

# Legislative Proposal Form

## Minnesota State Bar Association

For questions related to this form, contact MSBA lobbyist Bryan Lake at [bryan@lakelawmn.com](mailto:bryan@lakelawmn.com) or 612-227-9504

Article 12 of the MSBA Bylaws governs Legislation. The MSBA and its sections and committees may take positions “on pending or prospective legislation which is within the expertise of the profession or related to access to justice and is within the purposes of the MSBA.”

### SECTION I: BACKGROUND

Section(s) or Committee(s) submitting the proposal:

Real Property Section

Are you seeking to support an existing bill, oppose an existing bill, or pass your own bill?

Support existing bill

Oppose existing bill

Pass own bill

Does the proposal amend an existing statute, create a new statute, or relate to funding for an agency or program?

Amends statute

Creates statute

Agency or program funding

Describe the issue addressed by this legislative proposal and explain who will benefit if the desired result is achieved.

The 8th Circuit ruled in 2021 in *Strope-Robinson* that the grantee beneficiary of a transfer on death deed ("TODD") was not insured when the house burned down after the grantor died. This ruling puts all grantee beneficiaries of TODDs and all attorneys who draft TODDs at risk. This proposal is modeled after Maine's emergency bill enacted in response to *Strope-Robinson*. The intent is to give TODD grantee beneficiaries the same coverage as the deceased owners for a limited period until new coverage can be obtained.

Describe the process used by your section or committee to approve this position.

The section's Legislative Committee drafted the proposed amendment, and the section's Council approved the amendment. The proposal was described to the members of the section at the Real Estate Institute.

If your section or committee was asked by another organization to support this initiative, please identify the organization.

**Are there any urgent reasons why this proposal should be pursued during the upcoming legislative session?**

Property owners, real estate attorneys and estate planning attorneys around the state rely on TODDs. Extending homeowner's insurance coverage to grantee beneficiaries will help protect everyone relying on or using TODDs.

**SECTION II: VETTING**

The MSBA will forward this proposal to all sections and committees, but *it is the proposing section's or committee's responsibility* to solicit feedback, at the earliest possible time, from other sections and committees that may have an interest in it.

You should also seek feedback from other organizations and government agencies that might be interested in your proposal. No weight will be given to assumptions about support from other interested parties.

**Have any MSBA sections or committees reviewed this proposal and taken a position in support of it or expressed concerns about it?**

No.

**Are there any MSBA-affiliated organizations or other organizations of Minnesota lawyers that might have an interest in this proposal? If so, have you discussed it with them?**

The Probate and Trust Section is expected to support this legislation. The Real Property Section has not discussed the proposal with the Probate and Trust Section, but members of the Real Property Section who also practice in estate planning support the proposal.

**Are there any other organizations or government agencies that might have an interest in this proposal? If so, have you discussed it with them?**

The MN Commerce Department regulates insurance policy forms and this legislation may result in policy form changes. The insurance industry trade association will likely be interested as well. No contact made with either by the section to date.

**Have you discussed your proposal with any legislators? If so, identify the legislators and briefly describe their position on the issue.**

None.

**SECTION III: LOBBYING RESOURCES**

**The average legislative initiative requires approximately 50 hours of lobbyist support from the MSBA. If you believe this proposal will take substantially more or less time, please explain why.**

**Please provide the email address and phone number for at least one primary contact person.**

Kevin Dunlevy, kevin@dunlaw.net 612.963.9046 Co Chair Legislative Committee.

**Are there any other organizations that have committed to providing lobbying support for this proposal?**

No.

**Note regarding volunteer lobbying:** No section or committee legislative action may be taken without first coordinating with the MSBA lobbying team. "Legislative action" includes the following: Attempting to persuade elected officials or government agencies; letters, statements, comments, or testimony concerning legislative matters; joining coalitions related to legislative matters; seeking bill authors; and providing technical advice and drafting assistance.

If you need assistance with getting your proposal drafted and formatted for the Legislature, or if you want political advice about your proposal, contact the MSBA's lobbyist, Bryan Lake, at 612-227-9504 or [bryan@lakelawmn.com](mailto:bryan@lakelawmn.com)

**Submitted by**

**Name:** Kevin Dunlevy

**Title/Position:** Co-Chair Legislative Committee, Real Property Section

**Date:** 2 Nov 2022

**\*ATTACH A COPY OF THE LANGUAGE YOU ARE SEEKING TO SUPPORT OR OPPOSE\***

*Please submit this form to Bryan Lake at [bryan@lakelawmn.com](mailto:bryan@lakelawmn.com)*

1 A bill for an act

2  
3 relating to insurance coverage for grantee beneficiaries in transfer on death deeds;  
4 amending Minnesota Statutes 2022, section 507.071, subdivision 2; proposing coding new  
5 law in Minnesota Statutes 2022, chapter 507.  
6

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

8 Section 1. **[507.072] [PROPERTY INSURANCE FOR GRANTEE**  
9 **BENEFICIARIES OF TRANSFER ON DEATH DEEDS.]**

10 Subdivision 1. **[Definitions.]** For purposes of this section, the following definitions apply  
11 unless the context otherwise indicates:

12 (a) “Grantee beneficiary” has the meaning given in section 507.071, subdivision 1.

13 (b) “Insurance policy” means the policy governed by Chapter 65A.

14 (c) “Transfer on death deed” means a deed described in section 507.071.

15 (d) “Grantor owner” has the meaning given in section 507,071, subdivision 1.

16 Subd. 2. **[Policy to include grantee beneficiary.]** Notwithstanding any provision of law to  
17 the contrary, upon the transfer of an insured real property under a transfer on death deed  
18 becoming effective, any insurance policy covering the insured real property shall extend to the  
19 grantee beneficiary, as a beneficiary under the insurance policy, for a period of 60 days on and  
20 after the transfer becoming effective.

21 Subd.3. **[Coverage extended.]** The coverage extension under this section applies only  
22 with respect to the insured real property of the grantor owner.

23 Subd. 4. **[Proof demanded; policy conditions.]** Before making any claim payments to a  
24 party claiming rights under this section as a grantee beneficiary, the insurer may ask for proof  
25 that the party is a grantee beneficiary under a transfer on death that is recorded before the death

1 of the grantor owner upon whose death the transfer is effective and that the party has recorded an  
2 affidavit of identity and survivorship with a certified copy of a record of death as an attachment  
3 in the office of the county recorder or Registrar of Titles, as appropriate, in the county in which  
4 the insured real property is located. The grantee beneficiary shall comply with the conditions of  
5 the policy.

6 Subd. 5. **[Insurable interest.]** A grantee beneficiary is not entitled to recover under an  
7 insurance policy extended as provided in this section in an amount that would exceed the grantee  
8 beneficiary's insurable interest at the time of loss or damage. If the transfer on death deed has  
9 designated multiple beneficiaries, nothing in this section requires the insurer to pay an amount  
10 for loss or damage to the insured real property that exceeds the amount that would be owed to the  
11 grantor owner if the grantor owner was living at the time of loss or damage.

12 Sec. 2. Minnesota Statutes 2022, Section 507.071, subd. 2, is amended to read:

13 **Subd. 2. Effect of transfer on death deed.** A deed that conveys or assigns an interest in  
14 real property, to a grantee beneficiary and that expressly states that the deed is only effective on  
15 the death of one or more of the grantor owners, transfers the interest to the grantee beneficiary  
16 upon the death of the grantor owner upon whose death the conveyance or transfer is stated to be  
17 effective, but subject to the survivorship provisions and requirements of section 524.2-702. Until  
18 a transfer on death deed becomes effective, it has no effect on title to the real property described  
19 in the deed, but it does create an insurable interest in the real property in favor of a grantee  
20 beneficiary for purposes of insuring the real property against loss or damage that occurs after the  
21 transfer on death deed becomes effective. A transfer on death deed must comply with all  
22 provisions of Minnesota law applicable to deeds of real property including, but not limited to, the

1 provisions of sections 507.02, 507.24, 507.34, 508.48, and 508A.48. If a spouse who is neither a  
2 grantor owner nor an owner joins in the execution of, or consents in writing to, the transfer on  
3 death deed, such joinder or consent shall be conclusive proof that upon the transfer becoming  
4 effective, the spouse no longer has or can claim any statutory interest or other marital interest in  
5 the interest in real property transferred by the transfer on death deed. However, such transfer  
6 shall remain an interest as identified in section 256B.15 for purposes of complying with and  
7 satisfying any claim or lien as authorized by subdivision 3.

8 **EFFECTIVE DATE.** Sections 1 and 2 are effective on the date following final  
9 enactment and apply to insurance policies issued or renewed in this State or covering real  
10 property in this State on or after 60 days following the effective date.