

ARTICLE 6 Nonprobate Transfers

Sec.
45-6-101.1. Real property; transfer on death deed.

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A. An interest in real property may be titled in transfer on death form by recording a deed signed and acknowledged by the record owner of the interest and designating a grantee beneficiary or beneficiaries of the interest. The deed transfers ownership of that interest upon the death of the owner. A transfer on death deed need not be supported by consideration.

B. The signature, consent or agreement of or notice to a grantee beneficiary of a transfer on death deed is not required for any purpose during the lifetime of the record owner.

C. An interest in real property is titled in transfer on death form by executing, acknowledging and recording in the office of the county clerk in the county where the real property is located, prior to the death of the owner, a deed in substantially the following form:

TRANSFER ON DEATH DEED

..... (Name of owner) as owner transfers on death to (name of beneficiary), as grantee beneficiary, the following described interest in real property. THIS TRANSFER ON DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL PRIOR BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST IN REAL PROPERTY.

(description)

Witness hand and seal this day of 20

..... (Seal)

(Here add acknowledgment(s)).

D. A designation of the grantee beneficiary may be revoked by the record owner at any time prior to the death of the record owner, by the record owner executing, acknowledging and recording in the office of the county clerk in the county where the real property is located an instrument describing the interest and revoking the designation. The signature, consent or agreement of or notice to the grantee beneficiary or beneficiaries is not required.

E. A designation of the grantee beneficiary may be changed by the record owner at any time prior to the death of the record owner, by the record owner executing, acknowledging and recording a subsequent transfer on death deed. The signature, consent or agreement of or notice to the grantee beneficiary or beneficiaries is not required. A subsequent transfer on death beneficiary designation revokes a prior designation to the extent there is a conflict between the two designations.

F. A transfer on death deed executed, acknowledged and recorded in accordance with this section is not revoked by the provisions of a will.

G. A joint tenancy in real property is not effected by a transfer on death deed, and the rights of a surviving joint tenant shall prevail over a grantee beneficiary named in a transfer on death deed. If a joint tenant has executed a transfer on death deed, and if that joint tenant is the last surviving joint tenant, then the transfer on death deed is effective on that joint tenant's death.

H. Title to the interest in real estate recorded in transfer on death form shall vest in the designated grantee beneficiary or beneficiaries on the death of the record owner.

I. Grantee beneficiaries of a transfer on death deed take the record owner's interest in the real estate at death subject to all conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the record owner's lifetime and to any interest conveyed by the record owner that is less than all of the record owner's interest in the property.

J. If the assets of the estate are insufficient, a transfer resulting from a transfer on death deed is not effective against the estate of a deceased party to the extent needed to pay any claims against the estate and the statutory allowances to the surviving spouse and children.

K. If a grantee beneficiary dies prior to the death of the record owner and an alternative grantee beneficiary has not been designated on the deed, the transfer shall lapse.

History: Laws 2001, ch. 236, § 1.

Effective dates: — Laws 2001, ch. 236 contains no effective date provision, but, pursuant to N.M.

Const., art. IV, § 23, is effective June 15, 2001, 90 days after adjournment of the legislature.

ARTICLE 7

Trust Administration

PART 2

JURISDICTION OF COURT CONCERNING TRUSTS

45-7-206. Trust proceedings; initiation by notice; necessary parties.

Section inapplicable in conservatorship proceeding. — This section did not apply in a proceeding to appoint a conservator to manage or protect property held in child's trust because the issue was whether father properly placed settlement proceeds

in the trust, a question conceptually different from the technical and daily operations of the trust. In re Estate of Chisholm v. Chisholm, 1999-NMCA-025, 126 N.M. 584, 973 P.2d 261.

