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## A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 501, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§501-    Beneficiary deed. (a) "Beneficiary deed" means  
5 a deed that:

6           (1) Conveys an interest in real property, including any  
7           debt secured by a lien on real property, to a grantee  
8           beneficiary designated by the owner; and

9           (2) Expressly states that the deed is effective on the  
10           death of the owner.

11           (b) Notwithstanding any other law to the contrary, a  
12 beneficiary deed shall transfer the interest to a designated  
13 grantee beneficiary effective on the death of the owner subject  
14 to all conveyances, assignments, contracts, mortgages, deeds of  
15 trust, liens, security pledges, and other encumbrances made by  
16 the owner or to which the owner was subject during the owner's  
17 lifetime; provided that the beneficiary deed is duly executed



1 and recorded before the death of the owner or the last surviving  
2 owner.

3 (c) A beneficiary deed may designate multiple grantee  
4 beneficiaries. Multiple grantee beneficiaries may take title as  
5 joint tenants with right of survivorship, tenants in common,  
6 tenancy by the entirety, or any other tenancy that is valid  
7 under state law.

8 (d) A beneficiary deed may designate a successor grantee  
9 beneficiary. If a beneficiary deed designates a successor  
10 grantee beneficiary, the deed shall state the condition on which  
11 the interest of the successor grantee beneficiary shall vest.

12 (e) An interest in real property that is owned as joint  
13 tenants with right of survivorship or as tenancy by the entirety  
14 may be transferred to a designated grantee beneficiary; provided  
15 that:

16 (1) The grantee beneficiary is designated by all of the  
17 then surviving owners; and

18 (2) The beneficiary deed expressly states that the deed is  
19 effective on the death of the last surviving owner.

20 (f) If a beneficiary deed is executed by fewer than all of  
21 the owners of real property owned as joint tenants with right of  
22 survivorship or tenancy by the entirety, the beneficiary deed



1 shall be valid if the last surviving owner is one of the persons  
2 who executed the beneficiary deed. If the last surviving owner  
3 did not execute the beneficiary deed, the transfer shall lapse  
4 and the deed shall be void.

5 (g) An estate in joint tenancy with right of survivorship  
6 or tenancy by the entirety shall not be affected by the  
7 execution of a beneficiary deed that is executed by fewer than  
8 all of the owners of the real property, and the rights of a  
9 surviving joint tenant with right or survivorship or a surviving  
10 spouse in tenancy by the entirety shall prevail over a grantee  
11 beneficiary named in a beneficiary deed.

12 (h) A beneficiary deed may be used to transfer an interest  
13 in real property to the trustee of a trust even if the trust is  
14 revocable.

15 (i) A beneficiary deed may be revoked at any time by the  
16 owner or, if there is more than one owner, by any of the owners  
17 who executed the beneficiary deed; provided that the revocation  
18 is duly executed and recorded before the death of the owner who  
19 executes the revocation. If the real property is owned as joint  
20 tenants with right of survivorship or tenancy by the entirety  
21 and the revocation is not executed by all of the owners, the



1 revocation shall not be valid unless executed by the last  
2 surviving owner.

3 (j) If an owner executes and records more than one  
4 beneficiary deed concerning the same real property, the last  
5 beneficiary deed that is recorded before the owner's death shall  
6 be the effective beneficiary deed.

7 (k) Nothing in this section shall prohibit other methods  
8 of conveying real property that are permissible by law and that  
9 have the effect of postponing enjoyment of an interest in real  
10 property until the death of the owner. This section shall not  
11 invalidate any deed otherwise effective by law to convey title  
12 to the interest and estates provided in the deed that is not  
13 recorded until after the death of the owner.

14 (l) The signature, consent, or agreement of or notice to a  
15 grantee beneficiary of a beneficiary deed shall not be required  
16 for any purpose during the lifetime of the owner.

17 (m) A beneficiary deed that is duly executed,  
18 acknowledged, and recorded in accordance with law shall not be  
19 revoked by the provisions of a will.

20 (n) A beneficiary deed may be in form as follows:



1 I (we) \_\_\_\_\_ (owner) hereby convey to \_\_\_\_\_  
2 (grantee beneficiary) effective on my (our) death the following  
3 described real property:

4 (legal description)  
5 (Reference to the number of the certificate of title or  
6 document number of the real property, as applicable)

7 If a grantee beneficiary predeceases the owner, the  
8 conveyance to that grantee beneficiary shall either (choose  
9 one):

10 [ ] Become null and void.

11 [ ] Become part of the estate of the grantee beneficiary.

12 \_\_\_\_\_  
13 (signature of grantor(s))

14 (acknowledgement).

15 (o) The instrument of revocation shall be in a form as  
16 prescribed by the supreme court of the State of Hawaii or the  
17 department of land and natural resources, as applicable,  
18 pursuant to subsection (p).

19 (p) The supreme court of the State of Hawaii shall adopt  
20 rules relating to registered real property necessary to carry  
21 out the purposes of this section. The department of land and  
22 natural resources shall adopt rules under chapter 91 relating to



1 real property that has not been registered necessary to carry  
2 out the purposes of this section.

3 (q) A grantee beneficiary may disclaim, in whole or part,  
4 any interest in real property conveyed by a beneficiary deed, in  
5 accordance with the rules adopted pursuant to subsection (p)."

6 SECTION 2. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval.

8

INTRODUCED BY:



JAN 15 2008



**Report Title:**

Real Property; Beneficiary Deed

**Description:**

Enables an owner to convey an interest in real property that does not vest until the death of the owner, at which time the interest transfers to the designated beneficiary.

