AN ACT

relating to a revocable deed that transfers real property at the
transferor's death.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 114.103(a), Estates Code, is amended to
read as follows:

(a) Except as otherwise provided in the transfer on death
deed, this section, or any other statute or the common law of this
state governing a decedent's estate, on the death of the
transferor, the following rules apply to an interest in real
property that is the subject of a transfer on death deed and owned
by the transferor at death:

(1) if the designated beneficiary survives the
transferor by 120 hours, the interest in the real property is
transferred to the designated beneficiary in accordance with the
deed;

(2) the share [interest] of any [a] designated
beneficiary that fails to survive the transferor by 120 hours
lapses, notwithstanding Section 111.052, 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; and

(3) subject to Subdivision (2) [44], concurrent
interests are transferred to the beneficiaries in equal and
undivided shares with no right of survivorship[44] and
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[(4) notwithstanding Subdivision (2), if the
2 transferor has identified two or more designated beneficiaries to
3 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 device made in a will].

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

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

REVOCABLE TRANSFER ON DEATH DEED

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

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

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

MARRIED PERSONS: If you are married and want your spouse to own the
property on your death, you must name your spouse as the primary
beneficiary. If your spouse does not survive you, the property
will transfer to any listed alternate beneficiary or beneficiaries
on your death.
1. Owner (Transferor) Making this Deed:

__________________________________________________________

Printed name                                      Mailing address

2. Legal Description of the Property:

__________________________________________________________

3. Address of the Property (if any) (include county):

__________________________________________________________

4. Primary Beneficiary (Transferee) or Beneficiaries (Transferees)

I designate the following beneficiary or beneficiaries, if the beneficiary survives me:

__________________________________________________________

Printed name                                      Mailing address

5. Alternate Beneficiary or Beneficiaries (Optional)

[If no primary beneficiary survives me,] I designate the following alternate beneficiary or beneficiaries, if the alternate beneficiary survives me:

__________________________________________________________

Printed name                                      Mailing address

6. Transfer on Death: (Choose an option under both A and B below, and if you have designated any alternate beneficiaries, choose an option under C.)

At my death, I grant and convey to the primary beneficiary or beneficiaries my interest in the property, to have and hold forever. [If at my death I am not survived by any primary beneficiary, I grant and convey to the alternate beneficiary or beneficiaries, if designated, my interest in the property, to have
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and hold forever. If the primary and alternate beneficiaries do not survive me, this transfer on death deed shall be deemed canceled by me.

A. IF AT LEAST ONE PRIMARY BENEFICIARY SURVIVES ME

(Select either option (1) or (2) by placing your initials next to the option chosen. If you do not choose an option, then option (1), which is the anti-lapse election, will apply.)

If at least one primary beneficiary survives me, I grant and convey the primary beneficiaries' share or shares of the property, to have and hold forever, as follows:

(1) Anti-Lapse Election. To the surviving primary beneficiary or beneficiaries, but if a deceased primary beneficiary, if any, was a child or other descendant of mine or of one or both of my parents, that deceased primary beneficiary's share will pass to the surviving children or other descendants of that deceased primary beneficiary.

(2) Surviving Primary Beneficiaries Election. To the surviving primary beneficiary or beneficiaries only. If a deceased primary beneficiary, if any, was a child or other descendant of mine or of one or both of my parents, I do not want that deceased primary beneficiary's share to pass to the children or other descendants of that deceased primary beneficiary.

B. IF NO PRIMARY BENEFICIARY SURVIVES ME

(Select either option (1) or (2) by placing your initials next to the option chosen. If you do not choose an option, then option (1),
which is the anti-lapse election, will apply.)

If no primary beneficiary survives me, I grant and convey the share of the property that would have transferred to a deceased primary beneficiary, to have and hold forever, as follows:

(1) Anti-Lapse Election. To the surviving children or other descendants of the deceased primary beneficiary, if the deceased primary beneficiary was a child or other descendant of mine or of one or both of my parents.

(2) Surviving Alternate Beneficiaries Election. To the alternate beneficiary or beneficiaries designated above. If the deceased primary beneficiary was a child or other descendant of mine or of one or both of my parents, I do not want that deceased primary beneficiary's share to pass to the children or other descendants of that deceased primary beneficiary.

If no primary beneficiary survives me and the anti-lapse election is not chosen or that election is chosen, but a deceased primary beneficiary is not a child or other descendant of mine or of one or both of my parents, I grant and convey to the alternate beneficiary or beneficiaries my share in the property that otherwise would have transferred to the deceased primary beneficiary, to have and hold forever. If I have not designated alternate beneficiaries, this transfer on death deed shall be considered cancelled by me.

C. IF AN ALTERNATE BENEFICIARY DOES NOT SURVIVE ME
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(Select either option (1) or (2) by placing your initials next to the option chosen. If you do not choose an option, then option (1), which is the anti-lapse election, will apply.)

If an alternate beneficiary does not survive me, I grant and convey that alternate beneficiary's share of the property as follows:

(1) Anti-Lapse Election. To the surviving alternate beneficiary or beneficiaries, but if the deceased alternate beneficiary was a child or other descendant of mine or of one or both of my parents, that deceased alternate beneficiary's share will pass to the surviving children or other descendants of that deceased alternate beneficiary.

(2) Surviving Alternate Beneficiaries Election. To the surviving alternate beneficiary or beneficiaries only. If the 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 alternate beneficiary's share to pass to the children or other descendants of that deceased alternate beneficiary.

If no alternate beneficiary survives me and the anti-lapse election is not chosen or that election is chosen, but no deceased alternate beneficiary was a child or other descendant of mine or of one or both of my parents, this transfer on death deed shall be considered cancelled by me.

7. Printed Name and Signature of Owner Making this Deed:
INSTRUCTIONS FOR TRANSFER ON DEATH DEED

DO NOT RECORD THESE INSTRUCTIONS

Instructions for Completing the Form

1. Owner (Transferor) Making this Deed: Enter your first, middle
   (if any), and last name here, along with your mailing address.

2. Legal Description of the Property: Enter the formal legal
description of the property. This information is different from
the mailing and physical address for the property and is necessary
to complete the form. To find this information, look on the deed
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you received when you became an owner of the property. This
information may also be available in the office of the county clerk
for the county where the property is located. Do NOT use your tax
bill to find this information. If you are not absolutely sure,
consult a lawyer.

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

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

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

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

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

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

SECTION 3. The changes in law made by this Act apply to a
transfer on death deed executed and acknowledged on or after the
effective date of this Act. A transfer on death deed executed and
acknowledged before the effective date of this Act is governed by
the law in effect on the date the transfer on death deed was
executed and acknowledged, and the former law is continued in
effect for that purpose.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2150 passed the Senate on
April 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

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.

Chief Clerk of the House

Approved:

6-12-2017

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3 P.M. O'CLOCK

Secretary of State
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
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

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