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AB-1739 Nonprobate transfers: revocable transfer on death deeds. (2017-2018)

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Date Published: 07/09/2018 09:00 PM

Assembly Bill No. 1739

CHAPTER 65

An act to amend Section 5626 of the Probate Code, relating to nonprobate transfers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 09, 2018. Filed with Secretary of State July 09, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1739, Chau. Nonprobate transfers: revocable transfer on death deeds.

Existing law governs the execution, revocation, and effectiveness of a revocable transfer on death deed, defined as an instrument that makes a donative transfer of property to a named beneficiary that operates on the transferor's death, and remains revocable until the transferor's death. Existing law establishes a statutory form of revocable transfer on death deed that must be notarized and signed under penalty of perjury by the transferor and recorded with the county recorder, as specified. Existing law requires that subsequent pages of that form include common questions regarding the use of the form. Existing law requires that, in order to be effective, a revocable transfer on death deed must be recorded on or before 60 days after the date it was executed.

This bill would provide that the requirement of recordation described above does not require the recordation of the pages of the statutory form that include the common questions about the use of the form, and a failure to record those pages does not affect the effectiveness of a revocable transfer on death deed. The bill would apply these provisions to revocable transfer on death deeds executed before, on, or after the effective date of these provisions, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5626 of the Probate Code is amended to read:

5626. (a) A revocable transfer on death deed is not effective unless the deed is recorded on or before 60 days after the date it was executed.

(b) The transferor is not required to deliver a revocable transfer on death deed to the beneficiary during the transferor's life.

(c) The beneficiary is not required to accept a revocable transfer on death deed from the transferor during the transferor's life.

(d) (1) Subdivision (a) does not require the recordation of the "Common Questions" language that is specified in subdivision (b) of Section 5642. The failure to record that part of the statutory form has no effect on the effectiveness of a revocable transfer on

death deed.

(2) (A) This subdivision applies to a revocable transfer on death deed executed on or after the effective date of the act that added this subdivision.

(B) This subdivision applies to a revocable transfer on death deed executed before the effective date of the act that added this subdivision only if the transferor was alive on the effective date of the act that added this subdivision.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify an ambiguity in existing law regarding transfers upon death at the earliest possible time, it is necessary that this statute take effect immediately.