

# STATE OF NEW YORK

8425

## IN SENATE

January 29, 2024

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing a process for designating transfer-on-death beneficiaries for farming implements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 30 and sections 550, 551, 552, 553, 554, and 555 of  
2 the agriculture and markets law, as renumbered by chapter 524 of the  
3 laws of 2014, are renumbered article 50 and sections 1000, 1001, 1002,  
4 1003, 1004, and 1005, respectively.

5 § 2. The agriculture and markets law is amended by adding a new arti-  
6 cle 30 to read as follows:

### ARTICLE 30

#### TRANSFER-ON-DEATH OF FARMING IMPLEMENTS

##### Section 560. Definitions.

##### 561. Transfer-on-death beneficiary; farm implements.

##### § 560. Definitions. As used in this article:

7  
8  
9  
10  
11  
12 1. "Farm implement" means a tractor or machine, including any associ-  
13 ated accessories, attachments, fuel, and repair parts, used exclusively  
14 and directly in farming including, but not limited to, implements of  
15 husbandry, farm type tractors and all terrain type vehicles used exclu-  
16 sively for agricultural or mowing purposes, or for snow plowing, other  
17 than for hire, farm equipment, including self-propelled machines,  
18 including caterpillar or crawler-type equipment, used exclusively in  
19 growing, harvesting or handling farm produce, and timber harvesting  
20 equipment such as harvesters, wood chippers, forwarders, log skidders,  
21 and other processing equipment used exclusively off highway for timber  
22 harvesting and logging purposes. "Farm implement" shall not include  
23 personal property that is attached to, fastened to, connected to, or  
24 built into real property or that becomes an addition to, component of,  
25 or capital improvement to real property, and does not include buildings  
26 or improvements to real property, regardless of any contribution that  
27 the personal property makes to the production process of any machine and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD13221-01-3

1 regardless of the extent to which that personal property functions as a  
2 machine except that the following shall be considered farm implements  
3 regardless of the extent to which they are fastened to, connected to, or  
4 built into real property:

5 (a) Auxiliary power generators.

6 (b) Bale loaders.

7 (c) Barn elevators.

8 (d) Conveyors.

9 (e) Feed elevators and augers.

10 (f) Grain dryers and grinders.

11 (g) Milk coolers.

12 (h) Milking machines, including piping, pipeline washers, and compres-  
13 sors.

14 (i) Silo unloaders.

15 (j) Powered feeders, but not including platforms or troughs  
16 constructed from ordinary building materials.

17 2. "Person" means an individual, corporation, business trust, estate,  
18 trust, partnership, limited liability company, association, joint  
19 venture, government, government subdivision, agency or instrumentality,  
20 public corporation, or any other legal or commercial entity.

21 3. "Transfer-on-death beneficiary" means a person designated as a  
22 beneficiary on a document filed with the commissioner under this arti-  
23 cle.

24 § 561. Transfer-on-death beneficiary; farm implements. 1. Any interest  
25 in a farm implement may be transferred without probate to a designated  
26 transfer-on-death beneficiary as provided in this section on the death  
27 of the sole owner or the last to die of multiple owners.

28 2. (a) A transfer-on-death beneficiary may be designated using a docu-  
29 ment filed with the commissioner that includes:

30 (i) The name of the owner or owners of the interest in a farm imple-  
31 ment that will be transferred.

32 (ii) The name of the designated transfer-on-death beneficiary.

33 (iii) A statement indicating that the transfer is effective only upon  
34 the death of the owner or owners.

35 (iv) If the interest that will be transferred is an interest in prop-  
36 erty owned by a spouse as marital property, the signatures of both  
37 spouses who have an interest in the marital property.

38 (b) The designation of a transfer-on-death beneficiary may be made by  
39 use of the words "transfer-on-death" after the name of the owner or  
40 owners of the property and before the name of the transfer-on-death  
41 beneficiary or beneficiaries. The owner or owners may designate one or  
42 more persons as a primary transfer-on-death beneficiary and may desig-  
43 nate one or more persons as a contingent transfer-on-death beneficiary  
44 if a primary transfer-on-death beneficiary does not survive the sole  
45 owner or the last to die of multiple owners. The designation may be  
46 included on the original document that passes the property interest to  
47 the owner or owners or may be made at a later time by the sole owner or  
48 all then surviving owners by executing another document that designates  
49 a transfer-on-death beneficiary.

50 (c) A document designating a transfer-on-death beneficiary filed with  
51 the commissioner under this section shall:

52 (i) be in writing.

53 (ii) be signed by all owners. If an owner is unable to sign, another  
54 person may sign for the owner with the owner's consent.

1 (iii) be signed by at least two witnesses, at least one of whom is a  
2 disinterested witness, either together or at different times, who signed  
3 within a reasonable time after:

4 (A) The signing of the document designating a transfer-on-death bene-  
5 fiary, in the presence of the witness.

6 (B) The owner's implicit or explicit acknowledgment of the owner's  
7 signature on the document designating a transfer-on-death beneficiary,  
8 in the presence of the witness.

9 (C) The owner's implicit or explicit acknowledgment of the document  
10 designating a transfer-on-death beneficiary, in the presence of the  
11 witness.

12 (D) If there are multiple owners, a witness may be a witness for  
13 multiple owners.

14 (d) Any person who, at the time of execution of the document designat-  
15 ing a transfer-on-death beneficiary, would be competent to testify as a  
16 witness in court to the facts relating to execution may act as a witness  
17 to the document designating a transfer-on-death beneficiary. Subsequent  
18 incompetency of a witness is not a ground for denying or voiding the  
19 transfer-on-death beneficiary designation if the execution of the docu-  
20 ment designating a transfer-on-death beneficiary is otherwise satisfac-  
21 torily proved.

22 3. The designation of a transfer-on-death beneficiary on a document  
23 filed with the commissioner does not affect ownership of the property  
24 until the death of the sole owner or the last to die of multiple owners  
25 regardless of whether the document provides otherwise. The designation  
26 may be canceled or changed at any time by the sole owner or all then  
27 surviving owners, without the consent of the transfer-on-death benefi-  
28 ciary, by executing another document that designates a different trans-  
29 fer-on-death beneficiary or no beneficiary and filing such document with  
30 the commissioner. The execution and filing of a document that designates  
31 a transfer-on-death beneficiary or no beneficiary revokes any desig-  
32 nation made in a previously executed and filed document relating to the  
33 same property interest.

34 4. On the death of the sole owner or the last to die of multiple  
35 owners, ownership of the interest in the farm implement passes, subject  
36 to any lien or encumbrance against the farm implement, to the designated  
37 transfer-on-death beneficiary or beneficiaries who survive all owners  
38 or, if no beneficiary survives the death of the owner or the last to die  
39 of all multiple owners with right of survivorship, then such interest in  
40 the farm implement belongs to the estate of the deceased owner or the  
41 last to die of all multiple owners with right of survivorship.

42 5. A designation of a transfer-on-death beneficiary on a document  
43 filed with the commissioner shall not be considered a testamentary  
44 disposition.

45 6. A will shall not revoke or supersede a designation of a transfer-  
46 on-death beneficiary on a document filed with the commissioner, regard-  
47 less of when the will was made.

48 § 3. This act shall take effect on the first of January next succeed-  
49 ing the date on which it shall have become a law. Effective immediately,  
50 the addition, amendment and/or repeal of any rule or regulation neces-  
51 sary for the implementation of this act on its effective date are  
52 authorized to be made and completed on or before such effective date.