

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 536**

Final Reading

(Second)

Introduced by Wightman, 36; Ashford, 20.

Read first time January 18, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to real property; to amend sections 30-2352,  
2 30-2354, 76-201, 76-202, 76-203, 76-214, 76-215, 76-238,  
3 76-246, 76-277, and 76-902, Reissue Revised Statutes of  
4 Nebraska; to adopt the Nebraska Uniform Real Property  
5 Transfer on Death Act; to provide exemptions from the  
6 documentary stamp tax; to harmonize provisions; to  
7 provide an operative date; and to repeal the original  
8 sections.

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

1           Section 1. Sections 1 to 23 of this act shall be known  
2 and may be cited as the Nebraska Uniform Real Property Transfer on  
3 Death Act.

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

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

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

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

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

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

21          (6) Transfer on death deed means a deed authorized under  
22 the Nebraska Uniform Real Property Transfer on Death Act; and

23          (7) Transferor means an individual who makes a transfer  
24 on death deed.

25          Sec. 3. The Nebraska Uniform Real Property Transfer on

1 Death Act applies to a transfer on death deed made before, on, or  
2 after the operative date of this act by a transferor dying on or  
3 after the operative date of this act. A transfer on death deed is  
4 subject to the common-law principles of equity except to the extent  
5 modified by the Nebraska Uniform Real Property Transfer on Death Act.

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

9           Sec. 5. An individual may transfer property to one or  
10 more beneficiaries effective at the transferor's death by a transfer  
11 on death deed. If the property is agricultural land, the transferor  
12 may designate in the transfer on death deed the disposition of the  
13 transferor's interest in growing crops to the transferor's estate or  
14 to one or more of the designated beneficiaries. If the property is  
15 agricultural land and the transfer on death deed does not contain a  
16 designation of the disposition of the transferor's interest in  
17 growing crops, the transferor's interest in the growing crops shall  
18 pass to the transferor's estate.

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

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

22           Sec. 8. The capacity required to make or revoke a  
23 transfer on death deed is the same as the capacity required to make a  
24 will.

25           Sec. 9. A transfer on death deed shall be signed by the

1 transferor or by some person in his or her presence and by his or her  
 2 direction and shall be attested in writing by two or more  
 3 disinterested witnesses, whose signatures along with the transferor's  
 4 signature shall be made before an officer authorized to administer  
 5 oaths under the laws of this state or under the laws of the state  
 6 where execution occurs and evidenced by the officer's certificate,  
 7 under official seal, in form and content substantially as follows:

8           I, ..... the transferor, sign my name to this  
 9 instrument this ..... day of ..... 20 ....., and being first duly  
 10 sworn, do hereby declare to the undersigned authority that I sign and  
 11 execute this transfer on death deed to transfer my interest in the  
 12 described real property and that I sign it willingly or willingly  
 13 direct another to sign for me, that I execute it as my free and  
 14 voluntary act for the purposes therein expressed, that I am eighteen  
 15 years of age or older or am not at this time a minor, and that I am  
 16 of sound mind and under no constraint or undue influence.

17           Transferor .....

18           We, ..... and ....., the witnesses, sign our names to  
 19 this instrument, being first duly sworn, and do hereby declare to the  
 20 undersigned authority that the transferor signs and executes this  
 21 transfer on death deed to transfer his or her interest in the  
 22 described real property and that he or she signs it willingly or  
 23 willingly directs another to sign for him or her, and that he or she  
 24 executes it as his or her free and voluntary act for the purposes  
 25 therein expressed, and that each of us, in the presence and hearing

1 of the transferor, hereby signs this deed as witness to the  
 2 transferor's signing, and that to the best of his or her knowledge  
 3 the transferor is eighteen years of age or older or is not at this  
 4 time a minor and the transferor is of sound mind and under no  
 5 constraint or undue influence.

6 Witness .....

7 Witness .....

8 THE STATE OF .....

9 COUNTY OF .....

10 Subscribed, sworn to, and acknowledged before me  
 11 by ....., the transferor, and subscribed and sworn to before me  
 12 by ..... and ....., witnesses, this .... day of ....  
 13 20.....

14 (SEAL)(Signed) .....

15 (Official capacity of officer) .....

16 Sec. 10. (a) A transfer on death deed:

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

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

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

24 (4) Must be recorded (i) within thirty days after being  
 25 executed as required in section 9 of this act, (ii) before the

1 transferor's death, and (iii) in the public records in the office of  
2 the register of deeds of the county where the property is located.

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

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

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

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

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

1           Sec. 11. A transfer on death deed is effective without:

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

4           (2) Consideration.

5           Sec. 12. A completed statement as provided in subdivision  
6 (2)(a) of section 76-214 must be filed at the time that the  
7 conveyance of real estate transferred by a transfer on death deed  
8 becomes effective due to the death of the transferor or the death of  
9 a surviving joint tenant of the transferor.

10           Sec. 13. (a) Subject to subsection (b) of this section,  
11 an instrument is effective to revoke a recorded transfer on death  
12 deed, or any part of it, only if the instrument:

13           (1) Is one of the following:

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

16           (B) An instrument of revocation that expressly revokes  
17 the deed or part of the deed and that is executed with the same  
18 formalities as required in section 9 of this act; or

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

22           (2) Is acknowledged by the transferor after the  
23 acknowledgment of the deed being revoked and is recorded (i) within  
24 thirty days after being executed, (ii) before the transferor's death,  
25 and (iii) in the public records in the office of the register of

1 deeds of the county where the deed is recorded.

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

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

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

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

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

12 Sec. 14. During a transferor's life, a transfer on death  
13 deed does not:

14 (1) Affect an interest or right of the transferor or any  
15 other owner, including the right to transfer or encumber the  
16 property;

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

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

22 (4) Affect the transferor's or designated beneficiary's  
23 eligibility for any form of public assistance except to the extent  
24 provided in section 21 of this act;

25 (5) Create a legal or equitable interest in favor of the



1 designated beneficiary; or

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

4 Sec. 15. (a) Except as otherwise provided in the transfer  
5 on death deed, in this section, or in sections 30-2313 to 30-2319 or  
6 section 30-2354, on the death of the transferor, the following rules  
7 apply to property that is the subject of a transfer on death deed and  
8 owned by the transferor at death:

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

12 (2) The interest of a designated beneficiary is  
13 contingent on the designated beneficiary surviving the transferor by  
14 one hundred twenty hours. If the deed provides for a different  
15 survival period, the deed shall determine the survival requirement  
16 for designated beneficiaries. The interest of a designated  
17 beneficiary that fails to survive the transferor by one hundred  
18 twenty hours or as otherwise provided in the deed shall be treated as  
19 if the designated beneficiary predeceased the transferor;

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

23 (4) If the transferor has identified two or more  
24 designated beneficiaries to receive concurrent interests in the  
25 property, the share of one which fails for any reason is transferred

1 to the other, or to the others in proportion to the interest of each  
2 in the remaining part of the property held concurrently.

3 (b) A beneficiary takes the property subject to all  
4 conveyances, encumbrances, assignments, contracts, mortgages, liens,  
5 and other interests to which the property is subject at the  
6 transferor's death.

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

8 (1) Survived by one or more other joint owners, the  
9 property that is the subject of a transfer on death deed belongs to  
10 the surviving joint owner or owners with right of survivorship; or

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

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

16 (e) If after recording a transfer on death deed the  
17 transferor is divorced or his or her marriage is dissolved or  
18 annulled, the divorce, dissolution, or annulment revokes any  
19 disposition or appointment of property made by the transfer on death  
20 deed to the former spouse unless the transfer on death deed expressly  
21 provides otherwise. Property prevented from passing to a former  
22 spouse under a transfer on death deed because of revocation by  
23 divorce, dissolution, or annulment passes as if the former spouse  
24 failed to survive the transferor. A decree of separation which does  
25 not terminate the status of husband and wife is not a divorce for

1 purposes of this section.

2           Sec. 16. A beneficiary may disclaim all or part of the  
3 beneficiary's interest as provided by section 30-2352.

4           Sec. 17. (a) If other assets of the estate of the  
5 transferor are insufficient to pay all claims against the  
6 transferor's estate, statutory allowances to the transferor's  
7 surviving spouse and children, and the expenses of administration, a  
8 transfer under the Nebraska Uniform Real Property Transfer on Death  
9 Act subjects the beneficiary to personal liability as provided in  
10 this section to the extent needed to pay all claims against the  
11 transferor's estate, statutory allowances to the transferor's  
12 surviving spouse and children, and the expenses of administration.

13           (b)(1) A beneficiary who receives property through a  
14 transfer on death deed upon the death of the transferor is liable to  
15 account to the personal representative of the transferor's estate for  
16 a proportionate share of the fair market value of the equity in the  
17 interest received to the extent necessary to discharge the claims and  
18 allowances described in subsection (a) of this section remaining  
19 unpaid after application of the transferor's estate. For purposes of  
20 this subdivision (b)(1), the fair market value shall be determined as  
21 of the date of death of the transferor. For purposes of this  
22 subdivision (b)(1), the beneficiary's proportionate share means the  
23 proportionate share of all nonprobate transfers recovered by the  
24 personal representative for the payment of the claims and allowances  
25 under the Nebraska Uniform Real Property Transfer on Death Act and

1 sections 30-2726, 30-2743, and 30-3850.

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

8 (c) A beneficiary against whom a proceeding to account is  
9 brought may join as a party to the proceeding a surviving party or  
10 beneficiary of any other transfer on death deed for the same  
11 transferor or any other asset of the transferor subject to sections  
12 30-2726, 30-2743, and 30-3850.

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

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

18 Sec. 18. A beneficiary to whom an interest is transferred  
19 by a transfer on death deed shall be personally liable to account for  
20 medicaid reimbursement pursuant to section 68-919 and section 17 of  
21 this act to the extent necessary to discharge any such claim  
22 remaining unpaid after application of the assets of the transferor's  
23 estate. Such liability shall be limited to the value of the interest  
24 transferred to the beneficiary. The right to recover applies to  
25 medical assistance provided before, at the same time as, or after the

1 signing of and the recording of the transfer on death deed.

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

6           Sec. 20. (a) Except as otherwise provided in subsection  
7 (b) of this section, if property or any interest therein transferred  
8 to a beneficiary by a transfer on death deed is acquired by a  
9 purchaser or lender for value from a beneficiary of a transfer on  
10 death deed, the purchaser or lender takes title free of any claims of  
11 the estate, personal representative, surviving spouse, creditors, and  
12 any other person claiming by or through the transferor of the  
13 transfer on death deed and the purchaser or lender shall not incur  
14 any personal liability to the estate, personal representative,  
15 surviving spouse, creditors, or any other person claiming by or  
16 through the transferor of the transfer on death deed, whether or not  
17 the conveyance by the transfer on death deed was proper. Except as  
18 otherwise provided in subsection (b) of this section, to be protected  
19 under this section, a purchaser or lender need not inquire whether a  
20 transferor or beneficiary of the transfer on death deed acted  
21 properly in making the conveyance to the beneficiary by the transfer  
22 on death deed.

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

1           Sec. 21. The Department of Health and Human Services may  
2 require revocation of a transfer on death deed by a transferor, a  
3 transferor's spouse, or both a transferor and the transferor's spouse  
4 in order for the transferor to qualify or remain qualified for  
5 medicaid assistance.

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

10          Sec. 23. The Nebraska Uniform Real Property Transfer on  
11 Death Act modifies, limits, and supersedes the federal Electronic  
12 Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et  
13 seq., but does not modify, limit, or supersede section 101(c) of that  
14 act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of  
15 the notices described in section 103(b) of that act, 15 U.S.C.  
16 7003(b).

17          Sec. 24. Section 30-2352, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           30-2352 (a)(1) A person (or the representative of a  
20 deceased, incapacitated, or protected person) who is an heir,  
21 devisee, person succeeding to a renounced interest, donee,  
22 beneficiary under a testamentary or nontestamentary instrument, donee  
23 of a power of appointment, grantee, surviving joint owner or  
24 surviving joint tenant, beneficiary, or owner of an insurance  
25 contract or any incident of ownership therein, beneficiary or person

1 designated to take pursuant to a power of appointment exercised by a  
2 testamentary or nontestamentary instrument, person who has a  
3 statutory entitlement to or election with respect to property  
4 pursuant to the Nebraska Probate Code, designated beneficiary of a  
5 transfer on death deed, or recipient of any beneficial interest under  
6 any testamentary or nontestamentary instrument, may renounce in whole  
7 or in part, or with reference to specific parts, fractional shares,  
8 undivided portions or assets thereof, by filing a written instrument  
9 of renunciation within the time and at the place hereinafter  
10 provided.

11 (2) The instrument shall (i) describe the property or  
12 part thereof or the interest therein renounced, (ii) be signed and  
13 acknowledged by the person renouncing in the manner provided for in  
14 the execution of deeds of real estate, (iii) declare the renunciation  
15 and the extent thereof, and (iv) declare that the renunciation is an  
16 irrevocable and unqualified refusal to accept the renounced interest.

17 (3) The appropriate court in a proceeding under section  
18 30-3812, may direct or permit a trustee under a testamentary or  
19 nontestamentary instrument to renounce any restriction on or power of  
20 administration, management, or allocation of benefit upon finding  
21 that such restrictions on the exercise of such power may defeat or  
22 impair the accomplishment of the purposes of the trust whether by the  
23 imposition of tax or the allocation of beneficial interest  
24 inconsistent with such purposes or by other reason. Such authority  
25 shall be exercised after hearing and upon notice to qualified

1 beneficiaries as defined in section 30-3803, in the manner directed  
2 by the court.

3 (b) The instrument specified in (a)(1) and (a)(2) must be  
4 received by the transferor of the interest, his or her legal  
5 representative, the personal representative of a deceased transferor,  
6 the trustee of any trust in which the interest being renounced  
7 exists, or the holder of the legal title to the property to which the  
8 interest relates. To be effective for purposes of determining  
9 inheritance and estate taxes under articles 20 and 21 of Chapter 77,  
10 the instrument must be received not later than the date which is nine  
11 months after the later of (i) the date on which the transfer creating  
12 the interest in such person is made, or (ii) the date on which such  
13 person attains age twenty-one. If the circumstances which establish  
14 the right of a person to renounce an interest arise as a result of  
15 the death of an individual, the instrument shall also be filed in the  
16 court of the county where proceedings concerning the decedent's  
17 estate are pending, or where they would be pending if commenced. If  
18 an interest in real estate is renounced, a copy of the instrument  
19 shall also be recorded in the office of the register of deeds in the  
20 county in which the real estate lies. No person entitled to a copy of  
21 the instrument shall be liable for any proper distribution or  
22 disposition made without actual notice of the renunciation and no  
23 such person making a proper distribution or disposition in reliance  
24 upon the renunciation shall be liable for any such distribution or  
25 disposition in the absence of actual notice that an action has been



1 instituted contesting the validity of the renunciation.

2 (c) Unless the transferor of the interest has otherwise  
3 indicated in the instrument creating the interest, the interest  
4 renounced, and any future interest which is to take effect in  
5 possession or enjoyment at or after the termination of the interest  
6 renounced, passes as if the person renouncing had predeceased the  
7 decedent or had died prior to the date on which the transfer creating  
8 the interest in such person is made, as the case may be, if the  
9 renunciation is within the time periods set forth in subsection (b)  
10 and if not within such time periods the interest renounced, and any  
11 future interest which is to take effect in possession or enjoyment at  
12 or after the termination of the interest renounced, passes as if the  
13 person renouncing had died on the date the interest was renounced.  
14 The person renouncing shall have no power to direct how the interest  
15 being renounced shall pass, except that the renunciation of an  
16 interest for which the right to renounce was established by the death  
17 of an individual shall, in the case of the spouse of the decedent,  
18 relate only to that statutory provision or that provision of the  
19 instrument creating the interest being renounced and shall not  
20 preclude the spouse from receiving the benefits of the renounced  
21 interest which may be derived as a result of the renounced interest  
22 passing pursuant to other statutory provisions or pursuant to other  
23 provisions of the instrument creating the interest unless such  
24 further benefits are also renounced. In every case when the  
25 renunciation is within the time periods set forth in subsection (b)

1 the renunciation relates back for all purposes to the date of death  
2 of the decedent or the date on which the transfer creating the  
3 interest in such person is made, as the case may be.

4 (d) Any (1) assignment, conveyance, encumbrance, pledge,  
5 or transfer of property therein or any contract therefor, (2) written  
6 waiver of the right to renounce or any acceptance of property or  
7 benefits therefrom or an interest therein by an heir, devisee, person  
8 succeeding to a renounced interest, donee, beneficiary under a  
9 testamentary or nontestamentary instrument, donee of a power of  
10 appointment, grantee, surviving joint owner or surviving joint  
11 tenant, beneficiary or owner of an insurance contract or any incident  
12 of ownership therein, beneficiary or person designated to take  
13 pursuant to a power of appointment exercised by a testamentary or  
14 nontestamentary instrument, person who has a statutory entitlement to  
15 or election with respect to property pursuant to the Nebraska Probate  
16 Code, or recipient of any beneficial interest under any testamentary  
17 or nontestamentary instrument, or (3) sale or other disposition of  
18 property pursuant to judicial process, made within the time periods  
19 set forth in subsection (b) shall not bar the right to renounce, but  
20 shall make a subsequent renunciation within the time period set forth  
21 in subsection (b) of this section ineffective for purposes of  
22 determination of inheritance ~~and estate taxes under articles 20 and~~  
23 21 article 20 of Chapter 77. Any renunciation made after any part of  
24 the property has been assigned, conveyed, encumbered, pledged, or  
25 transferred is ineffective for the portion of the property which has

1 previously been assigned, conveyed, encumbered, pledged, or  
2 transferred.

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

14           (f) The right to renounce granted by this section exists  
15 irrespective of any limitation on the interest of the person  
16 renouncing in the nature of a spendthrift provision or similar  
17 restriction. A trust beneficiary whose interest is subject to any  
18 limitation in the nature of a spendthrift provision or similar  
19 restriction may assign, sell, or otherwise convey such interest or  
20 any part thereof upon a finding by a court in a proceeding under  
21 section 30-3812 that the rights of other beneficiaries would not be  
22 impaired and that such assignment, sale, or other conveyance would  
23 not result in any substantial benefit to nonbeneficiaries of the  
24 trust at the expense of the trust or trust beneficiaries. Such  
25 finding may be made after hearing and upon notice to all known

1 persons beneficially interested in such trust, in the manner directed  
2 by the court.

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

6 (h) Any interest in property which exists on July 19,  
7 1980, may be renounced after July 19, 1980, as provided herein. An  
8 interest which has arisen prior to July 19, 1980, in any person other  
9 than the person renouncing is not destroyed or diminished by any  
10 action of the person renouncing taken under this section.

11 Sec. 25. Section 30-2354, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 30-2354 (a) A surviving spouse, heir or devisee who  
14 feloniously and intentionally kills or aids and abets the killing of  
15 the decedent is not entitled to any benefits under the will or under  
16 this article, and the estate of the decedent passes as if such  
17 spouse, heir, or devisee had predeceased the decedent. Property  
18 appointed by the will of the decedent to or for the benefit of such  
19 devisee passes as if the devisee had predeceased the decedent.

20 (b) Any joint tenant who feloniously and intentionally  
21 kills or aids and abets the killing of another joint tenant thereby  
22 effects a severance of the interest of the decedent so that the share  
23 of the decedent passes as his property and such joint tenant has no  
24 rights by survivorship. This provision applies to joint tenancies and  
25 tenancies by the entirety in real and personal property, joint

1 accounts in banks, savings and loan associations, credit unions and  
2 other institutions, and any other form of co-ownership with  
3 survivorship incidents.

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

11 (d) Real property specified for a designated beneficiary  
12 of a transfer on death deed who feloniously and intentionally kills  
13 or aids and abets the killing of the transferor who signed the  
14 transfer on death deed or any other owner of the real property shall  
15 pass as if the designated beneficiary had predeceased the transferor.

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

19 ~~(e)~~-(f) A final judgment of conviction of felonious and  
20 intentional killing or aiding and abetting therein is conclusive for  
21 purposes of this section. In the absence of a conviction of felonious  
22 and intentional killing or aiding and abetting therein, the court may  
23 determine by a preponderance of evidence whether the killing or  
24 aiding and abetting therein was felonious and intentional for  
25 purposes of this section.

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

12            Sec. 26. Section 76-201, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14            76-201 ~~The term real estate, as used in~~ For purposes of  
15 sections 76-201 to 76-281 and section 31 of this act, the term real  
16 estate shall be construed as coextensive in meaning with lands,  
17 tenements, and hereditaments, and as embracing all chattels real,  
18 except leases for a term not exceeding one year.

19            Sec. 27. Section 76-202, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21            76-202 The term purchaser, as used in sections 76-201 to  
22 76-281 and section 31 of this act, shall be construed to embrace  
23 every person to whom any real estate or interest therein shall be  
24 conveyed for valuable consideration, and also any assignee of  
25 mortgage or lease, or other conditional estate.

1           Sec. 28. Section 76-203, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           76-203 The term deed, as used in sections 76-201 to  
4 76-281 and section 31 of this act, shall be construed to embrace  
5 every instrument in writing by which any real estate or interest  
6 therein is created, aliened, mortgaged, or assigned, or by which the  
7 title to any real estate may be affected in law or equity, except  
8 last wills and leases for one year or for a less time.

9           Sec. 29. Section 76-214, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           76-214 (1) Every grantee who has a deed to real estate  
12 recorded and every purchaser of real estate who has a memorandum of  
13 contract or land contract recorded shall, at the time such deed,  
14 memorandum of contract, or land contract is presented for recording,  
15 file with the register of deeds a completed statement as prescribed  
16 by the Tax Commissioner. For all deeds and all memoranda of contract  
17 and land contracts recorded on and after January 1, 2001, the  
18 statement shall not require the social security number of the grantee  
19 or purchaser or the federal employer identification number of the  
20 grantee or purchaser. This statement may require the recitation of  
21 any information contained in the deed, memorandum of contract, or  
22 land contract, the total consideration paid, the amount of the total  
23 consideration attributable to factors other than the purchase of the  
24 real estate itself, and other factors which may influence the  
25 transaction. If a death certificate is recorded as provided in

1 subsection (2) of this section, this statement may require a date of  
2 death, the name of the decedent, and whether the title is affected as  
3 a result of a transfer on death deed, a joint tenancy deed, or the  
4 expiration of a life estate or by any other means. This statement  
5 shall be signed and filed by the grantee, the purchaser, or his or  
6 her authorized agent. The register of deeds shall forward the  
7 statement to the county assessor. If the grantee or purchaser fails  
8 to furnish the prescribed statement, the register of deeds shall not  
9 record the deed, memorandum of contract, or land contract. The  
10 register of deeds shall indicate on the statement the book and page  
11 or computer system reference where the deed, memorandum of contract,  
12 or land contract is recorded and shall immediately forward the  
13 statement to the county assessor. The county assessor shall process  
14 the statement according to the instructions of the Property Tax  
15 Administrator and shall, pursuant to the rules and regulations of the  
16 Tax Commissioner, forward the statement to the Tax Commissioner.

17 (2)(a) The statement described in subsection (1) of this  
18 section shall be filed at the time that a certified or authenticated  
19 copy of the grantor's death certificate is filed if such death  
20 certificate is required to be filed under section 31 of this act.

21 (b) The statement described in subsection (1) of this  
22 section shall not be required to be filed at the time that a transfer  
23 on death deed is filed or at the time that an instrument of  
24 revocation of a transfer on death deed as described in subdivision  
25 (a)(1)(B) of section 13 of this act is filed.



1           ~~(2)-(3)~~ Any person shall have access to the statements at  
2 the office of the Tax Commissioner, county assessor, or register of  
3 deeds if the statements are available and have not been disposed of  
4 pursuant to the records retention and disposition schedule as  
5 approved by the State Records Administrator.

6           Sec. 30. Section 76-215, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           76-215 Any person who fails to obey the provisions of  
9 subsection (1) of section 76-214 shall be deemed guilty of a  
10 misdemeanor, and upon conviction thereof shall be fined in any sum  
11 not less than ten dollars nor exceeding five hundred dollars.

12           Sec. 31. If a conveyance of real estate was pursuant to  
13 (1) a transfer on death deed due to the death of the transferor or  
14 the death of a surviving joint tenant of the transferor, (2) a joint  
15 tenancy deed due to the death of a joint tenant, or (3) the  
16 expiration of a life estate, then a death certificate shall be filed  
17 with the register of deeds to document the transfer of title to the  
18 beneficiary of the transfer on death deed, to the surviving joint  
19 tenant or joint tenants, or to the holder of an interest in real  
20 estate which receives that interest as a result of the death of a  
21 life tenant.

22           Sec. 32. Section 76-238, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           76-238 (1) All-Except as otherwise provided in sections  
25 13, 14, and 15 of this act, all deeds, mortgages, and other

1 instruments of writing which are required to be or which under the  
2 laws of this state may be recorded, shall take effect and be in force  
3 from and after the time of delivering such instruments to the  
4 register of deeds for recording, and not before, as to all creditors  
5 and subsequent purchasers in good faith without notice. All such  
6 instruments are void as to all creditors and subsequent purchasers  
7 without notice whose deeds, mortgages, or other instruments are  
8 recorded prior to such instruments. However, such instruments are  
9 valid between the parties to the instrument.

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

21 (3) For purposes of this section:

22 (a) Agricultural products includes grain and feed crops;  
23 forages and sod crops; and animal production, including breeding,  
24 feeding, or grazing of cattle, horses, swine, sheep, goats, bees, or  
25 poultry;

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

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

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

17           Sec. 33. Section 76-246, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           76-246 No instrument containing a power to convey, or in  
20 any manner to affect real estate, executed, acknowledged or proved,  
21 and certified and recorded in conformity with the requirements of  
22 sections 76-211 to 76-245 and section 31 of this act, can be revoked  
23 by any act of the party or parties thereto until the instrument of  
24 revocation is executed, acknowledged or proved, and certified and  
25 filed for record with the register of deeds of the county in which

1 the power is recorded.

2 Sec. 34. Section 76-277, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 76-277 ~~The provisions of sections~~ Sections 76-201 to  
5 76-281 ~~shall~~ and section 31 of this act apply to the conveyance of  
6 all claims and improvements upon the public lands.

7 Sec. 35. Section 76-902, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 76-902 The tax imposed by section 76-901 shall not apply  
10 to:

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

12 (2) Deeds to property transferred by or to the United  
13 States of America, the State of Nebraska, or any of their agencies or  
14 political subdivisions;

15 (3) Deeds which secure or release a debt or other  
16 obligation;

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

20 (5)(a) ~~Deeds between husband and wife, or spouses,~~  
21 between ex-spouses for the purpose of conveying any rights to  
22 property acquired or held during the marriage, or between parent and  
23 child, without actual consideration therefor, and (b) deeds to or  
24 from a family corporation, partnership, or limited liability company  
25 when all the shares of stock of the corporation or interest in the

1 partnership or limited liability company are owned by members of a  
2 family, or a trust created for the benefit of a member of that  
3 family, related to one another within the fourth degree of kindred  
4 according to the rules of civil law, and their spouses, for no  
5 consideration other than the issuance of stock of the corporation or  
6 interest in the partnership or limited liability company to such  
7 family members or the return of the stock to the corporation in  
8 partial or complete liquidation of the corporation or deeds in  
9 dissolution of the interest in the partnership or limited liability  
10 company. In order to qualify for the exemption for family  
11 corporations, partnerships, or limited liability companies, the  
12 property shall be transferred in the name of the corporation or  
13 partnership and not in the name of the individual shareholders,  
14 partners, or members;

15 (6) Tax deeds;

16 (7) Deeds of partition;

17 (8) Deeds made pursuant to mergers, consolidations,  
18 sales, or transfers of the assets of corporations pursuant to plans  
19 of merger or consolidation filed with the office of Secretary of  
20 State. A copy of such plan filed with the Secretary of State shall be  
21 presented to the register of deeds before such exemption is granted;

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

25 (10) Cemetery deeds;

- 1           (11) Mineral deeds;
- 2           (12) Deeds executed pursuant to court decrees;
- 3           (13) Land contracts;
- 4           (14) Deeds which release a reversionary interest, a  
5 condition subsequent or precedent, a restriction, or any other  
6 contingent interest;
- 7           (15) Deeds of distribution executed by a personal  
8 representative conveying to devisees or heirs property passing by  
9 testate or intestate succession;
- 10           (16) Transfer on death deeds or revocations of transfer  
11 on death deeds;
- 12           (17) Certified or authenticated death certificates  
13 pertaining to transfer on death deeds;
- 14           ~~(16)~~(18) Deeds transferring property located within the  
15 boundaries of an Indian reservation if the grantor or grantee is a  
16 reservation Indian;
- 17           ~~(17)~~(19) Deeds transferring property into a trust if the  
18 transfer of the same property would be exempt if the transfer was  
19 made directly from the grantor to the beneficiary or beneficiaries  
20 under the trust. No such exemption shall be granted unless the  
21 register of deeds is presented with a signed statement certifying  
22 that the transfer of the property is made under such circumstances as  
23 to come within one of the exemptions specified in this section and  
24 that evidence supporting the exemption is maintained by the person  
25 signing the statement and is available for inspection by the

1 Department of Revenue;

2 ~~(18)~~(20) Deeds transferring property from a trustee to a  
3 beneficiary of a trust;

4 ~~(19)~~(21) Deeds which convey property held in the name of  
5 any partnership or limited liability company not subject to  
6 subdivision (5) of this section to any partner in the partnership or  
7 member of the limited liability company or to his or her spouse;

8 ~~(20)~~(22) Leases;

9 ~~(21)~~(23) Easements; or

10 ~~(22)~~(24) Deeds which transfer title from a trustee to a  
11 beneficiary pursuant to a power of sale exercised by a trustee under  
12 a trust deed.

13 Sec. 36. This act becomes operative on January 1, 2013.

14 Sec. 37. Original sections 30-2352, 30-2354, 76-201,  
15 76-202, 76-203, 76-214, 76-215, 76-238, 76-246, 76-277, and 76-902,  
16 Reissue Revised Statutes of Nebraska, are repealed.