# 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:**

Section 1. Article 13 of the estates, powers and trusts law is amended by adding a new part 5 to read as follows:

**PART 5. TRANSFER ON DEATH OF FARMING IMPLEMENTS**

**§ 13-5.1. Legislative intent**

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

**§ 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. Definitions. For the purposes of this section, the following terms shall have the following meanings:

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

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

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

(i) Auxiliary power generators.

(ii) Bale loaders.

(iii) Barn elevators.

(iv) Conveyors.

(v) Feed elevators and augers.

(vi) Grain dryers and grinders.

(vii) Milk coolers.

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

(ix) Silo unloaders.

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

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

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

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

(g) "Transfer on death of farm implement instrument" means an instrument authorized under this section.

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

2. Nonexclusivity. This section does not affect any method of transferring property otherwise permitted under the law of this state.

3. Transfer on death of farm implement instrument authorized. An individual may transfer property to one or more beneficiaries effective at

the transferor's death by a transfer on death of farm implement instrument.

4. Transfer on death of farm implement instrument revocable. A transfer on death of farm implement instrument is revocable even if the instrument or another instrument contains a contrary provision.

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

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

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

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

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

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

(d) be acknowledged before a notary public.

8. Notice, delivery, acceptance, consideration not required. A transfer on death of farm implement instrument shall be effective without:

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

(b) consideration.

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

(i) is one of the following:

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

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

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

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

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

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

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

(c) After a transfer on death of farm implement instrument is acknowledged before a notary public, it shall not be revoked by a revocatory act on the instrument.

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

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

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

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

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

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

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

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

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

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

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

(iii) Subject to subparagraph (iv) of this paragraph, concurrent interests shall be transferred to the beneficiaries in equal and undivided shares with no right of survivorship.

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

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

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

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

(e) A transfer on death of farm implement instrument transfers property without covenant or warranty of title even if the instrument contains a contrary provision.

12. Applicability of invalidating and revocatory principles. (a) Nothing in this section shall limit the application of principles of fraud, undue influence, duress, mistake, or other invalidating cause to a transfer of property.

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

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

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

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

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

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

(front of form)

**REVOCABLE TRANSFER ON DEATH OF FARM IMPLEMENT INSTRUMENT**

**NOTICE TO OWNER**

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

**IDENTIFYING INFORMATION**

Owner or Owners Making This Instrument:

_____

Printed name Mailing address

_____

Printed name Mailing address

Detailed description of the property:

_____

**PRIMARY BENEFICIARY**

I designate the following beneficiary if the beneficiary survives me.

_____

Printed name Mailing address, if available

**ALTERNATE BENEFICIARY - Optional**

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

_____

Printed name Mailing address, if available

**TRANSFER ON DEATH**

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

**SIGNATURE OF OWNER OR OWNERS MAKING THIS INSTRUMENT**

_____

Signature Date

_____

Signature Date

**SIGNATURE OF WITNESSES**

_____

Signature Date

_____

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 beneficiaries, 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 family 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.