

# Alaska State Legislature

## House of Representatives

Member:

Judiciary  
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Military & Veterans Affairs



**Representative Max F. Gruenberg, Jr.**  
**House District 14**  
**Anchorage (Russian Jack, College Gate, Nunaka Valley)**  
**House Democratic Whip**

*Interim:*  
716 W 4<sup>th</sup> Avenue, Rm 350  
Anchorage, Alaska 99501-2133  
*Phone:* (907) 269-0123  
*Fax:* (907) 269-0124

*Session:*  
Alaska State Capitol, Rm 110  
Juneau, Alaska 99801-1182  
*Phone:* (907) 465-4940  
*Toll Free:* (866) 465-4940  
*Fax:* (907) 465-3766

*Email:*  
Rep.Max.Gruenberg@akleg.gov

### Sponsor Statement

#### CS House Bill 60 - Uniform Real Property Transfer on Death Act

*"An Act governing the administration of trusts and adopting the Uniform Real Property Transfer on Death Act"*

#### Trust Administration

Section 1 of HB 60 enacts a statutory provision (AS 13.36.035) on the conditions under which Alaska law will govern the administration of trusts administered in Alaska. A trust is administered in Alaska when the only trustee is a resident, bank or trust company, when a majority of the trustees are Alaska qualified persons, or when a majority of the trustees vote to make Alaska the primary place of the trust's administration.

#### The Uniform Real Property Transfer on Death Act

The remainder of HB 60, is the Uniform Real Property Transfer on Death Act (URPTODA). This provides a simple, effective, and affordable option for Alaskans wishing to transfer real property upon their death. It will avoid the potentially lengthy and expensive process of probate. It was suggested by a retired constituent, who supported it as an important alternative to expedite the transfer of real property and avoid the delay and expense of probate.

Currently, 23 states plus the District of Columbia have adopted the Act, or had previously enacted similar legislation to allow Transfer on Death (TOD) deeds before URPTODA.<sup>1</sup> South Dakota, Washington, and West Virginia have already enacted it this year. Two other states are currently considering such bills.<sup>2</sup> Non-probate death transfers of personal property, known as "will substitutes" or TODs, are now permitted in most states, including Alaska.

Under HB 60, real property can automatically pass at death by a TOD deed. The deed is clearly written to become effective upon the transferor's death. It is recorded before death with the

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<sup>1</sup> Arizona, Arkansas, Colorado, Hawaii, Illinois, Indiana, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Virginia, Wisconsin, Wyoming, the District of Columbia, Washington and West Virginia.

<sup>2</sup> Alaska and Maryland are considering the Uniform Real Property Transfer on Death Act this year.

district recorder and is not effective until death. Upon the transferor's death, the deed automatically becomes effective. A TOD deed is revocable until the transferor's death. It is ineffective if the transferor disposes of the property during his or her lifetime and the transfer is recorded. The beneficiary can also disclaim the transferred property. Before the transferor's death when the deed becomes effective, it does not affect the beneficiary's eligibility for public assistance or subject the property to the beneficiary's creditors. It allows a stepped-up basis (favorable tax treatment) upon the transferor's death. HB 60 will provide a valuable option to Alaskans who may not need or cannot afford a trust or require probate to pass property upon death. And the bill does not prohibit any other method of passing the property (e.g. gifts, wills, trusts, etc.); it simply provides another less expensive and more efficient way of transferring real property upon death.

Transfer on death deeds provide an attractive alternative for people engaged in estate planning. The bill is supported by AARP, the Alaska Council on Aging, the Alaska Bankers Association, and the Alaska Association of Realtors.

If you have any questions, please contact Representative Gruenberg's legislative aide, Nicoli Bailey, at 465-4940.