

Amendment No. 327

Assembly Amendment to Assembly Bill No. 414	(BDR 32-648)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/BAW



Date: 4/14/2021

A.B. No. 414—Revises provisions governing the transfer of real property pursuant to a deed becoming effective upon the death of the grantor.
(BDR 32-648)



ASSEMBLY BILL NO. 414—ASSEMBLYMAN O’NEILL

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the transfer of real property pursuant to a deed becoming effective upon the death of the grantor. (BDR 32-648)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to real property; revising the exemption from real property transfer taxes for the conveyance of real property under a deed which becomes effective upon the death of the grantor; revising provisions governing the enforcement of claims against real property transferred pursuant to a deed upon death; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a person to create a deed that transfers his or her real property to a
2 beneficiary or multiple beneficiaries pursuant to a deed that becomes effective upon the
3 person’s death and refers to such a deed as a deed upon death. (NRS 111.661, 111.669) Under
4 existing law, upon the death of the last grantor of a deed upon death, a declaration of the value
5 of the real property being transferred and a copy of the death certificate must be attached to a
6 Death of Grantor Affidavit and recorded in the office of the county recorder in which the deed
7 upon death was recorded. (NRS 111.699) Existing law exempts from taxes on the transfer of
8 real property any conveyance of real property by a deed upon death. (NRS 375.090) **Section 1**
9 of this bill provides that upon the recording of the Death of Grantor Affidavit in the office of
10 the county recorder upon the death of the grantor, the conveyance of real property is also
11 exempt from taxes imposed on the transfer of real property. **Sections 3 and 6** of this bill
12 provide that this exemption applies to any Death of Grantor Affidavit recorded in the office of
13 a county recorder on or after the passage and approval of this bill.

14 Under existing law, if the probate estate of the grantor of a deed upon death is insufficient
15 to satisfy certain claims or allowances against the estate, the estate is authorized to enforce the
16 liability for the claim or allowance against the property transferred pursuant to the deed upon
17 death. Existing law requires a proceeding to enforce this liability to be commenced not later
18 than 18 months after the death of the grantor. (NRS 111.689) **Sections 2 and 4** of this bill
19 remove this limitation and establish a procedure for claims to be made against property
20 transferred pursuant to a deed upon death if the grantor of the deed upon death dies on or after
21 July 1, 2021. Under **section 2**, the beneficiary or beneficiaries under a deed upon death are
22 required to provide certain notice of the death of the grantor of the deed upon death, **including**
23 **to, among others, the Department of Health and Human Services**, and a person **or entity**
24 who has a claim against the grantor or his or her probate estate is required to file the claim
25 with the beneficiary or beneficiaries within 90 days after the notice is provided. If a claim is
26 not filed within 90 days after the notice is provided, any claim against the grantor or his or her

27 probate estate can no longer be made against the property transferred pursuant to the deed
 28 upon death, and the beneficiary or beneficiaries under the deed upon death are authorized to
 29 sell or distribute the property without personal liability for any claim which was not timely
 30 filed. § if the beneficiary or beneficiaries have received a waiver of claim after providing
 31 the written notice to the Department of Health and Human Services. If the beneficiary or
 32 beneficiaries under a deed upon death reject, in whole or in part, any claim that is timely filed,
 33 the beneficiary or beneficiaries are required to notify the claimant and the claimant is
 34 authorized to bring a suit in the court with jurisdiction against the beneficiary or beneficiaries
 35 but such suit must be brought within 30 days after the beneficiary or beneficiaries provided
 36 notice of the rejection of the claim. Finally, **section 2:** (1) establishes a procedure for the
 37 beneficiary or beneficiaries under a deed upon death to provide notice to the Department of
 38 Health and Human Services; ~~if the beneficiary or beneficiaries know or have reason to know~~
 39 ~~that the grantor of the deed upon death was a recipient of public assistance; and~~ (2) provides
 40 that the property transferred pursuant to such a deed upon death remains subject to any claim
 41 by the Department to recover public assistance provided to the grantor. §; and (3) provides
 42 that a person dealing with a beneficiary of a deed upon death has the same rights and
 43 protections as the person would have if the beneficiary had been named as a distributee
 44 of the property in an order for distribution of the grantor's estate that had become final
 45 if the person acted in good faith and for valuable consideration and a Death of Grantor
 46 Affidavit was recorded by the county recorder.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 375.090 is hereby amended to read as follows:
 2 375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not
 3 apply to:
 4 1. A mere change in identity, form or place of organization, such as a transfer
 5 between a business entity and its parent, its subsidiary or an affiliated business
 6 entity if the affiliated business entity has identical common ownership.
 7 2. A transfer of title to the United States, any territory or state or any agency,
 8 department, instrumentality or political subdivision thereof.
 9 3. A transfer of title recognizing the true status of ownership of the real
 10 property, including, without limitation, a transfer by an instrument in writing
 11 pursuant to the terms of a land sale installment contract previously recorded and
 12 upon which the taxes imposed by this chapter have been paid.
 13 4. A transfer of title without consideration from one joint tenant or tenant in
 14 common to one or more remaining joint tenants or tenants in common.
 15 5. A transfer, assignment or other conveyance of real property if the owner of
 16 the property is related to the person to whom it is conveyed within the first degree
 17 of lineal consanguinity or affinity.
 18 6. A transfer of title between former spouses in compliance with a decree of
 19 divorce.
 20 7. A transfer of title to or from a trust without consideration if a certificate of
 21 trust is presented at the time of transfer.
 22 8. Transfers, assignments or conveyances of unpatented mines or mining
 23 claims.
 24 9. A transfer, assignment or other conveyance of real property to a
 25 corporation or other business organization if the person conveying the property
 26 owns 100 percent of the corporation or organization to which the conveyance is
 27 made.
 28 10. A conveyance of real property by deed which becomes effective upon the
 29 death of the grantor pursuant to NRS 111.655 to 111.699, inclusive ~~§~~, and a

Death of Grantor Affidavit recorded in the office of the county recorder pursuant to NRS 111.699.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

13. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

14. A transfer to a library foundation. As used in this subsection, "library foundation" has the meaning ascribed to it in NRS 379.0056.

Sec. 2. NRS 111.689 is hereby amended to read as follows:

111.689 1. To the extent the grantor's probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred pursuant to a deed upon death.

2. If more than one property is transferred pursuant to one or more deeds upon death, the liability for any claim must be apportioned among the properties in proportion to their net values at the grantor's death.

3. ~~[A proceeding to enforce the liability under this section must be commenced not later than 18 months after the grantor's death.]~~ *The beneficiary or beneficiaries under a deed upon death must, after the death of the grantor, cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to ~~known~~:*

(a) The personal representative of the grantor, if known;

(b) The Department of Health and Human Services; and

(c) Known or readily ascertainable creditors of the grantor or the probate estate of the grantor.

4. *The notice published pursuant to subsection 3 must be in substantially the following form:*

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is/are the beneficiary or beneficiaries under a deed upon death executed by (grantor(s)) on the day of,, and that said grantor(s) died on the day of,, and that said grantor(s) had a date of birth of the day of, A creditor having a claim against the grantor(s) or their estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated this day of,

1 *Beneficiary or Beneficiaries:*

2 *Address:*

3

4

5 5. A person or entity having a claim, due or to become due, against a

6 grantor or his or her probate estate, as applicable, must file the claim with the

7 beneficiary or beneficiaries within 90 days after the mailing, for those required to

8 be mailed, or 90 days after publication of the first notice to creditors pursuant to

9 subsection 3. Any claim against a grantor or the probate estate of a grantor, as

10 applicable, not filed within that time is forever barred. After the expiration of the

11 time to file a claim as provided in this section, the beneficiary or beneficiaries

12 may sell or distribute the property transferred pursuant to the deed upon death,

13 without personal liability for any claim which has not been timely filed with the

14 beneficiary or beneficiaries ~~if~~ if, in accordance with subsection 6, the beneficiary

15 or beneficiaries have received a waiver of claim after providing written notice to

16 the Department of Health and Human Services as required by subsection 3.

17 6. ~~[[If the beneficiary or beneficiaries under the deed upon death know or~~

18 ~~have reason to believe that the grantor received public assistance during the~~

19 ~~lifetime of the grantor, the beneficiary or beneficiaries shall give notice within 30~~

20 ~~days after the death of the grantor to the Department of Health and Human~~

21 ~~Services in the manner provided in NRS 155.010.] If notice to the Department [is~~

22 ~~required by this subsection but] of Health and Human Services is not given, the~~

23 ~~property transferred by the deed upon death remains subject to the right of the~~

24 ~~Department to recover public assistance received by the grantor. The Department~~

25 ~~may initiate an action to impose a lien on the real property transferred by the~~

26 ~~deed upon death pursuant to NRS 422.29306, take any other action allowable by~~

27 ~~law to secure the future recovery of benefits or make a written demand for~~

28 ~~payment, as applicable. The Department shall notify the beneficiary or~~

29 ~~beneficiaries in writing within 45 days after receipt of a notice pursuant to~~

30 ~~subsection 3 whether the grantor was a recipient of public assistance and, if he or~~

31 ~~she was not a recipient of assistance, provide an original waiver of claim to the~~

32 ~~beneficiaries for the purposes of recording the deed upon death.~~

33 7. ~~[[For claims not originating with the Department of Health and~~

34 ~~Human Services, if a claim is rejected by the beneficiary or beneficiaries under~~

35 ~~the deed upon death, in whole or in part, the beneficiary or beneficiaries must,~~

36 ~~within 10 days after the rejection, notify the claimant of the rejection by written~~

37 ~~notice sent by registered or certified mail to the mailing address of the claimant.~~

38 ~~The claimant must bring suit in the proper court against the beneficiary or~~

39 ~~beneficiaries within 30 days after the notice is sent, whether the claim is due or~~

40 ~~not, or the claim is barred forever and the beneficiary or beneficiaries under the~~

41 ~~deed upon death may distribute the property transferred by the deed upon death~~

42 ~~without personal liability to any creditor whose claim is barred forever.~~

43 8. A title company that is engaged regarding the transfer of the property

44 identified in a deed upon death ~~(must)~~ may recognize that the notices provided

45 pursuant to this section constitute adequate notice required by law. A title

46 company is not liable for claims of which the title company is not made aware by

47 the beneficiaries.

48 9. A person dealing with a beneficiary of a deed upon death has the same

49 rights and protections as the person would have if the beneficiary had been

50 named as a distributee of the property in an order for distribution of the grantor's

51 estate that had become final if both of the following conditions are satisfied:

- 52 (a) The person acted in good faith and for valuable consideration; and
- 53 (b) A Death of Grantor Affidavit was recorded pursuant to NRS 111.699.

1 **Sec. 3.** The amendatory provisions of section 1 of this act apply to a Death of
2 Grantor Affidavit recorded in the office of a county recorder pursuant to NRS
3 111.699 on or after the effective date of section 1 of this act.

4 **Sec. 4.** The amendatory provisions of section 2 of this act apply only if the
5 death of a grantor who makes a deed upon death pursuant to NRS 111.655 to
6 111.699, inclusive, occurs on or after July 1, 2021.

7 **Sec. 5.** Notwithstanding the provisions of NRS 218D.430 and 218D.435, a
8 committee, other than the Assembly Standing Committee on Ways and Means and
9 the Senate Standing Committee on Finance, may vote on this act before the
10 expiration of the period prescribed for the return of a fiscal note in NRS 218D.475.
11 This section applies retroactively from and after March 22, 2021.

12 **Sec. 6.** 1. This section and sections 1, 3 and 5 of this act become effective
13 upon passage and approval.

14 2. Sections 2 and 4 of this act become effective on July 1, 2021.