
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO STUDY AND
RECOMMEND WHETHER LEGISLATION ESTABLISHING A REVOCABLE
BENEFICIARY DEED SHOULD BE ENACTED IN HAWAII.

1 WHEREAS, a revocable transfer on death or "revocable
2 beneficiary deed" is a deed that conveys an interest in real
3 property, including any debt secured by a lien on real property,
4 to a grantee beneficiary designated by the owner and expressly
5 states that the deed is effective on the death of the owner; and
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7 WHEREAS, generally, a revocable beneficiary deed may be
8 revoked at any time by the owner, provided that the revocation
9 is duly executed and recorded before the death of the owner; and
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11 WHEREAS, a revocable beneficiary deed enables an owner to
12 convey the interest in real property upon death without a will
13 or trust, thereby avoiding complicated or costly probate
14 proceedings; and
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16 WHEREAS, the transfer of real property by a revocable
17 beneficiary deed would be similar to other transfer on death
18 conveyances of personal property, such as bank accounts,
19 automobiles, boats, and retirement accounts; and
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21 WHEREAS, at least nine states have enacted beneficiary deed
22 legislation, including Arizona, Colorado, Kansas, Missouri,
23 Nevada, New Mexico, Ohio, Arkansas, and Wisconsin; and
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25 WHEREAS, it is important to examine Hawaii's existing real
26 property donative transfer devices and weigh the advantages and
27 disadvantages of a revocable beneficiary deed before enacting
28 similar legislation in this State; now, therefore,
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30 BE IT RESOLVED by the House of Representatives of the
31 Twenty-fourth Legislature of the State of Hawaii, Regular



1 Session of 2008, the Senate concurring, that the Department of
2 the Attorney General is requested to study and recommend whether
3 legislation establishing a revocable beneficiary deed should be
4 enacted in Hawaii; and

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6 BE IT FURTHER RESOLVED that in completing the study, the
7 Department of the Attorney General is requested to:

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9 (1) Review the relevant revocable beneficiary deed
10 statutes, experience since enacting a revocable
11 beneficiary deed statute, and related legal incidents
12 in Arizona, Colorado, Kansas, Missouri, Nevada, New
13 Mexico, Ohio, Arkansas, and Wisconsin;
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15 (2) Review existing real property donative transfer
16 devices in Hawaii;
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18 (3) Weigh advantages and disadvantages of enacting
19 revocable beneficiary deed legislation in Hawaii;
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21 (4) Consult with the:
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23 (A) Judiciary;
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25 (B) Department of Commerce and Consumer Affairs;
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27 (C) Registrar of the Land Court;
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29 (D) Registrar of the Bureau of Conveyances;
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31 (E) Elder Law Section of the Hawaii State Bar
32 Association;
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34 (F) Probate and Estate Planning Section of the Hawaii
35 State Bar Association; and
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37 BE IT FURTHER RESOLVED that the Attorney General is
38 requested to submit a report of any findings and
39 recommendations, including proposed legislation, to the
40 Legislature no later than twenty days prior to the convening of
41 the 2009 Regular Session; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Attorney General,
3 Chief Justice of the Hawaii Supreme Court, Director of Commerce
4 and Consumer Affairs, Registrar of the Land Court, Registrar of
5 the Bureau of Conveyances, Chair of the Elder Law Section of the
6 Hawaii State Bar Association, and Chair of the Probate and
7 Estate Planning Section of the Hawaii State Bar Association.

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OFFERED BY: 

MAR 10 2008

