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February 7, 2023

By: Howard

An Act relating to transfer-on-death deeds; amending 58 O.S. 2021, Section 1252, which relates to acceptance of property; clarifying ability of grantee beneficiary to accept certain property; clarifying effect of beneficiary affidavit executed prior to certain date; and providing an effective date.

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

SECTION 1. AMENDATORY 58 O.S. 2021, 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 owner of the interest, designating a grantee beneficiary or beneficiaries of the interest. The deed shall transfer ownership of the interest upon the death of the owner. A transfer-on-death deed need not be supported by consideration. For purposes of the Nontestamentary Transfer of Property Act, an "interest in real estate" means any estate or interest in, over or under land, including surface, minerals, structures and fixtures.

B. The signature, consent or agreement of or notice to a grantee beneficiary or beneficiaries of a transfer-on-death deed

1 shall not be required for any purpose during the lifetime of the
2 record owner.

3 C. ~~To~~ A designated grantee beneficiary may accept real estate
4 pursuant to a transfer-on-death deed only on behalf of himself,
5 herself, or a legal entity over which he or she has proper
6 authority. A beneficiary shall not accept such real estate on
7 behalf of another designated beneficiary.

8 D. Each designated grantee beneficiary wishing to accept real
9 estate pursuant to a transfer-on-death deed, ~~a designated grantee~~
10 ~~beneficiary~~ shall execute an affidavit affirming:

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

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

14 3. A legal description of the real estate.

15 ~~D.~~ E. The grantee shall attach a copy of the record owner's
16 death certificate to the beneficiary affidavit. For a record
17 owner's death occurring on or after November 1, 2011, the
18 beneficiary shall record the affidavit and related documents with
19 the office of the county clerk where the real estate is located
20 within nine (9) months of the grantor's death, otherwise the
21 interest in the property reverts to the deceased grantor's estate;
22 provided, however, for a record owner's death occurring before
23 November 1, 2011, such recording of the affidavit and related
24 documents by the beneficiary shall not be subject to the nine-month

1 time limitation. Notwithstanding the provisions of Section 26 of
2 Title 16 of the Oklahoma Statutes, an affidavit properly sworn to
3 before a notary shall be received for record and recorded by the
4 county clerk without having been acknowledged and, when recorded,
5 shall be effective as if it had been acknowledged.

6 F. A beneficiary affidavit recorded pursuant to this section
7 before November 1, 2023, in which one or more, but not all, named
8 beneficiaries of a transfer-on-death deed explicitly accepts the
9 interests being conveyed by the deed on behalf of all or some of the
10 beneficiaries named therein shall be effective to accept such
11 interests if executed by at least one of the named beneficiaries
12 accepting such interests.

13 SECTION 2. This act shall become effective November 1, 2023.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
15 February 7, 2023 - DO PASS
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