

# BENEFICIARY DEEDS

## Transfer of Title at Death



### WHAT IS A BENEFICIARY DEED?

A Beneficiary Deed is a deed signed by the owner of his or her real property during the owner's lifetime, recorded in the land records for the county where the real property is located, which by its terms is effective only after the death of the owner. The form of a Beneficiary Deed may be found in C.R.S. §15-15-404.

### CAN A BENEFICIARY DEED BE REVOKED?

Yes, a Beneficiary Deed may be revoked by the owner, during his or her lifetime, by executing and recording in the land records where the real property is located an instrument that describes the real property affected and including language expressing the revocation of the prior recorded beneficiary Deed. The form of Revocation of a Beneficiary Deed may be found in C.R.S. § 15-15-405.

### WHAT IF THERE ARE MORE THAN ONE BENEFICIARY DEED?

There can be more than one Beneficiary Deed recorded against a property. However, the most recently executed Beneficiary Deed recorded prior to the owner's death is the Beneficiary Deed that controls regardless of the order of recording.

### HOW DOES TITLE VEST UNDER A BENEFICIARY DEED?

Title to the real property in a Beneficiary Deed is transferred to the grantee-beneficiary under the Beneficiary Deed only on the death of the owner. To prove the death of the owner title companies will require a death certificate for the deceased owner.

The grantee-beneficiary under the Beneficiary Deed takes title to the property subject to all conveyances, encumbrances, mortgages, liens and other interests affecting title to the property at the time of the owner's death. Because of the liability in accepting title to property via a beneficiary deed, a grantee-beneficiary under a Beneficiary deed may disclaim all or part of the real property interest described in a Beneficiary Deed, and not be subject to any of its liability as a result of being designated as a grantee-beneficiary under a Beneficiary Deed.

### AFTER DEATH HOW LONG BEFORE A REFINANCE OR SALE OF THE PROPERTY?

There is a four month statutory period after the owner's death whereby any person claiming an interest in the real property conveyed via a Beneficiary Deed must record evidence or a notice of interest in the property. If a person claiming an interest in the property fails to record evidence or a notice of that interest within four months after the death of the owner, then that person is forever barred from asserting an interest in the property against those who do not otherwise have notice of the person's interest in the property. Accordingly, title companies are unable to insure the property until this four month statutory period has expired.