

1 H.837
2 Introduced by Representatives Gregoire of Fairfield, Bancroft of Westford,
3 Batchelor of Derby, Brumsted of Shelburne, Burditt of West
4 Rutland, Dickinson of St. Albans Town, Fegard of Berkshire,
5 Gamache of Swanton, Goslant of Northfield, Graham of
6 Williamstown, Hango of Berkshire, Higley of Lowell, LaClair
7 of Barre Town, Martel of Waterford, Mattos of Milton,
8 McCarthy of St. Albans City, McFaun of Barre Town, Morgan
9 of Milton, Morrissey of Bennington, Myers of Essex, Norris of
10 Shoreham, Page of Newport City, Pajala of Londonderry,
11 Palasik of Milton, Rosenquist of Georgia, Savage of Swanton,
12 Seymour of Sutton, Smith of New Haven, Strong of Albany,
13 Toof of St. Albans Town, and Wood of Waterbury
14 Referred to Committee on
15 Date:
16 Subject: Property; enhanced life estate deeds
17 Statement of purpose of bill as introduced: This bill proposes to establish
18 requirements for creating enhanced life estate deeds in Vermont.
19 An act relating to enhanced life estate deeds

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 27 V.S.A. chapter 6 is added to read:

3 CHAPTER 6. ENHANCED LIFE ESTATE DEEDS

4 § 651. SHORT TITLE

5 This chapter shall be known as the “Enhanced Life Estate Deed Act” or the
6 “ELED Act”.

7 § 652. APPLICATION OF CHAPTER

8 This chapter applies to deeds in which a grantor reserves a common law life
9 estate interest in real property while expressly reserving rights such that the
10 deed creates a contingent remainder interest in the grantee.

11 § 653. DEFINITIONS

12 In this chapter, unless a deed indicates an intention to the contrary:

13 (1) “Convey” means to grant, sell, gift, lease, transfer, or encumber real
14 property with or without consideration, including the ability to revise or revoke
15 a deed and to reconvey real property.

16 (2) “Deed” means an instrument for the conveyance of an interest or estate in
real property enhanced life estate deed.

17 (3) “Qualified Enhanced Life Estate Deed” or “QELED” means a deed,
recorded during the

18 lifetime of the grantor, in which:

19 (A) the grantor reserves a common law life estate;

20 (B) the grantor expressly reserves the right to convey, revise, revoke,

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21 and reconvey the property during the grantor's lifetime;

1 (C) the grantee acquires a contingent remainder interest such that,
2 prior to the death of the grantor, the grantee has no ~~vested~~ present or possessory rights
3 in the
4 property; and

4 (D) upon the death of the grantor, title vests in the surviving grantee(s)
5 or the grantee's heirs, or, for deceased grantees, title vests pursuant to Section 658,
6 subject to encumbrances of record.

6 (4) "Grantee" means one or more grantees and the grantee's heirs and
7 assigns.

8 (5) "Grantor" means one or more grantors who shall be natural persons
9 and the grantor's heirs and assigns.

10 (6) "Revoke" means to negate a ~~deed~~ QELED and ~~may be is~~ accomplished
11 when the

11 grantor records a deed from the grantor to himself or herself.

11 ~~(7) "Revise" means to change the grantee on a deed and is accomplished~~

11 ~~when the grantor records a new deed to a grantee other than, or in addition to,~~

11 ~~the grantee named in the deed. The deed need not reserve the right to revise.~~

11

12 § 654. EXECUTION AND RECORDING OF AN ENHANCED LIFE

13 ESTATE DEED

14 (a) Subject to the rights expressly reserved in the ~~deed~~ QELED during a grantor's
15 lifetime, a validly executed and recorded ~~deed~~ QELED shall not:

16 (1) affect the ownership rights of the grantor or grantor's creditors;

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- 17 (2) transfer or convey any present right, title, or interest in the property
- 18 or create any present legal or equitable interest in the grantee; or

1 (3) subject the grantor's property to process from the grantee's creditors.

2 (b) The grantor may convey the property described in a deed, or any
3 portion thereof, without the need for joinder by, consent from, agreement of, or
4 notice to, the grantee.

5 (c) If not previously conveyed during the lifetime of the grantor, upon the
6 death of the grantor, the interest stated in the ~~deed~~ QELED vests in the grantee (s) or,
7 for deceased grantees title vests pursuant to Section 658, subject
8 to encumbrances of record.

8 § 655. ACCEPTANCE, OR CONSIDERATION NOT REQUIRED

9 An ~~enhanced life estate deed~~ Qualified Enhanced Life Estate Deed is effective
10 without:

11 (1) acceptance by the ~~designated beneficiary grantee~~ during the ~~transferor's~~
12 grantor's life;

13 or

14 (2) consideration.

15 § 656. REVOCATION, REVISION, MORTGAGES

16 A grantor may revoke or revise a ~~QELED~~ deed.

17 (1) Joinder by, consent to, agreement of, or notice to, the grantee of a
18 deed is not required for revocation or revision.

19 (2) The granting of a mortgage shall not operate to revoke or revise the
20 ~~deed~~ QELED, but the property interest conveyed in a deed shall be subject to the
21 mortgage and to any future advances made pursuant to it.

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1 § 657. EXECUTION BY GUARDIAN; USE OF POWER OF ATTORNEY

2 (a) With the approval of the Probate Court, a guardian may convey the real
3 property of a person under guardianship by a ~~Qualified Enhanced Life eEstate~~
4 ~~Deed~~.

5 (b) A ~~deed-QELED~~ to create or convey an interest in real property may be
6 executed
7 by an agent under a power of attorney if the power of attorney complies with
8 the requirements of 14 V.S.A. chapter 123, including any applicable gifting
9 and self-dealing provisions.

10 §658. DEATH OF GRANTEE PRIOR TO DEATH OF GRANTOR

11 Unless the ~~deed-QELED~~ provides otherwise:

12 (1) If a ~~deed-QELED~~ conveys title to a single grantee and the grantee
13 predeceases the grantor, upon the death of the grantor, title to the property shall
14 vest in the heirs of ~~the deceased an intestate grantee or in the estate of a testate~~
15 ~~grantee.~~

16 (2) If a ~~deed-QELED~~ conveys title to multiple grantees as tenants in common
17 and
18 one or more grantees predeceases the grantor, upon the death of the grantor,
19 title to the property shall vest in the heirs of ~~an deceased intestate grantee or in the~~
20 ~~estate of a testate grantee.~~

21 (3) If a ~~deed-QELED~~ conveys title to multiple grantees as joint tenants and one
22 or more grantees predeceases the grantor, upon the death of the grantor, title to
23 the property shall vest in the grantee or grantees who survive the grantor.

24 § 659. ~~OTHER AND~~ PREVIOUSLY EXECUTED AND RECORDED

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ESTATE DEEDS

1 This deed is an enhanced life estate deed executed pursuant to 27 V.S.A.
2 Chapter 6, the Enhanced Life Estate Deed Act (the “ELED Act”). The
3 grantors, or the survivor of them, hereby reserve unto themselves: (a) a
4 common law life estate, with the exclusive use, possession, and enjoyment of
5 the Property; together with (b) all the rights and privileges set forth in the
6 ELED Act, including the right to convey the Property. Reference is hereby
7 made to the aforementioned deeds and records, and to the deeds and records
8 contained in those documents, in further aid of this description.

9 TO HAVE AND TO HOLD said granted premises, with all the privileges
10 and appurtenances thereof, to the said Grantees, _____, and their
11 heirs and assigns, to their own use and behoof forever, a contingent remainder
12 interest, which does not convey to the Grantees, their heirs and assigns, any
13 present legal or equitable right, title, or interest in and to the above described
14 property. We the said Grantors, for ourselves and our heirs, executors,
15 administrators, and assigns do covenant with the said Grantees,
16 _____ and _____, and heirs and assigns, that
17 until the ensealing of these presents we are the sole owners of the premises and
18 have good right and title to convey the same in the manner aforesaid, that they
19 are FREE FROM EVERY ENCUMBRANCE, except as aforesaid, and the
20 Grantors hereby engage to WARRANT AND DEFEND the same against all
21 lawful claims whatsoever, except as aforesaid.

1 WE HAVE HEREUNTO set our hands and seals this _____ day of _____,

2 20__.

3 _____

4 STATE OF VERMONT

5 COUNTY OF _____, SS.

6 At _____, in said County and State, this _____ day of _____,

7 20__ , personally appeared _____ and _____ and they

8 acknowledged this instrument by them sealed and subscribed to be their free

9 act and deed.

10 Before me, _____

11 _____

12 STAMP: Notary Public State of Vermont

13 Commission Expires: 1/31/2021

14 Commission #: _____

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2020.