

BILL ANALYSIS

Senate Research Center
85R5473 CLG-F

S.B. 2150
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Generally, in Texas, if a beneficiary of a will or transfer on death deed predeceases the individual who is gifting the property, the gift to that beneficiary lapses, or becomes void. But, under the anti-lapse statute, certain gifts will instead go to the descendants of the predeceasing beneficiary.

Section 114.103(a)(2), Estates Code, needs to be amended to specify that the anti-lapse statute applies to a transfer on death deed regardless of the number of beneficiaries an individual designates. Currently, as the statute reads, the anti-lapse statute only applies in cases in which the deceased individual designated more than one beneficiary on the deed.

S.B. 2150 ensures that the anti-lapse statute, by default, applies in all transfer on death deed cases by eliminating Section 114.103(a)(4), Estates Code. This bill also makes relevant changes to the forms codified in Subchapter D, Section 114.151, Estates Code.

As proposed, S.B. 2150 amends current law relating to a revocable deed that transfers real property at the transferor's death.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 114.103(a), Estates Code, as follows:

(a) Provides that, 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) makes no changes to this subdivision;

(2) the share of any designated beneficiary that fails to survive the transferor by 120 hours lapses, notwithstanding Section 111.052 (Validity of Certain Nontestamentary Instruments and Provisions), and is subject to and passes in accordance with Subchapter D (Failure of Devise; Disposition of Property to Devisee who Predeceases Testator), Chapter 255 (Construction and Interpretation of Wills), as if the transfer on death deed were a devise made in a will, rather than the interest of a designated beneficiary that fails to survive the transferor by 120 hours lapses, notwithstanding Section 111.052; and

(3) makes nonsubstantive and conforming changes to this subdivision.

(4) deletes existing Subdivision (4), relating to procedures if the transferor has identified two or more designated beneficiaries.

SECTION 2. Amends Section 114.151, Estates Code, as follows:

Sec. 114.151. OPTIONAL FORM FOR TRANSFER ON DEATH DEED. Authorizes and sets forth a certain form to be used to create a transfer on death deed.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.