

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 16, 2011

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 521

By: Crain of the Senate and Sherrer of the House

Title: Nontestamentary transfer of property; modifying transfer-on-death deed procedures.
Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recedes from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:

Crain

Johnson (Rob)

Sykes

Laster

Anderson

Burrage

HOUSE CONFEREES:

Conference Committee on Public Safety, Judiciary and Military Affairs

SB521 CCR A

Senate Action _____ Date _____ House Action _____ Date _____

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 521

6 By: Crain of the Senate

7 and

8 Sherrer of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to nontestamentary transfer of
11 property; amending Sections 2, as amended by Section
12 1, Chapter 205, O.S.L. 2010, 4 and 5, Chapter 78,
13 O.S.L. 2008 (58 O.S. Supp. 2010, Sections 1252, 1254
14 and 1255), which relate to notice, revocation and
15 vesting of interest; defining term; requiring certain
16 documents to be recorded within specified time
17 period; establishing requirements for recording of
18 certain affidavit; modifying procedures for
19 revocation of certain transfer on death deeds;
20 modifying requirements for vesting of interest in
21 certain property to grantee beneficiaries; and
22 providing an effective date.

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

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

Section 1252. A. An interest in real estate may be titled in
transfer-on-death form by recording a deed, signed by the record

1 owner of the interest, designating a grantee beneficiary or
2 beneficiaries of the interest. The deed shall transfer ownership of
3 the interest upon the death of the owner. A transfer-on-death deed
4 need not be supported by consideration. For purposes of the
5 Nontestamentary Transfer of Property Act, an "interest in real
6 estate" means any estate or interest in, over or under land,
7 including surface, minerals, structures and fixtures.

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

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

- 15 1. Verification of the record owner's death;
- 16 2. Whether the record owner and the designated beneficiary were
17 married at the time of the record owner's death; and
- 18 3. A legal description of the real estate.

19 D. ~~If the grantee beneficiary was not the record owner's~~
20 ~~spouse, he or she~~ The grantee shall attach a copy of the record
21 owner's death certificate ~~and an estate tax release~~ to the
22 beneficiary affidavit. The beneficiary shall record the affidavit
23 and related documents with the office of the county clerk where the
24 real estate is located within nine (9) months of the grantor's

1 death, otherwise the interest in the property reverts to the
2 deceased grantor's estate. Notwithstanding the provisions of
3 Section 26 of Title 16 of the Oklahoma Statutes, an affidavit
4 properly sworn to before a notary shall be received for record and
5 recorded by the county clerk without having been acknowledged and,
6 when recorded, shall be effective as if it had been acknowledged.

7 SECTION 2. AMENDATORY Section 4, Chapter 78, O.S.L. 2008
8 (58 O.S. Supp. 2010, Section 1254), is amended to read as follows:

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

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

1 C. A transfer-on-death deed executed, acknowledged and recorded
2 in accordance with the Nontestamentary Transfer of Property Act may
3 not be revoked by the provisions of a will.

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

23 SECTION 3. AMENDATORY Section 5, Chapter 78, O.S.L. 2008
24 (58 O.S. Supp. 2010, Section 1255), is amended to read as follows:

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

14 B. Grantee beneficiaries of a transfer-on-death deed take the
15 interest of the record owner in the real estate at the death of the
16 grantor owner, free and clear of any claims or interest under
17 Section 44 of Title 84 of the Oklahoma Statutes as to a person who
18 became the spouse of the grantor subsequent to the execution of the
19 transfer-on-death deed, subject to all recorded conveyances,
20 assignments, contracts, mortgages, liens and security pledges made
21 by the record owner or to which the record owner was subject during
22 the lifetime of the record owner including, but not limited to, any
23 recorded executory contract of sale, option to purchase, lease,
24 license, easement, mortgage, deed of trust or lien, and to any

1 interest conveyed by the record owner that is less than all of the
2 record owner's interest in the property, provided however, a non-
3 consensual lien against the grantee beneficiary shall not attach to
4 the property until the recording of the affidavit described in
5 Section 1252 of this title.

6 ~~C. B.~~ If a one or more of the grantee ~~beneficiary~~ beneficiaries
7 dies prior to the death of the ~~record~~ grantor owner ~~and an~~
8 ~~alternative grantee beneficiary has not been designated on the deed,~~
9 the transfer to those beneficiaries who predecease the grantor owner
10 shall lapse. In the event the grantee beneficiaries are designated
11 in the deed to be joint tenants with right of survivorship, the
12 death of one or more of the grantee beneficiaries prior to the death
13 of the grantor owner shall not invalidate an otherwise validly
14 created joint tenancy estate as to those grantee beneficiaries who
15 are living at the time of the death of the grantor owner.

16 SECTION 4. This act shall become effective November 1, 2011.

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