

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 HOUSE BILL 3676

By: Provenzano

6 AS INTRODUCED

7 An Act relating to transfer-on-death deeds; amending
8 58 O.S. 2021, Section 1252, as amended by Sections 1,
9 Chapter 101, O.S.L. 2023, and 1253 (58 O.S. Supp.
10 2025, Section 1252), which relate to transfer-on-
11 death deeds; requiring grantor attestation and
12 address of beneficiary; stating effect of
13 nonacceptance and lapsed interest; providing
allocation of cost attributable to nonacceptance;
providing for a good-cause exception; providing for
construction of act; requiring transfer-on-death
deeds to include list of requirements to keep
property out of probate; and providing an effective
date.

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

17 SECTION 1. AMENDATORY 58 O.S. 2021, Section 1252, as
18 amended by Section 1, Chapter 101, O.S.L. 2023 (58 O.S. Supp. 2025,
19 Section 1252), is amended to read as follows:

20 Section 1252. A. An interest in real estate may be titled in
21 transfer-on-death form by recording a deed, signed by the record
22 owner of the interest, designating a grantee beneficiary or
23 beneficiaries of the interest. The deed shall transfer ownership of
24 the interest upon the death of the owner. A transfer-on-death deed

1 need not be supported by consideration. For purposes of the
2 Nontestamentary Transfer of Property Act, an "interest in real
3 estate" means any estate or interest in, over or under land,
4 including surface, minerals, structures and fixtures.

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

9 C. A designated grantee beneficiary may accept real estate
10 pursuant to a transfer-on-death deed only on behalf of himself,
11 herself, or a legal entity over which he or she has proper
12 authority. A beneficiary shall not accept such real estate on
13 behalf of another designated beneficiary.

14 D. Each designated grantee beneficiary wishing to accept real
15 estate pursuant to a transfer-on-death deed shall execute an
16 affidavit affirming:

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

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

20 3. A legal description of the real estate.

21 E. The grantee shall attach a copy of the record owner's death
22 certificate to the beneficiary affidavit. For a record owner's
23 death occurring on or after November 1, 2011, the beneficiary shall
24 record the affidavit and related documents with the office of the

1 county clerk where the real estate is located within nine (9) months
2 of the grantor's death, otherwise the interest in the property
3 reverts to the deceased grantor's estate; provided, however, for a
4 record owner's death occurring before November 1, 2011, such
5 recording of the affidavit and related documents by the beneficiary
6 shall not be subject to the nine-month time limitation.

7 Notwithstanding the provisions of Section 26 of Title 16 of the
8 Oklahoma Statutes, an affidavit properly sworn to before a notary
9 shall be received for record and recorded by the county clerk
10 without having been acknowledged and, when recorded, shall be
11 effective as if it had been acknowledged.

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

19 G. 1. A transfer-on-death deed presented for recording on or
20 after November 1, 2026, shall include, on the face of the deed or in
21 a separate instrument recorded contemporaneously with the deed, a
22 grantor attestation executed by the record owner stating:

23 a. the name of each designated grantee beneficiary,

24

1 b. the last known legal mailing address of each
2 designated grantee beneficiary, and
3 c. that the record owner has provided written notice to
4 each designated grantee beneficiary that:
5 (1) the beneficiary has been named in a transfer-on-
6 death deed for the described real property, and
7 (2) upon the death of the record owner, the
8 beneficiary must record the affidavit and related
9 documents required by the subsection E of this
10 section within nine (9) months of the record
11 owner's death or the beneficiary's interest will
12 revert to the record owner's estate.

13 2. The grantor attestation required by this subsection shall
14 not require the signature, consent, agreement, or acknowledgment of
15 any designated grantee beneficiary and shall not create any present
16 interest in the real estate.

17 3. Failure to substantially comply with this subsection shall
18 not invalidate an otherwise valid transfer-on-death deed, but may be
19 considered by a court in determining good cause under subsection J
20 of this section.

21 H. 1. When a designated grantee beneficiary fails to timely
22 record the affidavit and related documents required by subsection E
23 of this section, the interest of that beneficiary shall lapse and
24 revert to the estate of the deceased record owner and shall be

1 administered and distributed as estate property pursuant to the
2 deceased record owner's will or, if none, the laws of intestate
3 succession; provided, however, that a will shall govern the
4 distribution of such reverted interest only if the will was executed
5 contemporaneously with, or subsequent to, the recording of the
6 transfer-on-death deed. A will executed prior to the recording of a
7 transfer-on-death deed shall not be construed to control or revive
8 the disposition of any interest affected by the transfer-on-death
9 deed.

10 2. A designated grantee beneficiary whose interest has lapsed
11 under subsection E of this section shall have no right, title, or
12 claim to the lapsed interest by virtue of the transfer-on-death deed
13 and may share in such lapsed interest only to the extent the
14 beneficiary is otherwise entitled as an heir or devisee of the
15 deceased record owner.

16 3. A designated grantee beneficiary whose interest lapses under
17 this section shall have no claim for compensation, restitution,
18 damages, or equitable relief against any other grantee beneficiary,
19 heir, or estate representative based on the loss of that interest or
20 the reversion of the property to the estate.

21 I. 1. In any probate, quiet title, partition, or other
22 judicial proceeding in which it is determined that an interest has
23 lapsed and reverted to the estate under subsection E of this
24 section, and the proceeding would not have been necessary but for

1 the failure of a designated grantee beneficiary to timely accept
2 that interest, the court shall allocate the reasonable attorney
3 fees, court costs, title expenses, publication costs, and other
4 reasonable administrative expenses incurred to establish, clear,
5 administer, or distribute the lapsed interest ("covered costs") as
6 follows:

- 7 a. covered costs shall be paid first from the lapsed
8 interest to the extent practicable, and
- 9 b. to the extent covered costs are not fully satisfied
10 from the lapsed interest, covered costs shall be
11 charged first against any distribution otherwise
12 payable from the estate to the designated grantee
13 beneficiary whose failure to accept caused the lapse,
14 including any distribution such beneficiary would
15 otherwise receive as an heir or devisee.

16 2. The allocation required by this subsection is intended to

17 prevent shifting costs caused by nonacceptance onto compliant
18 beneficiaries and heirs and shall not require proof of malicious
19 intent.

20 J. 1. Upon petition by the designated grantee beneficiary
21 whose interest lapsed, the court may modify the allocation in
22 subsection I of this section only upon a finding, by clear and
23 convincing evidence, that the failure to timely accept was caused
24 by:

1 a. legal incapacity during the acceptance period,
2 b. lack of actual notice, notwithstanding substantial
3 compliance with subsection G of this section, or
4 c. other circumstances beyond the beneficiary's
5 reasonable control that made timely recording
6 impossible.

7 2. Disagreement with the transfer-on-death deed, strategic
8 delay, refusal to cooperate, or an intent to force probate shall not
9 constitute good cause.

10 K. Nothing in this section shall be construed to:

11 1. Shorten or extend the nine-month acceptance period set forth
12 in subsection E of this section;
13 2. Permit acceptance by one designated grantee beneficiary on
14 behalf of another designated grantee beneficiary; or
15 3. Impair the rights of creditors under existing law.

16 L. A transfer-on-death deed presented for recording on or after
17 November 1, 2026, shall include, on the face of the deed or in a
18 separate instrument recorded contemporaneously with the deed, a list
19 of requirements for the beneficiary to keep the property described
20 upon the transfer-on-death deed from being subject to probate. The
21 requirements that are required to be listed are as follows:

22 1. The beneficiary must record, in the county where the
23 property is located, a beneficiary affidavit accepting the property
24 pursuant to subsection D of this section;

1 2. The beneficiary shall attach a copy of the record owner's
2 death certificate to the beneficiary affidavit pursuant to
3 subsection E of this section; and

4 3. The beneficiary affidavit and copy of the record owner's
5 death certificate must be recorded in the county where the property
6 is located within nine (9) months of the record owner's death.

7 SECTION 2. AMENDATORY 58 O.S. 2021, Section 1253, is
8 amended to read as follows:

9 Section 1253. An interest in real estate is titled in transfer-
10 on-death form by executing, acknowledging and recording in the
11 office of the county clerk in the county where the real estate is
12 located, prior to the death of the owner, a deed in substantially
13 the following form:

14 _____(name of owner) being of competent mind and
15 having the legal capacity to execute this document, as owner
16 transfers on death to _____ (name of beneficiary) as
17 grantee beneficiary, the following described interest in real
18 estate: (here insert description of the interest in real estate).

19 THIS TRANSFER-ON-DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY
20 OWNERSHIP UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL PRIOR
21 BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST IN REAL
22 ESTATE. THE GRANTOR HAS THE RIGHT TO WITHDRAW OR RESCIND THIS DEED
23 AT ANY TIME. ANY BENEFICIARY NAMED IN THIS DEED IS HEREBY ADVISED

1 THAT THIS DEED MAY BE WITHDRAWN OR RESCINDED WHETHER OR NOT MONEY OR
2 ANY OTHER CONSIDERATION WAS PAID OR GIVEN.

3 UPON THE DEATH OF THE ABOVE-MENTIONED OWNER, THE ABOVE-MENTIONED
4 BENEFICIARY, SHALL HAVE NINE (9) MONTHS FROM THE DATE OF THE DEATH
5 OF THE OWNER IN ORDER TO ACCEPT THE ABOVE DESCRIBED. BENEFICIARY
6 MAY ACCEPT THE PROPERTY BY RECORDING IN THE COUNTY WHERE THE
7 PROPERTY IS LOCATED A BENEFICIARY AFFIDAVIT. SUCH AFFIDAVIT SHALL
8 BE COMPLETED PURSUANT TO SECTION 1252 OF TITLE 58 OF THE OKLAHOMA
9 STATUTES AND SHALL INCLUDE A COPY OF THE DEATH CERTIFICATE OF THE
10 ABOVE-MENTIONED OWNER.

11
12 THE STATE OF OKLAHOMA
13 COUNTY OF _____

14 Before me, on this day personally appeared _____,
15 _____, and _____, the owner of the land described in
16 this deed, and the witnesses, respectively, whose names are
17 subscribed below in their respective capacities, and the owner of
18 the land declared to me and to the witnesses in my presence that the
19 deed is a revocable transfer-on-death of the real estate described
20 therein, and the witnesses declared in the presence of the owner of
21 the real estate and in my presence that the owner of the land
22 declared to them that the deed is a revocable transfer-on-death of
23 the real estate described therein and that the owner of the land
24 wanted each of them to sign it as a witness, and that each witness

1 did sign the same as witness in the presence of the owner of the
2 land and in my presence.

3 _____
4 (name of owner)

5 _____
6 (witness)

7 _____
8 (witness)

9 Subscribed and acknowledged before me by _____, the owner
10 of the land, and _____ and _____, witnesses, this
11 ____ day of _____ (month), ____ (year).

12 _____
13 (signature of notary public)

14 (Seal)

15 My commission expires _____ (date).

16 Instead of the words "transfer-on-death" the abbreviation "TOD" may
17 be used.

18 SECTION 3. This act shall become effective November 1, 2026.

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