

HOUSE BILL NO. HB0201

Transfer on death deed.

Sponsored by: Representative(s) Blevins, Brown and Greear
and Senator(s) Ross

A BILL

for

1 AN ACT relating to nontestamentary transfers of real
2 property; providing for the transfer of real property by
3 deed on death of grantor; creating definitions; specifying
4 procedures, limitations and exclusions; providing for
5 revocation of a transfer on death deed; and providing for
6 an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 2-18-101 through 2-18-105 are created
11 to read:

12

13

CHAPTER 18

14

NONTESTAMENTARY TRANSFER ON DEATH OF REAL PROPERTY

15

16

2-18-101. Short title.

1

2 This chapter shall be known as and may be cited as the
3 "Nontestamentary Transfer of Real Property on Death Act."

4

5 **2-18-102. Definitions.**

6

7 (a) As used in this chapter:

8

9 (i) "Grantee beneficiary" or "grantee" means the
10 person to whom an owner grants an interest in the real
11 property that is the subject of the transfer on death deed;

12

13 (ii) "Owner" means a person who executes a
14 transfer on death deed as provided in W.S. 2-18-103;

15

16 (iii) "Successor grantee beneficiary" means the
17 person to whom an owner grants an interest in the real
18 property that is the subject of the transfer on death deed
19 if the primary grantee beneficiary does not survive the
20 owner;

21

22 (iv) "Transfer on death deed" means a deed
23 authorized by W.S. 2-18-103.

24

1 **2-18-103. Transfer on death deed.**

2

3 (a) A deed that conveys an interest in real property,
4 including any debt secured by a lien on real property, to a
5 grantee beneficiary designated by the owner and that
6 expressly states that the deed is effective on the death of
7 the owner transfers the deceased owner's interest to the
8 grantee beneficiary designated by name in the transfer on
9 death deed effective on the death of the owner, subject to
10 all conveyances, assignments, contracts, mortgages, deeds
11 of trust, liens, security pledges, and other encumbrances
12 made by the owner or to which the owner was subject during
13 the owner's lifetime. The grantee beneficiary also takes
14 title subject to any interest in the property of which the
15 grantee beneficiary has either actual or constructive
16 notice.

17

18 (b) A transfer on death deed may designate multiple
19 grantees who take title as joint tenants with right of
20 survivorship, tenants in common, or any other tenancy that
21 is valid under the laws of this state.

22

23 (c) A transfer on death deed may designate a
24 successor grantee beneficiary. If the transfer on death

1 deed designates a successor grantee beneficiary, the deed
2 must state the condition on which the interest of the
3 successor grantee beneficiary would vest.

4

5 (d) If real property is owned by persons as joint
6 tenants with the right of survivorship, a deed that conveys
7 an interest in the real property to a grantee beneficiary
8 designated by all of the then surviving owners and that
9 expressly states that the deed is effective on the death of
10 the last surviving owner transfers the interest to the
11 designated grantee beneficiary effective on the death of
12 the last surviving owner. If a transfer on death deed is
13 executed by fewer than all of the owners of real property
14 owned as joint tenants with right of survivorship, the
15 transfer on death deed is valid if the last surviving owner
16 is one of the persons who executes the transfer on death
17 deed. If the last surviving owner did not execute the
18 transfer on death deed, the transfer lapses and the deed is
19 void. An estate in joint tenancy with right of survivorship
20 is not affected by the execution of a transfer on death
21 deed that is executed by fewer than all of the owners of
22 the real property, and the rights of a surviving joint
23 tenant with right of survivorship prevail over a grantee
24 beneficiary named in a transfer on death deed.

1

2 (e) A transfer on death deed is valid only if the
3 deed is executed and recorded, as provided by law, in the
4 office of the county clerk in the county in which the real
5 property is situated, before the death of the owner or the
6 last surviving owner. A transfer on death deed may be used
7 to transfer an interest in real property to the trustee of
8 a trust even if the trust is revocable.

9

10 (f) A transfer on death deed may be revoked at any
11 time by the owner or, if there is more than one (1) owner,
12 by any of the owners who executed the transfer on death
13 deed. To be effective, the revocation must be executed and
14 recorded, as provided by law, in the office of the county
15 clerk in the county in which the real property is situated,
16 before the death of the owner who executes the revocation.
17 If the real property is owned as joint tenants with right
18 of survivorship and if the revocation is not executed by
19 all the owners who executed the transfer on death deed, the
20 revocation is not effective unless executed by the last
21 surviving owner.

22

23 (g) If an individual who is a recipient of medical
24 assistance for which it would be permissible for the

1 department of health to file a claim pursuant to W.S.
2 42-4-206 or to assert a lien pursuant to W.S. 42-4-207
3 conveys an interest in real property by means of a transfer
4 on death deed, the department of health may assert a lien
5 against the property that is the subject of the transfer on
6 death deed for the amount which would have been recoverable
7 against the owner's estate pursuant to W.S. 42-4-206 and
8 may file a lien against the property pursuant to W.S.
9 42-2-207.

10

11 (h) If an owner executes and records more than one
12 (1) transfer on death deed concerning the same real
13 property, the last transfer on death deed that is recorded
14 before the owner's death is the effective transfer on death
15 deed.

16

17 (j) This section does not prohibit other methods of
18 conveying property that are permitted by law and that have
19 the effect of postponing enjoyment of an interest in real
20 property until the death of the owner. This section does
21 not invalidate any deed otherwise effective by law to
22 convey title to the interests and estates provided in the
23 deed that is not recorded until after the death of the
24 owner.

1

2 (k) The signature, consent, or agreement of, or
3 notice to, a grantee beneficiary of a transfer on death
4 deed is not required for any purpose during the lifetime of
5 the owner.

6

7 (m) A transfer on death deed that is executed,
8 acknowledged, and recorded in accordance with this section
9 is not revoked by the provisions of a will.

10

11 (n) Proof of the death of the owner or a grantee
12 beneficiary shall be established by affidavit as provided
13 under W.S. 34-11-101. The affidavit shall be recorded in
14 the office of the county clerk of the county in which the
15 real property is situated.

16

17 (o) Title to the interest in real property
18 transferred by a transfer on death deed shall vest in the
19 designated grantee beneficiary only on the death of the
20 owner.

21

22 **2-18-104. Form of transfer on death deed.**

23

1 A transfer on death deed is sufficient if it complies with
2 other applicable law and if it is in substantially the
3 following form:

4

5

Transfer on Death Deed

6

7 I (we) (owner) hereby convey to (grantee
8 beneficiary) effective on my (our) death the following
9 described real property:

10

11

(Legal Description)

12

13 If a grantee beneficiary predeceases the owner, the
14 conveyance to that grantee beneficiary must either (choose
15 one):

16

17

Become void.

18

19

20

Become part of the estate of the grantee
beneficiary.

21

22

Dated this day of year).

23

.....

24

(Signature of grantor(s))

1

2 (Acknowledgment)

3

4 **2-18-105. Form for revoking a transfer on death deed.**

5

6 An instrument revoking a transfer on death deed is
7 sufficient if it complies with other applicable law and is
8 in substantially the following form:

9

10 Revocation of Transfer on Death Deed

11

12 The undersigned hereby revokes the transfer on death
13 deed recorded on (date), in deed book on page
14, in the office of the clerk of county, Wyoming,
15 concerning the following described real property:

16

17 (Legal Description)

18

19 Dated this day of (year).

20

21 (Signature of grantor(s))

22

23 (Acknowledgment)

24

1 **Section 2.** W.S. 34-1-142(c) by creating a new
2 paragraph (viii) and by renumbering (viii) as (ix) is
3 amended to read:

4

5 **34-1-142. Instrument transferring title to real**
6 **property; procedure; exceptions; confidentiality.**

7

8 (c) This section does not apply to:

9

10 (viii) A transfer on death deed;

11

12 ~~(viii)~~(ix) Any other transfers which the state
13 board of equalization and department of revenue exempts
14 upon a finding that the information is not useful or
15 relevant in determining sales-price ratios.

16

17 **Section 3.** This act is effective July 1, 2013.

18

19

(END)