



SENATE BILL 312: Transfer on Death Deeds.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	May 2, 2019
Introduced by:	Sens. Ford, Bishop	Prepared by:	Amy Darden
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *Senate Bill 312 would create the Uniform Real Property Transfer on Death Act.*

BILL ANALYSIS:

Section 1 of Senate Bill 312 would do the following:

- Create a new Article 11 in Chapter 31 – Uniform Real Property Transfer on Death Act.
- Provide that the Article doesn't affect any method of transferring property otherwise permitted by the laws of the State.
- Provide that Transfer on Death Deeds would be revocable and nontestamentary.
- Require Transfer on Death Deeds to have the same capacity requirements of a will.
- Set Transfer on Death Deed Requirements:
 - Shall contain essential elements and formalities of a properly recordable inter vivos deed.
 - Shall contain a statement that the transfer to the designated beneficiary is to occur at the transferor's death.
 - Shall be recorded before the transferor's death in the office of the Register of Deeds where the property is located.
- Create revocation requirements:
 - Revocation instrument must satisfy all of the following:
 - The instrument takes any of the following forms:
 - A subsequent transfer on death deed, meeting requirements of G.S. 31-73, that revokes the prior transfer on death deed.
 - An instrument of revocation that expressly revokes the prior transfer on death deed or any portion of it.
 - An inter vivos deed that transfers all or a portion of the property in a manner that is inconsistent with the prior transfer on death deed.
 - The instrument is acknowledged by the transferor after the acknowledgement of the transfer on death deed being revoked.
 - The instrument is recorded in the county where the property is located.

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- Where multiple transferors have executed a Transfer on Death Deed, a revocation by one will not affect as to the interest of the other transferor.
- Provide a list of effects of a transfer on death deed during the transferor's lifetime.
- Provide the following effect of a transfer on death deed at the transferor's death:
 - Except as otherwise provided, the following rules apply to property that is subject to a transfer on death deed and owned by the transferor at death:
 - Interest in property transferred to designated beneficiary in accordance with the transfer on death deed. The beneficiary's interest lapses if they do not survive the transferor.
 - Concurrent interests are transferred to designated beneficiaries in equal and undivided shares with no right of survivorship. If a designated beneficiary lapses or fails for any reason, their share is transferred to the other designated beneficiaries, in proportion to the interest each has in the remaining property.
 - A beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, or liens existing at the transferor's death.
 - If a transferor is a joint owner, the transfer on death deed becomes effective upon the death of the last surviving joint owner.
 - A transfer on death deed transfers without covenant or warranty of title.
- Provide a beneficiary may renounce all or part of their interest.
- Allow the transferor's probate estate, if it's insufficient to satisfy allowed claims, to enforce liability against property transferred at the transferor's death by a transfer on death deed. If more than one property was transferred, then the liability will be apportioned among the properties.
- Provide an optional statutory form of a transfer on death deed.
- Provide an optional statutory form of revocation.

Section 2.1 would make conforming changes to G.S. 31A-1(b) – Acts Barring Property Rights.

Section 2.2 would make conforming changes to G.S. 31A-4 – Slayer barred from testate or intestate succession and other rights.

Section 2.3 would make conforming changes to G.S. 31A-1 – Right to renounce succession.

Section 3 would require the Revisor of Statutes to print, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Uniform Real Property Transfer on Death Act (2009) and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

EFFECTIVE DATE: The act would become effective when it becomes law and would apply to a transfer on death deed made before, on, or after the effective date of this act by a transferor dying on or after the effective date of this act.