

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H3/11/21
A Bill

HOUSE BILL 1162

By: Representative Maddox
By: Senator B. Ballinger

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING BENEFICIARY DEEDS;
TO PROHIBIT THE RECOVERY OF BENEFITS AGAINST AN
INTEREST ACQUIRED FROM A DECEASED RECIPIENT BY A
GRANTEE OF A BENEFICIARY DEED IN CERTAIN
CIRCUMSTANCES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING BENEFICIARY
DEEDS; AND TO PROHIBIT THE RECOVERY OF
BENEFITS AGAINST AN INTEREST ACQUIRED
FROM A DECEASED RECIPIENT BY A GRANTEE OF
A BENEFICIARY DEED IN CERTAIN
CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-12-608(a)(1)(B), concerning the terms of beneficiary deeds, is amended to read as follows:

(B)(i) A beneficiary deed transfers the interest to the designated grantee effective upon the death of the owner, subject to+

~~(a)~~ All all conveyances, assignments, contracts, leases, mortgages, deeds of trust, liens, security pledges, oil, gas, or mineral leases, and other encumbrances made by the owner or to which the real property was subject at the time of the owner's death, whether or not the conveyance or encumbrance was created before or after the execution of the beneficiary deed; ~~and~~



~~(b) A claim for reimbursement of federal or state benefits by the Department of Human Services from the estate of the grantor or the interest acquired by a grantee of the beneficiary deed under § 20-76-436.~~

(ii) No legal or equitable interest shall vest in the grantee until the death of the owner prior to revocation of the beneficiary deed.

SECTION 2. Arkansas Code § 20-76-436 is amended to read as follows:
20-76-436. Recovery of benefits from recipients' estates.

(a)(1) Federal or state benefits in cash or in kind, including, but not limited to, Medicaid, Aid to Families with Dependent Children [abolished], Transitional Employment Assistance Program, Temporary Assistance for Needy Families, and food stamps distributed or paid by the Department of Human Services as well as charges levied by the department for services rendered shall upon the death of the recipient constitute a debt to be paid.

(2)~~(A)~~ The department may make a claim against the estate of a deceased recipient ~~or the interest acquired from the deceased recipient by a grantee of a beneficiary deed under § 18-12-608~~ for the amount of any benefits distributed or paid or charges levied by the department.

~~(B) If a grantee of a beneficiary deed under § 18-12-608 makes a written request for a release or disclaimer of the department's interest in the real property described in the beneficiary deed, the department within thirty (30) calendar days of the request shall either:~~

~~(i) Make a claim against the interest acquired from the deceased recipient by a grantee of the beneficiary deed; or~~

~~(ii) Provide the requested disclaimer and a release suitable for recording in the real estate records of the county where the real property is located.~~

(b)(1) The department shall not seek recovery against the estate of a deceased recipient ~~or the interest acquired from the deceased recipient by a grantee of a beneficiary deed under § 18-12-608~~ for the amount of any benefits distributed or paid or charges levied if the recovery is not cost effective or if the recovery ~~works~~ causes an undue hardship on the heirs or devisees of the decedent's estate ~~or the grantee of a beneficiary deed under § 18-12-608.~~

(2) In determining the existence of an undue hardship, the department shall consider factors including, ~~but not limited to,~~ without limitation the following:

(A) The asset subject to recovery is the sole income-producing asset of ~~the beneficiaries~~ a beneficiary of the estate ~~or the grantee of a beneficiary deed under § 18-12-608;~~

(B) Without receipt of the ~~beneficiary deed or~~ proceeds of the estate, a ~~grantee or~~ beneficiary would become eligible for federal or state benefits;

(C) Allowing ~~a grantee of a beneficiary deed under § 18-12-608 to receive the interest under the beneficiary deed or a~~ the beneficiary to receive the inheritance from the estate would enable the ~~grantee or~~ beneficiary to discontinue eligibility for federal or state benefits;

(D) The asset subject to recovery is a home with a value of fifty percent (50%) or less of the average price of ~~homes~~ a home in the county where the homestead is located, as of the date of the deceased recipient's death; or

(E) There are other compelling circumstances.

(c) To the extent that there is ~~any~~ a conflict between the ~~preceding~~ criteria listed in subsection (b) of this section and the standards that may be specified by the United States Secretary of Health and Human Services, the federal standards shall prevail.

(d) Applicants for federal or state benefits shall be notified in writing in prominent type on the application form that the department may make a claim against their estate ~~or the interest acquired from the applicant by a grantee of a beneficiary deed under § 18-12-608.~~

/s/Maddox