WEST VIRGINIA CODE: §36-12-13

§36-12-13. Effect of transfer on death deed at transferor's death

(a) Except as otherwise provided in the transfer on death deed in this article, §41-1-6 of this code, §41-3-3 of this code, §42-3-1, *et seq.* of this code, §42-§4-2 of this code, or §42-5-1, *et seq.* of this code, on the death of the transferor the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) Subject to subdivision (2) of this subsection, the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(2) The interest of a designated beneficiary, when there is only one beneficiary designated, is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor, when there is only one beneficiary designated, lapses.

(3) Subject to subdivision (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares, unless the deed specifies otherwise, as tenants in common or with right of survivorship if the deed specifies joint tenancy with right of survivorship.

(4) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently as tenants in common or with right of survivorship if the deed specifies joint tenancy with the right of survivorship.

(b) Subject to §39-2-1, *et seq.*, and §38-1-1, *et seq.* of this code, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens and other interests to which the property is subject at the transferor's death. For purposes of this subsection, §39-2-1, *et seq,* and §38-1-1, *et seq.* of this code, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(c) If a transferor is a joint owner with other joint owners with right of survivorship and is:

(1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(2) The last surviving joint owner, the transfer on death deed is effective.

(d) If a transferor is an owner with other owners as tenants in common, the transfer on death deed is only effective as to the interest in the property which was held by the transferor.

WV Legislature

(e) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(f) The amendments to this section, enacted during the 2023 regular session of the Legislature, shall apply only to transfer on death deeds recorded after the effective date of this section.

WV Legislature