

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2109

As Amended by House Committee on Judiciary

Brief*

HB 2109 would amend the Kansas Probate Code concerning transfer-on-death deeds.

Specifically, the bill would strike language that provides for the lapse of a transfer-on-death deed if the grantee beneficiary dies prior to the death of the record owner and an alternative has not been designated. Instead, the bill would provide that the transfer would lapse if the grantee beneficiary dies prior to the death of the record owner; the deceased beneficiary did not leave any issue surviving the record owner; and an eligible alternative grantee beneficiary has not been designated on the deed to succeed the interest of the deceased grantee beneficiary. Further, the bill would provide that a transfer to a deceased grantee beneficiary would vest in his or her surviving issue upon the record owner's death if the deceased grantee beneficiary leaves any issue surviving the record owner and the transfer of real estate otherwise would have vested in the deceased had the deceased survived the record owner.

The bill specifies the Probate Code would apply to any judicial proceedings initiated by an interested party to determine succession of ownership of real estate of a deceased record owner if the grantee beneficiary has predeceased the deceased record owner. Further, the bill states these amendments would apply to transfer-on-death deeds recorded after July 1, 2015, but would not apply to those recorded before such date.

*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>

Background

In the House Judiciary Committee, a representative of the Kansas Bar Association, who requested introduction of the bill, appeared as a proponent, explaining the bill would address ambiguity in the statutes. No opponents offered testimony.

The House Committee amended language concerning lapse of a transfer to replace a requirement that the grantee beneficiary's interest in the real estate was not specifically made contingent on surviving the record owner. The Committee added language to instead require that the deceased beneficiary did not leave any issue surviving the record owner. The Committee also removed language that would have required the deceased grantee beneficiary to be a spouse, lineal descendent, or other relative of the record owner, within six degrees of relationship by blood or adoption for the transfer to vest. Finally, the Committee agreed to make the act applicable to all transfer-on-death deeds recorded after July 1, 2015, rather than apply to record owners who died after that date.

The fiscal note prepared by the Division of the Budget indicates passage would have no fiscal effect on the Judicial Branch.