

STATE OF NEW YORK

6011--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 25, 2025

Introduced by M. of A. WOERNER, McDONALD, BUTTENSCHON -- read once and referred to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the estates, powers and trusts 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 13 of the estates, powers and trusts law is amended
2 by adding a new part 5 to read as follows:

3 PART 5. TRANSFER ON DEATH OF FARMING IMPLEMENTS

4 § 13-5.1. Legislative intent

5 The legislature finds that in two thousand twenty-two there were
6 30,650 farms in New York state. Ninety-eight percent of those farms are
7 family owned. Farmers, by necessity, own a variety of valuable tractors
8 and other farming equipment. When a farmer dies, farm operations do not
9 stop. Operations at the farm must go on, yet any farm equipment owned by
10 the decedent at the time of death can be swept into a probate proceed-
11 ing. Farm equipment that is subject to probate may not be used until all
12 of the decedent's assets and debts have been catalogued, ownership
13 resolved, and the probate proceeding closed. Due to the uniquely intert-
14 wined nature of families and the business of farming, the legislature
15 finds that farm owners need a straightforward process to identify and
16 assign their farm equipment for continued use immediately following
17 their death, and that such process must not hamper the farmer's rights
18 to sell or encumber such equipment during the farmer's lifetime.

19 § 13-5.2. Transfer on death beneficiary; farm implements

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

LBD04764-06-6

1 1. Definitions. For the purposes of this section, the following terms
2 shall have the following meanings:

3 (a) "Beneficiary" means a person who receives property in a transfer
4 on death of farm implement instrument.

5 (b) "Designated beneficiary" means a person designated to receive
6 property in a transfer on death of farm implement instrument.

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

27 (i) Auxiliary power generators.

28 (ii) Bale loaders.

29 (iii) Barn elevators.

30 (iv) Conveyors.

31 (v) Feed elevators and augers.

32 (vi) Grain dryers and grinders.

33 (vii) Milk coolers.

34 (viii) Milking machines, including piping, pipeline washers, and
35 compressors.

36 (ix) Silo unloaders.

37 (x) Powered feeders, but not including platforms or troughs
38 constructed from ordinary building materials.

39 (d) "Joint owner" means an individual who owns property concurrently
40 with one or more other individuals with a right of survivorship. The
41 term includes a joint tenant and owner of community property with a
42 right of survivorship. The term does not include a tenant in common or
43 owner of community property without a right of survivorship.

44 (e) "Person" means an individual, a corporation, an organization or
45 other legal entity.

46 (f) "Property" means an interest in a farm implement located in this
47 state which is transferable on the death of the owner.

48 (g) "Transfer on death of farm implement instrument" means an instru-
49 ment authorized under this section.

50 (h) "Transferor" means an individual who makes a transfer on death of
51 farm implement instrument.

52 2. Nonexclusivity. This section does not affect any method of trans-
53 ferring property otherwise permitted under the law of this state.

54 3. Transfer on death of farm implement instrument authorized. An indi-
55 vidual may transfer property to one or more beneficiaries effective at

1 the transferor's death by a transfer on death of farm implement instru-
2 ment.

3 4. Transfer on death of farm implement instrument revocable. A trans-
4 fer on death of farm implement instrument is revocable even if the
5 instrument or another instrument contains a contrary provision.

6 5. Transfer on death of farm implement instrument nontestamentary. A
7 transfer on death of farm implement instrument is nontestamentary.

8 6. Capacity of transferor. The capacity required to make or revoke a
9 transfer on death of farm implement instrument is the same as the capac-
10 ity required to make a will.

11 7. Requirements. A transfer on death of farm implement instrument
12 shall:

13 (a) be typed or printed using letters which are legible or of clear
14 type no less than twelve point in size, or, if in writing, a reasonable
15 equivalent thereof;

16 (b) state that the transfer to the designated beneficiary is to occur
17 at the transferor's death;

18 (c) be signed by two witnesses who are present at the same time and
19 who witness the signing of the transfer on death of farm implement
20 instrument; and

21 (d) be acknowledged before a notary public.

22 8. Notice, delivery, acceptance, consideration not required. A trans-
23 fer on death of farm implement instrument shall be effective without:

24 (a) notice or delivery to or acceptance by the designated beneficiary
25 during the transferor's life; or

26 (b) consideration.

27 9. Revocation by instrument authorized; revocation by act not permit-
28 ted. (a) Subject to paragraph (b) of this subdivision, an instrument
29 shall be effective to revoke a transfer on death of farm implement
30 instrument, or any part of it, only if the instrument:

31 (i) is one of the following:

32 (1) a transfer on death of farm implement instrument that revokes the
33 instrument or part of the instrument expressly or by inconsistency;

34 (2) an instrument of revocation that expressly revokes the transfer on
35 death of farm implement instrument or part of such instrument; or

36 (3) an inter vivos instrument that expressly revokes the transfer on
37 death of farm implement instrument or part of such instrument; and

38 (ii) is acknowledged by the transferor after the acknowledgment of the
39 transfer on death of farm implement instrument which is being revoked.

40 (b) If a transfer on death of farm implement instrument is made by
41 more than one transferor:

42 (i) revocation by a transferor shall not affect the instrument as to
43 the interest of another transferor; and

44 (ii) an instrument of joint owners shall only be revoked if it is
45 revoked by all of the living joint owners.

46 (c) After a transfer on death of farm implement instrument is acknowl-
47 edged before a notary public, it shall not be revoked by a revocatory
48 act on the instrument.

49 (d) This section shall not limit the effect of an inter vivos transfer
50 of the property.

51 10. Effect of transfer on death of farm implement instrument during
52 transferor's life. During a transferor's life, a transfer on death of
53 farm implement instrument shall not:

54 (a) affect an interest or right of the transferor or any other owner,
55 including the right to transfer or encumber the property;

1 (b) affect an interest or right of a transferee, even if the transfer-
2 ee has actual or constructive notice of the instrument;

3 (c) affect an interest or right of a secured or unsecured creditor or
4 future creditor of the transferor, even if the creditor has actual or
5 constructive notice of the instrument;

6 (d) affect the transferor's or designated beneficiary's eligibility
7 for any form of public assistance;

8 (e) create a legal or equitable interest in favor of the designated
9 beneficiary; or

10 (f) subject the property to claims or process of a creditor of the
11 designated beneficiary.

12 11. Effect of transfer on death of farm implement instrument at
13 transferor's death. (a) Except as otherwise provided in the transfer on
14 death of farm implement instrument, in this section or in any other
15 section of law which effects nonprobate transfers, on the death of the
16 transferor, the following rules apply to property that is the subject of
17 a transfer on death of farm implement instrument and owned by the
18 transferor at death:

19 (i) Subject to subparagraph (ii) of this paragraph, the interest in
20 the property shall be transferred to the designated beneficiary in
21 accordance with the instrument.

22 (ii) The interest of a designated beneficiary is contingent on the
23 designated beneficiary surviving the transferor. The interest of a
24 designated beneficiary that fails to survive the transferor lapses.

25 (iii) Subject to subparagraph (iv) of this paragraph, concurrent
26 interests shall be transferred to the beneficiaries in equal and undi-
27 vided shares with no right of survivorship.

28 (iv) If the transferor has identified two or more designated benefici-
29 aries to receive concurrent interests in the property, the share of one
30 which lapses or fails for any reason shall be transferred to the other,
31 or to the others in proportion to the interest of each in the remaining
32 part of the property held concurrently.

33 (b) Subject to this chapter, a beneficiary takes the property subject
34 to all conveyances, encumbrances, assignments, contracts, mortgages,
35 liens, and other interests to which the property is subject at the
36 transferor's death. For purposes of this paragraph and this chapter, the
37 execution of the transfer on death of farm implement instrument shall be
38 deemed to have occurred at the transferor's death.

39 (c) If a transferor is a joint owner and is survived by one or more
40 other joint owners, the property that is the subject of a transfer on
41 death of farm implement instrument shall belong to the surviving joint
42 owner or owners with right of survivorship.

43 (d) If a transferor is a joint owner and is the last surviving joint
44 owner, the transfer on death of farm implement instrument shall be
45 effective.

46 (e) A transfer on death of farm implement instrument transfers proper-
47 ty without covenant or warranty of title even if the instrument contains
48 a contrary provision.

49 12. Applicability of invalidating and revocatory principles. (a) Noth-
50 ing in this section shall limit the application of principles of fraud,
51 undue influence, duress, mistake, or other invalidating cause to a
52 transfer of property.

53 (b) Divorce, annulment or declaration of nullity, or dissolution of
54 marriage, shall have the same effect on a transfer on death of farm
55 implement instrument as outlined in section 5-1.4 of this chapter.

1 13. Renunciation. A beneficiary may renounce all or part of the bene-
2 ficiary's interest in the same manner as if the interest was transferred
3 in a will.

4 14. Liability for creditor claims and statutory allowances. (a) To the
5 extent the transferor's probate estate is insufficient to satisfy an
6 allowed claim against the estate or a statutory allowance to a surviving
7 spouse or child, the estate may enforce the liability against property
8 transferred at the transferor's death by a transfer on death of farm
9 implement instrument.

10 (b) If more than one farm implement is transferred by one or more
11 transfer on death of farm implement instruments, the liability under
12 paragraph (a) of this subdivision is apportioned among the properties in
13 proportion to their net values at the transferor's death.

14 (c) A proceeding to enforce the liability under this section shall be
15 commenced no later than eighteen months after the transferor's death.

16 15. Form of transfer on death of farm implement instrument. The
17 following form may be used to create a transfer on death of farm imple-
18 ment instrument. The other subdivisions of this section shall govern the
19 effect of this, or any other instrument used to create a transfer on
20 death of farm implement instrument:

21 (front of form)

22 REVOCABLE TRANSFER ON DEATH OF FARM IMPLEMENT INSTRUMENT

23 NOTICE TO OWNER

24 You should carefully read all information on the other side of this
25 form. You may want to consult a lawyer before using this form.

26 IDENTIFYING INFORMATION

27 Owner or Owners Making This Instrument:

28 _____
29 Printed name _____ Mailing address

30 _____
31 Printed name _____ Mailing address

32 Detailed description of the property:

33 _____
34 PRIMARY BENEFICIARY

35 I designate the following beneficiary if the beneficiary survives me.

36 _____
37 Printed name _____ Mailing address, if available

38 ALTERNATE BENEFICIARY - Optional

39 If my primary beneficiary does not survive me, I designate the following
40 alternate beneficiary if that beneficiary survives me.

41 _____
42 Printed name _____ Mailing address, if available

43 TRANSFER ON DEATH

44 At my death, I transfer my interest in the described property to the
45 beneficiaries as designated above. Before my death, I have the right to
46 revoke this instrument.

47 SIGNATURE OF OWNER OR OWNERS MAKING THIS INSTRUMENT

48 _____
49 Signature _____ Date

50 _____
51 Signature _____ Date

52 SIGNATURE OF WITNESSES

53 _____
54 Signature _____ Date

55 _____
56 Signature _____ Date

NOTARY ACKNOWLEDGMENT

(insert notary acknowledgment for instrument here)
(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

What does the Transfer on Death (TOD) of Farm Implement Instrument do?
When you die, this instrument transfers the described property, subject
to any liens or mortgages (or other encumbrances) on the property at
your death. Probate is not required. The TOD instrument has no effect
until you die. You can revoke it at any time. You are also free to
transfer the property to someone else during your lifetime. If you do
not own any interest in the property when you die, this instrument will
have no effect.

How do I make a TOD instrument?

Complete this form. Have it acknowledged before a notary public. The
form has no effect unless it is acknowledged before your death.

Can I change my mind before the TOD instrument is acknowledged before a
notary public?

Yes. If the instrument is not yet acknowledged and you want to change
your mind, simply tear up or otherwise destroy the instrument.

Can I later revoke the TOD instrument if I change my mind?

Yes. You can revoke the TOD instrument. No one, including the benefici-
aries, can prevent you from revoking the instrument.

How do I revoke the TOD instrument after it is acknowledged before a
notary public?

There are three ways to revoke a recorded TOD instrument:

(1) Complete and acknowledge a revocation form.

(2) Complete and acknowledge a new TOD instrument that disposes of the
same property.

(3) Transfer the property to someone else during your lifetime by a
sales contract or other transfer instrument that expressly revokes the
TOD instrument. You may not revoke the TOD instrument by will.

I am being pressured to complete this form. What should I do?

Do not complete this form under pressure. Seek help from a trusted fami-
ly member, friend, or lawyer.

Do I need to tell the beneficiaries about the TOD instrument?

No, but it is recommended. Secrecy can cause later complications and
might make it easier for others to commit fraud.

I have other questions about this form. What should I do?

This form is designed to fit some but not all situations. If you have
other questions, you are encouraged to consult a lawyer.

16. Form of revocation. The following form may be used to create an
instrument of revocation under this section. The other subdivisions of
this section shall govern the effect of this, or any other instrument
used to revoke a transfer on death of farm implement instrument.

(front of form)

REVOCATION OF TRANSFER ON DEATH INSTRUMENT

NOTICE TO OWNER

This revocation must be acknowledged before you die, or it will not be
effective. This revocation is effective only as to the interests in the
property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

Printed name

Mailing address

Printed name Mailing address

Detailed description of the property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death instrument.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

Signature Date

Signature Date

SIGNATURE OF WITNESSES

Signature Date

Signature Date

NOTARY ACKNOWLEDGMENT

(insert notary acknowledgment here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

How do I use this form to revoke a Transfer on Death (TOD) of farm implement instrument?

Complete this form. Have it acknowledged before a notary public. The form must be acknowledged before your death, or it has no effect.

I am being pressured to complete this form. What should I do?

Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

I have other questions about this form. What should I do?

This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.

§ 2. Subparagraph 5 of paragraph (f) of section 5-1.4 of the estates, powers and trusts law, as added by chapter 173 of the laws of 2008, is amended to read as follows:

(5) "Governing instrument" includes, but is not limited to, a will, testamentary instrument, trust agreement (including, but not limited to a totten trust account under 7-5.1(d)), insurance policy, thrift, savings, retirement, pension, deferred compensation, death benefit, stock bonus or profit-sharing plan, account, arrangement, system or trust, agreement with a bank, brokerage firm or investment company, registration of securities in beneficiary form pursuant to part 4 of article 13 of this chapter, a transfer on death of farm implement instrument, a court order, or a contract relating to the division of property made between the divorced individuals before or after the marriage, divorce, or annulment.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.