

AMENDED IN ASSEMBLY MAY 4, 2005  
AMENDED IN ASSEMBLY APRIL 26, 2005  
AMENDED IN ASSEMBLY MARCH 16, 2005  
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 12**

**Introduced by Assembly Member DeVore**

December 6, 2004

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~~An act to amend Sections 5000 and 21350 of, and to add Part 6 (commencing with Section 5800) to Division 5 of, the Probate Code, An act relating to nonprobate transfers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, DeVore. Nonprobate transfers: property conveyances upon death.

Existing law authorizes certain types of property to be transferred by a ~~propertyholder~~ *property holder* to another person without that property being subject to probate proceedings upon the death of the ~~propertyholder~~ *property holder*. Existing law permits, among other types of nonprobate transfers, transfers on death of an insurance policy, bond, pension plan, specified trust and other financial accounts, and property held in joint tenancy. *Existing law also requires the California Law Revision Commission to study topics approved by the Legislature.*

~~This bill would provide that a record owner may create an interest in real property in a transfer on death form by executing, acknowledging, and recording a deed, written in substantially a specified manner, and designating a grantee beneficiary or beneficiaries of the interest, and the interest in the property would then transfer on the death of the~~

owner. The bill would permit the owner to revoke or change this designation, as specified. Among other things, the bill would provide that a transfer on death deed would not be revoked by a will and would not affect a joint tenancy in real property, as specified. Grantee beneficiaries of a transfer on death deed would take the owner's interest in the real property at death subject to various encumbrances on the property, and the beneficiaries' interests in the property would be subject to claims upon the estate, as specified. If a grantee beneficiary dies before the death of the owner, and an alternative beneficiary has not been designated on the deed, the transfer would lapse. The bill would also make conforming changes to existing law regarding nonprobate transfers and other donative transfers *require the California Law Revision Commission to study the effect of California's nonprobate transfer provisions and to study statutes in other states that establish beneficiary deeds as a means of conveying real property through nonprobate transfers. The objective of the study would be to determine whether legislation establishing beneficiary deeds should be enacted in California. The bill would require the commission to report its findings to the Legislature on or before January 1, 2007. The bill would also require the commission, if it recommends that the Legislature adopt a statutory scheme establishing beneficiary deeds, to also recommend the content of the proposed statute.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The California Law Revision Commission shall*  
2 *study the effect of California's nonprobate transfer provisions*  
3 *and shall study statutes in other states that establish beneficiary*  
4 *deeds as a means of conveying real property through nonprobate*  
5 *transfers. The objective of the study shall be to determine*  
6 *whether legislation establishing beneficiary deeds should be*  
7 *enacted in California. The commission shall report all of its*  
8 *findings to the Legislature on or before January 1, 2007. If the*  
9 *commission recommends that the Legislature adopt a statutory*  
10 *scheme establishing beneficiary deeds as a means of conveying*  
11 *real property, the commission shall recommend the content of the*  
12 *proposed statute.*

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**All matter omitted in this version of the bill appears in the bill as amended in the Assembly, April 26, 2005. (JR11)**

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