

AMENDMENTS TO LB422

Introduced by Judiciary.

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

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

5 76-3401 Sections 76-3401 to 76-3423 and section 3 of this act shall
6 be known and may be cited as the Nebraska Uniform Real Property Transfer
7 on Death Act.

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

10 76-3410 (a) A transfer on death deed:

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

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

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

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

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

24 **WARNING:** The property transferred remains subject to inheritance
25 taxation in Nebraska to the same extent as if owned by the transferor at
26 death. Failure to timely pay inheritance taxes is subject to interest and
27 penalties as provided by law.

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

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

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

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

27 (3) ~~(2)~~ No recorded transfer on death deed shall be invalidated
28 because of any defects in the wording of the warnings required by this
29 subsection.

30 (c) No action may be commenced to set aside a transfer on death
31 deed, based on failure to comply with the requirement of disinterested

1 witnesses pursuant to section 76-3409, more than ninety days after the
2 date of death of the transferor or, if there is more than one transferor,
3 more than ninety days after the date of death of the last surviving
4 transferor.

5 (d) Notwithstanding subsection (c) of this section, an action to set
6 aside a transfer on death deed, based on failure to comply with the
7 requirement of disinterested witnesses pursuant to section 76-3409, in
8 which the transferor or, if there is more than one transferor, the last
9 surviving transferor, has died prior to May 8, 2013, shall be commenced
10 by the later of (1) ninety days after the date of death of the transferor
11 or, if there is more than one transferor, ninety days after the date of
12 death of the last surviving transferor, or (2) ninety days after May 8,
13 2013.

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

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

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

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

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

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

31 **Sec. 4.** Original sections 76-3401 and 76-3410, Reissue Revised

1 Statutes of Nebraska, are repealed.