

HOUSE No. 3382

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to beneficiary deeds.

PETITION OF:

NAME:

Paul W. Mark

DISTRICT/ADDRESS:

2nd Berkshire

HOUSE No. 3382

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 3382) of Paul W. Mark relative to beneficiary deeds. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to beneficiary deeds.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 183 of the General Laws is hereby amended by the following section-

2 Section 70. Beneficiary Deeds

3 (a) (i) (A) A beneficiary deed is a deed without current tangible consideration that
4 conveys upon the death of the owner an ownership interest in real property other than a leasehold
5 or lien interest to a grantee designated by the owner and that expressly states that the deed is not
6 to take effect until the death of the owner.

7 (B) (i) A beneficiary deed transfers the interest to the designated grantee effective upon
8 the death of the owner, subject to: All conveyances, assignments, contracts, leases, mortgages,
9 deeds of trust, liens, security pledges, oil, gas, or mineral leases, and other encumbrances made
10 by the owner or to which the real property was subject at the time of the owner's death, whether
11 or not the conveyance or encumbrance was created before or after the execution of the
12 beneficiary deed; (ii) No legal or equitable interest shall vest in the grantee until the death of the

13 owner prior to revocation of the beneficiary deed; (iii) The owner may designate multiple
14 grantees under a beneficiary deed; (iv) Multiple grantees may be joint tenants with right of
15 survivorship, tenants in common, holders of a tenancy by the entirety, or any other tenancy that
16 is otherwise valid under the laws of this state; (v) The owner may designate one or more
17 successor grantees, including one or more unnamed heirs of the original grantee or grantees,
18 under a beneficiary deed; (vi) The condition upon which the interest of a successor grantee vests,
19 such as the failure of the original grantee to survive the grantor, shall be included in the
20 beneficiary deed.

21 (b) (i) If real property is owned as a tenancy by the entirety or as a joint tenancy with the
22 right of survivorship, a beneficiary deed that conveys an interest in the real property to a grantee
23 designated by all of the then surviving owners and that expressly states the beneficiary deed is
24 not to take effect until the death of the last surviving owner transfers the interest to the
25 designated grantee effective upon the death of the last surviving owner; (ii) If a beneficiary deed
26 is executed by fewer than all of the owners of real property owned as a tenancy by the entirety or
27 as joint tenants with right of survivorship, the beneficiary deed is valid if the last surviving
28 owner is a person who executed the beneficiary deed; (iii) If the last surviving owner did not
29 execute the beneficiary deed, the beneficiary deed is invalid.

30 (c) (i) A beneficiary deed is valid only if the beneficiary deed is recorded before the death
31 of the owner or the last surviving owner as provided by law in the office of the county recorder
32 of the county in which the real property is located; (ii) A beneficiary deed may be used to
33 transfer an interest in real property to a trustee of a trust estate even if the trust is revocable and
34 may include one or more unnamed successor trustees as successor grantees.

35 (d) (i) A beneficiary deed may be revoked at any time by the owner or, if there is more
36 than one owner, by any of the owners who executed the beneficiary deed.

37 (ii) To be effective, the revocation shall be:

38 (A) Executed before the death of the owner who executes the revocation; and

39 (B) Recorded in the office of the county recorder of the county in which the real property
40 is located before the death of the owner as provided by law.

41 (iii) If the revocation is not executed by all the owners, the revocation is not effective
42 unless executed by the last surviving owner and recorded before the death of the last surviving
43 owner.

44 (C) A beneficiary deed that complies with this section may not be revoked, altered, or
45 amended by the provisions of the owner's will.

46 (e) If an owner executes more than one beneficiary deed concerning the same real
47 property, the recorded beneficiary deed that is last signed before the owner's death is the
48 effective beneficiary deed, regardless of the sequence of recording.

49 (f) (ii) This section does not prohibit other methods of conveying real property that are
50 permitted by law and that have the effect of postponing enjoyment of an interest in real property
51 until the death of the owner.

52 (iii) This section does not invalidate any deed otherwise effective by law to convey title
53 to the interests and estates provided in the deed that is not recorded until after the death of the
54 owner.

55 (g) A beneficiary deed is sufficient if it complies with other applicable laws and if it is in
56 substantially the following form:

57 "Beneficiary Deed"

58 (h) The instrument of revocation shall be sufficient if it complies with other applicable
59 laws and is in substantially the following form:

60 "Revocation of Beneficiary Deed"