

ENGROSSED LEGISLATIVE BILL 422

Introduced by Storer, 43.

A BILL FOR AN ACT relating to the Nebraska Uniform Real Property Transfer on Death Act; to amend sections 76-3401 and 76-3410, Reissue Revised Statutes of Nebraska; to change provisions relating to required warnings on transfer on death deeds and insurance policies on certain real property; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-3401, Reissue Revised Statutes of Nebraska, is amended to read:

76-3401 Sections 76-3401 to 76-3423 and section 3 of this act shall be known and may be cited as the Nebraska Uniform Real Property Transfer on Death Act.

Sec. 2. Section 76-3410, Reissue Revised Statutes of Nebraska, is amended to read:

76-3410 (a) A transfer on death deed:

(1) Except as otherwise provided in subdivision (2) of this subsection, must contain the essential elements and formalities of a properly recordable inter vivos deed;

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

(3) Must contain the warnings provided in subsection (b) of this section; and

(4) Must be recorded (i) within thirty days after being executed as required in section 76-3409, (ii) before the transferor's death, and (iii) in the public records in the office of the register of deeds of the county where the property is located.

(b)(1) A transfer on death deed shall contain the following warnings:

WARNING: The property transferred remains subject to inheritance taxation

in Nebraska to the same extent as if owned by the transferor at death. Failure to timely pay inheritance taxes is subject to interest and penalties as provided by law.

WARNING: The designated beneficiary is personally liable, to the extent of the value of the property transferred, to account for medicaid reimbursement to the extent necessary to discharge any such claim remaining after application of the assets of the transferor's estate. The designated beneficiary may also be personally liable, to the extent of the value of the property transferred, for claims against the estate, statutory allowances to the transferor's surviving spouse and children, and the expenses of administration to the extent needed to pay such amounts by the personal representative.

WARNING: The Department of Health and Human Services may require revocation of this deed by a transferor, a transferor's spouse, or both a transferor and the transferor's spouse in order to qualify or remain qualified for medicaid assistance.

(2) A transfer on death deed created after the effective date of this act shall contain the following warning in addition to the warnings required under subdivision (1) of this subsection:

WARNING: Property insurance on the transferred property may expire thirty days after the death of the transferor. Unless the transferor has added the designated beneficiary as an insured or additional named insured to the property insurance policy of the transferred property, any property insurance coverage of the transferred property will end on the earliest to occur of the following after the transferor's death: The end of the policy period as determined as if the transferor was still living; the date the designated beneficiary obtains alternative coverage; or thirty days after the transferor's death only if any premium required for the additional days beyond the policy period is paid.

(3) No recorded transfer on death deed shall be invalidated because of any defects in the wording of the warnings required by this subsection.

(c) No action may be commenced to set aside a transfer on death deed,

based on failure to comply with the requirement of disinterested witnesses pursuant to section 76-3409, more than ninety days after the date of death of the transferor or, if there is more than one transferor, more than ninety days after the date of death of the last surviving transferor.

(d) Notwithstanding subsection (c) of this section, an action to set aside a transfer on death deed, based on failure to comply with the requirement of disinterested witnesses pursuant to section 76-3409, in which the transferor or, if there is more than one transferor, the last surviving transferor, has died prior to May 8, 2013, shall be commenced by the later of (1) ninety days after the date of death of the transferor or, if there is more than one transferor, ninety days after the date of death of the last surviving transferor, or (2) ninety days after May 8, 2013.

Sec. 3. (a) In addition to any other coverage provided under an insurance policy on real estate transferred pursuant to a transfer on death deed, the designated beneficiary shall be deemed to be an insured party under any property insurance policy for the period from the date of the transferor's death until the first to occur of:

(1) The end of the policy period as determined as if the transferor was still living;

(2) The date the designated beneficiary obtains alternative coverage; or

(3) Thirty days after the transferor's death only if any premium required for the additional days beyond the policy period is paid.

(b) Nothing in this section shall affect coverage provided under an insurance policy to household members or others who are deemed to be insured upon the death of the transferor.

(c) The designated beneficiary shall not acquire any interest in proceeds of an insurance policy that have accrued before the death of the insured.

Sec. 4. Original sections 76-3401 and 76-3410, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 422 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR