Session of 2021

HOUSE BILL No. 2152

By Committee on Judiciary

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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.

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

7 K.S.A. 2020 Supp. 59-3504 is hereby amended to read as Section 1. 8 follows: 59-3504. (a) Title to the interest in real estate recorded in transferon-death form shall vest in the designated grantee beneficiary or 9 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 owner's lifetime including, but not limited to, any executory contract of 15 16 sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, claims of the state of Kansas for medical assistance, as defined in 17 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.

(c) (1) Except as provided in subsection (c)(2), if a grantee 21 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 When a deceased grantee beneficiary leaves at least one then-(2)30 surviving issue of such beneficiary upon the death of the owner when such 31 interest would otherwise have lapsed under subsection (c)(1), the interest 32 in the real estate shall not lapse and shall vest on such record owner's 33 death in the then-surviving issue of the deceased grantee beneficiary on a 34 per stirpes basis as successor grantee or grantees.

35 (d) Any judicial proceeding initiated by an interested party to determine the succession of ownership of real estate of a deceased record 36

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- 1 owner pursuant to subsection (c) shall be subject to chapter 59 of the
- 2 Kansas Statutes Annotated, and amendments thereto, to determine 3 descent.
- 4 *(e)* The amendments made to this section by this act shall apply to 5 deeds filed of record on or after July 1, 2014.
 - Sec. 2. K.S.A. 2020 Supp. 59-3504 is hereby repealed.
- 7 Sec. 3. This act shall take effect and be in force from and after its 8 publication in the statute book.