# Chapter 971

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<u>S.B. No. 2150</u>

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1	AN ACT
2	relating to a revocable deed that transfers real property at the
3	transferor's death.
4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
5	SECTION 1. Section 114.103(a), Estates Code, is amended to
6	read as follows:
7	(a) Except as otherwise provided in the transfer on death
8	deed, this section, or any other statute or the common law of this
9	state governing a decedent's estate, on the death of the
10	transferor, the following rules apply to an interest in real
11	property that is the subject of a transfer on death deed and owned
12	by the transferor at death:
13	(1) if the designated beneficiary survives the
14	transferor by 120 hours, the interest in the real property is
15	transferred to the designated beneficiary in accordance with the
16	deed;
17	(2) the <u>share</u> [ <del>interest</del> ] of <u>any</u> [ <del>a</del> ] designated
18	beneficiary that fails to survive the transferor by 120 hours
19	lapses, notwithstanding Section 111.052, and is subject to and
20	passes in accordance with Subchapter D, Chapter 255, as if the
21	transfer on death deed were a devise made in a will; and
22	(3) subject to Subdivision <u>(2)</u> [ <del>(4)</del> ], concurrent
23	interests are transferred to the beneficiaries in equal and
24	undivided shares with no right of survivorship[ <del>; and</del>

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[(4) notwithstanding Subdivision (2), if the the transferor has identified two or more designated beneficiaries to receive concurrent interests in the real-property, the share of a designated beneficiary who predeceases the transferor lapses and is subject to and passes in accordance with Subchapter D, Chapter 255, as if the transfer on death deed were a devise made in a will].

7 SECTION 2. Section 114.151, Estates Code, is amended to 8 read as follows:

9 Sec. 114.151. OPTIONAL FORM FOR TRANSFER ON DEATH DEED. The 10 following form may be used to create a transfer on death deed.

REVOCABLE TRANSFER ON DEATH DEED

11

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU 12 13 MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS 14 INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC 15 RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE 16 NUMBER.

17 IMPORTANT NOTICE TO OWNER: You should carefully read all the 18 information included in the instructions to this form. You may want 19 to consult a lawyer before using this form.

20 MUST RECORD DEED: Before your death, this deed must be recorded 21 with the county clerk where the property is located, or it will not 22 be effective.

23 MARRIED PERSONS: If you are married and want your spouse to own the 24 property on your death, you must name your spouse as the primary 25 beneficiary. If your spouse does not survive you, the property 26 will transfer to any listed alternate beneficiary or beneficiaries 27 on your death.

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1 2	1. Owner (Transferor) Making this Deed:
2	Printed name Mailing address
4	2. Legal Description of the Property:
5	
6 7	3. Address of the Property (if any) (include county):
8	4. Primary Beneficiary (Transferee) or Beneficiarie
9	(Transferees)
10	I designate the following beneficiary or beneficiaries, i
11	the beneficiary survives me:
12	
13	Printed name Mailing address
14	5. Alternate Beneficiary or Beneficiaries (Optional)
15	[ <del>If no primary beneficiary survives me,</del> ] I designate th
16	following alternate beneficiary or beneficiaries, if the alternate
17	beneficiary survives me:
18	
19	Printed name Mailing address
20	6. Transfer on Death: (Choose an option under both A and B below
21	
22	option under C.)
23	At my death, I grant and convey to the primary beneficiary of
24	beneficiaries my interest in the property, to have and hold
25	forever. [ <del>If at my death I am not survived by any primary</del>
26	beneficiary, I grant and convey to the alternate beneficiary o
27	beneficiaries, if designated, my interest in the property, to have

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1	and hold forever. If the primary and alternate beneficiaries do not
2	survive me, this transfer on death deed shall be deemed canceled by
3	me.]
4	A. IF AT LEAST ONE PRIMARY BENEFICIARY SURVIVES ME
5	(Select either option (1) or (2) by placing your initials next to
6	the option chosen. If you do not choose an option, then option (1),
7	which is the anti-lapse election, will apply.)
8	
9	If at least one primary beneficiary survives me, I grant and
10	convey the primary beneficiaries' share or shares of the property,
11	to have and hold forever, as follows:
12	(1) Anti-Lapse Election. To the surviving primary
13	beneficiary or beneficiaries, but if a deceased primary
14	beneficiary, if any, was a child or other descendant of mine or of
15	one or both of my parents, that deceased primary beneficiary's
16	share will pass to the surviving children or other descendants of
17	that deceased primary beneficiary.
18	(2) Surviving Primary Beneficiaries Election. To the
19	surviving primary beneficiary or beneficiaries only. If a deceased
20	primary beneficiary, if any, was a child or other descendant of mine
21	or of one or both of my parents, I do not want that deceased primary
22	beneficiary's share to pass to the children or other descendants of
23	that deceased primary beneficiary.
24	
25	B. IF NO PRIMARY BENEFICIARY SURVIVES ME
26	(Select either option (1) or (2) by placing your initials next to
27	the option chosen. If you do not choose an option, then option (1),

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1	which is the anti-lapse election, will apply.)
2	
3	If no primary beneficiary survives me, I grant and convey the
4	share of the property that would have transferred to a deceased
5	primary beneficiary, to have and hold forever, as follows:
6	(1) Anti-Lapse Election. To the surviving children or
7	other descendants of the deceased primary beneficiary, if the
8	deceased primary beneficiary was a child or other descendant of
9	mine or of one or both of my parents.
10	(2) Surviving Alternate Beneficiaries Election. To
11	the alternate beneficiary or beneficiaries designated above. If
12	the deceased primary beneficiary was a child or other descendant of
13	mine or of one or both of my parents, I do not want that deceased
14	primary beneficiary's share to pass to the children or other
15	descendants of that deceased primary beneficiary.
16	
17	If no primary beneficiary survives me and the anti-lapse
18	election is not chosen or that election is chosen, but a deceased
19	primary beneficiary is not a child or other descendant of mine or of
20	one or both of my parents, I grant and convey to the alternate
21	beneficiary or beneficiaries my share in the property that
22	otherwise would have transferred to the deceased primary
23	beneficiary, to have and hold forever. If I have not designated
24	alternate beneficiaries, this transfer on death deed shall be
25	considered cancelled by me.
26	

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C. IF AN ALTERNATE BENEFICIARY DOES NOT SURVIVE ME

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S.B. No. 2150 1 (Select either option (1) or (2) by placing your initials next to 2 the option chosen. If you do not choose an option, then option (1), which is the anti-lapse election, will apply.) 3 4 If an alternate beneficiary does not survive me, I grant and 5 6 convey that alternate beneficiary's share of the property as 7 follows: 8 (1) Anti-Lapse Election. To the surviving alternate 9 beneficiary or beneficiaries, but if the deceased alternate 10 beneficiary was a child or other descendant of mine or of one or 11 both of my parents, that deceased alternate beneficiary's share will pass to the surviving children or other descendants of that 12 13 deceased alternate beneficiary. 14 (2) Surviving Alternate Beneficiaries Election. То 15 the surviving alternate beneficiary or beneficiaries only. If the 16 deceased alternate beneficiary was a child or other descendant of mine or of one or both of my parents, I do not want that deceased 17 18 alternate beneficiary's share to pass to the children or other 19 descendants of that deceased alternate beneficiary. 20 21 If no alternate beneficiary survives me and the anti-lapse 22 election is not chosen or that election is chosen, but no deceased 23 alternate beneficiary was a child or other descendant of mine or of 24 one or both of my parents, this transfer on death deed shall be 25 considered cancelled by me.

26 7. Printed Name and Signature of Owner Making this Deed:

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1 2 Printed Name Date 3 4 Signature 5 BELOW LINE FOR NOTARY ONLY 6 7 Acknowledgment 8 STATE OF 9 COUNTY OF \_\_\_\_\_ 10 This instrument was acknowledged before me on the \_\_\_\_\_ day of 11 \_\_\_\_\_, 20\_\_\_\_, 12 by \_\_\_\_\_ 13 14 Notary Public, State of \_\_\_\_\_ 15 After recording, return to: 16 (insert name and mailing address) 17 18 19 INSTRUCTIONS FOR TRANSFER ON DEATH DEED 20 DO NOT RECORD THESE INSTRUCTIONS 21 Instructions for Completing the Form Owner (Transferor) Making this Deed: Enter your first, middle 22 1. (if any), and last name here, along with your mailing address. 23 Legal Description of the Property: Enter the formal legal 24 2. 25 description of the property. This information is different from 26 the mailing and physical address for the property and is necessary 27 to complete the form. To find this information, look on the deed

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1 you received when you became an owner of the property. This 2 information may also be available in the office of the county clerk 3 for the county where the property is located. Do NOT use your tax 4 bill to find this information. If you are not absolutely sure, 5 consult a lawyer.

6 3. Address of the Property: Enter the physical address of the7 property.

8 4. Primary Beneficiary or Beneficiaries: Enter the first and 9 last name of each person you want to get the property when you die. 10 If you are married and want your spouse to get the property when you 11 die, enter your spouse's first and last name (even if you and your 12 spouse own the property together).

13 5. Alternate Beneficiary or Beneficiaries: Enter the first and 14 last name of each person you want to get the property if no primary 15 beneficiary survives you.

16 6. Transfer on Death: <u>You should carefully read the language</u> 17 <u>describing the options and choose an option under both A and B of</u> 18 <u>Paragraph 6, and if you have listed any alternate beneficiaries,</u> 19 <u>choose an option under C of Paragraph 6</u> [No action needed].

20 7. Printed Name and Signature of Owner: Do not sign your name or 21 enter the date until you are before a notary. Include your printed 22 name.

23 8. Acknowledgment: This deed must be signed before a notary. The24 notary will fill out this section of the deed.

25 SECTION 3. The changes in law made by this Act apply to a 26 transfer on death deed executed and acknowledged on or after the 27 effective date of this Act. A transfer on death deed executed and

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#### S.B. No. 2150

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1 acknowledged before the effective date of this Act is governed by 2 the law in effect on the date the transfer on death deed was executed and acknowledged, and the former law is continued in 3 4 effect for that purpose.

5

SECTION 4. This Act takes effect September 1, 2017.\_\_\_\_

President he Senate Speaker of the House

I hereby certify that S.B. No. 150 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0.\_\_\_

I hereby certify that S.B. No. 2150 passed the House on May 21, 2017, by the following vote: Yeas 141, Nays 0, one present not voting.\_\_\_\_



Approved:

6 - 12 - 2017 Date Deleg alutot

FILED IN THE OFFICE OF THE SECRETARY OF STATE 3 PM O'CLOCK

JUN 15 2017

Secretary of State

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## LEGISLATIVE BUDGET BOARD Austin, Texas

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## FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

## May 11, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

### **FROM:** Ursula Parks, Director, Legislative Budget Board

# **IN RE: SB2150** by Huffman (Relating to a revocable deed that transfers real property at the transferor's death.), **As Engrossed**

#### No significant fiscal implication to the State is anticipated.

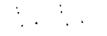
The bill would amend chapter 114 of the Estates Code to address the transfer of an interest in real property at the death of the interest holder. It would revise provisions addressing transfer in the event a designated beneficiary fails to survive the transferring party by at least 120 hours. The bill would also revise the terms of the Optional Form for Transfer on Death to allow the transferring party to indicate what should happen in these instances.

No significant fiscal impact on the state court system or local courts is anticipated.

#### Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council **LBB Staff:** UP, LBO, AG, SD, SJS



### LEGISLATIVE BUDGET BOARD Austin, Texas

#### FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

### April 5, 2017

#### **TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

#### **FROM:** Ursula Parks, Director, Legislative Budget Board

# **IN RE: SB2150** by Huffman (Relating to a revocable deed that transfers real property at the transferor's death.), **As Introduced**

#### No significant fiscal implication to the State is anticipated.

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council **LBB Staff:** UP, AG, SD, SJS