

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 521

By: Crain of the Senate

and

Sherrer of the House

8 [ nontestamentary transfer of property - documents to  
be recorded - modifying procedures for revocation -  
9 effective date ]

12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

14 "An Act relating to nontestamentary transfer of  
property; amending Sections 2, as amended by Section  
15 1, Chapter 205, O.S.L. 2010, 4 and 5, Section 78,  
O.S.L. 2008 (58 O.S. Supp. 2010, Sections 1252, 1254  
16 and 1255), which relate to notice, revocation and  
vesting of interest; defining term; requiring  
17 certain documents to be recorded within specified  
time period; establishing requirements for recording  
18 of certain affidavit; modifying procedures for  
revocation of certain transfer on death deeds;  
19 modifying requirements for vesting of interest in  
certain property to grantee beneficiaries; and  
20 providing an effective date.

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

1 SECTION 1. AMENDATORY Section 2, Chapter 78, O.S.L.  
2 2008, as amended by Section 1, Chapter 205, O.S.L. 2010 (58 O.S.  
3 Supp. 2010, Section 1252), is amended to read as follows:

4 Section 1252. A. An interest in real estate may be titled in  
5 transfer-on-death form by recording a deed, signed by the record  
6 owner of the interest, designating a grantee beneficiary or  
7 beneficiaries of the interest. The deed shall transfer ownership of  
8 the interest upon the death of the owner. A transfer-on-death deed  
9 need not be supported by consideration. For purposes of the  
10 Nontestamentary Transfer of Property Act, an "interest in real  
11 estate" means any estate or interest in, over or under land,  
12 including surface, minerals, structures and fixtures.

13 B. The signature, consent or agreement of or notice to a  
14 grantee beneficiary or beneficiaries of a transfer-on-death deed  
15 shall not be required for any purpose during the lifetime of the  
16 record owner.

17 C. To accept real estate pursuant to a transfer-on-death deed,  
18 a designated grantee beneficiary shall execute ~~a notarized~~ an  
19 affidavit affirming:

- 20 1. Verification of the record owner's death;
- 21 2. Whether the record owner and the designated beneficiary were  
22 married at the time of the record owner's death; and
- 23 3. A legal description of the real estate.

24

1        D. If the grantee beneficiary was not the record owner's  
2 ~~spouse, he or she~~ The grantee shall attach a copy of the record  
3 owner's death certificate ~~and an estate tax release~~ to the  
4 beneficiary affidavit. The beneficiary shall record the affidavit  
5 and related documents with the office of the county clerk where the  
6 real estate is located within nine (9) months of the grantor's  
7 death, otherwise the interest in the property reverts to the  
8 deceased grantor's estate. Notwithstanding the provisions of  
9 Section 26 of Title 16 of the Oklahoma Statutes, an affidavit  
10 properly sworn to before a notary shall be received for record and  
11 recorded by the county clerk without having been acknowledged and,  
12 when recorded, shall be effective as if it had been acknowledged.

13        SECTION 2.        AMENDATORY        Section 4, Chapter 78, O.S.L. 2008  
14 (58 O.S. Supp. 2010, Section 1254), is amended to read as follows:

15        Section 1254. A. A designation of the grantee beneficiary may  
16 be revoked at any time prior to the death of the record owner, by  
17 executing, acknowledging and recording in the office of the county  
18 clerk in the county where the real estate is located an instrument  
19 revoking the designation. The signature, consent or agreement of or  
20 notice to the grantee beneficiary or beneficiaries to the revocation  
21 is not required.

22        B. A designation of the grantee beneficiary may be changed at  
23 any time prior to the death of the record owner, by executing,  
24 acknowledging and recording a subsequent transfer-on-death deed in

1 accordance with the Nontestamentary Transfer of Property Act. The  
2 signature, consent or agreement of or notice to the grantee  
3 beneficiary or beneficiaries is not required. A subsequent  
4 transfer-on-death beneficiary designation revokes all prior  
5 designations of grantee beneficiary or beneficiaries by the record  
6 owner for the interest in real estate.

7 C. A transfer-on-death deed executed, ~~acknowledged~~ sworn to and  
8 notarized, and recorded in accordance with the Nontestamentary  
9 Transfer of Property Act may not be revoked by the provisions of a  
10 will.

11 ~~D. A transfer on death deed executed, acknowledged and recorded~~  
12 ~~in accordance with the Nontestamentary Transfer of Property Act may~~  
13 ~~be disclaimed in whole or in part or with reference to specific~~  
14 ~~parts by the grantee beneficiary or beneficiaries. The disclaimer~~  
15 ~~must occur within nine (9) months after the death of the landowner.~~  
16 ~~The disclaimer shall be filed with the office of the county clerk in~~  
17 ~~which the transfer on death deed was recorded. If a grantee~~  
18 ~~beneficiary exerts dominion over the real estate within the nine-~~  
19 ~~month period, the disclaimer is waived. Dominion may be evidenced~~  
20 ~~by acts including, but not limited to, possession or the execution~~  
21 ~~of any conveyance, assignment, contract, mortgage, security pledge,~~  
22 ~~executory contract for sale, option to purchase, lease, license,~~  
23 ~~easement or right of way. A guardian, executor, administrator or~~  
24 ~~other personal representative of a minor or legally incompetent~~

1 ~~beneficiary may execute and file a disclaimer on behalf of the~~  
2 ~~beneficiary within the time and in the manner in which the~~  
3 ~~beneficiary could disclaim, if the guardian, executor, administrator~~  
4 ~~or other personal representative deems it in the best interests of~~  
5 ~~and not detrimental to the best interests of the beneficiary.~~

6 SECTION 3. AMENDATORY Section 5, Chapter 78, O.S.L. 2008  
7 (58 O.S. Supp. 2010, Section 1255), is amended to read as follows:

8 Section 1255. A. ~~Title to the interest in real estate recorded~~  
9 ~~in transfer on death form shall vest in the designated grantee~~  
10 ~~beneficiary or beneficiaries on the death of the record owner. The~~  
11 ~~death of the record owner shall be evidenced by the recording of an~~  
12 ~~affidavit in the office of the county clerk of the county where the~~  
13 ~~real estate is located. The affidavit shall be executed by the~~  
14 ~~grantee beneficiary or beneficiaries. The affidavit shall state the~~  
15 ~~fact of the death of the record owner, state whether or not the~~  
16 ~~record owner and the designated grantee were husband and wife, and~~  
17 ~~provide the legal description of the real estate. The affidavit~~  
18 ~~shall be notarized. If the record owner and designated grantee were~~  
19 ~~not husband and wife, a copy of the death certificate of the record~~  
20 ~~owner and an estate tax release shall be attached to the affidavit.~~

21 B. Grantee beneficiaries of a transfer-on-death deed take the  
22 interest of the record owner in the real estate at the death of the  
23 grantor owner, free and clear of any claims or interest under  
24 Section 44 of Title 84 of the Oklahoma Statutes as to a person who

1 became the spouse of the grantor subsequent to the execution of the  
2 transfer-on-death deed, subject to all recorded conveyances,  
3 assignments, contracts, mortgages, liens and security pledges made  
4 by the record owner or to which the record owner was subject during  
5 the lifetime of the record owner including, but not limited to, any  
6 recorded executory contract of sale, option to purchase, lease,  
7 license, easement, mortgage, deed of trust or lien, and to any  
8 interest conveyed by the record owner that is less than all of the  
9 record owner's interest in the property, provided however, a non-  
10 consensual lien against the grantee beneficiary shall not attach to  
11 the property until the recording of the affidavit described in  
12 Section 1252 of this title.

13 ~~C. B. If a one or more of the grantee beneficiary beneficiaries~~  
14 ~~dies prior to the death of the record grantor owner and an~~  
15 ~~alternative grantee beneficiary has not been designated on the deed,~~  
16 ~~the transfer to that beneficiary shall lapse, unless the remaining~~  
17 ~~beneficiaries were joint tenants with the deceased beneficiary or~~  
18 ~~beneficiaries.~~

19 SECTION 4. This act shall become effective November 1, 2011.”  
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1 ENGROSSED SENATE  
2 BILL NO. 521

By: Crain of the Senate

3 and

4 Sherrer of the House

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7 [ nontestamentary transfer of property - documents to  
8 be recorded - modifying procedures for revocation -  
effective date ]

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

12 SECTION 5. AMENDATORY Section 2, Chapter 78, O.S.L.  
13 2008, as amended by Section 1, Chapter 205, O.S.L. 2010 (58 O.S.  
14 Supp. 2010, Section 1252), is amended to read as follows:

15 Section 1252. A. An interest in real estate may be titled in  
16 transfer-on-death form by recording a deed, signed by the record  
17 owner of the interest, designating a grantee beneficiary or  
18 beneficiaries of the interest. The deed shall transfer ownership of  
19 the interest upon the death of the owner. A transfer-on-death deed  
20 need not be supported by consideration. For purposes of the  
21 Nontestamentary Transfer of Property Act, an "interest in real  
22 estate" means any estate or interest in, over or under land,  
23 including surface, minerals, structures and fixtures.

24

1 B. The signature, consent or agreement of or notice to a  
2 grantee beneficiary or beneficiaries of a transfer-on-death deed  
3 shall not be required for any purpose during the lifetime of the  
4 record owner.

5 C. To accept real estate pursuant to a transfer-on-death deed,  
6 a designated grantee beneficiary shall execute ~~a notarized~~ an  
7 affidavit affirming:

8 1. Verification of the record owner's death;

9 2. Whether the record owner and the designated beneficiary were  
10 married at the time of the record owner's death; and

11 3. A legal description of the real estate.

12 D. ~~If the grantee beneficiary was not the record owner's~~  
13 ~~spouse, he or she~~ The grantee shall attach a copy of the record  
14 owner's death certificate ~~and an estate tax release~~ to the  
15 beneficiary affidavit. The beneficiary shall record the affidavit  
16 and related documents with the office of the county clerk where the  
17 real estate is located within nine (9) months of the grantor's  
18 death, otherwise the interest in the property reverts to the  
19 deceased grantor's estate. Notwithstanding the provisions of  
20 Section 26 of Title 16 of the Oklahoma Statutes, an affidavit  
21 properly sworn to before a notary shall be received for record and  
22 recorded by the county clerk without having been acknowledged and,  
23 when recorded, shall be effective as if it had been acknowledged.  
24

1 SECTION 6. AMENDATORY Section 4, Chapter 78, O.S.L. 2008  
2 (58 O.S. Supp. 2010, Section 1254), is amended to read as follows:

3 Section 1254. A. A designation of the grantee beneficiary may  
4 be revoked at any time prior to the death of the record owner, by  
5 executing, acknowledging and recording in the office of the county  
6 clerk in the county where the real estate is located an instrument  
7 revoking the designation. The signature, consent or agreement of or  
8 notice to the grantee beneficiary or beneficiaries to the revocation  
9 is not required.

10 B. A designation of the grantee beneficiary may be changed at  
11 any time prior to the death of the record owner, by executing,  
12 acknowledging and recording a subsequent transfer-on-death deed in  
13 accordance with the Nontestamentary Transfer of Property Act. The  
14 signature, consent or agreement of or notice to the grantee  
15 beneficiary or beneficiaries is not required. A subsequent  
16 transfer-on-death beneficiary designation revokes all prior  
17 designations of grantee beneficiary or beneficiaries by the record  
18 owner for the interest in real estate.

19 C. A transfer-on-death deed executed, ~~acknowledged~~ sworn to and  
20 notarized, and recorded in accordance with the Nontestamentary  
21 Transfer of Property Act may not be revoked by the provisions of a  
22 will.

23 ~~D. A transfer-on-death deed executed, acknowledged and recorded~~  
24 ~~in accordance with the Nontestamentary Transfer of Property Act may~~

1 ~~be disclaimed in whole or in part or with reference to specific~~  
2 ~~parts by the grantee beneficiary or beneficiaries. The disclaimer~~  
3 ~~must occur within nine (9) months after the death of the landowner.~~  
4 ~~The disclaimer shall be filed with the office of the county clerk in~~  
5 ~~which the transfer-on-death deed was recorded. If a grantee~~  
6 ~~beneficiary exerts dominion over the real estate within the nine-~~  
7 ~~month period, the disclaimer is waived. Dominion may be evidenced~~  
8 ~~by acts including, but not limited to, possession or the execution~~  
9 ~~of any conveyance, assignment, contract, mortgage, security pledge,~~  
10 ~~executory contract for sale, option to purchase, lease, license,~~  
11 ~~easement or right of way. A guardian, executor, administrator or~~  
12 ~~other personal representative of a minor or legally incompetent~~  
13 ~~beneficiary may execute and file a disclaimer on behalf of the~~  
14 ~~beneficiary within the time and in the manner in which the~~  
15 ~~beneficiary could disclaim, if the guardian, executor, administrator~~  
16 ~~or other personal representative deems it in the best interests of~~  
17 ~~and not detrimental to the best interests of the beneficiary.~~

18 SECTION 7. AMENDATORY Section 5, Chapter 78, O.S.L. 2008  
19 (58 O.S. Supp. 2010, Section 1255), is amended to read as follows:

20 Section 1255. A. ~~Title to the interest in real estate recorded~~  
21 ~~in transfer-on-death form shall vest in the designated grantee~~  
22 ~~beneficiary or beneficiaries on the death of the record owner. The~~  
23 ~~death of the record owner shall be evidenced by the recording of an~~  
24 ~~affidavit in the office of the county clerk of the county where the~~

1 ~~real estate is located. The affidavit shall be executed by the~~  
2 ~~grantee beneficiary or beneficiaries. The affidavit shall state the~~  
3 ~~fact of the death of the record owner, state whether or not the~~  
4 ~~record owner and the designated grantee were husband and wife, and~~  
5 ~~provide the legal description of the real estate. The affidavit~~  
6 ~~shall be notarized. If the record owner and designated grantee were~~  
7 ~~not husband and wife, a copy of the death certificate of the record~~  
8 ~~owner and an estate tax release shall be attached to the affidavit.~~

9 B. Grantee beneficiaries of a transfer-on-death deed take the  
10 interest of the record owner in the real estate at the death of the  
11 grantor owner, free and clear of any claims or interest under  
12 Section 44 of Title 84 of the Oklahoma Statutes as to a person who  
13 became the spouse of the grantor subsequent to the execution of the  
14 transfer-on-death deed, subject to all recorded conveyances,  
15 assignments, contracts, mortgages, liens and security pledges made  
16 by the record owner or to which the record owner was subject during  
17 the lifetime of the record owner including, but not limited to, any  
18 recorded executory contract of sale, option to purchase, lease,  
19 license, easement, mortgage, deed of trust or lien, and to any  
20 interest conveyed by the record owner that is less than all of the  
21 record owner's interest in the property, provided however, a non-  
22 consensual lien against the grantee beneficiary shall not attach to  
23 the property until the recording of the affidavit described in  
24 Section 1252 of this title.

1        ~~C. B.~~ If a one or more of the grantee beneficiary beneficiaries  
2 dies prior to the death of the ~~record~~ grantor owner and ~~an~~  
3 ~~alternative grantee beneficiary has not been designated on the deed,~~  
4 the transfer to that beneficiary shall lapse, unless the remaining  
5 beneficiaries were joint tenants with the deceased beneficiary or  
6 beneficiaries.

7        SECTION 8. This act shall become effective November 1, 2011.

8        Passed the Senate the 7th day of March, 2011.

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\_\_\_\_\_  
Presiding Officer of the Senate

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12        Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2011.

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Presiding Officer of the House  
of Representatives

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