

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 345

Introduced by Wightman, 36.

Read first time January 18, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to transfer on death deeds; to amend sections
2 76-2,126 and 76-3409, Revised Statutes Cumulative
3 Supplement, 2012; to change requirements for transfer on
4 death deeds and filings related to transfer on death
5 deeds; to provide an operative date; to repeal the
6 original sections; and to declare an emergency.

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

1 Section 1. Section 76-2,126, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 76-2,126 If a conveyance of real estate was pursuant to
4 (1) a transfer on death deed due to the death of the transferor or
5 the death of a surviving joint tenant of the transferor, (2) a joint
6 tenancy deed due to the death of a joint tenant, or (3) the
7 expiration of a life estate, then a death certificate shall be filed
8 with the register of deeds to document the transfer of title to the
9 beneficiary of the transfer on death deed, to the surviving joint
10 tenant or joint tenants, or to the holder of an interest in real
11 estate which receives that interest as a result of the death of a
12 life tenant. A cover sheet indicating the title of the document, the
13 previously recorded document data, and the grantor, surviving
14 grantee, and legal description of the property being transferred
15 shall be attached to the death certificate.

16 Sec. 2. Section 76-3409, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 76-3409 (a) A transfer on death deed shall be signed by
19 the transferor or by some person in his or her presence and by his or
20 her direction and shall be attested in writing by two or more
21 ~~disinterested~~ witnesses, whose signatures along with the transferor's
22 signature shall be made before an officer authorized to administer
23 oaths under the laws of this state or under the laws of the state
24 where execution occurs and evidenced by the officer's certificate,
25 under official seal, in form and content substantially as follows:

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

10 Transferor

11 We, and, the witnesses, sign our names to
 12 this instrument, being first duly sworn, and do hereby declare to the
 13 undersigned authority that the transferor signs and executes this
 14 transfer on death deed to transfer his or her interest in the
 15 described real property and that he or she signs it willingly or
 16 willingly directs another to sign for him or her, and that he or she
 17 executes it as his or her free and voluntary act for the purposes
 18 therein expressed, and that each of us, in the presence and hearing
 19 of the transferor, hereby signs this deed as witness to the
 20 transferor's signing, and that to the best of his or her knowledge
 21 the transferor is eighteen years of age or older or is not at this
 22 time a minor and the transferor is of sound mind and under no
 23 constraint or undue influence.

24 Witness

25 Witness

1 THE STATE OF

2 COUNTY OF

3 Subscribed, sworn to, and acknowledged before me
4 by, the transferor, and subscribed and sworn to before me
5 by and, witnesses, this day of
6 20..... .

7 (SEAL)(Signed)

8 (Official capacity of officer)

9 (b) Any transfer on death deed executed pursuant to this
10 section with two witnesses, whether or not such witnesses are
11 disinterested witnesses, shall be fully legal, valid, binding, and
12 effectual for all purposes to the same extent as though such
13 instrument had, in the first instance, been duly executed with two
14 disinterested witnesses.

15 Sec. 3. This act becomes operative on January 1, 2013.

16 Sec. 4. Original sections 76-2,126 and 76-3409, Revised
17 Statutes Cumulative Supplement, 2012, are repealed.

18 Sec. 5. Since an emergency exists, this act takes effect
19 when passed and approved according to law.