

By: Representative Yancey

To: Judiciary A

HOUSE BILL NO. 1295

1 AN ACT TO AMEND SECTION 91-27-29, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT AN INTEREST IN REAL PROPERTY CONVEYED BY A
 3 TRANSFER-ON-DEATH DEED FROM CLAIMS OF CREDITORS OF THE DECEASED
 4 TRANSFEROR OR CLAIMS OF CREDITORS OF THE ESTATE OF THE DECEASED
 5 TRANSFEROR, WHERE SUCH CLAIMS DID NOT ATTACH TO THE REAL PROPERTY
 6 PRIOR TO THE DEATH OF THE TRANSFEROR; TO PROVIDE THAT THE
 7 DESIGNATED BENEFICIARY OF THE TRANSFER-ON-DEATH DEED TAKES TITLE
 8 TO THE TRANSFERRED REAL PROPERTY FREE AND CLEAR OF THE CLAIMS OF
 9 CREDITORS OF THE ESTATE OF THE DECEASED TRANSFEROR; TO BRING
 10 FORWARD SECTION 91-27-27, MISSISSIPPI CODE OF 1972, FOR PURPOSES
 11 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 91-27-29, Mississippi Code of 1972, is
 14 amended as follows:

15 91-27-29. **Transfer-on-death deed property subject to liens**
 16 **and encumbrances at transferor's death; creditors' claims.**

17 Subject to Title 89, Chapter 5, Mississippi Code of 1972, relating
 18 to the recordation of instruments, a designated beneficiary takes
 19 the real property subject to all conveyances, encumbrances,
 20 assignments, contracts, mortgages, liens, and other interests to
 21 which the real property is subject at the transferor's death. For
 22 purposes of this section and Title 89, Chapter 5, Mississippi Code



23 of 1972, the recording of the transfer-on-death deed is considered
24 to have occurred at the transferor's death.

25 An interest in real property conveyed by a transfer-on-death
26 deed is not subject to the claims of creditors of the deceased
27 transferor, or claims of creditors of the estate of the deceased
28 transferor, where such claims did not attach to the real property
29 prior to the death of the transferor. The designated beneficiary
30 of the transfer-on-death deed takes title to the transferred real
31 property free and clear of the claims of creditors of the estate
32 of the deceased transferor.

33 **SECTION 2.** Section 91-27-27, Mississippi Code of 1972, is
34 brought forward as follows:

35 91-27-27. **Effect of transfer-on-death deed at transferor's**
36 **death.** On the death of the transferor, the following rules apply
37 to an interest in real property that is the subject of a
38 transfer-on-death deed and owned by the transferor at death except
39 as otherwise provided: in the transfer-on-death deed; in this
40 chapter; in Title 91, Chapter 29, Mississippi Code of 1972,
41 relating to revocation by divorce; in Section 91-1-25 relating to
42 the prohibition on inheriting from a person whom one has killed;
43 in Title 91, Chapter 3, Mississippi Code of 1972, the Mississippi
44 Uniform Simultaneous Death Act; and in Section 91-5-25 relating to
45 the spousal right to renounce a will:

46 (1) If a transferor is a joint owner with right of
47 survivorship who is survived by one or more other joint owners,



48 the real property that is the subject of the transfer-on-death
49 deed belongs to the surviving joint owner or owners. If a
50 transferor is a joint owner with right of survivorship who is the
51 last-surviving joint owner, the transfer-on-death deed is
52 effective.

53 (2) The last-surviving joint owner may revoke the
54 transfer-on-death deed subject to Section 91-27-19.

55 (3) A transfer-on-death deed transfers real property
56 without covenant or warranty of title even if the deed contains a
57 contrary provision.

58 (4) The interest in the property is transferred to a
59 designated beneficiary in accordance with the deed, but the
60 interest of a designated beneficiary is contingent on the
61 designated beneficiary surviving the transferor. The interest of
62 a designated beneficiary that fails to survive the transferor
63 lapses.

64 (5) Concurrent interests are transferred to the
65 beneficiaries in equal and undivided shares with no right of
66 survivorship, but if the transferor has identified two (2) or more
67 designated beneficiaries to receive concurrent interests in the
68 property, the share of one which lapses or fails for any reason is
69 transferred to the other, or to the others in proportion to the
70 interest of each in the remaining part of the property held
71 concurrently.



72 **SECTION 3.** This act shall take effect and be in force from
73 and after July 1, 2023.

