

HOUSE BILL NO. 464

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE LAWS RELATING TO INTEREST OF A NAMED INSURED AND CHANGE OF INTEREST BY TRANSFER ON DEATH; PROVIDING THAT INTEREST IN PROPERTY BY A TRANSFER ON DEATH DEED ON THE DEATH OF AN INSURED DOES NOT AVOID AN INSURANCE OF REAL PROPERTY; AMENDING SECTIONS 33-15-206 AND 72-6-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 33-15-206, MCA, is amended to read:

"33-15-206. Interest of named insured -- change of interest on death -- transfer. (1) When the name of the person insured is specified in a policy insuring property, the insurance can be applied only to the person's own proper interest.

(2) A change of interest, by will or succession, on the death of the insured does not avoid an insurance of property, and the insurance passes to the person taking the insured's interest in the thing insured. A change of interest in real property by a transfer on death deed on the death of the insured does not avoid an insurance of real property, and the real property insurance coverage continues beyond the death of the named insured in accordance with 72-6-412(5) and policy coverage, including all applicable terms and conditions.

(3) A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others does not avoid an insurance of property even though it has been agreed that the insurance must cease upon an alienation of the thing insured."

Section 2. Section 72-6-412, MCA, is amended to read:

"72-6-412. Effect of transfer on death deed at transferor's death. (1) Except as otherwise provided in the transfer on death deed, in 72-2-712, 72-2-716, 72-2-813, 72-2-814, 72-6-112, or in this section, and

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1 subject to chapter 2, part 2, of this title, on the death of the transferor, the following rules apply to property that
2 is the subject of a transfer on death deed and owned by the transferor at death:

3 (a) Subject to subsection (1)(b), the interest in the property is transferred to the designated
4 beneficiary in accordance with the deed.

5 (b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving
6 the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.

7 (c) Subject to subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal
8 and undivided shares with no right of survivorship.

9 (d) If the transferor has identified two or more designated beneficiaries to receive concurrent
10 interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to
11 the others in proportion to the interest of each in the remaining part of the property held concurrently.

12 (2) Subject to Title 70, chapter 21, a beneficiary takes the property subject to all conveyances,
13 encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at
14 the transferor's death. For the purposes of this subsection and Title 70, chapter 21, the recording of the transfer
15 on death deed is deemed to have occurred at the transferor's death.

16 (3) If a transferor is a joint owner and is:

17 (a) survived by one or more other joint owners, the property that is the subject of a transfer on
18 death deed belongs to the surviving joint owner or owners with right of survivorship; or

19 (b) the last surviving joint owner, the transfer on death deed is effective.

20 (4) A transfer on death deed transfers property without covenant or warranty of title even if the
21 deed contains a contrary provision.

22 (5) (a) On transfer of interest in the property after the death of the owner pursuant to a transfer on
23 death deed in this section, any real property insurance coverage, including all rights and obligations, on the real
24 property transferred must be extended to cover losses to the real property as if the designated beneficiary
25 identified on the transfer on death deed was the named insured, unless the beneficiary has disclaimed interest
26 in the real property. The beneficiary's temporary coverage terminates the earlier of:

27 (i) 45 days after the date of the owner's death;

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- 1 (ii) the expiration date of the policy; or
- 2 (iii) on placement of the beneficiaries' replacement policy.
- 3 (b) Nothing in this subsection (5) affects any coverage provided under the policy to household
- 4 members or others who are considered to be insureds on the death of the owner."

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6 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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