

Effective 5/5/2021

75-6-413 Effect of transfer on death deed at transferor's death.

- (1) Except as otherwise provided in the transfer on death deed, Sections 75-2-205, 75-2-702, 75-2-803, 75-2-804, and 75-2-807, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death.
 - (a) Subject to Subsection (1)(b), the interests in the property are transferred to the designated beneficiaries in accordance with the deed.
 - (b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. Notwithstanding Section 75-2-706, the interest of a designated beneficiary that fails to survive the transferor lapses.
 - (c) Subject to Subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless otherwise specified in the transfer on death deed.
 - (d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.
- (2) Subject to Title 57, Chapter 3, Recording of Documents, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this Subsection (2) and Title 57, Chapter 3, Recording of Documents, the recording of the transfer on death deed is considered to have occurred at the transferor's death.
- (3) If a transferor is a joint owner and is:
 - (a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or
 - (b) the last surviving joint owner, the transfer on death deed is effective.
- (4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.
- (5) Following the death of the transferor, an affidavit in substantially the form found in Section 57-1-5.1 shall be recorded in the office of the recorder of the county in which the affected property is located. Each affidavit shall:
 - (a) contain a legal description of the real property that is affected;
 - (b) reference the entry number and the book and page of the previously recorded transfer on death deed; and
 - (c) have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the transferor's death.

Amended by Chapter 225, 2021 General Session