



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 6, 2022

The Honorable J. Walter Michel
Senator, District 25
241 Richardson Road
Ridgeland, Mississippi 39157

Re: Revocable Transfer-on-Death Deed

Dear Senator Michel:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

Is an individual who files a revocable transfer-on-death deed required to reapply for homestead exemption?

Brief Response

No, an individual is not required to reapply for homestead exemption after filing a transfer-on-death deed.

Applicable Law and Discussion

“(A) valid homestead exemption on a property persists unless the resident takes affirmative action to cancel or alter it.” *Hale v. State Democratic Exec. Comm.*, 168 So. 3d 946, 952 (Miss. 2015). Pursuant to the Mississippi Real Property Transfer-On-Death Act “(a)n individual may transfer the individual’s interest in real property to one or more beneficiaries effective at the transferor’s death by a transfer-on-death deed.” Miss. Code Ann. § 91-27-9. “During a transferor’s life, a transfer-on-death deed does not . . . affect an interest or right of the transferor or any other owner, including . . . homestead rights in the real property.” Miss. Code Ann. § 91-27-23(1)(B).

Section 27-33-31 provides the responsibilities of the homestead applicant and states, in relevant part:

Any person who has on file with the tax assessor a valid allowed claim for homestead exemption filed on or after January 1, 1991, shall not be required to annually thereafter reapply for such claim for exemption but shall be credited with such exemption each year so long as such person is entitled to homestead exemption on the same property and there has been no change in the property description, ownership, use or occupancy since January 1 of the preceding year. In the event changes have occurred in the status of the homestead in the property description, ownership, use or occupancy since January 1 of the preceding year, and in the event such person is still eligible for homestead exemption, he shall file a new application and provide all the information required under this section as for the initial application.

“When the words of a statute are plain and unambiguous, there is no room for statutory interpretation or construction, and we apply the statute according to the meaning of those words.” *Hedgepeth v. Johnson*, 975 So. 2d 235, 238 (Miss. 2008) (quoting *Coleman v. State*, 947 So. 2d 878, 881 (Miss. 2006)). Based upon the plain language of the above cited statutes, the filing of a transfer-on-death deed does not affect the owner/transferor’s homestead rights in the real property. Thus, the owner/transferor is not required to reapply for homestead exemption after filing a transfer-on-death deed.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Beebe Garrard
Special Assistant Attorney General