

CHAPTER.....

AN ACT relating to real property; enacting the Uniform Real Property Transfer on Death Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill replaces the provisions of existing law authorizing a person to convey real property in a deed which becomes effective upon his or her death with the provisions of the Uniform Real Property Transfer on Death Act. In this bill, the language of the Uniform Real Property Transfer on Death Act as drafted by the Uniform Law Commission has been modified with language specific to Nevada.

Section 12 of this bill maintains a provision of existing law which authorizes a person to create a deed that transfers his or her real property pursuant to a deed which becomes effective upon the person's death. **Section 15** of this bill maintains a provision of existing law which provides that, to make a deed upon death, a person must have the same capacity as required for the making of a will, and **section 16** of this bill maintains the requirement of existing law that the deed upon death be recorded. **Section 17** of this bill provides that the deed upon death is effective without consideration and without notice or delivery to, or acceptance by, the beneficiary during the lifetime of the person making the deed. **Section 24** of this bill provides a form that must be used to create a deed upon death which is substantially the same as the form contained in existing law.

Under **sections 13 and 25** of this bill, the person making a deed upon death retains the power to revoke the deed. **Section 13** keeps the provisions of existing law concerning the circumstances under which a deed upon death is void. **Section 25:** (1) provides a form that may be used to revoke a deed upon death which is substantially the same as the form contained in existing law; and (2) maintains the requirement in existing law that the revocation of a deed upon death be recorded. **Sections 19-23, 28 and 29** of this bill enact provisions governing the effect of a deed upon death which are substantially similar to existing law governing deeds upon death. **Section 19** limits the effect of a deed upon death during the life of the person making the deed. **Sections 21, 28 and 29** provide for the disclaimer of a beneficiary's interest by recording a disclaimer in the office of the county recorder of the county in which the property is located. **Section 22** provides that a decedent's property which is transferred pursuant to a deed upon death may be subject to the claims of his or her creditors under certain circumstances. **Section 23** maintains a provision of existing law which prohibits a deed upon death from limiting the recovery of Medicaid benefits.



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

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *Sections 2 to 27, inclusive, of this act may be cited as the Uniform Real Property Transfer on Death Act.*

Sec. 3. *As used in sections 2 to 27, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Beneficiary” means a person that receives property under a deed upon death.*

Sec. 4.5. *“Deed upon death” means a deed authorized under sections 2 to 27, inclusive, of this act.*

Sec. 5. *“Designated beneficiary” means a person designated to receive property in a deed upon death.*

Sec. 5.5. *“Grantor” means an individual who makes a deed upon death.*

Sec. 6. (Deleted by amendment.)

Sec. 7. *“Person” means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 8. *“Property” means an interest in real property located in this State which is transferable on the death of the owner.*

Secs. 9-11. (Deleted by amendment.)

Sec. 12. *The owner of an interest in property may create a deed which conveys his or her interest in property to a beneficiary or multiple beneficiaries and which becomes effective upon the death of the owner. A deed created pursuant to this section must be known as a deed upon death.*

Sec. 12.3. *The owner of an interest in property who creates a deed upon death may designate in the deed:*

1. *Multiple beneficiaries who will take title to the property upon his or her death as joint tenants with right of survivorship, tenants in common, husband and wife as community property, community property with right of survivorship or any other tenancy that is recognized in this State.*



2. *The beneficiary or beneficiaries who will take title to the property upon his or her death as the sole and separate property of the beneficiary or beneficiaries without the necessity of the filing of a quitclaim deed or disclaimer by the spouse of any beneficiary.*

Sec. 12.7. *If the owner of the property which is the subject of a deed upon death holds the interest in the property as a joint tenant with right of survivorship or as community property with the right of survivorship and:*

1. *The deed includes a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the last surviving owner.*

2. *The deed does not include a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the owner who created the deed only if that owner is the last surviving owner.*

Sec. 13. 1. *If an owner of an interest in property who creates a deed upon death transfers his or her interest in the property to another person during his or her lifetime, the deed upon death is void.*

2. *If an owner of an interest in property who creates a deed upon death executes and records more than one deed upon death concerning the same property, the deed upon death that is last recorded before the death of the owner is the effective deed.*

Sec. 14. (Deleted by amendment.)

Sec. 15. *The capacity required to make or revoke a deed upon death is the same as the capacity required to make a will.*

Sec. 16. *A deed upon death is valid only if executed and recorded as provided by law in the office of the county recorder of the county where the property is located before the death of the owner or the death of the last surviving owner.*

Sec. 17. *A deed upon death is effective without:*

1. *Notice or delivery to or acceptance by the beneficiary or beneficiaries; or*

2. *Consideration.*

Sec. 18. (Deleted by amendment.)

Sec. 19. *During the owner's lifetime, a deed upon death does not:*

1. *Affect an interest or right of the owner, including, without limitation, the right to transfer or encumber the property;*

2. *Affect any method of transferring property otherwise permitted under the laws of this State;*



3. *Affect an interest or right of a designated beneficiary, even if the designated beneficiary has actual or constructive notice of the deed;*

4. *Affect an interest or right of a secured or unsecured creditor or future creditor of the owner, even if the creditor has actual or constructive notice of the deed;*

5. *Affect the owner's or the designated beneficiary's eligibility for any form of public assistance;*

6. *Create a legal or equitable interest in favor of the designated beneficiary; or*

7. *Subject the property to claims or process of a creditor of the designated beneficiary.*

Sec. 20. (Deleted by amendment.)

Sec. 21. *A beneficiary may disclaim all or part of the beneficiary's interest under a deed upon death by recording a disclaimer in the office of the county recorder of the county in which the property is located, as provided by chapter 120 of NRS.*

Sec. 22. 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.*

Sec. 22.5. *A beneficiary or beneficiaries under a deed upon death inherit the property subject to any liens on the property in existence on the date of the death of the grantor.*

Sec. 23. *The provisions of sections 2 to 27, inclusive, of this act must not be construed to limit the recovery of benefits paid for Medicaid.*

Sec. 24. *A deed upon death must be in substantially the following form:*

DEED UPON DEATH

I (We)..... (here insert name of owner(s)) hereby convey to..... (here insert name of beneficiary or beneficiaries), effective on my (our) death, all right, title and



interest in the real property commonly known as....., City of....., County of....., State of Nevada, or located in the County of....., State of Nevada, and more particularly described as:

(Legal Description)

Together with all improvements, tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

THIS DEED IS REVOCABLE. THIS DEED DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR(S). THIS DEED REVOKES ALL PRIOR DEEDS BY THE GRANTOR(S) WHICH CONVEY THE SAME REAL PROPERTY PURSUANT TO SECTIONS 2 TO 27, INCLUSIVE, OF THIS ACT, REGARDLESS OF WHETHER THE PRIOR DEEDS FAILED TO CONVEY THE ENTIRE INTEREST OF THE GRANTOR(S) IN THE SAME REAL PROPERTY.

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

..... (Date)
..... (Signature)

State of Nevada }
 } ss.
County of }

Subscribed and sworn to on this day of, in the year, before me, (here insert name of notary public), by (here insert name of principal).

On this day of, in the year before me, (here insert name of notary public), personally appeared (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is



subscribed to this instrument, and acknowledged that he or she executed it.

..... (Signature of Notary Public)

NOTARY SEAL

Sec. 25. A deed upon death may be revoked at any time by the owner or, if there is more than one owner, by any of the owners who created the deed even if the deed or other instrument contains a contrary provision. The revocation is valid only if executed and recorded as provided by law in the office of the county recorder of the county in which the property is located before the death of the owner who executes the revocation. A deed upon death may not be revoked by a revocatory act on the deed. If the property is held as joint tenants with right of survivorship or as community property with the right of survivorship and the revocation is not executed by all the owners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving owner. The revocation of deed must be in substantially the following form:

REVOCATION OF DEED UPON DEATH

The undersigned hereby revoke(s) the deed upon death recorded on..... (date), as document or file number....., book....., at page....., records of..... County, Nevada, listing..... as beneficiary or beneficiaries.

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

..... (Date)
..... (Signature)

State of Nevada }
 } ss.
County of }

Subscribed and sworn to on this day of, in the year, before me, (here insert name of notary public), by (here insert name of principal).



On this day of, in the year, before me, (here insert name of notary public), personally appeared (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

..... (Signature of Notary Public)
NOTARY SEAL

Sec. 25.5. Upon the death of the last grantor of a deed upon death, a declaration of value of property pursuant to NRS 375.060 and a copy of the death certificate of each grantor must be attached to a Death of Grantor Affidavit and recorded in the office of the county recorder where the deed was recorded. The Death of Grantor Affidavit must be in substantially the following form:

DEATH OF GRANTOR AFFIDAVIT

..... (here insert name of affiant), being duly sworn, deposes and says that..... (here insert name of deceased), the decedent mentioned in the attached certified copy of the Certificate of Death, is the same person as..... (here insert name of grantor), named as the grantor or as one of the grantors in the deed upon death recorded on..... (date), as document or file number....., book....., at page....., records of..... County, Nevada, covering the real property commonly known as....., City of....., County of....., State of Nevada, or located in the County of....., State of Nevada, and more particularly described as:

(Legal Description)

..... (here insert name of affiant) is the beneficiary or at least one of the beneficiaries to whom the real property is conveyed upon the death of the grantor..... (here insert name of deceased) or is the authorized representative of the beneficiary or at least one of the beneficiaries. The



*beneficiary or beneficiaries listed in the deed upon death
are.....*

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING CONTAINS A SOCIAL SECURITY NUMBER OF A PERSON OR PERSONS.

..... (Date)
..... (Signature)

State of Nevada }
 } ss.
County of }

Subscribed and sworn to on this day of, in the year, before me, (here insert name of notary public), by (here insert name of principal).

..... (Signature of Notary Public)
NOTARY SEAL

Secs. 26 and 27. (Deleted by amendment.)

Sec. 28. NRS 120.290 is hereby amended to read as follows:

120.290 1. Subject to subsections 2 to 11, inclusive, delivery of a disclaimer may be effected by personal delivery, first-class mail or any other method likely to result in its receipt.

2. In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(a) A disclaimer must be delivered to the personal representative of the decedent's estate; or

(b) If no personal representative is then serving, it must be filed with a court having jurisdiction to appoint the personal representative.

3. In the case of an interest in a testamentary trust:

(a) A disclaimer must be delivered to the trustee then serving or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(b) If no personal representative is then serving, it must be filed with a court having jurisdiction to enforce the trust.

4. In the case of an interest in an inter vivos trust:

(a) A disclaimer must be delivered to the trustee then serving;



(b) If no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or

(c) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

5. In the case of an interest created by a beneficiary designation ~~{made}~~ **which is disclaimed** before ~~{the time}~~ the designation becomes irrevocable, ~~{a}~~ **the** disclaimer must be delivered to the person making the beneficiary designation.

6. In the case of an interest created by a beneficiary designation ~~{made}~~ **which is disclaimed** after ~~{the time}~~ the designation becomes irrevocable ~~{a}~~ :

(a) The disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest ~~{a}~~ ;
and

(b) The disclaimer of an interest in real property must be recorded in the office of the county recorder of the county where the real property that is the subject of the disclaimer is located.

7. In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

8. In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

(a) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(b) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

9. In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(a) The disclaimer must be delivered to the holder, the personal representative of the holder's estate or to the fiduciary under the instrument that created the power; or

(b) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

10. In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection 2, 3 or 4, as if the power disclaimed were an interest in property.

11. In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.



12. As used in this section, “beneficiary designation” means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (a) An annuity or insurance policy;
- (b) An account with a designation for payment on death;
- (c) A security registered in beneficiary form;
- (d) A pension, profit-sharing, retirement or other employment-related benefit plan; or
- (e) Any other nonprobate transfer at death.

Sec. 29. NRS 120.320 is hereby amended to read as follows:

120.320 If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded or registered, the disclaimer may be so filed, recorded or registered. ~~Failure~~ *Except as otherwise provided in paragraph (b) of subsection 6 of NRS 120.290, failure* to file, record or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Sec. 30. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to ~~NRS 111.109~~ *sections 2 to 27, inclusive, of this act* is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased;



(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to ~~NRS 111.109.~~ **sections 2 to 27, inclusive, of this act.**

3. As used in this section, “intestate decedent” means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 31. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to ~~NRS 111.109.~~ **sections 2 to 27, inclusive, of this act.**

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. ~~12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:~~

~~—(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;~~

~~—(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and~~

~~—(c) The transfer or conveyance is made in obedience to the order.~~

~~13.]~~ 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.

~~14.]~~ 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.

Sec. 32. NRS 388.750 is hereby amended to read as follows:
388.750 1. An educational foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection ~~13.]~~ 12 of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, “educational foundation” means a nonprofit corporation, association or institution or a charitable organization that is:



(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 33. NRS 396.405 is hereby amended to read as follows:

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection ~~144~~ 13 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his or her contribution or any information which may reveal or lead to the discovery of his or her identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated primarily for the purpose of fundraising in support of a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 34. NRS 111.109 is hereby repealed.

Sec. 35. The amendatory provisions of this act apply to a deed upon death made before, on or after October 1, 2011, by a grantor dying on or after October 1, 2011.

