CHAPTER 91--H.F.No. 3925

An act relating to real property; providing for property insurance for grantee beneficiaries of transfer on death deeds; making technical, clarifying, and conforming changes to transfer on death deeds; amending Minnesota Statutes 2022, section 507.071; proposing coding for new law in Minnesota Statutes, chapter 507.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2022, section 507.071, is amended to read:

507.071 TRANSFER ON DEATH DEEDS.

Subdivision 1. **Definitions.** For the purposes of this section the following terms have the meanings given:

(a) "Beneficiary" or "grantee beneficiary" means a person or entity named as a grantee beneficiary in a transfer on death deed, including a successor grantee beneficiary.

(b) "County agency" means the county department or office designated to recover medical assistance benefits from the estates of decedents.

(c) "Grantor owner" means an owner, whether individually, as a joint tenant, or as a tenant in common, named as a grantor in a transfer on death deed upon whose death the conveyance or transfer of the described real property is conditioned. Grantor owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(d) "Owner" means a person having an ownership or other interest in all or part of the real property to be conveyed or transferred by a transfer on death deed either at the time the deed is executed or at the time the transfer becomes effective. Owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(e) "Property" and "interest in real property" mean any interest in real property located in this state which is transferable on the death of the owner and includes, without limitation, an interest in real property defined in chapter 500, a mortgage, a deed of trust, a security interest in, or a security pledge of, an interest in real property, including the rights to payments of the indebtedness secured by the security instrument, a judgment, a tax lien, both the seller's and purchaser's interest in a contract for deed, land contract, purchase agreement, or earnest money contract for the sale and purchase of real property, including the rights to payments under such contracts, or any other lien on, or interest in, real property.

(f) "Recorded" means recorded in the office of the county recorder or registrar of titles, as appropriate for the real property described in the instrument to be recorded.

(g) "State agency" means the Department of Human Services or any successor agency.

(h) "Transfer on death deed" means a deed authorized under this section.

Subd. 2. **Effect of transfer on death deed.** A deed that conveys or assigns an interest in real property, to a grantee beneficiary and that expressly states that the deed is only effective on the death of one or more of the grantor owners, transfers the interest to the grantee beneficiary upon the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, but subject to the survivorship provisions and requirements of section 524.2-702. Until a transfer on death deed becomes effective, it has no effect on title to the real property described in the deed, but it does create an insurable interest in the real property in favor of the designated grantee beneficiary or beneficiaries for purposes of insuring the real property against loss or damage that occurs on or after the transfer on death deed becomes effective. A transfer on death deed must comply with all provisions of Minnesota law applicable to deeds of real property including, but not limited to, the provisions of sections 507.02, 507.24, 507.34, 508.48, and 508A.48. If a spouse who is neither a grantor owner nor an owner joins in the execution of, or consents in writing to, the transfer on death deed, such joinder or consent shall be conclusive proof that upon the transfer becoming effective, the spouse no longer has or can claim any statutory interest or other marital interest in the interest in real property transferred by the transfer on death deed. However, such transfer shall remain an interest as identified in section 256B.15 for purposes of complying with and satisfying any claim or lien as authorized by subdivision 3.

Subd. 3. **Rights of creditors and rights of state and county under sections 246.53, 256B.15, 256D.16, 261.04, and 514.981.** The interest transferred to a beneficiary under a transfer on death deed after the death of a grantor owner is transferred subject to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, judgments, tax liens, and any other matters or encumbrances to which the interest was subject on the date of death of the grantor owner, upon whose death the transfer becomes effective including, but not limited to, any claim by a surviving spouse who did not join in the execution of, or consent in writing to, the transfer on death deed, and any claim or lien by the state or county agency authorized by sections 246.53, 256B.15, 256D.16, 261.04, and 514.981, if other assets of the deceased grantor's estate are insufficient to pay the amount of any such claim. A beneficiary to whom the interest is transferred after the death of a grantor owner shall be liable to account to the state or county agency with a claim or lien authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the deceased grantor owner's estate, but such liability shall be limited to the value of the interest transferred to the beneficiary. To establish compliance with this subdivision and subdivision 23, the beneficiary must record a clearance certificate issued in accordance with subdivision 23 in each county in which the real property described in the transfer on death deed is located.

Subd. 4. **Multiple grantee beneficiaries.** A transfer on death deed may designate multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any other form of ownership or tenancy that is valid under the laws of this state. If a grantee joint tenant dies before the grantor owner upon whose death the transfer occurs and no successor beneficiary for the deceased grantee is designated in the transfer on death deed, the surviving joint tenants are the successors and no interest lapses.

Subd. 5. **Successor grantee beneficiaries.** A transfer on death deed may designate one or more successor grantee beneficiaries or a class of successor grantee beneficiaries, or both. If the transfer on death deed designates successor grantee beneficiaries or a class of successor grantee beneficiaries, the deed shall state the condition under which the interest of the successor grantee beneficiaries would vest.

Subd. 6. **Multiple joint tenant grantors.** If an interest in real property is owned as joint tenants, a transfer on death deed executed by all of the owners and, if required by section 507.02, their respective spouses, if any, that conveys an interest in real property to one or more grantee beneficiaries transfers the interest to the grantee beneficiary or beneficiaries effective only after the death of the last surviving grantor owner. If the last surviving joint tenant owner did not execute the transfer on death deed, the deed is ineffective

to transfer any interest and the deed is void. An estate in joint tenancy is not severed or affected by the subsequent execution of a transfer on death deed and the right of a surviving joint tenant owner who did not execute the transfer on death deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the deed specifically states that it severs the joint tenancy ownership.

Subd. 7. **Execution by attorney-in-fact.** A transfer on death deed may be executed by a duly appointed attorney-in-fact pursuant to a power of attorney which grants the attorney-in-fact the authority to execute deeds.

Subd. 8. **Recording requirements and authorization.** A transfer on death deed is valid if the deed is recorded in a county in which at least a part of the real property described in the deed is located and is recorded before the death of the grantor owner upon whose death the conveyance or transfer is effective. Notwithstanding the definition of recorded under subdivision 1, if the real property is registered property, a transfer on death deed that was recorded incorrectly or incompletely is valid if the deed was recorded before the death of the grantor owner in the office of the county recorder or the registrar of titles in a county in which at least part of the real property is located, and is memorialized on the certificate of title after death. A transfer on death deed is not effective for purposes of section 507.34, 508.47, or 508A.47 until the deed is properly recorded in the county in which the real property is located. When a transfer on death deed is presented for recording, no certification by the county auditor as to transfer of ownership and current and delinquent taxes shall be required or made and the transfer on death deed shall not be required to be accompanied by a certificate of real estate value. A transfer on death deed that otherwise satisfies all statutory requirements for recording may be recorded and shall be accepted for recording in the county in which the property described in the deed is located. If any part of the property described in the transfer on death deed is registered property, the registrar of titles shall accept the transfer on death deed for recording only if at least one of the grantors who executes the transfer on death deed appears of record to have an ownership interest or other interest in the real property described in the deed. No certification or approval of a transfer on death deed shall be required of the examiner of titles prior to recording of the deed in the office of the registrar of titles.

Subd. 9. **Deed to trustee or other entity.** A transfer on death deed may transfer an interest in real property to the trustee of an inter vivos trust even if the trust is revocable, to the trustee of a testamentary trust or to any other entity legally qualified to hold title to real property under the laws of this state.

Subd. 10. **Revocation or modification of transfer on death deed.** (a) A transfer on death deed may be revoked at any time by the grantor owner or, if there is more than one grantor owner, by any of the grantor owners. A revocation revokes the transfer on death deed in its entirety. To be effective, the revocation must be recorded in a county in which at least a part of the real property is located before the death of the grantor owner or owners who execute the revocation. Notwithstanding the definition of recorded under subdivision 1, if the real property is registered property, a revocation that was recorded incorrectly or incompletely is effective if it was recorded before the death of the grantor owner in the office of the county recorder or the registrar of titles in a county in which at least part of the real property is located, and is memorialized on the certificate of title after death. The revocation is not effective for purposes of section 507.34, 508.47, or 508A.47 until the revocation is properly recorded in a county in which the real property is located.

(b) If a grantor owner conveys to a third party, subsequent to the recording of the transfer on death deed, by means other than a transfer on death deed, all or a part of such grantor owner's interest in the property described in the transfer on death deed, no transfer of the conveyed interest shall occur on such grantor owner's death and the transfer on death deed shall be ineffective as to the conveyed or transferred interests, but the transfer on death deed remains effective with respect to the conveyance or transfer on death of any

other interests described in the transfer on death deed owned by the grantor owner at the time of the grantor owner's death.

(c) A transfer on death deed is a "governing instrument" within the meaning of section 524.2-804 and, except as may otherwise be specifically provided for in the transfer on death deed, is subject to the same provisions as to revocation, revival, and nonrevocation set forth in section 524.2-804.

Subd. 11. **Antilapse; deceased beneficiary; words of survivorship.** (a) Except when a successor grantee beneficiary is designated in the transfer on death deed for the grantee beneficiary who did not survive the grantor owner, if a grantee beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor owner fails to survive the grantor owner, the issue of the deceased grantee beneficiary who survive the grantor owner take in place of the deceased grantee beneficiary. If they are all of the same degree of kinship to the deceased grantee beneficiary, they take equally. If they are of unequal degree, those of more remote degree take by right of representation.

(b) For the purposes of this subdivision, words of survivorship such as, in a conveyance to an individual, "if he or she survives me," or, in a class gift, to "my surviving children," are a sufficient indication of intent to condition the conveyance or transfer upon the beneficiary surviving the grantor owner.

(c) When issue of a deceased grantee beneficiary or members of a class take in place of the named grantee beneficiary pursuant to subdivision 5 or paragraph (a) or (b) or when a beneficiary dies and has no issue under paragraph (a), an affidavit of survivorship stating the names and shares of the beneficiaries or stating that a deceased beneficiary had no issue is not conclusive and a court order made in accordance with Minnesota probate law determining the beneficiaries and shares must also be recorded.

Subd. 12. **Lapse.** If all beneficiaries and all successor beneficiaries, if any, designated in a transfer on death deed, and also all successor beneficiaries who would take under the antilapse provisions of subdivision 11, fail to survive the grantor owner or the last survivor of the grantor owners if there are multiple grantor owners, if the beneficiary is a trust which has been revoked prior to the grantor owner's death, or if the beneficiary is an entity no longer in existence at the grantor owner's death, no transfer shall occur and the transfer on death deed is void.

Subd. 13. **Multiple transfer on death deeds.** If a grantor owner executes and records more than one transfer on death deed conveying the same interest in real property or a greater interest in the real property, or conveying part of the property in the earlier transfer on death deed, the transfer on death deed that has the latest acknowledgment date and that is recorded before the death of the grantor owner upon whose death the conveyance or transfer is conditioned is the effective transfer on death deed and all other transfer on death deeds, if any, executed by the grantor owner or the grantor owners are ineffective to transfer any interest and are void, except that if the later transfer on death deed included only part of the land of the earlier deed, the earlier deed is effective for the lands not included in the subsequent deed, absent language to the contrary in the subsequent deed.

Subd. 14. **Nonademption; unpaid proceeds of sale, condemnation, or insurance; sale by conservator or guardian.** If at the time of the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, the grantor owner did not own a part or all of the real property described in the transfer on death deed, no conveyance or transfer to the beneficiary of the nonowned part of the real property shall occur upon the death of the grantor owner and the transfer on death deed is void as to the nonowned part of the real property, but the beneficiary shall have the same rights to unpaid proceeds of sale, condemnation or insurance, and, if sold by a conservator or guardian of the grantor owner during the grantor

owner's lifetime, the same rights to a general pecuniary devise, as that of a specific devisee as set forth in section 524.2-606.

Subd. 15. **Nonexoneration.** Except as otherwise provided in subdivision 3, a conveyance or transfer under a transfer on death deed passes the described property subject to any mortgage or security interest existing at the date of death of the grantor owner, without right of exoneration, regardless of any statutory obligations to pay the grantor owner's debts upon death and regardless of a general directive in the grantor owner's will to pay debts.

Subd. 16. **Disclaimer by beneficiary.** A grantee beneficiary's interest under a transfer on death deed may be disclaimed as provided in sections 524.2-1101 to 524.2-1116, or as otherwise provided by law.

Subd. 17. **Effect on other conveyances.** This section does not prohibit other methods of conveying property that are permitted by law and that have the effect of postponing ownership or enjoyment of an interest in real property until the death of the owner. This section does not invalidate any deed that is not a transfer on death deed and that is otherwise effective to convey title to the interests and estates described in the deed that is not recorded until after the death of the owner.

Subd. 18. **Notice, consent, and delivery not required.** The signature, consent or agreement of, or notice to, a grantee beneficiary under a transfer on death deed, or delivery of the transfer on death deed to the grantee beneficiary, is not required for any purpose during the lifetime of the grantor owner.

Subd. 19. **Nonrevocation by will.** A transfer on death deed that is executed, acknowledged, and recorded in accordance with this section is not revoked by the provisions of a will.

Subd. 20. **Proof of survivorship and clearance from public assistance claims and liens; recording.** An affidavit of identity and survivorship with a certified copy of a record of death as an attachment may be combined with a clearance certificate under this section and the combined documents may be recorded separately or as one document in each county in which the real estate described in the clearance certificate is located. The affidavit must include the name and mailing address of the person to whom future property tax statements should be sent. The affidavit, record of death, and clearance certificate, whether combined or separate, shall be prima facie evidence of the facts stated in each, and the registrar of titles may rely on the statements to transfer title to the property described in the clearance certificate, except in cases where a court order is required pursuant to the provisions of subdivision 11, paragraph (c).

Subd. 21. **After-acquired property.** Except as provided in this subdivision, a transfer on death deed is not effective to transfer any interest in real property acquired by a grantor owner subsequent to the date of signing of a transfer on death deed. A grantor owner may provide by specific language in a transfer on death deed that the transfer on death deed will apply to any interest in the described property acquired by the grantor owner after the signing or recording of the deed.

Subd. 22. **Anticipatory alienation prohibited.** The interest of a grantee beneficiary under a transfer on death deed which has not yet become effective is not subject to alienation; assignment; encumbrance; appointment or anticipation by the beneficiary; garnishment; attachment; execution or bankruptcy proceedings; claims for alimony, support, or maintenance; payment of other obligations by any person against the beneficiary; or any other transfer, voluntary or involuntary, by or from any beneficiary.

Subd. 23. **Clearance for public assistance claims and liens.** Any person claiming an interest in real property conveyed or transferred by a transfer on death deed, or the person's attorney or other agent, may apply to the county agency in the county in which the real property is located for a clearance certificate for the real property described in the transfer on death deed. The application for a clearance certificate and the

clearance certificate must contain the legal description of each parcel of property covered by the clearance certificate. The county agency shall provide a sufficient number of clearance certificates to allow a clearance certificate to be recorded in each county in which the real property described in the transfer on death deed is located. The real property described in the clearance certificate is bound by any conditions or other requirements imposed by the county agency as specified in the clearance certificate. If the real property is registered property, a new certificate of title must not be issued until the clearance certificate is recorded. If the clearance certificate shows the continuation of a medical assistance claim or lien after issuance of the clearance certificate, the real property remains subject to the claim or lien. If the real property is registered property, the clearance certificate must be carried forward as a memorial in any new certificate of title. The application shall contain the same information and shall be submitted, processed, and resolved in the same manner and on the same terms and conditions as provided in section 525.313 for a clearance certificate in a decree of descent proceeding, except that a copy of a notice of hearing does not have to accompany the application. The application may contain a statement that the applicant, after reasonably diligent inquiry, is not aware of the existence of a predeceased spouse or the existence of a claim which could be recovered under section 246.53, 256B.15, 256D.16, 261.04, or 514.981. If the county agency determines that a claim or lien exists under section 246.53, 256B.15, 256D.16, 261.04, or 514.981, the provisions of section 525.313 shall apply to collection, compromise, and settlement of the claim or lien. A person claiming an interest in real property transferred or conveyed by a transfer on death deed may petition or move the district court, as appropriate, in the county in which the real property is located or in the county in which a probate proceeding affecting the estate of the grantor of the transfer on death deed is pending, for an order allowing sale of the real property free and clear of any public assistance claim or lien but subject to disposition of the sale proceeds as provided in section 525.313. On a showing of good cause and subject to such notice as the court may require, the court without hearing may issue an order allowing the sale free and clear of any public assistance claim or lien on such terms and conditions as the court deems advisable to protect the interests of the state or county agency.

Subd. 24. **Form of transfer on death deed.** A transfer on death deed may be substantially in the following form:

Transfer on Death Deed

I (we) ..... (grantor owner or owners and spouses, if any, with marital status designated), grantor(s), hereby convey(s) and quitclaim(s) to ..... (grantee beneficiary, whether one or more) effective (check only one of the following)

.... on the death of the grantor owner, if only one grantor is named above, or on the death of the last of the grantor owners to die, if more than one grantor owner is named above, or

.... on the death of (name of grantor owner)

..... (must be one of the grantor owners named above), the following described real property:

(Legal description)

If checked, the following optional statement applies:

....When effective, this instrument conveys any and all interests in the described real property acquired by the grantor owner(s) before, on, or after the date of this instrument.

.....

(Signature of grantor(s))

(acknowledgment)

Subd. 25. **Form of instrument of revocation.** An instrument of revocation may be substantially in the following form:

Revocation of Transfer on Death Deed

The undersigned hereby revokes the transfer on death deed recorded on ....., ..., as Document No. ..... (or in Book ..... of ....., Page .....) in the office of the (County Recorder) (Registrar of Titles) of ..... County, Minnesota, affecting real property legally described as follows:

(legal description)

Dated:

.....

Signature

(acknowledgment)

Subd. 26. **Jurisdiction.** In counties where the district court has a probate division, the application of subdivision 11 or other issues of interpretation or validity of the transfer on death deed, and actions to enforce a medical assistance lien or claim against real property described in a transfer on death deed and any matter raised in connection with enforcement shall be determined in the probate division. ~~Notwithstanding any other law to the contrary, the provisions of section 256B.15 shall apply to any proceeding to enforce a medical assistance lien or claim under chapter 524 or 525.~~ In other counties, the district court shall have jurisdiction to determine any matter affecting real property purporting to be transferred by a transfer on death deed. Notwithstanding any other law to the contrary, the provisions of section 256B.15 shall apply to any proceeding to enforce a medical assistance lien or claim under chapter 524 or 525.

Sec. 2. **[507.072] PROPERTY INSURANCE FOR GRANTEE BENEFICIARIES OF TRANSFER ON DEATH DEEDS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply unless the context indicates otherwise.

(b) "Grantee beneficiary" has the meaning given in section 507.071, subdivision 1.

(c) "Insurance policy" means an insurance policy governed by chapter 65A.

(d) "Transfer on death deed" means a deed described in section 507.071.

(e) "Grantor owner" has the meaning given in section 507.071, subdivision 1.

(f) "Extended coverage" or "temporary extended coverage" means insurance coverage continuing beyond the death of the named insured.

Subd. 2. **Insurance policy to include grantee beneficiary.** An insurer providing an insurance policy on real property transferred by a transfer on death deed shall provide temporary extended coverage on the real property to the designated grantee beneficiary for a period commencing on the date of death of the grantor owner and ending when the grantee beneficiary replaces the insurance policy on the insured property with an insurance policy or the expiration of the time limitations set forth in subdivision 4, whichever is sooner.

Subd. 3. **Notice to the insurer.** To obtain temporary extended coverage for a transfer on death deed as provided in this section, the grantor owner must notify the insurer of the existence of a transfer on death deed. The notice shall include the names and contact information of all designated grantee beneficiaries.

Subd. 4. **Coverage extended.** The coverage to be extended under this section applies only with respect to the insurance policy insuring the real property of the grantor owner. The period of extended coverage shall not exceed 30 days from the date of the grantor owner's death or the expiration date of the insurance policy, whichever is less. An insurer is not required to provide notice to the grantee beneficiary for cancellation of coverage following the shorter of the 30 days or expiration date of the policy or the placement of replacement insurance coverage.

Subd. 5. **Proof demanded; policy conditions.** Before making any payment for a claim under this section, the insurer may require proof that the claimant is a grantee beneficiary under a transfer on death deed, the transfer on death deed was recorded as provided in section 507.071, and that an affidavit of survivorship and death certificate of the grantor owner was recorded as provided in section 507.071. The grantee beneficiary shall comply with the conditions of the policy.

Subd. 6. **Insurable interest.** A grantee beneficiary does not hold an insurable interest in the real property described in a transfer on death deed prior to the death of the grantor owner. Any claim on the insured real property described in a transfer on death deed initiated before the death of the grantor owner or the death benefits associated with the policy prior to the death of the grantor owner shall be settled with the estate of the grantor owner, not with the grantee beneficiary. A grantee beneficiary is not entitled to recover benefits under an insurance policy extended as provided in this section in an amount greater than the grantee beneficiary's insurable interest at the time of loss or damage. A grantee beneficiary is not entitled to any amounts paid out in prior claims on the property. If the transfer on death deed designates multiple grantee beneficiaries, nothing in this section requires the insurer to pay an amount for loss or damage to the insured real property that exceeds the amount that would be owed to the grantor owner if the grantor owner was living at the time of loss or damage.

Subd. 7. **Warnings on transfer on death deeds.** On or after August 1 of the year of the effective date of this section, a transfer on death deed shall contain the following warnings in substantially the following form:

"Warning to Grantor Owner: Temporary extended coverage of any fire and casualty insurance policy on the property under Minnesota Statutes, chapter 65A, will exist only if the grantor owner has given notice to the insurer under Minnesota Statutes, section 507.072, subdivision 3, including the existence of a transfer on death deed and the names and contact information of all designated grantee beneficiaries. Any temporary extended coverage terminates on the earlier of (1) 30 days after the date of the grantor owner's death, (2) the expiration date of the policy, or (3) upon placement of a replacement insurance policy.

Warning to Grantee Beneficiary: A grantee beneficiary shall not presume insurance coverage continues after the death of the grantor owner. Upon the death of the grantor owner, the grantee beneficiary should

determine whether the provisions of Minnesota Statutes, section 507.072, apply and consult with an insurance agent or attorney."

The failure to include warnings in a transfer on death deed in accordance with this subdivision shall not invalidate the transfer on death deed or affect recording of the transfer on death deed.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective on the day following final enactment and apply to insurance policies issued or renewed in Minnesota on or after August 1 of the year of final enactment. Sections 1 and 2 do not apply to insurance policies issued or renewed prior to August 1 of the year of final enactment or to transfer on death deeds recorded prior to that date unless the grantor owner provides the notice specified by section 2, subdivision 3.

Presented to the governor April 25, 2024