

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1132

Introduced by Morfeld, 46.

Read first time January 19, 2022

Committee: Judiciary

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

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

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

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

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

8 76-3410 (a) A transfer on death deed:

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

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

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

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

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

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

26 WARNING: The designated beneficiary is personally liable, to the
27 extent of the value of the property transferred, to account for medicaid
28 reimbursement to the extent necessary to discharge any such claim
29 remaining after application of the assets of the transferor's estate. The
30 designated beneficiary may also be personally liable, to the extent of
31 the value of the property transferred, for claims against the estate,

1 statutory allowances to the transferor's surviving spouse and children,
2 and the expenses of administration to the extent needed to pay such
3 amounts by the personal representative.

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

8 WARNING: After the death of the transferor, the transferor's
9 insurance policy covers the property transferred for only sixty days.
10 Once the sixty-day period expires, the insurance policy no longer covers
11 the property. The designated beneficiary and the property would be
12 uninsured. The transferor should make arrangements with the transferor's
13 property and casualty insurer by naming the designated beneficiary in the
14 transferor's insurance policy. The beneficiary should inform the
15 transferor's insurer as soon as possible after the death of the
16 transferor. The beneficiary needs to make arrangements for insurance
17 coverage upon the property as soon as possible following the death of the
18 transferor, but in any event no later than the expiration of the sixty-
19 day coverage period. Premiums coming due must still be timely paid as
20 provided in the policy.

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

24 (c) No action may be commenced to set aside a transfer on death
25 deed, based on failure to comply with the requirement of disinterested
26 witnesses pursuant to section 76-3409, more than ninety days after the
27 date of death of the transferor or, if there is more than one transferor,
28 more than ninety days after the date of death of the last surviving
29 transferor.

30 (d) Notwithstanding subsection (c) of this section, an action to set
31 aside a transfer on death deed, based on failure to comply with the

1 requirement of disinterested witnesses pursuant to section 76-3409, in
2 which the transferor or, if there is more than one transferor, the last
3 surviving transferor, has died prior to May 8, 2013, shall be commenced
4 by the later of (1) ninety days after the date of death of the transferor
5 or, if there is more than one transferor, ninety days after the date of
6 death of the last surviving transferor, or (2) ninety days after May 8,
7 2013.

8 Sec. 3. (a) When there is a recorded transfer on death deed
9 transferring any real estate located in this state, the beneficiary of
10 the transfer on death deed shall become the named insured under any
11 policy insuring such property for a period of sixty calendar days
12 immediately following the death of the insured. At the time of the
13 transferor's death, the beneficiary of a transfer on death deed succeeds
14 to all rights and obligations of the transferor under such policy for the
15 sixty-day period.

16 (b) The beneficiary of a transfer on death deed shall not acquire
17 any interest in proceeds of a policy that have been paid out before
18 death.

19 (c) A beneficiary of a transfer on death deed may be named on an
20 insurance policy prior to the death of the insured but shall not be
21 treated as the named insured until the insured's death. However, there is
22 no requirement that the beneficiary be named in such policy before the
23 transferor's death.

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