

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2152

By Committee on Judiciary

1-27

1 AN ACT concerning the probate code; relating to transfer-on-death;  
2 clarifying how property held under a transfer-on-death deed is  
3 distributed when one beneficiary predeceases the grantor; amending  
4 K.S.A. 2020 Supp. 59-3504 and repealing the existing section.

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

7 Section 1. K.S.A. 2020 Supp. 59-3504 is hereby amended to read as  
8 follows: 59-3504. (a) Title to the interest in real estate recorded in transfer-  
9 on-death form shall vest in the designated grantee beneficiary or  
10 beneficiaries on the death of the record owner.

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

21 (c) (1) *Except as provided in subsection (c)(2), if a grantee*  
22 *beneficiary dies prior to the death of the record owner, ~~such grantee~~*  
23 *beneficiary's interest in such real estate in the transfer-on-death deed was*  
24 *not specifically made contingent on such grantee beneficiary surviving the*  
25 *record owner, and an alternative grantee beneficiary has not been*  
26 *designated on the deed to succeed to such deceased grantee beneficiary's*  
27 *interest, the transfer, with respect to any such deceased grantee*  
28 *beneficiary, shall lapse.*

29 (2) *When the transfer-on-death deed was not made contingent on*  
30 *such grantee beneficiary surviving the record owner and a deceased*  
31 *grantee beneficiary leaves at least one then-surviving issue of such*  
32 *beneficiary upon the death of the owner when such interest would*  
33 *otherwise have lapsed under subsection (c)(1), the interest in the real*  
34 *estate shall not lapse and shall vest on such record owner's death in the*  
35 *then-surviving issue of the deceased grantee beneficiary on a per stirpes*  
36 *basis as successor grantee or grantees.*

1        *(d) Any judicial proceeding initiated by an interested party to*  
2        *determine the succession of ownership of real estate of a deceased record*  
3        *owner pursuant to subsection (c) shall be subject to chapter 59 of the*  
4        *Kansas Statutes Annotated, and amendments thereto, to determine*  
5        *descent.*

6        *(e) The amendments made to this section by this act shall apply to*  
7        *deeds filed of record on or after July 1, ~~2014~~ 2021.*

8        Sec. 2. K.S.A. 2020 Supp. 59-3504 is hereby repealed.

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