**South Carolina General Assembly**

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**S. 49**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Davis

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Currently residing in the Senate Committee on **Judiciary**

Summary: Transfer on Death Deed

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/11/2024 Senate Prefiled

 12/11/2024 Senate Referred to Committee on **Judiciary**

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**VERSIONS OF THIS BILL**

[12/11/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/49_20241211.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 27‑1‑80 SO AS TO ESTABLISH A TRANSFER ON DEATH FOR REAL PROPERTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 27 of the S.C. Code is amended by adding:

 Section 27‑1‑80. (A) Any owner of real property may establish a Transfer on Death (TOD) designation upon any such title, subject to the provisions of this section, for the purposes set forth herein. Any affidavit containing language that shows a clear intent to designate a TOD beneficiary must be liberally construed to do so. Such affidavit must be recorded in the Office of County Records in the county in which the real property is recorded and when so recorded, the affidavit serves as conclusive evidence of the TOD designation therein.

 (B) A TOD designation on any titled real property passes, upon the death of all owners of such titled real property, to the TOD beneficiary or beneficiaries pursuant to this section and is effective by reason of this statute and such transfer is not testamentary or subject to Articles 1 through 4 (estate administration).

 (C) A beneficiary of a TOD designation on any titled real property has no ownership of the titled real property during the lifetime of the owner or owners of the titled real property.

 (D) The following rules apply to titled real property owned by one owner with TOD designation:

 (1) On the death of an owner who is the sole owner of titled real property with a TOD designation, the titled real property belongs to the surviving beneficiary or beneficiaries named in the TOD designation. If two or more beneficiaries survive, the titled real property must be titled to them in undivided equal shares and there is no right of survivorship in the event of a later death of a beneficiary, unless the beneficiaries thereafter change the titling during their lifetimes to reflect a right of survivorship.

 (2) If no beneficiary named on the TOD designation survives upon the death of the owner, then the titled real property belongs to the estate of the owner.

 (3) Any sole owner who utilizes a TOD designation on titled real property may revoke or modify the TOD designation at any time during the owner’s life without the consent of any beneficiary listed on a TOD designation.

 (E) The following rules apply to titled real property owned by two or more owners with a TOD designation:

 (1) Only multiple owners who own titled real property with right of survivorship are entitled to utilize a TOD designation to transfer property pursuant to this section and a TOD designation for multiple owners who own titled real property without such right of survivorship is ineffective.

 (2) On the death of one owner among multiple owners with right of survivorship the titled real property belongs to the surviving owner or owners. If two or more owners survive, the titled real property belongs to the surviving owners in undivided equal shares and the right of survivorship continues between the surviving parties.

 (3) On the death of the last surviving owner among multiple owners with right of survivorship, the titled real property belongs to the surviving beneficiary or beneficiaries named in a TOD designation. If two or more beneficiaries survive, the titled real property belongs to them in undivided equal shares and there is no right of survivorship in the event of a later death of a beneficiary, unless the beneficiaries thereafter change the titling to reflect a right of survivorship during their lifetimes. If no beneficiary named in the TOD designation is living on the date of the last surviving owner’s death, the titled real property belongs to the estate of the last surviving owner.

 (4) When multiple owners own titled real property, all of the multiple owners, or the survivors among them, must act together to establish such TOD designation or to thereafter revoke or modify the TOD designation, but the consent of any beneficiary selected in the TOD designation is not required.

 (F) An owner or multiple owners of real property shall apply to the appropriate master in equity for such TOD designation pursuant to the terms of this section pursuant to the rules and standards of the master in equity.

 (G) The master in equity office upon request, shall retitle the appropriate titled real property with a TOD designation, to:

 (1) the beneficiary or beneficiaries named in the TOD designation, if proof of death is presented to the appropriate department showing that the beneficiary or beneficiaries survived all owners of the titled real property.

 (2) the personal representative of a deceased party, if proof of death is presented to the master in equity showing that the deceased party was the last survivor of all other owners named on the title to the titled real property, and there are no surviving beneficiaries named in any TOD designation.

 (3) to such party or parties in accordance with a court order directing the retitling of such titled real property.

 (I) For purposes of this section, ownership of titled real property using “or” with two or more multiple owners indicates “joint tenants with right of survivorship,” while ownership using “and” with two or more multiple owners indicates ownership “tenants in common.” Only sole owners and multiple owners holding title to titled real property with such right of survivorship, “or” titling between multiple owners, are eligible to utilize the TOD procedures described in this statute.

SECTION 2. This act takes effect upon approval by the Governor.

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