

25101764D

HOUSE BILL NO. 1871

Offered January 13, 2025

Prefiled January 6, 2025

A BILL to amend and reenact §§ 64.2-630 and 64.2-635 of the Code of Virginia, relating to transfer on death deeds; inter vivos deed conveying real property to another.

Patron—Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 64.2-630 and 64.2-635 of the Code of Virginia are amended and reenacted as follows:****§ 64.2-630. Revocation by instrument authorized; revocation by act not permitted.**

A. Subject to subsection B, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

1. Is one of the following:

a. A transfer on death deed that revokes the transfer on death deed or part of the transfer on death deed expressly;

b. A transfer on death deed that names a designated beneficiary that is inconsistent with the designated beneficiary in a prior transfer on death deed;

c. An instrument of revocation that expressly revokes the transfer on death deed or part of the transfer on death deed; or

d. An inter vivos deed that ~~expressly revokes the transfer on death deed or part of the transfer on death deed~~ *conveys real property to another so the transferor is no longer the owner at the time of the transferor's death.*

2. Is acknowledged by the transferor after the acknowledgment of the transfer on death deed being revoked and recorded before the transferor's death in the land records of the clerk's office of the circuit court where the deed is recorded.

B. If a transfer on death deed is made by more than one transferor:

1. Revocation by a transferor does not affect the transfer on death deed as to the interest of another transferor; and

2. A transfer on death deed of joint owners is revoked only if it is revoked by all of the living joint owners.

C. After a transfer on death deed is recorded, it can be revoked only by an effective revocatory instrument recorded prior to the death of the transferor and may not be revoked by a revocatory act taken against or on the original or a copy of the recorded transfer on death deed.

D. This section does not limit the effect of an inter vivos transfer of the property.

§ 64.2-635. Optional form of transfer on death deed.

The following form may be used to create a transfer on death deed. The other sections of this article govern the effect of this or any other instrument used to create a transfer on death deed:

THIS DEED MUST BE RECORDED BEFORE THE DEATH OF THE OWNER(S), OR IT WILL NOT BE EFFECTIVE.

THIS DEED IS EXEMPT FROM RECORDATION TAXES UNDER § 58.1-811(J) OF THE CODE OF VIRGINIA OF 1950, AS AMENDED.

REVOCABLE TRANSFER ON DEATH DEED

THIS REVOCABLE TRANSFER ON DEATH DEED, dated as of the _____ day of _____, is made by TRANSFEROR or TRANSFERORS (the Grantor(s)), whose address is _____.

This Revocable Transfer on Death Deed is made pursuant to the provisions of the Uniform Real Property Transfer on Death Act, Virginia Code § 64.2-621 et seq. In accordance with the provisions of the Uniform Real Property Transfer on Death Act, at my death, I transfer and convey my interest in the below described property to my designated beneficiaries as follows:

PRIMARY BENEFICIARY

I designate _____ as the designated beneficiary of the property if _____ survives me.

ALTERNATE BENEFICIARY -- Optional

If my primary designated beneficiary does not survive me, I designate _____ as my alternate designated beneficiary if my alternate designated beneficiary survives me.

PROPERTY:

INTRODUCED

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59 The legal description of the real property that shall be transferred at my death pursuant to this Revocable
60 Transfer on Death Deed is as follows:

61 INSERT LEGAL DESCRIPTION

62 RIGHT TO REVOKE AND METHOD TO REVOKE DEED:

63 Before my death, I have the right to revoke this deed.

64 Under the Uniform Real Property Transfer on Death Act, an instrument is effective to revoke a recorded
65 transfer on death deed, or any part of it, only if the instrument:

66 1. Is one of the following:

67 a. A transfer on death deed that revokes the transfer on death deed or part of the transfer on death deed
68 expressly;

69 b. A transfer on death deed that names a designated beneficiary that is inconsistent with the designated
70 beneficiary in a prior transfer on death deed;

71 c. An instrument of revocation that expressly revokes the transfer on death deed or part of the transfer on
72 death deed; or

73 d. An inter vivos deed that ~~expressly revokes the transfer on death deed or part of the transfer on death~~
74 ~~deed~~ *conveys real property to another so the transferor is no longer the owner at the time of the transferor's*
75 *death.*

76 2. Is acknowledged by the transferor after the acknowledgment of the transfer on death deed being
77 revoked and recorded before the transferor's death in the land records of the clerk's office of the circuit court
78 where the deed is recorded.

79 After this transfer on death deed is recorded, it can be revoked only by an effective revocatory instrument
80 recorded prior to the death of the transferor and may not be revoked by a revocatory act taken against or on
81 the original or a copy of the recorded transfer on death deed.

82 The execution and recordation of this transfer on death deed does not limit the effect of an inter vivos
83 transfer of the property.

84 At my death, a beneficiary takes the property subject to all conveyances, encumbrances, assignments,
85 contracts, mortgages, liens, and other interests to which the property is subject at my death.

86 Witness the following signature and seals:

87 _____ (SEAL) TRANSFEROR

88 COMMONWEALTH OF VIRGINIA

89 CITY/COUNTY OF _____, to wit:

90 The foregoing instrument was acknowledged before me in the City/County of _____,

91 Virginia this _____ day of _____, by TRANSFEROR.

92 _____ Notary Public

93 My commission expires: _____

94 Registration number: _____