

I Mina'trentai Ocho Na Liheslaturan Guåhan
BILL STATUS

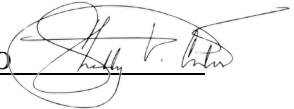
BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
23-38 (COR)	Shelly V. Calvo	AN ACT TO <i>ADD</i> A NEW ARTICLE TO CHAPTER 33 TITLE 15 OF GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT.	1/13/25 4:06 p.m.						

I MINA'TRENTAI OCHO NA LIHESLATURAN GUÅHAN
2025 (FIRST) Regular Session

Bill No. 23-38 (COR)

Introduced by:

Shelly V. Calvo



**AN ACT TO ADD A NEW ARTICLE TO CHAPTER 33
TITLE 15 OF GUAM CODE ANNOTATED, RELATIVE
TO ESTABLISHING THE UNIFORM REAL PROPERTY
TRANSFER ON DEATH ACT.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 4 is *added* to Chapter 33 Title 15 of the Guam Code Annotated, to read as follows:

“ARTICLE 4

Uniform Real Property Transfer on Death Act

§ 3371. Short Title. This Act *shall* be known as the *“Uniform Real Property Transfer on Death Act.”*

§ 3372. As used in this Chapter:

(a) “Beneficiary” means a person who receives property under a transfer on death deed.

(b) “Designated beneficiary” means a person designated in a transfer on death deed to receive property.

(c) “Joint owner” means an individual who owns property concurrently with one or more individuals with a right of survivorship. The term includes

1 a joint tenant and a tenant by the entirety but does not include a tenant in
2 common.

3 (d) “Person” means an individual, corporation, business trust, estate, trust,
4 partnership, limited liability company, association, joint venture, public
5 corporation, government or governmental subdivision, agency, or
6 instrumentality, or any other legal or commercial entity.

7 (e) “Property” means an interest in real property located on Guam that is
8 transferable on the death of the owner.

9 (f) “Subject property” means real property or an interest in real property
10 that is subject to a transfer on death deed.

11 (g) “Transfer on death deed” means a deed authorized under this chapter.

12 (h) “Transferor” means an individual who executes a transfer on death
13 deed.

14 § 3373. Nonexclusivity. This chapter does not affect any method of
15 transferring property otherwise permitted under the laws of Guam.

16 § 3374. Transfer on death deed authorized. An individual may transfer
17 property, effective at the transferor's death, to one or more beneficiaries by a transfer
18 on death deed.

19 § 3375. Transfer on death deed revocable. A transfer on death deed is
20 revocable even if the deed or another instrument contains a contrary provision.

21 § 3376. Transfer on death deed nontestamentary. A transfer on death deed
22 is nontestamentary.

23 § 3377. Capacity of transferor. The capacity required to execute or revoke a
24 transfer on death deed is the same as the capacity required to execute a will.

25 § 3378. Requirements. A transfer on death deed:

26 (a) Except otherwise provided in §3378 (b), shall contain the essential
27 elements and formalities of a properly recordable inter vivos deed;

1 (b) Shall state that the transfer to the beneficiary is to occur at the
2 transferor's death; and

3 (c) Shall be notarized and recorded with the Department of Land
4 Management or the Superior Court of Guam as applicable, before the
5 transferor's death.

6 **§ 3379. Notice, delivery, acceptance, consideration not required. A**
7 transfer on death deed shall be effective without notice or delivery to or acceptance
8 by the designated beneficiary during the transferor's life, and without consideration.

9 **§ 3380. Revocation by instrument authorized; revocation by act not**
10 **permitted.**

11 (a) Subject to § 3380 (b), an instrument is effective to revoke a recorded
12 transfer on death deed, or any part of it, only if the ins:

13 (1) A subsequently recorded or filed transfer on death deed that
14 revokes all or a part of the recorded or filed transfer on death deed either
15 expressly or because of inconsistency;

16 (2) An instrument of revocation that expressly revokes all or a part
17 of the recorded or filed transfer on death deed; or

18 (3) An inter vivos deed that expressly revokes all or a part of the
19 transfer on death deed.

20 (b) If a transfer on death deed is executed by more than one transferor:

21 (1) Revocation by one transferor does not affect the deed as to the
22 interest of another transferor; and

23 (2) A deed executed by joint owners is revoked only if it is revoked
24 by all living joint owners.

25 (c) After a transfer on death deed is recorded or filed, as applicable, it may
26 not be revoked by a revocatory act on the deed. For purposes of this

1 subsection, "revocatory act" includes burning, tearing, canceling, obliterating,
2 or destroying the transfer on death deed or any part of it.

3 (d) This section shall not limit the effect of an inter vivos transfer of the
4 subject property.

5 **§ 3381. Effect of transfer on death during transferor's life. During a**
6 **transferor's life, a transfer on death shall not:**

7 (a) Affect an interest or right in the subject property of the transferor or
8 any other owner, including the right to transfer or encumber the
9 subject property;

10 (b) Affect an interest or right in the subject property of a transferee,
11 regardless of whether the transferee has actual or constructive notice
12 of the deed;

13 (c) Affect an interest or right in the subject property of a secured or
14 unsecured creditor or future creditor of the transferor regardless of
15 whether the creditor has actual or constructive notice of the deed;

16 (d) Affect the transferor's or designated beneficiary's eligibility for any
17 form of public assistance;

18 (e) Create a legal or equitable interest in the subject property in favor of
19 the designated beneficiary; or

20 (f) Subject the subject property to claims or process of a creditor of the
21 designated beneficiary.

22 **§ 3382. Effect of transfer on death deed at transferor's death.**

23 (a) Except as otherwise provided in the transfer on death deed or this
24 section, on the death of the transferor, the following shall apply to the
25 subject property owned by the transferor at death:

26 (1) Subject to §3382(a) (2), the interest in the subject property
27 shall be transferred to the designated beneficiary in

1 accordance with the deed; provided that, for property of
2 which any portion is registered in the Department of Land
3 Management, the interest in the property is transferred to the
4 designated beneficiary in accordance with the deed;

5 (2) The interest of a designated beneficiary is contingent on the
6 designated beneficiary surviving the transferor. The interest
7 of a designated beneficiary that fails to survive the transferor
8 lapses;

9 (3) Subject to §3382(a) (4), concurrent interests are transferred
10 to the beneficiaries in equal and undivided shares with no
11 right of survivorship; and

12 (4) If the transferor has identified two or more designated
13 beneficiaries to receive concurrent interests in the subject
14 property, any share that lapses or fails for any reason shall
15 be transferred to the other beneficiaries in proportion to the
16 interest of each in the remaining concurrently-held subject
17 property.

18 (b) A beneficiary shall take the subject property subject to all
19 conveyances, encumbrances, assignments, contracts, mortgages, liens,
20 and other interests to which the subject property is subject at the
21 transferor's death. For purposes of this subsection, the filing or
22 recording of the transfer on death deed is deemed to have occurred at
23 the transferor's death.

24 (c) If a transferor is a joint owner and is survived by one or more other
25 joint owners, the subject property shall belong to the surviving joint
26 owner or owners with the right of survivorship and the transfer on
27 death deed shall have no effect. If a transferor is a joint owner and is

1 the last surviving joint owner, the transfer on death deed shall be
2 effective.

- 3 (d) A transfer on death deed transfers the subject property without
4 covenant or warranty of title even if the transfer on death deed contains
5 a contrary provision.

6 **§ 3383. Disclaimer.** A beneficiary may disclaim all or part of the beneficiary’s
7 interest.

8 **§ 3384. Liability for creditor claims and statutory allowances.**

- 9 (a) To the extent the transferor's probate estate is insufficient to satisfy an
10 allowed claim against the estate or a statutory allowance to a surviving
11 spouse or child, the estate may enforce the liability against the subject
12 property transferred at the transferor's death by a transfer on death
13 deed.

- 14 (b) If more than one property is transferred by one or more transfer on
15 death deeds, the liability under § 3384 (a) shall be apportioned among
16 the subject properties in proportion to their respective net values at the
17 time of the transferor's death.

- 18 (c) A proceeding to enforce liability under this section shall be
19 commenced not later than eighteen months after the transferor's death.

20 **§ 3385. Uniformity of application and construction.** In applying and
21 construing this chapter, consideration shall be given to the need to promote
22 uniformity of the law with respect to its subject matter among the states that enact
23 similar uniform legislation.”

24 **Section 2. Effective Date.** This Act shall be effective upon enactment.

25 **Section 3. Severability.** If any provision of this Act or its application to any
26 person or circumstance is found to be invalid or inorganic, such invalidity shall not
27 affect other provisions or applications of this Act that can be given effect without

- 1 the invalid provision or application, and to this end the provisions of this Act are
- 2 severable.