

**IC 32-17-14-11      Transfer on death deeds**

Sec. 11. (a) A transfer on death deed transfers the interest provided to the beneficiary if the transfer on death deed is:

- (1) executed by the owner or owner's legal representative; and
- (2) recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(b) A transfer on death deed is void if it is not recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(c) A transfer on death deed is not required to be supported by consideration or delivered to the grantee beneficiary.

(d) A transfer on death deed may be used to transfer an interest in real property to either a revocable or an irrevocable trust.

(e) If the owner records a transfer on death deed, the effect of the recording the transfer on death deed is determined as follows:

- (1) If the owner's interest in the real property is as a tenant by the entirety, the conveyance is inoperable and void unless the other spouse joins in the conveyance.
- (2) If the owner's interest in the real property is as a joint tenant with rights of survivorship, the conveyance severs the joint tenancy and the cotenancy becomes a tenancy in common.

(3) If the owner's interest in the real property is as a joint tenant with rights of survivorship and the property is subject to a beneficiary designation, a conveyance of any joint owner's interest has no effect on the original beneficiary designation for the nonsevering joint tenant.

(4) If the owner's interest is as a tenant in common, the owner's interest passes to the beneficiary as a transfer on death transfer.

(5) If the owner's interest is a life estate determined by the owner's life, the conveyance is inoperable and void.

(6) If the owner's interest is any other interest, the interest passes in accordance with this chapter and the terms and conditions of the conveyance establishing the interest.

If a conflict exists between the conveyance establishing the interest and this chapter, the terms and conditions of the conveyance establishing the interest prevail.

(f) A beneficiary designation in a transfer on death deed may be worded in substance as "(insert owner's name) conveys and warrants (or quitclaims) to (insert owner's name), TOD to (insert beneficiary's name)". This example is not intended to be exhaustive.

(g) A transfer on death deed using the phrase "pay on death to" or the abbreviation "POD" may not be construed to require the liquidation of the real property being transferred.

(h) This section does not preclude other methods of conveying real property that are permitted by law and have the effect of postponing enjoyment of an interest in real property until after the death of the owner. This section applies only to transfer on death deeds and does not invalidate any deed that is otherwise effective by law to convey title to the interest and estates provided in the deed.

(i) The endorsement of the auditor under IC 36-2-11-14 is not necessary to record a transfer on death deed.

*As added by P.L.143-2009, SEC.41. Amended by P.L.6-2010, SEC.30; P.L.36-2011, SEC.13.*

#### **IC 32-17-14-12 Transfer on death transfers of tangible personal property**

Sec. 12. (a) A deed of gift, bill of sale, or other writing intended to transfer an interest in tangible personal property is effective on the death of the owner and transfers ownership to the designated transferee beneficiary if the document:

- (1) expressly creates ownership in beneficiary form;
- (2) is in other respects sufficient to transfer the type of property involved; and
- (3) is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths.

(b) A beneficiary transfer document described in this section is not required to be supported by consideration or delivered to the transferee beneficiary.

(c) This section does not preclude other methods of transferring ownership of tangible personal property that are permitted by law and have the effect of postponing enjoyment of the property until after the death of the owner.

*As added by P.L.143-2009, SEC.41.*

#### **IC 32-17-14-13 Direct transfer to a transferee to hold as owner in beneficiary form**

Sec. 13. (a) A transferor of property, with or without consideration, may execute a written instrument directly transferring the property to a transferee to hold as owner in beneficiary form.

(b) A transferee under an instrument described in subsection (a) is considered the owner of the property for all purposes and has all the rights to the property provided by law to the owner of the property, including the right to revoke or change the beneficiary designation.

(c) A direct transfer of property to a transferee to hold as owner in beneficiary form is effective when the written instrument perfecting the transfer becomes effective to make the transferee the owner.

*As added by P.L.143-2009, SEC.41.*