

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2016

As Recommended by House Committee on
Judiciary

Brief*

HB 2016 would amend law regarding the effect of a transfer-on-death deed to real estate when a grantee beneficiary dies prior to the death of the record owner.

Current law provides, in this situation, the transfer shall lapse if an alternative grantee beneficiary has not been designated on the deed. The bill would amend this provision to apply it only where an alternative grantee beneficiary has not been designated to succeed to the deceased grantee beneficiary's interest and to lapse the transfer only with respect to any such deceased grantee's beneficiary.

The bill also would add an exception to this provision stating when the transfer-on-death deed was not made contingent on the grantee beneficiary surviving the record owner, and the deceased grantee beneficiary (beneficiary) leaves at least one then-surviving issue upon the death of the owner when such interest would otherwise have lapsed under the above provision, the interest would not lapse and would vest on the record owner's death in the then-surviving issue of the beneficiary on a *per stirpes* basis as successor grantee or grantees. [Note: *Per stirpes* is a legal term meaning "proportionally divided between beneficiaries according to their deceased ancestor's share."]

The bill would provide that any judicial proceeding initiated by an interested party to determine the succession of ownership of real estate of a deceased record owner

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

pursuant to the above provisions would be subject to the Kansas Probate Code to determine descent.

The bill would state its amendments would apply to deeds filed of record on or after July 1, 2023.

Background

The bill was introduced by the House Committee on Judiciary at the request of the Kansas Bar Association (KBA).

[*Note:* The bill is identical (with the exception of dates of applicability) to the provisions of 2021 HB 2152, as amended by the House Committee on Judiciary, which was passed by the House Committee on Judiciary, but did not pass the House.]

House Committee on Judiciary

In the House Committee hearing on January 17, 2023, a representative of the KBA testified as a **proponent** of the bill, stating the bill would clarify the operation of the statute when there is more than one transfer-on-death beneficiary or a deceased beneficiary has surviving issue. No opponent or neutral testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates enactment of the bill could have a fiscal effect on the Judicial Branch because the bill would allow property to be transferred without needing a court case (unless someone contests ownership), which could result in a decrease in the number of cases filed, and subsequently, a decrease in docket fee revenue. However, a precise fiscal effect cannot be determined because the number of fewer cases cannot be

estimated. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Transfer-on-death deed; predeceased beneficiary