



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0049 **Introduced on** January 14, 2025
Subject: Transfer on Death Deed
Requestor: Senate Judiciary
RFA Analyst(s): Welsh
Impact Date: February 10, 2025

Fiscal Impact Summary

This bill establishes a Transfer on Death (TOD) deed for real property. Under this bill, a TOD designation on any titled real property is transferred to a beneficiary upon the death of all owners instead of passing through probate. This bill outlines the requirements for establishing a TOD designation and how ownership of a TOD deed should be interpreted under certain circumstances. This bill also specifies that the owner of the property must apply to the master-in-equity for the TOD designation.

The Revenue and Fiscal Affairs Office (RFA) contacted Judicial to determine the impact to probate courts. We also contacted all counties to determine the local impact of this bill. Responses were received from the counties of Dorchester, Florence, and Horry.

Judicial notes this bill may result in local expenditure savings for probate courts, due to the removal of real property with a TOD from probate; however, any savings will be reallocated to other areas of the probate court. Additionally, this bill may result in an increase in the caseload in the master-in-equity court and may impact the workload of the Register of Deeds. However, based on the responses received, we anticipate the local expenditure impact will be minimal and managed within current appropriations.

This bill may have an impact on local revenue. The counties of Dorchester and Horry noted this bill may have an impact on fees collected by probate courts and the Register of Deeds. Horry County expressed concerns that fees collected during probate are calculated in conjunction with the value of an estate and, as a result, moving estates out of probate court may lead to a substantial reduction in a county's fee collections. Horry County also anticipates a net loss in fees collected by the Register of Deeds as it expects to collect \$10 for each TOD affidavit, instead of \$15, to record a deed with a right of survivorship. Additionally, Dorchester County anticipates this bill may result in an increase to fee revenue for the Register of Deeds, if the filing of an affidavit has a fee attached or may create a loss of revenue if it removes the need to file death certificates and declarations showing an owner is deceased. Further, this bill may impact the fees collected by the master-in-equity. Based on the responses received, RFA anticipates each county may be impacted differently depending upon current fee structures for filing deeds and the number of properties that are transferred by a TOD deed rather than through probate. Therefore, the impact on local revenue is undetermined.

Explanation of Fiscal Impact

Introduced on January 14, 2025

State Expenditure

N/A

State Revenue

N/A

Local Expenditure

This bill establishes a TOD deed for real property, which allows real property to transfer to the designated transferee without going through probate. This bill also specifies that the owner of the property must apply to the master-in-equity for the TOD designation. Currently, there are a number of ways for real property to transfer at the death of the owner without going through probate, including life estates, trusts, and other such items. This bill provides another avenue by which real property may be transferred upon the death of the owner without going through probate.

RFA contacted all counties and Judicial to determine the local expenditure impact of this bill. Judicial notes this bill may result in local expenditure savings for probate courts, due to the removal of real property with a TOD from probate; however, any savings will be reallocated to other areas of the probate court. Additionally, based on the responses received, we anticipate the local expenditure impact on counties will be minimal and managed within current appropriations.

Additionally, responses were received from the counties of Dorchester, Florence, and Horry. Although Horry County noted this bill may impact the caseload for the master-in-equity, based on the responses received, we anticipate the local expenditure impact, including the impact to the caseload in the masters-in-equity, can be managed within current appropriations. RFA anticipates this bill may also result in a cost savings for probate courts.

Local Revenue

This bill establishes a TOD deed for real property. A TOD designation on any titled real property is transferred to a beneficiary upon the death of all owners instead of passing through probate.

RFA contacted all counties to determine the local revenue impact of this bill. We received responses from the counties of Dorchester, Florence, and Horry. Dorchester and Horry Counties noted this bill may have an impact on fees collected by Probate Courts and the Register of Deeds. Horry County also expressed concerns that fees collected during probate are calculated in conjunction with the value of an estate and, as a result, moving estates out of Probate Courts may lead to a substantial reduction in a county's fee collections. Horry County provided an example that, currently, an estate with real property valued at \$300,000 would result in fee revenue of about \$300. Horry also anticipates a net loss in fees collected by the Register of Deeds as it expects to collect \$10 for each TOD affidavit, instead of \$15, to record a deed with a right of survivorship. Additionally, Dorchester County anticipates this bill may result in an increase to

fee revenue for the Register of Deeds if the filing of an affidavit has a fee attached or may create a loss of revenue if it removes the need to file death certificates and declarations showing an owner is deceased. Florence County anticipates this bill will have a minimal monetary impact for the county. Based on these responses, RFA anticipates this bill will have an undetermined local revenue impact.



Frank A. Rainwater, Executive Director