

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 04-0386.01 Stephen Miller

HOUSE BILL 04-1048

HOUSE SPONSORSHIP

King

SENATE SPONSORSHIP

McElhany

House Committees

Judiciary

Senate Committees

Judiciary

A BILL FOR AN ACT

101 CONCERNING BENEFICIARY DEEDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the beneficiary deed as an alternative to a will to make a real property conveyance effective on the death of the grantor-owner. Specifies certain requirements concerning the form, execution, effect, revocation, and recording of a beneficiary deed. Clarifies that the beneficiary deed does not replace other real property conveyance methods that postpone ownership until the death of the grantor. Specifies that the effectiveness of a beneficiary deed does not depend on a grantee-beneficiary's signature, consent, agreement, or notice. Specifies that, unless the grantor-owner designates otherwise, a beneficiary deed shall

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 16, 2004

HOUSE
3rd Reading Unamended
March 26, 2004

HOUSE
Amended 2nd Reading
March 25, 2004

have the same effect as a bargain and sale deed. Exempts a beneficiary deed from most provisions governing wills and probate. Establishes procedures concerning the use of a beneficiary deed to transfer a joint tenant's property interest. Specifies the rights of creditors and purchasers in situations involving beneficiary deeds. Limits actions against grantee-beneficiaries. Permits a grantee-beneficiary to disclaim any part of or all of the real property interest described in a beneficiary deed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 15 of title 15, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW PART to read:

4 **PART 4**

5 **TRANSFER OF REAL PROPERTY EFFECTIVE ON DEATH**

6 **15-15-401. Definitions.** AS USED IN THIS PART 4, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "BENEFICIARY DEED" MEANS A DEED, SUBJECT TO REVOCATION
9 BY THE OWNER, WHICH CONVEYS AN INTEREST IN REAL PROPERTY AND
10 WHICH CONTAINS LANGUAGE THAT THE CONVEYANCE IS TO BE EFFECTIVE
11 UPON THE DEATH OF THE OWNER AND WHICH MAY BE IN SUBSTANTIALLY
12 THE FORM DESCRIBED IN SECTION 15-15-404.

13 (2) "DEED" MEANS ANY INSTRUMENT OF CONVEYANCE OF REAL
14 PROPERTY.

15 (3) "GRANTEE-BENEFICIARY" MEANS ONE OR MORE PERSONS OR
16 ENTITIES CAPABLE OF HOLDING TITLE TO REAL PROPERTY DESIGNATED IN
17 A BENEFICIARY DEED TO RECEIVE AN INTEREST IN REAL PROPERTY UPON
18 THE DEATH OF THE OWNER. "GRANTEE- BENEFICIARY" INCLUDES, BUT IS
19 NOT LIMITED TO, A SUCCESSOR GRANTEE-BENEFICIARY.

20 (4) "OWNER" MEANS THE GRANTOR OF A BENEFICIARY DEED.

21 (5) "SUCCESSOR GRANTEE-BENEFICIARY" MEANS THE PERSON OR
22 ENTITY DESIGNATED IN A BENEFICIARY DEED TO RECEIVE AN INTEREST IN

1 THE PROPERTY IF THE PRIMARY GRANTEE-BENEFICIARY DOES NOT SURVIVE
2 THE OWNER.

3 (6) (a) "TRANSFER", WHEN USED AS A VERB, MEANS TO CONVEY.

4 (b) "TRANSFER", WHEN USED AS A NOUN, MEANS A CONVEYANCE.

5 **15-15-402. Real property - beneficiary deed.** (1) IN ADDITION
6 TO ANY METHOD ALLOWED BY LAW TO EFFECT A TRANSFER AT DEATH,
7 TITLE TO AN INTEREST IN REAL PROPERTY MAY BE TRANSFERRED ON THE
8 DEATH OF THE OWNER BY RECORDING, PRIOR TO THE OWNER'S DEATH, A
9 BENEFICIARY DEED SIGNED BY THE OWNER OF SUCH INTEREST, AS
10 GRANTOR, DESIGNATING A GRANTEE-BENEFICIARY OF THE INTEREST. THE
11 TRANSFER BY A BENEFICIARY DEED SHALL BE EFFECTIVE ONLY UPON THE
12 DEATH OF THE OWNER. ■ A BENEFICIARY DEED NEED NOT BE SUPPORTED
13 BY CONSIDERATION.

14 (2) THE JOINDER, SIGNATURE, CONSENT, OR AGREEMENT OF, OR
15 NOTICE TO, A GRANTEE-BENEFICIARY OF A BENEFICIARY DEED PRIOR TO
16 THE DEATH OF THE GRANTOR SHALL NOT BE REQUIRED. SUBJECT TO THE
17 RIGHT OF THE GRANTEE-BENEFICIARY TO DISCLAIM OR REFUSE TO ACCEPT
18 THE PROPERTY, THE CONVEYANCE SHALL BE EFFECTIVE UPON THE DEATH
19 OF THE OWNER.

20 (3) DURING THE LIFETIME OF THE OWNER, THE
21 GRANTEE-BENEFICIARY SHALL HAVE NO RIGHT, TITLE, OR INTEREST IN OR
22 TO THE PROPERTY, AND THE OWNER SHALL RETAIN THE FULL POWER AND
23 AUTHORITY WITH RESPECT TO THE PROPERTY WITHOUT THE JOINDER,
24 SIGNATURE, CONSENT, OR AGREEMENT OF, OR NOTICE TO, THE
25 GRANTEE-BENEFICIARY FOR ANY PURPOSE.

26 **15-15-403. Medicaid eligibility exclusion.** NO PERSON WHO IS
27 AN APPLICANT FOR OR RECIPIENT OF MEDICAL ASSISTANCE FOR WHICH IT

1 WOULD BE PERMISSIBLE FOR THE DEPARTMENT OF HEALTH CARE POLICY
2 AND FINANCING TO ASSERT A CLAIM PURSUANT TO SECTION 26-4-403 OR
3 26-4-403.3, C.R.S., SHALL BE ENTITLED TO SUCH MEDICAL ASSISTANCE IF
4 THE PERSON HAS IN EFFECT A BENEFICIARY DEED. NOTWITHSTANDING THE
5 PROVISIONS OF SECTION 15-15-402(1), THE EXECUTION OF A BENEFICIARY
6 DEED BY AN APPLICANT FOR OR RECIPIENT OF MEDICAL ASSISTANCE AS
7 DESCRIBED IN THIS SECTION SHALL CAUSE THE PROPERTY TO BE
8 CONSIDERED A COUNTABLE RESOURCE IN ACCORDANCE WITH SECTION
9 26-4-403.3 (6), C.R.S., AND APPLICABLE RULES AND REGULATIONS.

10 **15-15-404. Form of beneficiary deed - recording.** (1) AN
11 OWNER MAY TRANSFER AN INTEREST IN REAL PROPERTY EFFECTIVE ON THE
12 DEATH OF THE OWNER BY EXECUTING A BENEFICIARY DEED THAT
13 CONTAINS THE WORDS "CONVEYS ON DEATH" OR "TRANSFERS ON DEATH"
14 OR OTHERWISE INDICATES THE TRANSFER IS TO BE EFFECTIVE ON THE
15 DEATH OF THE OWNER AND RECORDING THE BENEFICIARY DEED PRIOR TO
16 THE DEATH OF THE OWNER IN THE OFFICE OF THE CLERK AND RECORDER IN
17 THE COUNTY WHERE THE REAL PROPERTY IS LOCATED. A BENEFICIARY
18 DEED MAY BE IN SUBSTANTIALLY THE FOLLOWING FORM:

19 **BENEFICIARY DEED**

20 **(§§ 15-15-401, ET SEQ., COLORADO REVISED STATUTES)**

21 **CAUTION: THIS DEED MUST BE RECORDED PRIOR TO**
22 **THE DEATH OF THE GRANTOR IN ORDER TO BE**
23 **EFFECTIVE.**

24 _____, AS GRANTOR,

25 (NAME OF GRANTOR)

26 DESIGNATES _____ AS

27 (NAME OF GRANTEE-BENEFICIARY)

1 GRANTEE-BENEFICIARY WHOSE ADDRESS IS _____

2 (NOTE TO ASSESSOR AND TREASURER: THIS ADDRESS IS FOR
3 IDENTIFICATION PURPOSES ONLY, ALL NOTICES AND TAX
4 STATEMENTS SHOULD CONTINUE TO BE SENT TO GRANTOR.)

5 (OPTIONAL)[OR IF GRANTEE-BENEFICIARY FAILS TO SURVIVE
6 GRANTOR, GRANTOR DESIGNATES _____, AS

7 (NAME OF SUCCESSOR GRANTEE-BENEFICIARY)

8 SUCCESSOR GRANTEE-BENEFICIARY WHOSE ADDRESS IS

9 _____]

10 AND GRANTOR TRANSFERS, SELLS, AND CONVEYS ON GRANTOR'S
11 DEATH TO THE GRANTEE-BENEFICIARY, THE FOLLOWING DESCRIBED
12 REAL PROPERTY LOCATED IN THE COUNTY OF _____, STATE
13 OF COLORADO:

14 (INSERT LEGAL DESCRIPTION HERE)

15 KNOWN AND NUMBERED AS _____

16 THIS BENEFICIARY DEED IS REVOCABLE. IT DOES NOT
17 TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE
18 GRANTOR. IT REVOKES ALL PRIOR BENEFICIARY DEEDS
19 BY THIS GRANTOR FOR THIS REAL PROPERTY EVEN IF
20 THIS BENEFICIARY DEED FAILS TO CONVEY ALL OF THE
21 GRANTOR'S INTEREST IN THIS REAL PROPERTY.

22 WARNING: EXECUTION OF THIS BENEFICIARY DEED
23 MAY DISQUALIFY THE GRANTOR FROM BEING
24 DETERMINED ELIGIBLE FOR, OR FROM RECEIVING
25 MEDICAID UNDER TITLE 26, COLORADO REVISED
26 STATUTES.

27 WARNING: EXECUTION OF THIS BENEFICIARY DEED

1 _____, STATE OF COLORADO:
2 (INSERT LEGAL DESCRIPTION HERE)
3 KNOWN AND NUMBERED AS _____
4 EXECUTED THIS _____.
5 (DATE)
6 _____
7 (GRANTOR)

8 (2) A SUBSEQUENT BENEFICIARY DEED REVOKES ALL PRIOR
9 GRANTEE-BENEFICIARY DESIGNATIONS BY THE OWNER FOR THE DESCRIBED
10 REAL PROPERTY IN THEIR ENTIRETY EVEN IF THE SUBSEQUENT BENEFICIARY
11 DEED FAILS TO CONVEY ALL OF THE OWNER'S INTEREST IN THE DESCRIBED
12 REAL PROPERTY. THE JOINDER, SIGNATURE, CONSENT, OR AGREEMENT OF,
13 OR NOTICE TO, EITHER THE ORIGINAL OR NEW GRANTEE-BENEFICIARY IS
14 NOT REQUIRED FOR THE CHANGE TO BE EFFECTIVE.

15 (3) THE MOST RECENTLY EXECUTED BENEFICIARY DEED OR
16 REVOCATION OF ALL BENEFICIARY DEEDS OR REVOCATIONS THAT HAVE
17 BEEN RECORDED PRIOR TO THE OWNER'S DEATH SHALL CONTROL
18 REGARDLESS OF THE ORDER OF RECORDING.

19 (4) A BENEFICIARY DEED THAT COMPLIES WITH THE REQUIREMENTS
20 OF THIS PART 4 MAY NOT BE REVOKED, ALTERED, OR AMENDED BY THE
21 PROVISIONS OF THE WILL OF THE OWNER.

22 **15-15-406. Acknowledgment.** A BENEFICIARY DEED OR
23 REVOCATION OF A BENEFICIARY DEED SHALL BE SUBJECT TO THE
24 REQUIREMENTS OF SECTION 38-35-109 (2), C.R.S., AND MAY BE
25 ACKNOWLEDGED IN ACCORDANCE WITH SECTION 38-35-101, C.R.S.

26 **15-15-407. Vesting of ownership in grantee-beneficiary.**
27 (1) TITLE TO THE INTEREST IN REAL PROPERTY TRANSFERRED BY A

1 BENEFICIARY DEED SHALL VEST IN THE DESIGNATED
2 GRANTEE-BENEFICIARY ONLY ON THE DEATH OF THE OWNER.

3 (2) A GRANTEE-BENEFICIARY OF A BENEFICIARY DEED TAKES TITLE
4 TO THE OWNER'S INTEREST IN THE REAL PROPERTY CONVEYED BY THE
5 BENEFICIARY DEED AT THE DEATH OF THE OWNER SUBJECT TO ALL
6 CONVEYANCES, ENCUMBRANCES, ASSIGNMENTS, CONTRACTS, MORTGAGES,
7 LIENS, AND OTHER INTERESTS, AFFECTING TITLE TO THE PROPERTY,
8 WHETHER CREATED BEFORE OR AFTER THE RECORDING OF THE
9 BENEFICIARY DEED, OR TO WHICH THE OWNER WAS SUBJECT DURING THE
10 OWNER'S LIFETIME INCLUDING, BUT NOT LIMITED TO, ANY EXECUTORY
11 CONTRACT OF SALE, OPTION TO PURCHASE, LEASE, LICENSE, EASEMENT,
12 MORTGAGE, DEED OF TRUST, OR OTHER LIEN. THE GRANTEE-BENEFICIARY
13 ALSO TAKES TITLE SUBJECT TO ANY INTEREST IN THE PROPERTY OF WHICH
14 THE GRANTEE-BENEFICIARY HAS EITHER ACTUAL OR CONSTRUCTIVE
15 NOTICE.

16 (3) (a) A PERSON HAVING AN INTEREST DESCRIBED IN SUBSECTION
17 (2) OF THIS SECTION WHOSE INTEREST IS NOT RECORDED IN THE RECORDS
18 OF THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH
19 THE PROPERTY IS LOCATED AT THE TIME OF THE DEATH OF THE OWNER,
20 SHALL RECORD EVIDENCE OR A NOTICE OF THE INTEREST IN THE PROPERTY
21 NOT LATER THAN FOUR MONTHS AFTER THE DEATH OF THE OWNER. THE
22 NOTICE SHALL NAME THE PERSON ASSERTING THE INTEREST, DESCRIBE THE
23 REAL PROPERTY, AND DESCRIBE THE NATURE OF THE INTEREST ASSERTED.

24 (b) FAILURE TO RECORD EVIDENCE OR NOTICE OF INTEREST IN THE
25 PROPERTY DESCRIBED IN SUBSECTION (2) OF THIS SECTION WITHIN FOUR
26 MONTHS AFTER THE DEATH OF THE OWNER SHALL FOREVER BAR THE
27 PERSON FROM ASSERTING AN INTEREST IN THE PROPERTY AS AGAINST ALL

1 PERSONS WHO DO NOT HAVE NOTICE OF THE INTEREST. A PERSON WHO,
2 WITHOUT NOTICE, OBTAINS AN INTEREST IN THE PROPERTY ACQUIRED BY
3 THE GRANTEE-BENEFICIARY SHALL TAKE THE INTEREST FREE FROM ALL
4 PERSONS WHO HAVE NOT RECORDED THEIR NOTICE OF INTEREST IN THE
5 PROPERTY OR EVIDENCE OF THEIR INTEREST PRIOR TO THE EXPIRATION OF
6 THE FOUR-MONTH PERIOD.

7 (4) THE INTEREST OF THE GRANTEE-BENEFICIARY SHALL BE
8 SUBJECT TO ANY CLAIM OF THE DEPARTMENT OF HEALTH CARE POLICY AND
9 FINANCING FOR RECOVERY OF MEDICAL ASSISTANCE PAYMENTS PURSUANT
10 TO SECTION 26-4-403 OR 26-4-403.3, C.R.S., WHICH SHALL BE ENFORCED
11 IN ACCORDANCE WITH SECTION 15-15-409.

12 (5) THE PROVISIONS OF ANY ANTI-LAPSE STATUTE SHALL NOT
13 APPLY TO BENEFICIARY DEEDS. IF ONE OF MULTIPLE
14 GRANTEE-BENEFICIARIES FAILS TO SURVIVE THE OWNER, AND NO
15 PROVISION FOR SUCH CONTINGENCY IS MADE IN THE BENEFICIARY DEED,
16 THE SHARE OF THE DECEASED GRANTEE-BENEFICIARY SHALL BE
17 PROPORTIONATELY ADDED TO, AND PASS AS A PART OF, THE SHARES OF THE
18 SURVIVING GRANTEE-BENEFICIARIES.

19 **15-15-408. Joint tenancy.** (1) A JOINT TENANT OF AN INTEREST
20 IN REAL PROPERTY MAY USE THE PROCEDURES DESCRIBED IN THIS PART 4
21 TO TRANSFER HIS OR HER INTEREST EFFECTIVE UPON THE DEATH OF SUCH
22 JOINT TENANT. HOWEVER, TITLE TO THE INTEREST SHALL VEST IN THE
23 DESIGNATED GRANTEE-BENEFICIARY ONLY IF THE JOINT TENANT-GRANTOR
24 IS THE LAST TO DIE OF ALL OF THE JOINT TENANTS OF SUCH INTEREST. IF A
25 JOINT TENANT-GRANTOR IS NOT THE LAST JOINT TENANT TO DIE, THE
26 BENEFICIARY DEED SHALL NOT BE EFFECTIVE, AND THE BENEFICIARY DEED
27 SHALL NOT MAKE THE GRANTEE-BENEFICIARY AN OWNER IN JOINT

1 TENANCY WITH THE SURVIVING JOINT TENANT OR TENANTS. A
2 BENEFICIARY DEED SHALL NOT SEVER A JOINT TENANCY.

3 (2) AS USED IN THIS SECTION, "JOINT TENANT" MEANS A PERSON
4 WHO OWNS AN INTEREST IN REAL PROPERTY AS A JOINT TENANT WITH
5 RIGHT OF SURVIVORSHIP.

6 **15-15-409. Rights of creditors and others.** (1) IF OTHER ASSETS
7 OF THE ESTATE OF THE DECEASED OWNER ARE INSUFFICIENT TO PAY ALL
8 CLAIMS AGAINST THE DECEASED OWNER'S ESTATE AND STATUTORY
9 ALLOWANCES TO THE DECEASED OWNER'S SURVIVING SPOUSE AND
10 CHILDREN, A TRANSFER RESULTING FROM A BENEFICIARY DESIGNATION
11 UNDER THIS PART 4 IS NOT EFFECTIVE AGAINST THE ESTATE OF A DECEASED
12 OWNER TO THE EXTENT NEEDED TO PAY ALL CLAIMS AGAINST THE
13 DECEASED OWNER'S ESTATE AND STATUTORY ALLOWANCES TO THE
14 DECEASED OWNER'S SURVIVING SPOUSE AND CHILDREN.

15 (2) (a) A GRANTEE-BENEFICIARY WHO RECEIVES PROPERTY
16 THROUGH A BENEFICIARY DEED UPON DEATH OF THE OWNER IS LIABLE TO
17 ACCOUNT TO THE PERSONAL REPRESENTATIVE OF THE DECEASED OWNER'S
18 ESTATE FOR A PROPORTIONATE SHARE OF THE FAIR MARKET VALUE OF THE
19 EQUITY IN THE INTEREST RECEIVED TO THE EXTENT NECESSARY TO
20 DISCHARGE THE CLAIMS AND ALLOWANCES DESCRIBED IN SUBSECTION (1)
21 OF THIS SECTION REMAINING UNPAID AFTER APPLICATION OF THE
22 DECEASED OWNER'S ESTATE. FOR THE PURPOSES OF THIS PARAGRAPH (a),
23 THE FAIR MARKET VALUE SHALL BE DETERMINED AS OF THE DATE OF
24 DEATH OF THE OWNER. FOR THE PURPOSES OF THIS PARAGRAPH (a), THE
25 GRANTEE-BENEFICIARY'S "PROPORTIONATE SHARE" SHALL MEAN THE
26 PROPORTIONATE SHARE OF ALL NONPROBATE TRANSFERS RECOVERED BY
27 THE PERSONAL REPRESENTATIVE FOR THE PAYMENT OF THE CLAIMS AND

1 ALLOWANCES UNDER ALL THE PROVISIONS OF THIS ARTICLE.

2 (b) A PROCEEDING TO ASSERT THE LIABILITY MAY NOT BE
3 COMMENCED UNLESS THE SURVIVING SPOUSE, A CREDITOR, OR A CHILD OR
4 A PERSON ACTING FOR A CHILD OF THE DECEASED OWNER HAS SENT A
5 WRITTEN DEMAND TO THE PERSONAL REPRESENTATIVE AT THE LAST
6 KNOWN ADDRESS OF THE PERSONAL REPRESENTATIVE OR HAS FILED IT
7 WITH THE CLERK OF THE COURT IN WHICH THE PROBATE IS PENDING. A
8 CREDITOR OR CLAIMANT AGAINST THE DECEASED OWNER'S ESTATE MAY
9 FILE A PETITION TO OPEN AN ESTATE FOR THE DECEASED OWNER AND MAY
10 BE APPOINTED AS PERSONAL REPRESENTATIVE OF THE ESTATE OF THE
11 DECEASED OWNER PURSUANT TO SECTION 15-12-203 FOR THE PURPOSE OF
12 PROVIDING THE WRITTEN DEMAND REQUIRED BY THIS SUBSECTION (2).
13 THE PROCEEDING SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE
14 DEATH OF THE DECEASED OWNER.

15 (3) A GRANTEE-BENEFICIARY AGAINST WHOM A PROCEEDING TO
16 ACCOUNT IS BROUGHT MAY JOIN AS A PARTY TO THE PROCEEDING A
17 SURVIVING PARTY OR BENEFICIARY OF ANY OTHER BENEFICIARY
18 DESIGNATION OR OTHER ACCOUNT OF THE OWNER PURSUANT TO OTHER
19 PROVISIONS OF THIS ARTICLE.

20 (4) ASSETS RECOVERED BY THE PERSONAL REPRESENTATIVE SHALL
21 BE ADMINISTERED AS PART OF THE DECEDENT'S ESTATE. THIS SECTION
22 DOES NOT AFFECT THE PROTECTION PROVIDED BY SECTION 15-15-410 TO
23 A PURCHASER FROM, OR LENDER TO, A GRANTEE-BENEFICIARY AGAINST
24 CLAIMS OF THE PERSONAL REPRESENTATIVE OR ESTATE OF A DECEASED
25 OWNER.

26 (5) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO LIMIT THE
27 RIGHTS OF CREDITORS UNDER OTHER LAWS OF THIS STATE.

1 **15-15-410.** Purchaser from grantee-beneficiary protected.

2 (1) SUBJECT TO THE RIGHTS OF CLAIMANTS UNDER SECTION 15-15-407 (2),
3 IF THE PROPERTY ACQUIRED BY A GRANTEE-BENEFICIARY OR A SECURITY
4 INTEREST THEREIN IS ACQUIRED FOR VALUE AND WITHOUT NOTICE BY A
5 PURCHASER FROM, OR LENDER TO, A GRANTEE-BENEFICIARY, THE
6 PURCHASER OR LENDER SHALL TAKE TITLE FREE OF RIGHTS OF AN
7 INTERESTED PERSON IN THE DECEASED OWNER'S ESTATE AND SHALL NOT
8 INCUR PERSONAL LIABILITY TO THE ESTATE OR TO ANY INTERESTED
9 PERSON.

10 (2) FOR PURPOSES OF THIS SECTION, ANY RECORDED INSTRUMENT
11 EVIDENCING A TRANSFER TO A PURCHASER FROM, OR LENDER TO, A
12 GRANTEE-BENEFICIARY ON WHICH A STATE DOCUMENTARY FEE IS NOTED
13 PURSUANT TO SECTION 39-13-103, C.R.S., SHALL BE PRIMA FACIE
14 EVIDENCE THAT THE TRANSFER WAS MADE FOR VALUE. ANY SUCH SALE OR
15 LOAN BY THE GRANTEE-BENEFICIARY SHALL NOT RELIEVE THE
16 GRANTEE-BENEFICIARY OF THE OBLIGATION TO THE PERSONAL
17 REPRESENTATIVE OF THE DECEASED OWNER'S ESTATE UNDER SECTION
18 15-15-409.

19 **15-15-411. Limitations on actions and proceedings against**

20 **grantee-beneficiaries.** (1) UNLESS PREVIOUSLY ADJUDICATED OR
21 OTHERWISE BARRED, THE CLAIM OF A CLAIMANT TO RECOVER FROM A
22 GRANTEE-BENEFICIARY WHO IS LIABLE TO PAY THE CLAIM, AND THE RIGHT
23 OF AN HEIR OR DEVISEE OR OF A PERSONAL REPRESENTATIVE ACTING ON
24 BEHALF OF AN HEIR OR DEVISEE, TO RECOVER PROPERTY FROM A
25 GRANTEE-BENEFICIARY OR THE VALUE THEREOF FROM A
26 GRANTEE-BENEFICIARY IS FOREVER BARRED AS FOLLOWS:

27 (a) A CLAIM BY A CREDITOR OF THE OWNER IS FOREVER BARRED AT

1 ONE YEAR AFTER THE OWNER'S DEATH.

2 (b) ANY OTHER CLAIMANT OR AN HEIR OR DEVISEE IS FOREVER
3 BARRED AT THE EARLIER OF THE FOLLOWING:

4 (I) THREE YEARS AFTER THE OWNER'S DEATH; OR

5 (II) ONE YEAR AFTER THE TIME OF RECORDING THE PROOF OF
6 DEATH OF THE OWNER IN THE OFFICE OF THE CLERK AND RECORDER IN THE
7 COUNTY IN WHICH THE LEGAL PROPERTY IS LOCATED.

8 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO BAR AN
9 ACTION TO RECOVER PROPERTY OR VALUE RECEIVED AS THE RESULT OF
10 FRAUD.

11 **15-15-412. Nontestamentary disposition.** A BENEFICIARY DEED
12 SHALL NOT BE CONSTRUED TO BE A TESTAMENTARY DISPOSITION AND
13 SHALL NOT BE INVALIDATED DUE TO NONCONFORMITY WITH THE
14 PROVISIONS OF THE "COLORADO PROBATE CODE" GOVERNING WILLS.

15 **15-15-413. Proof of death.** PROOF OF THE DEATH OF THE OWNER
16 OR A GRANTEE-BENEFICIARY SHALL BE ESTABLISHED IN THE SAME MANNER
17 AS FOR PROVING THE DEATH OF A JOINT TENANT.

18 **15-15-414. Disclaimer.** A GRANTEE-BENEFICIARY MAY REFUSE
19 TO ACCEPT ALL OR ANY PART OF THE REAL PROPERTY INTEREST DESCRIBED
20 IN A BENEFICIARY DEED. A GRANTEE-BENEFICIARY MAY DISCLAIM ALL OR
21 ANY PART OF THE REAL PROPERTY INTEREST DESCRIBED IN A BENEFICIARY
22 DEED BY ANY METHOD PROVIDED BY LAW. IF A GRANTEE-BENEFICIARY
23 REFUSES TO ACCEPT OR DISCLAIMS ANY REAL PROPERTY INTEREST, THE
24 GRANTEE-BENEFICIARY SHALL HAVE NO LIABILITY BY REASON OF BEING
25 DESIGNATED AS A GRANTEE-BENEFICIARY UNDER THIS PART 4.

26 **15-15-415. Applicability.** THE PROVISIONS OF THIS PART 4 SHALL
27 APPLY TO BENEFICIARY DEEDS EXECUTED BY OWNERS WHO DIE ON OR

1 AFTER THE EFFECTIVE DATE OF HOUSE BILL 04-1048, AS ENACTED AT THE
2 SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

3 **SECTION 2.** The introductory portion to 15-11-706 (1),
4 Colorado Revised Statutes, is amended to read:

5 **15-11-706. Nonprobate transfers; deceased beneficiary.**

6 (1) **Definitions.** This section shall not apply to wills; BENEFICIARY
7 DEEDS; insurance or annuity policies; or pension, profit sharing,
8 retirement, or similar benefit plans. As used in this section, unless the
9 context otherwise requires:

10 **SECTION 3.** 15-15-101, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A SUBSECTION to read:

12 **15-15-101. Nonprobate transfers on death.** (1.5) A
13 CONVEYANCE OR DEED OF GIFT DESCRIBED IN SUBSECTION (1) OF THIS
14 SECTION THAT RELATES TO AN INTEREST IN REAL PROPERTY MAY BE
15 CREATED PURSUANT TO PART 4 OF THIS ARTICLE AND, IF SO CREATED,
16 SHALL BE SUBJECT TO THE RIGHTS OF THIRD PARTIES DESCRIBED IN PART
17 4 OF THIS ARTICLE.

18 **SECTION 4.** Part 1 of article 30 of title 38, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
20 read:

21 **38-30-113.5. Beneficiary deeds.** DEEDS INTENDED TO TAKE
22 EFFECT AT THE DEATH OF THE GRANTOR MAY BE EXECUTED AND
23 RECORDED PURSUANT TO THE PROVISIONS OF PART 4 OF ARTICLE 15 OF
24 TITLE 15, C.R.S.

25 **SECTION 5. Effective date.** This act shall take effect at 12:01
26 a.m. on the day following the expiration of the ninety-day period after
27 final adjournment of the general assembly that is allowed for submitting

1 a referendum petition pursuant to article V, section 1 (3) of the state
2 constitution (August 4, 2004, if adjournment sine die is on May 5, 2004);
3 except that, if a referendum petition is filed against this act or an item,
4 section, or part of this act within such period, then the act, item, section,
5 or part, if approved by the people, shall take effect on the date of the
6 official declaration of the vote thereon by proclamation of the governor.