

The House Committee on Judiciary offers the following substitute to HB 1247:

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 record owners to retain title; to provide for joint ownership; to provide for related matters;  
7 to 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:

H. B. 1247 (SUB)

15 (1) 'Interest in real estate' means any estate or interest in, over or under land, including  
16 surface, minerals, structures, fixtures, and easements.

17 (2) 'Joint owner' means a person that owns an interest in real estate as a joint tenant with  
18 right of survivorship.

19 44-17-2.

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

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

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

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

31 (2) Whether the record owner and the designated grantee beneficiary were married at the  
32 time of the record owner's death; and

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

34 (d) The designated grantee beneficiary shall attach a copy of the record owner's death  
35 certificate to the affidavit provided for in subsection (c) of this Code section. For a record  
36 owner's death occurring on or after July 1, 2024, the designated grantee beneficiary shall  
37 record such affidavit and related documents with the office of the clerk of superior court  
38 of the county where the real estate is located within nine months of the record owner's  
39 death or the interest in the property shall revert to the deceased record owner's estate;  
40 provided, however, that for a record owner's death occurring before July 1, 2024, such

41 recording of the affidavit provided for in subsection (c) of this Code section and related  
42 documents by the designated grantee beneficiary or beneficiaries shall not be subject to the  
43 nine-month time limitation.

44 44-17-3.

45 An interest in real estate may be titled in a transfer-on-death form by executing,  
46 acknowledging, and recording in the office of the clerk of superior court of the county  
47 where the real estate is located, prior to the death of the record owner, a deed in  
48 substantially the following form:

49 'TRANSFER-ON-DEATH-DEED UNDER

50 O.C.G.A. § 44-17-3

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

63 THE STATE OF GEORGIA

64 COUNTY OF \_\_\_\_\_

65 Before me, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_, and  
 66 \_\_\_\_\_, the record owner of the land described in this deed, and the witnesses,  
 67 respectively, whose names are subscribed below in their respective capacities, and the  
 68 record owner of the land declared to me and to the witnesses in my presence that the deed  
 69 is a revocable transfer-on-death of the real estate described therein, and the witnesses  
 70 declared in the presence of the record owner of the real estate and in my presence that the  
 71 record owner of the land declared to them that the deed is a revocable transfer-on-death  
 72 of the real estate described therein and that the record owner of the land wanted each to  
 73 sign as a witness, and that each witness did sign the same as witness in the presence of  
 74 the record owner of the land and in my presence.

75 \_\_\_\_\_  
 76 (Name of record owner)

77 \_\_\_\_\_  
 78 (Witness)

79 \_\_\_\_\_  
 80 (Witness)

81 Subscribed and acknowledged before me by \_\_\_\_\_, the record owner of the  
 82 land, and \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_  
 83 (Month), \_\_\_\_\_ (Year).

84 \_\_\_\_\_  
 85 (Signature of notary public)

86 (SEAL)

87 My commission expires \_\_\_\_\_ (date).'

88 44-17-4.

89 (a) A record owner of an interest in real estate who has titled such interest in a  
90 transfer-on-death deed form and designated a beneficiary or beneficiaries in the manner  
91 provided in this chapter may revoke such designation of the grantee beneficiary or  
92 beneficiaries at any time prior to the death of such record owner, by executing,  
93 acknowledging, and recording in the office of the clerk of superior court of the county  
94 where the real estate is located an instrument revoking such designation. The instrument  
95 of revocation shall refer to the initial transfer-on-death deed, shall be signed by the record  
96 owner or such record owner's duly authorized attorney-in-fact, and such signature shall be  
97 attested by an officer as provided in Code Section 44-2-15 and attested by two other  
98 witnesses. Such revocation may be included in another deed or other instrument of  
99 conveyance that is recorded. The signature, consent, or agreement of or notice to the  
100 designated grantee beneficiary or beneficiaries to the revocation shall not be required.

101 (b) A record owner of an interest in real estate who has titled such interest in a  
102 transfer-on-death deed form and designated a beneficiary or beneficiaries in accordance  
103 with this chapter may change such designation of the grantee beneficiary or beneficiaries  
104 at any time prior to the death of such record owner, by executing, acknowledging, and  
105 recording in the office of the clerk of superior court of the county where the real estate is  
106 located a subsequent transfer-on-death deed in accordance with this chapter. The signature,  
107 consent, or agreement of or notice to the designated grantee beneficiary or beneficiaries  
108 shall not be required. A subsequent transfer-on-death beneficiary designation revokes all  
109 prior designations of grantee beneficiary or beneficiaries by the record owner for the  
110 interest in real estate.

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

113 44-17-5.

114 (a) A grantee beneficiary or the beneficiaries of a transfer-on-death deed shall take the  
115 interest in real estate of the record owner at the death of such record owner, free and clear  
116 of any claims or interest as to a person who became the spouse of the record owner  
117 subsequent to the execution of the transfer-on-death deed, subject to all recorded  
118 conveyances, assignments, contracts, mortgages, liens, and security pledges made by the  
119 record owner or to which the record owner was subject during the lifetime of such record  
120 owner including, but not limited to, any recorded executory contract of sale, option to  
121 purchase, lease, license, easement, mortgage, deed of trust or lien, and to any interest  
122 conveyed by the record owner that is less than all of the record owner's interest in the  
123 property; provided, however, that a nonconsensual lien against the grantee beneficiary or  
124 beneficiaries shall not attach to the property until the recording of the affidavit described  
125 in Code Section 44-17-2.

126 (b) If one or more of the designated grantee beneficiaries dies prior to the death of the  
127 record owner, the transfer to those beneficiaries who predecease the record owner shall  
128 lapse and shall be deemed revoked. In the event the grantee beneficiary or beneficiaries  
129 are designated in the deed to be joint tenants with right of survivorship, the death of one  
130 or more of the designated grantee beneficiaries prior to the death of the record owner shall  
131 not invalidate an otherwise validly created joint tenancy estate as to those designated  
132 grantee beneficiaries who are living at the time of the death of the record owner.

133 44-17-6.

134 A record joint owner of an interest in real estate may use the provisions of this chapter to  
135 title the interest in a transfer-on-death form; provided, however, that title to the interest

136 shall vest in the designated grantee beneficiary or beneficiaries only if the record joint  
137 owner is the last to die of all of the record joint owners of the interest. A deed in a  
138 transfer-on-death form shall not sever a joint tenancy.

139 44-17-7.

140 A record owner who executes a transfer-on-death deed shall remain the legal and equitable  
141 owner until the death of such record owner, and during his or her lifetime shall be  
142 considered an absolute owner with regard to creditors and purchasers."

143 **SECTION 2.**

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