

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 1137

5 By: Representative Verkamp
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 18,
10 CHAPTER 12, SUBCHAPTER 6 TO ADD A SECTION TO
11 CREATE A BENEFICIARY DEED AS A NEW FORM OF
12 CONVEYANCE OF TITLE IN REAL PROPERTY; TO REQUIRE
13 THAT A BENEFICIARY DEED BE REVOKED BY A PERSON
14 SEEKING MEDICAL ASSISTANCE FOR LONG-TERM CARE
15 COSTS; AND FOR OTHER PURPOSES.
16

Subtitle

17 TO CREATE A BENEFICIARY DEED AS A NEW
18 FORM OF CONVEYANCE OF TITLE IN REAL
19 PROPERTY AND TO REQUIRE THAT A
20 BENEFICIARY DEED BE REVOKED BY A PERSON
21 SEEKING MEDICAL ASSISTANCE FOR LONG-TERM
22 CARE COSTS.
23
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 18, Chapter 12, Subchapter 6 is amended
29 to add an additional section to read as follows:

30 18-12-608. Beneficiary deeds – Terms – Recording required.

31 (a)(1)(A) A beneficiary deed is a deed that conveys an interest in
32 real property, including any debt secured by a lien on real property, to a
33 grantee designated by the owner and that expressly states that the deed is
34 not to take effect until the death of the owner.

35 (B) A beneficiary deed transfers the interest to the
36 designated grantee beneficiary effective upon the death of the owner, subject



1 to all conveyances, assignments, contracts, mortgages, deeds of trust, liens,
2 security pledges, and other encumbrances made by the owner or to which the
3 owner was subject during the owner's lifetime.

4 (2)(A) The owner may designate multiple grantees under a
5 beneficiary deed.

6 (B) Multiple grantees may be joint tenants with right of
7 survivorship, tenants in common, holders of a tenancy by the entirety, or any
8 other tenancy that is otherwise valid under the laws of this state.

9 (3)(A) The owner may designate a successor grantee beneficiary
10 under a beneficiary deed.

11 (B) The condition upon which the interest of the successor
12 grantee vests shall be included in the beneficiary deed.

13 (b)(1) If real property is owned as a tenancy by the entirety or as a
14 joint tenancy with the right of survivorship, a beneficiary deed that conveys
15 an interest in the real property to a grantee designated by all of the then
16 surviving owners and that expressly states the deed is not to take effect
17 until the death of the last surviving owner transfers the interest to the
18 designated grantee beneficiary effective upon the death of the last surviving
19 owner.

20 (2)(A) If a beneficiary deed is executed by fewer than all of
21 the owners of real property owned as a tenancy by the entirety or as joint
22 tenants with right of survivorship, the beneficiary deed is valid if the last
23 surviving owner is one of the persons who executes the beneficiary deed.

24 (B) If the last surviving owner did not execute the
25 beneficiary deed, the deed is invalid.

26 (c)(1) A beneficiary deed is valid only if the deed is executed before
27 the death of the owner or the last surviving owner and is recorded before the
28 death of the owner as provided by law in the office of the county recorder of
29 the county in which the property is located.

30 (2) A beneficiary deed may be used to transfer an interest in
31 real property to a trust estate even if the trust is revocable.

32 (d)(1) A beneficiary deed may be revoked at any time by the owner or,
33 if there is more than one (1) owner, by any of the owners who executed the
34 beneficiary deed.

35 (2) To be effective, the revocation must be:

36 (A) Executed before the death of the owner who executes

1 the revocation; and

2 (B) Recorded in the office of the county recorder of the
3 county in which the real property is located before the death of the owner as
4 provided by law.

5 (3) If the revocation is not executed by all the owners, the
6 revocation is not effective unless executed by the last surviving owner and
7 recorded before the death of the last surviving owner.

8 (4) A beneficiary deed that complies with this section may not
9 be revoked, altered, or amended by the provisions of the owner's will.

10 (e) If an owner executes more than one (1) beneficiary deed concerning
11 the same real property, the recorded beneficiary deed that is last signed
12 before the owner's death is the effective beneficiary deed.

13 (f)(1) This section does not prohibit other methods of conveying
14 property that are permitted by law and that have the effect of postponing
15 enjoyment of an interest in real property until the death of the owner.

16 (2) This section does not invalidate any deed otherwise
17 effective by law to convey title to the interests and estates provided in the
18 deed that is not recorded until after the death of the owner.

19 (g) A beneficiary deed is sufficient if it complies with other
20 applicable laws and if it is in substantially the following form:

21 "Beneficiary Deed

22 CAUTION: THIS DEED MUST BE RECORDED PRIOR TO THE DEATH OF THE
23 GRANTOR IN ORDER TO BE EFFECTIVE.

24 I (we) hereby convey to _____ (grantee) effective on my
25 (our) death the following described real property:

26 (Legal description)

27 _____
28 (Signature of grantor(s))

29 (acknowledgment)."

30 (h) The instrument of revocation shall be sufficient if it complies
31 with other applicable laws and is in substantially the following form:

32 "Revocation of Beneficiary Deed

33 CAUTION: THIS REVOCATION MUST BE RECORDED PRIOR TO THE DEATH OF
34 THE GRANTOR IN ORDER TO BE EFFECTIVE.

35 The undersigned hereby revokes the beneficiary deed recorded on _____
36 (date), in docket or book _____ at page _____, or instrument number _____

1 _____, records of _____ County, Arkansas.

2 Dated: _____

3 _____

4 Signature

5 (acknowledgment)."

6

7 SECTION 2. Arkansas Code Title 20, Chapter 77, Subchapter 1 is amended
8 to add a new section to read as follows:

9 20-77-121. Ineligibility -- Grantor of beneficiary deed.

10 (a) A person shall not be entitled to medical assistance under § 20-
11 77-102 if:

12 (1) The person has in effect a beneficiary deed; and

13 (2) The person is otherwise eligible for medical assistance.

14 (b) A person who has revoked a beneficiary deed may subsequently apply
15 for medical assistance under § 20-77-102 and the property that was subject to
16 the beneficiary deed shall be considered a resource for purposes of
17 determining the person's eligibility for medical assistance.

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36