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# HOUSE BILL No. 1715

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-5-7; IC 32-21-12.

**Synopsis:** Transfer on death deed. Authorizes an owner of real property to transfer ownership of the real property upon the death of the owner by using a transfer on death deed. Provides that a transfer on death deed must be recorded to be valid. Requires the recording of the grantor's death certificate and other documents after the death of the grantor.

**Effective:** July 1, 2006.

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January 26, 2007, read first time and referred to Committee on Judiciary.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## HOUSE BILL No. 1715



A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-5-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) A person to  
3 whom the title to real property has passed, ~~either~~ under the laws of  
4 descent of this state, **by a transfer on death deed executed under**  
5 **IC 32-21-12**, or by virtue of the last will of a decedent, may procure a  
6 transfer of the real property on the tax duplicate on which the real  
7 property is assessed and taxed. In order to procure the transfer, the  
8 person must prepare an affidavit and, except as provided in section 9  
9 of this chapter, file it with the auditor of the county in which the real  
10 property is situated. The affidavit shall contain the following  
11 information:

- 12 (1) the decedent's date of death;
- 13 (2) whether the decedent died testate or intestate; and
- 14 (3) the affiant's interest in the real property.

15 ~~In addition, if the~~ **(b) This subsection applies in the case of a**  
16 **decedent who died testate. In addition to the other information that**  
17 **must be contained in the affidavit prepared and filed under**



1 **subsection (a)**, the affiant must attach a certified copy of the decedent's  
2 will to the affidavit. However, if the will has been probated or recorded  
3 in the county in which the real property is located, the affiant, in lieu  
4 of attaching a certified copy of the will, shall state that fact in the  
5 affidavit and indicate the volume and page of the record where the will  
6 may be found.

7 **(c) This subsection applies in the case of a decedent who**  
8 **executed a transfer on death deed under IC 32-21-12. In addition**  
9 **to the other information that must be contained in the affidavit**  
10 **prepared and filed under subsection (a), the affidavit must state the**  
11 **fact that the decedent's transfer on death deed was recorded and**  
12 **must indicate the volume and page of the record where the transfer**  
13 **on death deed may be found.**

14 ~~(b)~~ **(d)** Except as provided in section 9 of this chapter, the county  
15 auditor shall enter a transfer of the real property in the proper transfer  
16 book after the affidavit is filed with ~~his~~ **the county auditor's** office.

17 ~~(c)~~ **(e)** No transfer made under this section has the effect of  
18 conferring title upon the person procuring the transfer.

19 SECTION 2. IC 32-21-12 IS ADDED TO THE INDIANA CODE  
20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2006]:

22 **Chapter 12. Transfer on Death Deed**

23 **Sec. 1. An individual who owns real property or an interest in**  
24 **real property may create an interest in the real property that is**  
25 **transferable on the death of the individual by executing and**  
26 **recording a deed conveying the interest in the real property to one**  
27 **(1) or more named individuals as transfer on death beneficiaries.**

28 **Sec. 2. Subject to section 5 of this chapter, an interest in real**  
29 **property transferred in a deed executed under this chapter vests**  
30 **upon the death of the grantor.**

31 **Sec. 3. (a) A deed that is:**

32 **(1) worded in substance as "A.B. transfers on death to C.D."**  
33 **(here describe the premises) "for the sum of" (here insert the**  
34 **consideration, if any); and**

35 **(2) signed, sealed, and acknowledged by the grantor (as**  
36 **defined in IC 32-17-1-1);**

37 **is a good and sufficient conveyance on the death of the grantor to**  
38 **the grantee and the grantee's heirs and assigns.**

39 **(b) A deed executed under this chapter must name a transfer on**  
40 **death beneficiary.**

41 **(c) A deed executed under this chapter is not valid unless the**  
42 **deed is recorded under IC 32-21-3 in the county in which the real**

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1        **property interest transferred in the deed is located.**  
2        **Sec. 4. A deed executed under this chapter is not required to be:**  
3            **(1) supported by consideration; or**  
4            **(2) delivered to the named transfer on death beneficiary;**  
5        **to be effective.**  
6        **Sec. 5. Upon the death of an individual conveying an interest in**  
7        **real property in a deed executed and recorded under this chapter,**  
8        **the interest in real property is transferred to each beneficiary who:**  
9            **(1) is named in the deed; and**  
10          **(2) survives the grantor.**  
11        **Sec. 6. The transfer of an interest in real property under section**  
12        **5 of this chapter must be recorded in the county in which the real**  
13        **property is located, along with the following:**  
14            **(1) A certified copy of the death certificate of the deceased**  
15            **grantor of the real property.**  
16            **(2) The affidavit of a named beneficiary of the deed executed**  
17            **by the grantor under this chapter containing the following:**  
18                  **(A) The name and address of each named beneficiary who**  
19                  **survives the grantor.**  
20                  **(B) The date of the grantor's death.**  
21                  **(C) A description of the real property transferred by the**  
22                  **grantor.**  
23                  **(D) The name of each named beneficiary who has not**  
24                  **survived the grantor.**  
25            **(3) A certified copy of the death certificate of any named**  
26            **beneficiary who has not survived the grantor.**  
27        **Sec. 7. A transfer of an interest in real property under this**  
28        **chapter is subject to the following:**  
29            **(1) IC 6-1.1-5.**  
30            **(2) IC 6-1.1-5.5.**  
31            **(3) IC 6-4.1.**  
32        **Sec. 8. A deed executed under this chapter is not testamentary.**

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