficiary, I grant and convey to the alternate beneficiary or~~
27 ~~beneficiaries, if designated, my interest in the property, to have~~

1 ~~and hold forever. If the primary and alternate beneficiaries do not~~
2 ~~survive me, this transfer on death deed shall be deemed canceled by~~
3 ~~me.]~~

4 A. IF AT LEAST ONE PRIMARY BENEFICIARY SURVIVES ME

5 (Select either option (1) or (2) by placing your initials next to
6 the option chosen. If you do not choose an option, then option (1),
7 which is the anti-lapse election, will apply.)

8
9 If at least one primary beneficiary survives me, I grant and
10 convey the primary beneficiaries' share or shares of the property,
11 to have and hold forever, as follows:

12 _____ (1) Anti-Lapse Election. To the surviving primary
13 beneficiary or beneficiaries, but if a deceased primary
14 beneficiary, if any, was a child or other descendant of mine or of
15 one or both of my parents, that deceased primary beneficiary's
16 share will pass to the surviving children or other descendants of
17 that deceased primary beneficiary.

18 _____ (2) Surviving Primary Beneficiaries Election. To the
19 surviving primary beneficiary or beneficiaries only. If a deceased
20 primary beneficiary, if any, was a child or other descendant of mine
21 or of one or both of my parents, I do not want that deceased primary
22 beneficiary's share to pass to the children or other descendants of
23 that deceased primary beneficiary.

24
25 B. IF NO PRIMARY BENEFICIARY SURVIVES ME

26 (Select either option (1) or (2) by placing your initials next to
27 the option chosen. If you do not choose an option, then option (1),

1 which is the anti-lapse election, will apply.)

2
3 If no primary beneficiary survives me, I grant and convey the
4 share of the property that would have transferred to a deceased
5 primary beneficiary, to have and hold forever, as follows:

6 _____ (1) Anti-Lapse Election. To the surviving children or
7 other descendants of the deceased primary beneficiary, if the
8 deceased primary beneficiary was a child or other descendant of
9 mine or of one or both of my parents.

10 _____ (2) Surviving Alternate Beneficiaries Election. To
11 the alternate beneficiary or beneficiaries designated above. If
12 the deceased primary beneficiary was a child or other descendant of
13 mine or of one or both of my parents, I do not want that deceased
14 primary beneficiary's share to pass to the children or other
15 descendants of that deceased primary beneficiary.

16
17 If no primary beneficiary survives me and the anti-lapse
18 election is not chosen or that election is chosen, but a deceased
19 primary beneficiary is not a child or other descendant of mine or of
20 one or both of my parents, I grant and convey to the alternate
21 beneficiary or beneficiaries my share in the property that
22 otherwise would have transferred to the deceased primary
23 beneficiary, to have and hold forever. If I have not designated
24 alternate beneficiaries, this transfer on death deed shall be
25 considered cancelled by me.

26
27 C. IF AN ALTERNATE BENEFICIARY DOES NOT SURVIVE ME

1 (Select either option (1) or (2) by placing your initials next to
2 the option chosen. If you do not choose an option, then option (1),
3 which is the anti-lapse election, will apply.)

4
5 If an alternate beneficiary does not survive me, I grant and
6 convey that alternate beneficiary's share of the property as
7 follows:

8 _____ (1) Anti-Lapse Election. To the surviving alternate
9 beneficiary or beneficiaries, but if the deceased alternate
10 beneficiary was a child or other descendant of mine or of one or
11 both of my parents, that deceased alternate beneficiary's share
12 will pass to the surviving children or other descendants of that
13 deceased alternate beneficiary.

14 _____ (2) Surviving Alternate Beneficiaries Election. To
15 the surviving alternate beneficiary or beneficiaries only. If the
16 deceased alternate beneficiary was a child or other descendant of
17 mine or of one or both of my parents, I do not want that deceased
18 alternate beneficiary's share to pass to the children or other
19 descendants of that deceased alternate beneficiary.

20
21 If no alternate beneficiary survives me and the anti-lapse
22 election is not chosen or that election is chosen, but no deceased
23 alternate beneficiary was a child or other descendant of mine or of
24 one or both of my parents, this transfer on death deed shall be
25 considered cancelled by me.

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

27 _____

1 Printed Name Date

2 _____

3 Signature

4 BELOW LINE FOR NOTARY ONLY

5 _____

6 Acknowledgment

7 STATE OF _____

8 COUNTY OF _____

9 This instrument was acknowledged before me on the _____ day of

10 _____, 20____,

11 by _____.

12 _____

13 Notary Public, State of _____

14 After recording, return to:

15 (insert name and mailing address)

16 _____

17 _____

18 INSTRUCTIONS FOR TRANSFER ON DEATH DEED

19 DO NOT RECORD THESE INSTRUCTIONS

20 Instructions for Completing the Form

21 1. Owner (Transferor) Making this Deed: Enter your first, middle
22 (if any), and last name here, along with your mailing address.

23 2. Legal Description of the Property: Enter the formal legal
24 description of the property. This information is different from
25 the mailing and physical address for the property and is necessary
26 to complete the form. To find this information, look on the deed
27 you received when you became an owner of the property. This

1 information may also be available in the office of the county clerk
2 for the county where the property is located. Do NOT use your tax
3 bill to find this information. If you are not absolutely sure,
4 consult a lawyer.

5 3. Address of the Property: Enter the physical address of the
6 property.

7 4. Primary Beneficiary or Beneficiaries: Enter the first and
8 last name of each person you want to get the property when you die.
9 If you are married and want your spouse to get the property when you
10 die, enter your spouse's first and last name (even if you and your
11 spouse own the property together).

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

15 6. Transfer on Death: You should carefully read the language
16 describing the options and choose an option under both A and B of
17 Paragraph 6, and if you have listed any alternate beneficiaries,
18 choose an option under C of Paragraph 6 [~~No action needed~~].

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

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

24 SECTION 3. The changes in law made by this Act apply to a
25 transfer on death deed executed and acknowledged on or after the
26 effective date of this Act. A transfer on death deed executed and
27 acknowledged before the effective date of this Act is governed by

1 the law in effect on the date the transfer on death deed was
2 executed and acknowledged, and the former law is continued in
3 effect for that purpose.

4 SECTION 4. This Act takes effect September 1, 2017.