

House Bill 1650

By: Representative Lim of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to
2 provide for transfer-on-death deeds; to provide for definitions; to provide for execution and
3 recording of such deeds; to provide for a deed form; to provide for revocation or changing
4 of grantee beneficiaries; to provide that such deeds shall not be revoked by wills; to provide
5 for taking of interests free and clear of claims; to provide for lapsing of transfers; to provide
6 for grantors to retain title; to provide for joint ownership; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
11 adding a new chapter to read as follows:

12 "CHAPTER 17

13 44-17-1.

14 As used in this chapter, the term 'interest in real estate' means any estate or interest in, over
15 or under land, including surface, minerals, structures, and fixtures.

16 44-17-2.

17 (a) An interest in real estate may be titled in a transfer-on-death form by recording a deed,
18 signed by the record owner of the interest, designating a grantee beneficiary or
19 beneficiaries of the interest. The deed shall transfer ownership of the interest upon the
20 death of the owner. A transfer-on-death deed need not be supported by consideration.

21 (b) The signature, consent or agreement of or notice to a grantee beneficiary or
22 beneficiaries of a transfer-on-death deed shall not be required for any purpose during the
23 lifetime of the record owner.

24 (c) To accept real estate pursuant to a transfer-on-death deed, a designated grantee
25 beneficiary shall execute an affidavit affirming:

26 (1) Verification of the record owner's death;

27 (2) Whether the record owner and the designated beneficiary were married at the time
28 of the record owner's death; and

29 (3) A legal description of the real estate.

30 (d) The grantee shall attach a copy of the record owner's death certificate to the beneficiary
31 affidavit. For a record owner's death occurring on or after July 1, 2022, the beneficiary
32 shall record the affidavit and related documents with the office of the clerk of superior
33 court of the county where the real estate is located within nine months of the grantor's
34 death; otherwise, the interest in the property reverts to the deceased grantor's estate;
35 provided, however, for a record owner's death occurring before July 1, 2022, such
36 recording of the affidavit and related documents by the beneficiary shall not be subject to

37 the nine-month time limitation. An affidavit properly sworn to before a notary shall be
 38 received for record and recorded by the clerk of superior court of the county without having
 39 been acknowledged and, when recorded, shall be effective as if it had been acknowledged.

40 44-17-3.

41 An interest in real estate is titled in a transfer-on-death form by executing, acknowledging,
 42 and recording in the office of the clerk of superior court of the county where the real estate
 43 is located, prior to the death of the owner, a deed in substantially the following form:

44 _____ (name of owner) being of competent mind and having the legal
 45 capacity to execute this document, as owner, transfers on death to
 46 _____ (name of beneficiary), as grantee beneficiary, the following
 47 described interest in real estate: (here insert description of the interest in real estate).
 48 THIS TRANSFER-ON-DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER
 49 ANY OWNERSHIP UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL
 50 PRIOR BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST
 51 IN REAL ESTATE. THE GRANTOR HAS THE RIGHT TO WITHDRAW OR
 52 RESCIND THIS DEED AT ANY TIME. ANY BENEFICIARY NAMED IN THIS
 53 DEED IS HEREBY ADVISED THAT THIS DEED MAY BE WITHDRAWN OR
 54 RESCINDED WHETHER OR NOT MONEY OR ANY OTHER CONSIDERATION
 55 WAS PAID OR GIVEN.

56 THE STATE OF GEORGIA

57 COUNTY OF _____

58 Before me, on this day personally appeared _____, _____, and
 59 _____, the owner of the land described in this deed, and the witnesses,
 60 respectively, whose names are subscribed below in their respective capacities, and the
 61 owner of the land declared to me and to the witnesses in my presence that the deed is a

62 revocable transfer-on-death of the real estate described therein, and the witnesses
 63 declared in the presence of the owner of the real estate and in my presence that the owner
 64 of the land declared to them that the deed is a revocable transfer-on-death of the real
 65 estate described therein and that the owner of the land wanted each of them to sign it as
 66 a witness, and that each witness did sign the same as witness in the presence of the owner
 67 of the land and in my presence.

68 _____
 69 (name of owner)

70 _____
 71 (witness)

72 _____
 73 (witness)

74 Subscribed and acknowledged before me by _____, the owner of the land, and
 75 _____ and _____, witnesses, this _____ day of _____ (month),
 76 _____ (year).

77 _____
 78 (signature of notary public)

79 (SEAL)

80 My commission expires _____ (date).

81 44-17-4.

82 (a) A designation of the grantee beneficiary may be revoked at any time prior to the death
83 of the record owner, by executing, acknowledging, and recording in the office of the clerk
84 of superior court of the county where the real estate is located an instrument revoking the
85 designation. The signature, consent, or agreement of or notice to the grantee beneficiary
86 or beneficiaries to the revocation is not required.

87 (b) A designation of the grantee beneficiary may be changed at any time prior to the death
88 of the record owner, by executing, acknowledging, and recording a subsequent
89 transfer-on-death deed in accordance with this chapter. The signature, consent, or
90 agreement of or notice to the grantee beneficiary or beneficiaries is not required. A
91 subsequent transfer-on-death beneficiary designation revokes all prior designations of
92 grantee beneficiary or beneficiaries by the record owner for the interest in real estate.

93 (c) A transfer-on-death deed executed, acknowledged, and recorded in accordance with
94 this chapter may not be revoked by the provisions of a will.

95 44-17-5.

96 (a) Grantee beneficiaries of a transfer-on-death deed take the interest of the record owner
97 in the real estate at the death of the grantor owner, free and clear of any claims or interest
98 as to a person who became the spouse of the grantor subsequent to the execution of the
99 transfer-on-death deed, subject to all recorded conveyances, assignments, contracts,
100 mortgages, liens, and security pledges made by the record owner or to which the record
101 owner was subject during the lifetime of the record owner including, but not limited to, any
102 recorded executory contract of sale, option to purchase, lease, license, easement, mortgage,
103 deed of trust or lien, and to any interest conveyed by the record owner that is less than all
104 of the record owner's interest in the property; provided, however, that a nonconsensual lien
105 against the grantee beneficiary shall not attach to the property until the recording of the
106 affidavit described in Code Section 44-17-2.

107 (b) If one or more of the grantee beneficiaries dies prior to the death of the grantor owner,
108 the transfer to those beneficiaries who predecease the grantor owner shall lapse. In the
109 event the grantee beneficiaries are designated in the deed to be joint tenants with right of
110 survivorship, the death of one or more of the grantee beneficiaries prior to the death of the
111 grantor owner shall not invalidate an otherwise validly created joint tenancy estate as to
112 those grantee beneficiaries who are living at the time of the death of the grantor owner.

113 44-17-6.

114 (a) As used in this chapter, the term 'joint owner' means a person who owns an interest in
115 real estate as a joint tenant with right of survivorship.

116 (b) A record joint owner of an interest in real estate may use the procedures in this chapter
117 to title the interest in a transfer-on-death form. However, title to the interest shall vest in
118 the designated grantee beneficiary or beneficiaries only if the record joint owner is the last
119 to die of all of the record joint owners of the interest. A deed in a transfer-on-death form
120 shall not sever a joint tenancy.

121 44-17-7.

122 A record owner who executes a transfer-on-death deed remains the legal and equitable
123 owner until the death of the owner and during the lifetime of the owner is considered an
124 absolute owner as regards creditors and purchasers."

125 **SECTION 2.**

126 All laws and parts of laws in conflict with this Act are repealed.