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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: February 9, 2023

Subject: Bill Brief on HB 2016

HB 2016 clarifies how property held under a transfer-on-death deed is distributed when one beneficiary predeceases the grantor.

Current law in K.S.A. 59-3504 provides that if a grantee beneficiary dies prior to a record owner and an alternative grantee beneficiary has not been designated, the transfer lapses. The bill amends this section to provide that such a transfer will continue to lapse in this circumstance when the grantee beneficiary's interest in the transfer-on-death deed was not specifically made contingent on such grantee beneficiary surviving the owner. However, when a deceased grantee beneficiary leaves at least one then-surviving issue, upon death of the owner when the interest would otherwise lapse under the rule described above, the interest will not lapse and shall vest, on the owner's death, in the then-surviving issue of the deceased grantee beneficiary on a per stirpes basis as a successor grantee.

The bill also provides that judicial proceedings initiated to determine succession of ownership of real estate of a deceased record owner shall be subject to chapter 59 of the Kansas Statutes Annotated (the Kansas probate code) to determine descent. The amendments made to this section will apply to deeds filed on or after July 1, 2023.