

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 837

By: Branan

4  
5  
6 AS INTRODUCED

7 An Act relating to probate procedure; amending  
8 Section 5, Chapter 78, O.S.L. 2008 (58 O.S. Supp.  
9 2008, Section 1255), which relates to the  
10 Nontestamentary Transfer of Property Act;  
11 establishing liability for certain claims; providing  
12 for enforceability of certain claims; and providing  
13 an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 5, Chapter 78, O.S.L. 2008  
16 (58 O.S. Supp. 2008, Section 1255), is amended to read as follows:

17 Section 1255. A. Title to the interest in real estate recorded  
18 in transfer-on-death form shall vest in the designated grantee  
19 beneficiary or beneficiaries on the death of the record owner. The  
20 death of the record owner shall be evidenced by the recording of an  
21 affidavit in the office of the county clerk of the county where the  
22 real estate is located. The affidavit shall be executed by the  
23 grantee beneficiary or beneficiaries. The affidavit shall state the  
24 fact of the death of the record owner, state whether or not the  
record owner and the designated grantee were husband and wife, and

1 provide the legal description of the real estate. The affidavit  
2 shall be notarized. If the record owner and designated grantee were  
3 not husband and wife, a copy of the death certificate of the record  
4 owner and an estate tax release shall be attached to the affidavit.

5 B. Grantee beneficiaries of a transfer-on-death deed take the  
6 interest of the record owner in the real estate at death subject to  
7 all conveyances, assignments, contracts, mortgages, liens and  
8 security pledges made by the record owner or to which the record  
9 owner was subject during the lifetime of the record owner including,  
10 but not limited to, any executory contract of sale, option to  
11 purchase, lease, license, easement, mortgage, deed of trust or lien,  
12 and to any interest conveyed by the record owner that is less than  
13 all of the record owner's interest in the property.

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

17 D. Grantee beneficiaries of a transfer-on-death deed are liable  
18 for allowed claims against the record owner's probate estate to the  
19 extent the record owner's probate estate is inadequate to satisfy  
20 those claims, unless such claims are otherwise paid or provided for.  
21 The grantee beneficiaries' liability under this paragraph may not  
22 exceed the value of the real estate interest received by the grantee  
23 beneficiaries under the transfer-on-death deed.

24

1       E. Upon notice to grantee beneficiaries, the liability imposed  
2 by paragraph D of this section is enforceable in proceedings in this  
3 state in the county where the property is located whether or not a  
4 grantee beneficiary is located in this state. A proceeding to  
5 enforce such liability must be commenced within one year after the  
6 record owner's death. A proceeding on behalf of a claimant whose  
7 claim was allowed after proceedings challenging disallowance of the  
8 claim may be commenced within sixty (60) days after final allowance  
9 of the claim.

10       SECTION 2. This act shall become effective November 1, 2009.

11  
12       52-1-1459           TEK           3/6/2009 7:07:01 AM

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24