

REVENUE: Minimal revenue impact, no statement issued

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass
Vote: 7 - 0 - 1
Yeas: Conger, Doherty, Esquivel, Johnson, Matthews, Kennemer, Schaufler
Nays: 0
Exc.: Hoyle
Prepared By: Theresa Van Winkle, Administrator
Meeting Dates: 5/16

WHAT THE MEASURE DOES: Authorizes a property owner to use a transfer on death deed to pass real property outside of probate at the owner's death.

ISSUES DISCUSSED:

- Purpose, cost, and timeframes of the probate process
- Whether measure's provisions replace ability for real property to be included in a will or placed in a trust
- How property defaults are handled
- How measure treats situations in which different beneficiaries are designated for the same property on a will and a transfer on death deed
- Situations in which using a transfer on death deed would be more or less appropriate than utilizing a will or trust

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Oregon law does not currently permit transfers of real property directly to a beneficiary at death via transfer on death deed or beneficiary deed. Such deeds allow transfer of real property outside the probate process, in the same way that a "payable on death" designation allows securities or cash in a bank account to pass outside the probate process. Current methods for transferring real property include present joint ownership, life estates, revocable trusts, and probate methods such as a will.

The National Conference of Commissioners on Uniform State Laws recommended that states adopt the Uniform Real Property Transfer on Death Act. To date, 13 states have passed such legislation. Senate Bill 815 is the product of a work group that tailored the Act to align it with other aspects of Oregon law. The measure provides the elements for creating a transfer on death deed, provides language for forms for the creation and revocation of a transfer on death deed, clarifies that the deed is revocable at any time that the property owner is living, and addresses the effects of a transfer on death deed, including creditors' rights.