

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1162

5 By: Representative Maddox
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For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING BENEFICIARY DEEDS;
9 TO PROHIBIT THE RECOVERY OF BENEFITS AGAINST AN
10 INTEREST ACQUIRED FROM A DECEASED RECIPIENT BY A
11 GRANTEE OF A BENEFICIARY DEED IN CERTAIN
12 CIRCUMSTANCES; AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING BENEFICIARY
16 DEEDS; AND TO PROHIBIT THE RECOVERY OF
17 BENEFITS AGAINST AN INTEREST ACQUIRED
18 FROM A DECEASED RECIPIENT BY A GRANTEE OF
19 A BENEFICIARY DEED IN CERTAIN
20 CIRCUMSTANCES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 18-12-608(a)(1)(B), concerning the terms of
27 beneficiary deeds, is amended to read as follows:

28 (B)(i) A beneficiary deed transfers the interest to the
29 designated grantee effective upon the death of the owner, subject to+

30 ~~(a) All~~ all conveyances, assignments,
31 contracts, leases, mortgages, deeds of trust, liens, security pledges, oil,
32 gas, or mineral leases, and other encumbrances made by the owner or to which
33 the real property was subject at the time of the owner's death, whether or
34 not the conveyance or encumbrance was created before or after the execution
35 of the beneficiary deed; ~~and~~

36 ~~(b) A claim for reimbursement of federal or~~



1 ~~state benefits by the Department of Human Services from the estate of the~~
 2 ~~grantor or the interest acquired by a grantee of the beneficiary deed under §~~
 3 ~~20-76-436.~~

4 (ii) No legal or equitable interest shall vest in
 5 the grantee until the death of the owner prior to revocation of the
 6 beneficiary deed.

7
 8 SECTION 2. Arkansas Code § 20-76-436 is amended to read as follows:
 9 20-76-436. Recovery of benefits from recipients' estates.

10 (a)(1) Federal or state benefits in cash or in kind, including, but
 11 not limited to, Medicaid, Aid to Families with Dependent Children
 12 [abolished], Transitional Employment Assistance Program, Temporary Assistance
 13 for Needy Families, and food stamps distributed or paid by the Department of
 14 Human Services as well as charges levied by the department for services
 15 rendered shall upon the death of the recipient constitute a debt to be paid.

16 (2)~~(A)~~ The department may make a claim against the estate of a
 17 deceased recipient ~~or the interest acquired from the deceased recipient by a~~
 18 ~~grantee of a beneficiary deed under § 18-12-608~~ for the amount of any
 19 benefits distributed or paid or charges levied by the department.

20 ~~(B) If a grantee of a beneficiary deed under § 18-12-608~~
 21 ~~makes a written request for a release or disclaimer of the department's~~
 22 ~~interest in the real property described in the beneficiary deed, the~~
 23 ~~department within thirty (30) calendar days of the request shall either:~~

24 ~~(i) Make a claim against the interest acquired from~~
 25 ~~the deceased recipient by a grantee of the beneficiary deed; or~~

26 ~~(ii) Provide the requested disclaimer and a release~~
 27 ~~suitable for recording in the real estate records of the county where the~~
 28 ~~real property is located.~~

29 (b)(1) The department shall not seek recovery against the estate of a
 30 deceased recipient ~~or the interest acquired from the deceased recipient by a~~
 31 ~~grantee of a beneficiary deed under § 18-12-608~~ for the amount of any
 32 benefits distributed or paid or charges levied if the recovery is not cost
 33 effective or if the recovery ~~works~~ causes an undue hardship on the heirs or
 34 devisees of the decedent's estate ~~or the grantee of a beneficiary deed under~~
 35 ~~§ 18-12-608.~~

36 (2) In determining the existence of an undue hardship, the

1 department shall consider factors including, ~~but not limited to,~~ without
 2 limitation the following:

3 (A) The asset subject to recovery is the sole income-
 4 producing asset of ~~the beneficiaries~~ a beneficiary of the estate ~~or the~~
 5 ~~grantee of a beneficiary deed under § 18-12-608;~~

6 (B) Without receipt of the ~~beneficiary deed~~ or proceeds of
 7 the estate, a ~~grantee~~ or beneficiary would become eligible for federal or
 8 state benefits;

9 (C) Allowing a ~~grantee of a beneficiary deed under § 18-~~
 10 ~~12-608 to receive the interest under the beneficiary deed or a~~ the
 11 beneficiary to receive the inheritance from the estate would enable the
 12 ~~grantee~~ or beneficiary to discontinue eligibility for federal or state
 13 benefits;

14 (D) The asset subject to recovery is a home with a value
 15 of fifty percent (50%) or less of the average price of ~~homes~~ a home in the
 16 county where the homestead is located, as of the date of the deceased
 17 recipient's death; or

18 (E) There are other compelling circumstances.

19 (c) To the extent that there is ~~any~~ a conflict between the ~~preceding~~
 20 criteria listed in subsection (b) of this section and the standards that may
 21 be specified by the United States Secretary of Health and Human Services, the
 22 federal standards shall prevail.

23 (d) Applicants for federal or state benefits shall be notified in
 24 writing in prominent type on the application form that the department may
 25 make a claim against their estate ~~or the interest acquired from the applicant~~
 26 ~~by a grantee of a beneficiary deed under § 18-12-608.~~