

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2109

By Committee on Judiciary

1-23

1 AN ACT concerning the Kansas probate code; relating to transfer-on-death
2 deeds; lapsing or vesting of ownership in grantee beneficiary;
3 amending K.S.A. 59-3504 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 59-3504 is hereby amended to read as follows: 59-
7 3504. (a) Title to the interest in real estate recorded in transfer-on-death
8 form shall vest in the designated grantee beneficiary or beneficiaries on the
9 death of the record owner.

10 (b) Grantee beneficiaries of a transfer-on-death deed take the record
11 owner's interest in the real estate at death subject to all conveyances,
12 assignments, contracts, mortgages, liens and security pledges made by the
13 record owner or to which the record owner was subject during the record
14 owner's lifetime including, but not limited to, any executory contract of
15 sale, option to purchase, lease, license, easement, mortgage, deed of trust
16 or lien, claims of the state of Kansas for medical assistance, as defined in
17 K.S.A. 39-702, and amendments thereto, pursuant to ~~subsection (g)(2) of~~
18 K.S.A. 39-709(g)(2), and amendments thereto, and to any interest
19 conveyed by the record owner that is less than all of the record owner's
20 interest in the property.

21 ~~(c) If a grantee beneficiary dies prior to the death of the record owner~~
22 ~~and an alternative grantee beneficiary has not been designated on the deed,~~
23 ~~the transfer shall lapse.~~

24 (c) (1) *Except as provided in subsection (c)(2), a transfer of real*
25 *estate made pursuant to a transfer-on-death deed to a deceased grantee*
26 *beneficiary shall lapse if:*

27 (A) *The grantee beneficiary dies prior to the death of the record*
28 *owner;*

29 (B) ~~*the grantee beneficiary's interest in the real estate in the transfer-*~~
30 ~~*on-death deed was not specifically made contingent on such grantee*~~
31 ~~*beneficiary surviving the record owner*~~ **the deceased grantee beneficiary**
32 **did not leave any issue surviving the record owner; and**

33 (C) *an eligible alternative grantee beneficiary has not been*
34 *designated on the deed to succeed to such deceased grantee beneficiary's*
35 *interest.*

36 (2) *A transfer of real estate made pursuant to a transfer-on-death*

1 deed to a deceased grantee beneficiary shall vest in the surviving issue, as
2 defined in K.S.A. 59-615, and amendments thereto, of such deceased
3 grantee beneficiary, upon the record owner's death, if:

4 ~~(A) The deceased grantee beneficiary is a spouse, lineal descendent~~
5 ~~or other relative of the record owner, within six degrees of relationship by~~
6 ~~blood or adoption, as computed pursuant to K.S.A. 59-909, and~~
7 ~~amendments thereto;~~

8 ~~(B) the deceased grantee beneficiary leaves any issue surviving the~~
9 ~~record owner; and~~

10 ~~(C)~~ **(B)** the transfer of real estate would have otherwise vested in the
11 deceased grantee beneficiary, had the deceased grantee beneficiary
12 survived the record owner.

13 (d) The provisions of the Kansas probate code, K.S.A. 59-101 et seq.,
14 and amendments thereto, shall apply to any judicial proceeding initiated
15 by an interested party to determine succession of ownership of real estate
16 of a deceased record owner, if the grantee beneficiary has predeceased the
17 deceased record owner.

18 (e) (1) The amendments to this section by this act shall apply to all
19 ~~record owners who die~~ **transfer-on-death deeds recorded** on or after
20 July 1, 2015.

21 (2) The amendments to this section by this act shall not apply to
22 ~~record owners who died~~ **transfer-on-death deeds recorded** before July 1,
23 2015.

24 Sec. 2. K.S.A. 59-3504 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.