
HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO STUDY AND
RECOMMEND WHETHER LEGISLATION ESTABLISHING A REVOCABLE
BENEFICIARY DEED SHOULD BE ENACTED IN HAWAII.

1 WHEREAS, a revocable transfer on death or "revocable
2 beneficiary deed" is a deed that conveys an interest in real
3 property, including any debt secured by a lien on real property,
4 to a grantee beneficiary designated by the owner and expressly
5 states that the deed is effective on the death of the owner; and
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7 WHEREAS, generally, a revocable beneficiary deed may be
8 revoked at any time by the owner, provided that the revocation
9 is duly executed and recorded before the death of the owner; and
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11 WHEREAS, a revocable beneficiary deed enables an owner to
12 convey the interest in real property upon death without a will
13 or trust, thereby avoiding complicated or costly probate
14 proceedings; and
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16 WHEREAS, the transfer of real property by a revocable
17 beneficiary deed would be similar to other transfer on death
18 conveyances of personal property, such as bank accounts,
19 automobiles, boats, and retirement accounts; and
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21 WHEREAS, at least nine states have enacted beneficiary deed
22 legislation, including Arizona, Colorado, Kansas, Missouri,
23 Nevada, New Mexico, Ohio, Arkansas, and Wisconsin; and
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25 WHEREAS, it is important to examine Hawaii's existing real
26 property donative transfer devices and weigh the advantages and
27 disadvantages of a revocable beneficiary deed before enacting
28 similar legislation in this State; now, therefore,
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30 BE IT RESOLVED by the House of Representatives of the
31 Twenty-fourth Legislature of the State of Hawaii, Regular
32 Session of 2008, that the Department of the Attorney General is
33 requested to study and recommend whether legislation



1 establishing a revocable beneficiary deed should be enacted in
2 Hawaii; and

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4 BE IT FURTHER RESOLVED that in completing the study, the
5 Department of the Attorney General is requested to:

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7 (1) Review the relevant revocable beneficiary deed
8 statutes, experience since enacting a revocable
9 beneficiary deed statute, and related legal incidents
10 in Arizona, Colorado, Kansas, Missouri, Nevada, New
11 Mexico, Ohio, Arkansas, and Wisconsin;

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13 (2) Review existing real property donative transfer
14 devices in Hawaii;

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16 (3) Weigh advantages and disadvantages of enacting
17 revocable beneficiary deed legislation in Hawaii;

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19 (4) Consult with the:

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21 (A) Judiciary;

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23 (B) Department of Commerce and Consumer Affairs;

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25 (C) Registrar of the Land Court;

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27 (D) Registrar of the Bureau of Conveyances;

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29 (E) Elder Law Section of the Hawaii State Bar
30 Association;

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32 (F) Probate and Estate Planning Section of the Hawaii
33 State Bar Association; and

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35 BE IT FURTHER RESOLVED that the Attorney General is
36 requested to submit a report of any findings and
37 recommendations, including proposed legislation, to the
38 Legislature no later than twenty days prior to the convening of
39 the 2009 Regular Session; and

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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the Attorney General, Chief Justice
3 of the Hawaii Supreme Court, Director of Commerce and Consumer
4 Affairs, Registrar of the Land Court, Registrar of the Bureau of
5 Conveyances, Chair of the Elder Law Section of the Hawaii State
6 Bar Association, and Chair of the Probate and Estate Planning
7 Section of the Hawaii State Bar Association.

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OFFERED BY: _____



MAR 10 2008

