

AMENDMENTS TO LB 536

Introduced by Judiciary

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 22 of this act shall be known
4 and may be cited as the Nebraska Uniform Real Property Transfer on
5 Death Act.

6 Sec. 2. For purposes of the Nebraska Uniform Real
7 Property Transfer on Death Act:

8 (1) Beneficiary means a person that receives property
9 under a transfer on death deed;

10 (2) Designated beneficiary means a person designated to
11 receive property in a transfer on death deed;

12 (3) Joint owner means an individual who owns property
13 concurrently with one or more other individuals with a right of
14 survivorship. The term includes a joint tenant. The term does not
15 include a tenant in common without a right of survivorship;

16 (4) Person means an individual, a corporation, an estate,
17 a trustee of a trust, a partnership, a limited liability company,
18 an association, a joint venture, a public corporation, a government
19 or governmental subdivision, agency, or instrumentality, or any
20 other legal or commercial entity;

21 (5) Property means an interest in real property located
22 in this state which is transferable on the death of the owner;

23 (6) Transfer on death deed means a deed authorized under

1 the Nebraska Uniform Real Property Transfer on Death Act; and

2 (7) Transferor means an individual who makes a transfer
3 on death deed.

4 Sec. 3. The Nebraska Uniform Real Property Transfer on
5 Death Act applies to a transfer on death deed made before, on, or
6 after the operative date of this act by a transferor dying on or
7 after the operative date of this act.

8 Sec. 4. The Nebraska Uniform Real Property Transfer on
9 Death Act does not affect any method of transferring property
10 otherwise permitted under the law of this state.

11 Sec. 5. An individual may transfer property to one
12 or more beneficiaries effective at the transferor's death by a
13 transfer on death deed.

14 Sec. 6. A transfer on death deed is revocable even if the
15 deed or another instrument contains a contrary provision.

16 Sec. 7. A transfer on death deed is nontestamentary.

17 Sec. 8. The capacity required to make or revoke a
18 transfer on death deed is the same as the capacity required to make
19 a will.

20 Sec. 9. (a) A transfer on death deed:

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

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

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

1 (4) Must be recorded before the transferor's death in the
2 public records in the office of the register of deeds of the county
3 where the property is located.

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

6 WARNING: The property transferred remains subject to
7 inheritance taxation in Nebraska to the same extent as if owned by
8 the transferor at death. Failure to timely pay inheritance taxes is
9 subject to interest and penalties as provided by law.

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

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

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

27 Sec. 10. A transfer on death deed is effective without:

1 (1) Notice or delivery to or acceptance by the designated
2 beneficiary during the transferor's life; or

3 (2) Consideration.

4 Sec. 11. A completed statement as provided in subdivision
5 (2) (a) of section 76-214 must be filed at the time that the
6 conveyance of real estate transferred by a transfer on death deed
7 becomes effective due to the death of the transferor or the death
8 of a surviving joint tenant of the transferor.

9 Sec. 12. (a) Subject to subsection (b) of this section,
10 an instrument is effective to revoke a recorded transfer on death
11 deed, or any part of it, only if the instrument:

12 (1) Is one of the following:

13 (A) A transfer on death deed that revokes the deed or
14 part of the deed expressly or by inconsistency;

15 (B) An instrument of revocation that expressly revokes
16 the deed or part of the deed; or

17 (C) An inter vivos deed that expressly or by
18 inconsistency revokes the transfer on death deed or part of the
19 deed; and

20 (2) Is acknowledged by the transferor after the
21 acknowledgment of the deed being revoked and is recorded before
22 the transferor's death in the public records in the office of the
23 register of deeds of the county where the deed is recorded.

24 (b) If a transfer on death deed is made by more than one
25 transferor:

26 (1) Revocation by a transferor does not affect the deed
27 as to the interest of another transferor; and

1 (2) A deed of joint owners is revoked only if it is
2 revoked by all of the living joint owners who were transferors.

3 (c) After a transfer on death deed is recorded, it may
4 not be revoked by a revocatory act on the deed.

5 (d) This section does not limit the effect of an inter
6 vivos transfer of the property.

7 Sec. 13. During a transferor's life, a transfer on death
8 deed does not:

9 (1) Affect an interest or right of the transferor or
10 any other owner, including the right to transfer or encumber the
11 property;

12 (2) Affect an interest or right of a transferee, even if
13 the transferee has actual or constructive notice of the deed;

14 (3) Affect an interest or right of a secured or unsecured
15 creditor or future creditor of the transferor, even if the creditor
16 has actual or constructive notice of the deed;

17 (4) Affect the transferor's or designated beneficiary's
18 eligibility for any form of public assistance except to the extent
19 provided in section 20 of this act;

20 (5) Create a legal or equitable interest in favor of the
21 designated beneficiary; or

22 (6) Subject the property to claims or process of a
23 creditor of the designated beneficiary.

24 Sec. 14. (a) Except as otherwise provided in the transfer
25 on death deed, in this section, or in sections 30-2313 to 30-2319
26 or section 30-2354, on the death of the transferor, the following
27 rules apply to property that is the subject of a transfer on death

1 deed and owned by the transferor at death:

2 (1) Subject to subdivision (2) of this subsection,
3 the interest in the property is transferred to the designated
4 beneficiary in accordance with the deed;

5 (2) The interest of a designated beneficiary is
6 contingent on the designated beneficiary surviving the transferor
7 by one hundred twenty hours. If the deed provides for a different
8 survival period, the deed shall determine the survival requirement
9 for designated beneficiaries. The interest of a designated
10 beneficiary that fails to survive the transferor by one hundred
11 twenty hours or as otherwise provided in the deed shall be treated
12 as if the designated beneficiary predeceased the transferor;

13 (3) Subject to subdivision (4) of this subsection,
14 concurrent interests are transferred to the beneficiaries in equal
15 and undivided shares with no right of survivorship; and

16 (4) If the transferor has identified two or more
17 designated beneficiaries to receive concurrent interests in the
18 property, the share of one which fails for any reason is
19 transferred to the other, or to the others in proportion to
20 the interest of each in the remaining part of the property held
21 concurrently.

22 (b) A beneficiary takes the property subject to all
23 conveyances, encumbrances, assignments, contracts, mortgages,
24 liens, and other interests to which the property is subject at the
25 transferor's death.

26 (c) If a transferor is a joint owner and is:

27 (1) Survived by one or more other joint owners, the

1 property that is the subject of a transfer on death deed belongs to
2 the surviving joint owner or owners with right of survivorship; or

3 (2) The last surviving joint owner, the transfer on death
4 deed of the last surviving joint owner transferor is effective.

5 (d) A transfer on death deed transfers property without
6 covenant or warranty of title even if the deed contains a contrary
7 provision.

8 (e) If after recording a transfer on death deed the
9 transferor is divorced or his or her marriage is dissolved
10 or annulled, the divorce, dissolution, or annulment revokes any
11 disposition or appointment of property made by the transfer on
12 death deed to the former spouse unless the transfer on death deed
13 expressly provides otherwise. Property prevented from passing to a
14 former spouse under a transfer on death deed because of revocation
15 by divorce, dissolution, or annulment passes as if the former
16 spouse failed to survive the transferor. A decree of separation
17 which does not terminate the status of husband and wife is not a
18 divorce for purposes of this section.

19 Sec. 15. A beneficiary may disclaim all or part of the
20 beneficiary's interest as provided by section 30-2352.

21 Sec. 16. (a) If other assets of the estate of the
22 transferor are insufficient to pay all claims against the
23 transferor's estate, statutory allowances to the transferor's
24 surviving spouse and children, and the expenses of administration,
25 a transfer under the Nebraska Uniform Real Property Transfer
26 on Death Act subjects the beneficiary to personal liability as
27 provided in this section to the extent needed to pay all claims

1 against the transferor's estate, statutory allowances to the
2 transferor's surviving spouse and children, and the expenses of
3 administration.

4 (b)(1) A beneficiary who receives property through a
5 transfer on death deed upon the death of the transferor is liable
6 to account to the personal representative of the transferor's
7 estate for a proportionate share of the fair market value of
8 the equity in the interest received to the extent necessary
9 to discharge the claims and allowances described in subsection
10 (a) of this section remaining unpaid after application of the
11 transferor's estate. For purposes of this subdivision (b)(1), the
12 fair market value shall be determined as of the date of death
13 of the transferor. For purposes of this subdivision (b)(1), the
14 beneficiary's proportionate share means the proportionate share of
15 all nonprobate transfers recovered by the personal representative
16 for the payment of the claims and allowances under the Nebraska
17 Uniform Real Property Transfer on Death Act and sections 30-2726,
18 30-2743, and 30-3850.

19 (2) A proceeding to assert the liability for claims
20 against the estate and statutory allowances may not be commenced
21 unless the personal representative has received a written demand by
22 the surviving spouse, a creditor, a child, or a person acting for
23 a child of the transferor. The proceeding must be commenced within
24 one year after the death of the transferor.

25 (c) A beneficiary against whom a proceeding to account is
26 brought may join as a party to the proceeding a surviving party
27 or beneficiary of any other transfer on death deed for the same

1 transferor or any other asset of the transferor subject to sections
2 30-2726, 30-2743, and 30-3850.

3 (d) Assets recovered by the personal representative
4 pursuant to this section shall be administered as part of the
5 transferor's estate.

6 (e) Nothing in this section shall be construed to limit
7 the rights of creditors under other laws of this state.

8 Sec. 17. A beneficiary to whom an interest is transferred
9 by a transfer on death deed shall be personally liable to account
10 for medicaid reimbursement pursuant to section 68-919 and section
11 16 of this act to the extent necessary to discharge any such
12 claim remaining unpaid after application of the assets of the
13 transferor's estate. Such liability shall be limited to the value
14 of the interest transferred to the beneficiary. The right to
15 recover applies to medical assistance provided before, at the same
16 time as, or after the signing of and the recording of the transfer
17 on death deed.

18 Sec. 18. A contract to make a transfer on death deed, or
19 not to revoke a transfer on death deed, can be established only by
20 a writing evidencing the contract signed by the transferor after
21 the operative date of this act.

22 Sec. 19. (a) Except as otherwise provided in subsection
23 (b) of this section, if property or any interest therein
24 transferred to a beneficiary by a transfer on death deed is
25 acquired by a purchaser or lender for value from a beneficiary of
26 a transfer on death deed, the purchaser or lender takes title free
27 of any claims of the estate, personal representative, surviving

1 spouse, creditors, and any other person claiming by or through
2 the transferor of the transfer on death deed and the purchaser
3 or lender shall not incur any personal liability to the estate,
4 personal representative, surviving spouse, creditors, or any other
5 person claiming by or through the transferor of the transfer on
6 death deed, whether or not the conveyance by the transfer on death
7 deed was proper. Except as otherwise provided in subsection (b) of
8 this section, to be protected under this section, a purchaser or
9 lender need not inquire whether a transferor or beneficiary of the
10 transfer on death deed acted properly in making the conveyance to
11 the beneficiary by the transfer on death deed.

12 (b) A purchaser or lender for value from a beneficiary of
13 a transfer on death deed does not take title free of any lien for
14 inheritance tax under section 77-2003.

15 Sec. 20. The Department of Health and Human Services may
16 require revocation of a transfer on death deed by a transferor,
17 a transferor's spouse, or both a transferor and the transferor's
18 spouse in order for the transferor to qualify or remain qualified
19 for medicaid assistance.

20 Sec. 21. In applying and construing the Nebraska Uniform
21 Real Property Transfer on Death Act, consideration must be given
22 to the need to promote uniformity of the law with respect to its
23 subject matter among the states that enact it.

24 Sec. 22. The Nebraska Uniform Real Property Transfer on
25 Death Act modifies, limits, and supersedes the federal Electronic
26 Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et
27 seq., but does not modify, limit, or supersede section 101(c) of

1 that act, 15 U.S.C. 7001(c), or authorize electronic delivery of
2 any of the notices described in section 103(b) of that act, 15
3 U.S.C. 7003(b).

4 Sec. 23. Section 30-2352, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 30-2352 (a)(1) A person (or the representative of a
7 deceased, incapacitated, or protected person) who is an heir,
8 devisee, person succeeding to a renounced interest, donee,
9 beneficiary under a testamentary or nontestamentary instrument,
10 donee of a power of appointment, grantee, surviving joint owner
11 or surviving joint tenant, beneficiary, or owner of an insurance
12 contract or any incident of ownership therein, beneficiary or
13 person designated to take pursuant to a power of appointment
14 exercised by a testamentary or nontestamentary instrument, person
15 who has a statutory entitlement to or election with respect
16 to property pursuant to the Nebraska Probate Code, designated
17 beneficiary of a transfer on death deed, or recipient of any
18 beneficial interest under any testamentary or nontestamentary
19 instrument, may renounce in whole or in part, or with reference
20 to specific parts, fractional shares, undivided portions or assets
21 thereof, by filing a written instrument of renunciation within the
22 time and at the place hereinafter provided.

23 (2) The instrument shall (i) describe the property or
24 part thereof or the interest therein renounced, (ii) be signed
25 and acknowledged by the person renouncing in the manner provided
26 for in the execution of deeds of real estate, (iii) declare the
27 renunciation and the extent thereof, and (iv) declare that the

1 renunciation is an irrevocable and unqualified refusal to accept
2 the renounced interest.

3 (3) The appropriate court in a proceeding under section
4 30-3812, may direct or permit a trustee under a testamentary
5 or nontestamentary instrument to renounce any restriction on or
6 power of administration, management, or allocation of benefit upon
7 finding that such restrictions on the exercise of such power may
8 defeat or impair the accomplishment of the purposes of the trust
9 whether by the imposition of tax or the allocation of beneficial
10 interest inconsistent with such purposes or by other reason. Such
11 authority shall be exercised after hearing and upon notice to
12 qualified beneficiaries as defined in section 30-3803, in the
13 manner directed by the court.

14 (b) The instrument specified in (a)(1) and (a)(2) must
15 be received by the transferor of the interest, his or her
16 legal representative, the personal representative of a deceased
17 transferor, the trustee of any trust in which the interest being
18 renounced exists, or the holder of the legal title to the property
19 to which the interest relates. To be effective for purposes of
20 determining inheritance and estate taxes under articles 20 and 21
21 of Chapter 77, the instrument must be received not later than the
22 date which is nine months after the later of (i) the date on
23 which the transfer creating the interest in such person is made,
24 or (ii) the date on which such person attains age twenty-one. If
25 the circumstances which establish the right of a person to renounce
26 an interest arise as a result of the death of an individual,
27 the instrument shall also be filed in the court of the county

1 where proceedings concerning the decedent's estate are pending,
2 or where they would be pending if commenced. If an interest in
3 real estate is renounced, a copy of the instrument shall also be
4 recorded in the office of the register of deeds in the county
5 in which the real estate lies. No person entitled to a copy of
6 the instrument shall be liable for any proper distribution or
7 disposition made without actual notice of the renunciation and no
8 such person making a proper distribution or disposition in reliance
9 upon the renunciation shall be liable for any such distribution or
10 disposition in the absence of actual notice that an action has been
11 instituted contesting the validity of the renunciation.

12 (c) Unless the transferor of the interest has otherwise
13 indicated in the instrument creating the interest, the interest
14 renounced, and any future interest which is to take effect in
15 possession or enjoyment at or after the termination of the interest
16 renounced, passes as if the person renouncing had predeceased the
17 decedent or had died prior to the date on which the transfer
18 creating the interest in such person is made, as the case may
19 be, if the renunciation is within the time periods set forth in
20 subsection (b) and if not within such time periods the interest
21 renounced, and any future interest which is to take effect in
22 possession or enjoyment at or after the termination of the interest
23 renounced, passes as if the person renouncing had died on the
24 date the interest was renounced. The person renouncing shall have
25 no power to direct how the interest being renounced shall pass,
26 except that the renunciation of an interest for which the right
27 to renounce was established by the death of an individual shall,

1 in the case of the spouse of the decedent, relate only to that
2 statutory provision or that provision of the instrument creating
3 the interest being renounced and shall not preclude the spouse
4 from receiving the benefits of the renounced interest which may be
5 derived as a result of the renounced interest passing pursuant to
6 other statutory provisions or pursuant to other provisions of the
7 instrument creating the interest unless such further benefits are
8 also renounced. In every case when the renunciation is within the
9 time periods set forth in subsection (b) the renunciation relates
10 back for all purposes to the date of death of the decedent or the
11 date on which the transfer creating the interest in such person is
12 made, as the case may be.

13 (d) Any (1) assignment, conveyance, encumbrance, pledge,
14 or transfer of property therein or any contract therefor, (2)
15 written waiver of the right to renounce or any acceptance of
16 property or benefits therefrom or an interest therein by an
17 heir, devisee, person succeeding to a renounced interest, donee,
18 beneficiary under a testamentary or nontestamentary instrument,
19 donee of a power of appointment, grantee, surviving joint owner
20 or surviving joint tenant, beneficiary or owner of an insurance
21 contract or any incident of ownership therein, beneficiary or
22 person designated to take pursuant to a power of appointment
23 exercised by a testamentary or nontestamentary instrument, person
24 who has a statutory entitlement to or election with respect to
25 property pursuant to the Nebraska Probate Code, or recipient of
26 any beneficial interest under any testamentary or nontestamentary
27 instrument, or (3) sale or other disposition of property pursuant

1 to judicial process, made within the time periods set forth in
2 subsection (b) shall not bar the right to renounce, but shall
3 make a subsequent renunciation within the time period set forth
4 in subsection (b) of this section ineffective for purposes of
5 determination of inheritance and estate taxes under articles 20 and
6 21 article 20 of Chapter 77. Any renunciation made after any part
7 of the property has been assigned, conveyed, encumbered, pledged,
8 or transferred is ineffective for the portion of the property which
9 has previously been assigned, conveyed, encumbered, pledged, or
10 transferred.

11 (e) Within thirty days of receipt of a written instrument
12 of renunciation by the transferor of the interest, his or her legal
13 representative, the personal representative of the decedent, the
14 trustee of any trust in which the interest being renounced exists,
15 or the holder of the legal title to the property to which the
16 interest relates, as the case may be, such person shall attempt
17 to notify in writing those persons who are known or ascertainable
18 with reasonable diligence who shall be recipients or potential
19 recipients of the renounced interest of the renunciation and the
20 interest or potential interest such recipient shall receive as a
21 result of the renunciation.

22 (f) The right to renounce granted by this section exists
23 irrespective of any limitation on the interest of the person
24 renouncing in the nature of a spendthrift provision or similar
25 restriction. A trust beneficiary whose interest is subject to any
26 limitation in the nature of a spendthrift provision or similar
27 restriction may assign, sell, or otherwise convey such interest or

1 any part thereof upon a finding by a court in a proceeding under
2 section 30-3812 that the rights of other beneficiaries would not
3 be impaired and that such assignment, sale, or other conveyance
4 would not result in any substantial benefit to nonbeneficiaries
5 of the trust at the expense of the trust or trust beneficiaries.
6 Such finding may be made after hearing and upon notice to all
7 known persons beneficially interested in such trust, in the manner
8 directed by the court.

9 (g) This section does not abridge the right of any person
10 to assign, convey, release, or renounce any property arising under
11 any other section of this code or other statute.

12 (h) Any interest in property which exists on July 19,
13 1980, may be renounced after July 19, 1980, as provided herein. An
14 interest which has arisen prior to July 19, 1980, in any person
15 other than the person renouncing is not destroyed or diminished by
16 any action of the person renouncing taken under this section.

17 Sec. 24. Section 30-2354, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 30-2354 (a) A surviving spouse, heir or devisee who
20 feloniously and intentionally kills or aids and abets the killing
21 of the decedent is not entitled to any benefits under the will
22 or under this article, and the estate of the decedent passes as
23 if such spouse, heir, or devisee had predeceased the decedent.
24 Property appointed by the will of the decedent to or for the
25 benefit of such devisee passes as if the devisee had predeceased
26 the decedent.

27 (b) Any joint tenant who feloniously and intentionally

1 kills or aids and abets the killing of another joint tenant thereby
2 effects a severance of the interest of the decedent so that the
3 share of the decedent passes as his property and such joint tenant
4 has no rights by survivorship. This provision applies to joint
5 tenancies and tenancies by the entirety in real and personal
6 property, joint accounts in banks, savings and loan associations,
7 credit unions and other institutions, and any other form of
8 co-ownership with survivorship incidents.

9 (c) A named beneficiary of a bond, life insurance policy,
10 or other contractual arrangement who feloniously and intentionally
11 kills or aids and abets the killing of the principal obligee
12 or the individual upon whose life the policy is issued is not
13 entitled to any benefit under the bond, policy or other contractual
14 arrangement, and it becomes payable as though such beneficiary has
15 predeceased the decedent.

16 (d) Real property specified for a designated beneficiary
17 of a transfer on death deed who feloniously and intentionally kills
18 or aids and abets the killing of the transferor who signed the
19 transfer on death deed or any other owner of the real property
20 shall pass as if the designated beneficiary had predeceased the
21 transferor.

22 ~~(d)~~ (e) Any other acquisition of property or interest by
23 the killer or by one who aids and abets the killer is treated in
24 accordance with the principles of this section.

25 ~~(e)~~ (f) A final judgment of conviction of felonious and
26 intentional killing or aiding and abetting therein is conclusive
27 for purposes of this section. In the absence of a conviction of

1 felonious and intentional killing or aiding and abetting therein,
2 the court may determine by a preponderance of evidence whether
3 the killing or aiding and abetting therein was felonious and
4 intentional for purposes of this section.

5 ~~(f)~~ (g) This section does not affect the rights of any
6 person who, before rights under this section have been adjudicated,
7 purchases, from the killer or aider and abettor for value and
8 without notice, property which the killer or aider and abettor
9 would have acquired except for this section, but the killer or
10 aider and abettor is liable for the amount of the proceeds or
11 the value of the property. Any insurance company, bank, or other
12 obligor making payment according to the terms of its policy or
13 obligation is not liable by reason of this section unless prior to
14 payment it has received at its home office or principal address
15 written notice of a claim under this section.

16 Sec. 25. Section 76-214, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 76-214 (1) Every grantee who has a deed to real estate
19 recorded and every purchaser of real estate who has a memorandum
20 of contract or land contract recorded shall, at the time such
21 deed, memorandum of contract, or land contract is presented for
22 recording, file with the register of deeds a completed statement as
23 prescribed by the Tax Commissioner. For all deeds and all memoranda
24 of contract and land contracts recorded on and after January 1,
25 2001, the statement shall not require the social security number
26 of the grantee or purchaser or the federal employer identification
27 number of the grantee or purchaser. This statement may require the

1 recitation of any information contained in the deed, memorandum
2 of contract, or land contract, the total consideration paid, the
3 amount of the total consideration attributable to factors other
4 than the purchase of the real estate itself, and other factors
5 which may influence the transaction. If a death certificate is
6 recorded as provided in subsection (2) of this section, this
7 statement may require a date of death, the name of the decedent,
8 and whether the title is affected as a result of a transfer
9 on death deed, a joint tenancy deed, or the expiration of a
10 life estate or by any other means. This statement shall be
11 signed and filed by the grantee, the purchaser, or his or her
12 authorized agent. The register of deeds shall forward the statement
13 to the county assessor. If the grantee or purchaser fails to
14 furnish the prescribed statement, the register of deeds shall
15 not record the deed, memorandum of contract, or land contract.
16 The register of deeds shall indicate on the statement the book
17 and page or computer system reference where the deed, memorandum
18 of contract, or land contract is recorded and shall immediately
19 forward the statement to the county assessor. The county assessor
20 shall process the statement according to the instructions of the
21 Property Tax Administrator and shall, pursuant to the rules and
22 regulations of the Tax Commissioner, forward the statement to the
23 Tax Commissioner.

24 (2) (a) The statement described in subsection (1) of
25 this section shall be filed at the time that a certified or
26 authenticated copy of the grantor's death certificate is filed if
27 such death certificate is required to be filed under section 27 of

1 this act.

2 (b) The statement described in subsection (1) of this
3 section shall not be required to be filed at the time that
4 a transfer on death deed is filed or at the time that an
5 instrument of revocation of a transfer on death deed as described
6 in subdivision (a) (1) (B) of section 12 of this act is filed.

7 ~~(2)~~ (3) Any person shall have access to the statements at
8 the office of the Tax Commissioner, county assessor, or register of
9 deeds if the statements are available and have not been disposed
10 of pursuant to the records retention and disposition schedule as
11 approved by the State Records Administrator.

12 Sec. 26. Section 76-215, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 76-215 Any person who fails to obey the provisions of
15 subsection (1) of section 76-214 shall be deemed guilty of a
16 misdemeanor, and upon conviction thereof shall be fined in any sum
17 not less than ten dollars nor exceeding five hundred dollars.

18 Sec. 27. If a conveyance of real estate was pursuant to
19 (1) a transfer on death deed due to the death of the transferor
20 or the death of a surviving joint tenant of the transferor, (2)
21 a joint tenancy deed due to the death of a joint tenant, or (3)
22 the expiration of a life estate, then a death certificate shall be
23 filed with the register of deeds to document the transfer of title
24 to the beneficiary of the transfer on death deed, to the surviving
25 joint tenant or joint tenants, or to the holder of an interest in
26 real estate which receives that interest as a result of the death
27 of a life tenant.

1 Sec. 28. Section 76-238, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-238 (1) ~~All~~ Except as otherwise provided in sections
4 12, 13, and 14 of this act, all deeds, mortgages, and other
5 instruments of writing which are required to be or which under
6 the laws of this state may be recorded, shall take effect and be
7 in force from and after the time of delivering such instruments
8 to the register of deeds for recording, and not before, as to
9 all creditors and subsequent purchasers in good faith without
10 notice. All such instruments are void as to all creditors and
11 subsequent purchasers without notice whose deeds, mortgages, or
12 other instruments are recorded prior to such instruments. However,
13 such instruments are valid between the parties to the instrument.

14 (2) For purposes of this section, possession of
15 agricultural real estate or residential real estate by a party
16 related to the owner of record of the real estate within the third
17 degree of consanguinity or affinity shall not serve as notice to a
18 creditor or subsequent purchaser in any case in which such party is
19 claiming rights in such real estate pursuant to a lease (a) entered
20 into on or after July 16, 2004; (b) purporting to extend beyond a
21 term of one year; and (c) which has not satisfied the requirements
22 of section 76-211, unless the creditor or subsequent purchaser, in
23 advance of recording a deed, mortgage, or other instrument, has
24 received a written copy of such lease.

25 (3) For purposes of this section:

26 (a) Agricultural products includes grain and feed crops;
27 forages and sod crops; and animal production, including breeding,

1 feeding, or grazing of cattle, horses, swine, sheep, goats, bees,
2 or poultry;

3 (b) Agricultural real estate means land which is
4 primarily used for the production of agricultural products,
5 including waste land lying in or adjacent to and in common
6 ownership with land used for the production of agricultural
7 products;

8 (c) Related within the third degree of consanguinity
9 or affinity includes parents, grandparents, great-grandparents,
10 children, grandchildren, great-grandchildren, brothers, sisters,
11 uncles, aunts, nephews, nieces, and spouses of the same and any
12 partnership, limited liability company, or corporation in which all
13 of the partners, members, or shareholders are related within the
14 third degree of consanguinity or affinity; and

15 (d) Residential real estate means real estate containing
16 not more than four units designed for use for residential purposes.
17 A condominium unit that is otherwise residential real estate
18 remains so even though the condominium development contains more
19 than four dwelling units or units for nonresidential purposes.

20 Sec. 29. Section 76-902, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 76-902 The tax imposed by section 76-901 shall not apply
23 to:

24 (1) Deeds recorded prior to November 18, 1965;

25 (2) Deeds to property transferred by or to the United
26 States of America, the State of Nebraska, or any of their agencies
27 or political subdivisions;

1 (3) Deeds which secure or release a debt or other
2 obligation;

3 (4) Deeds which, without additional consideration,
4 confirm, correct, modify, or supplement a deed previously recorded
5 but which do not extend or limit existing title or interest;

6 (5) (a) Deeds between husband and wife, or parent and
7 child, without actual consideration therefor, and (b) deeds to
8 or from a family corporation, partnership, or limited liability
9 company when all the shares of stock of the corporation or interest
10 in the partnership or limited liability company are owned by
11 members of a family, or a trust created for the benefit of a
12 member of that family, related to one another within the fourth
13 degree of kindred according to the rules of civil law, and their
14 spouses, for no consideration other than the issuance of stock
15 of the corporation or interest in the partnership or limited
16 liability company to such family members or the return of the
17 stock to the corporation in partial or complete liquidation of
18 the corporation or deeds in dissolution of the interest in the
19 partnership or limited liability company. In order to qualify for
20 the exemption for family corporations, partnerships, or limited
21 liability companies, the property shall be transferred in the name
22 of the corporation or partnership and not in the name of the
23 individual shareholders, partners, or members;

24 (6) Tax deeds;

25 (7) Deeds of partition;

26 (8) Deeds made pursuant to mergers, consolidations,
27 sales, or transfers of the assets of corporations pursuant to

1 plans of merger or consolidation filed with the office of Secretary
2 of State. A copy of such plan filed with the Secretary of State
3 shall be presented to the register of deeds before such exemption
4 is granted;

5 (9) Deeds made by a subsidiary corporation to its parent
6 corporation for no consideration other than the cancellation or
7 surrender of the subsidiary's stock;

8 (10) Cemetery deeds;

9 (11) Mineral deeds;

10 (12) Deeds executed pursuant to court decrees;

11 (13) Land contracts;

12 (14) Deeds which release a reversionary interest, a
13 condition subsequent or precedent, a restriction, or any other
14 contingent interest;

15 (15) Deeds of distribution executed by a personal
16 representative conveying to devisees or heirs property passing by
17 testate or intestate succession;

18 (16) Transfer on death deeds or revocations of transfer
19 on death deeds;

20 (17) Certified or authenticated death certificates
21 pertaining to transfer on death deeds;

22 ~~(16)~~ (18) Deeds transferring property located within the
23 boundaries of an Indian reservation if the grantor or grantee is a
24 reservation Indian;

25 ~~(17)~~ (19) Deeds transferring property into a trust if the
26 transfer of the same property would be exempt if the transfer was
27 made directly from the grantor to the beneficiary or beneficiaries

1 under the trust. No such exemption shall be granted unless the
2 register of deeds is presented with a signed statement certifying
3 that the transfer of the property is made under such circumstances
4 as to come within one of the exemptions specified in this section
5 and that evidence supporting the exemption is maintained by the
6 person signing the statement and is available for inspection by the
7 Department of Revenue;

8 ~~(18)~~ (20) Deeds transferring property from a trustee to a
9 beneficiary of a trust;

10 ~~(19)~~ (21) Deeds which convey property held in the name
11 of any partnership or limited liability company not subject to
12 subdivision (5) of this section to any partner in the partnership
13 or member of the limited liability company or to his or her spouse;

14 ~~(20)~~ (22) Leases;

15 ~~(21)~~ (23) Easements; or

16 ~~(22)~~ (24) Deeds which transfer title from a trustee to
17 a beneficiary pursuant to a power of sale exercised by a trustee
18 under a trust deed.

19 Sec. 30. This act becomes operative on January 1, 2013.

20 Sec. 31. Original sections 30-2352, 30-2354, 76-214,
21 76-215, 76-238, and 76-902, Reissue Revised Statutes of Nebraska,
22 are repealed.