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310

Amendments to House Bill No. 310
1st Reading Copy

Requested by Representative Ken Peterson

For the House Judiciary Committee

Prepared by David Niss
February 14, 2007 (6:57am)

1. Title, line 6.
Following: "the first ";"
Insert: "PROVIDING FOR THE RIGHTS OF CREDITORS AND OTHERS;"

2. Page 1, line 13.
Following: "transfers the "
Insert: "deceased owner's"

3. Page 1, line 14.
Strike: "designated"
Following: "beneficiary"
Insert: "designated by name in the beneficiary deed"

4. Page 2, line 1.
Strike: "prevails"
Insert: "prevail"

5. Page 2.
Following: line 11
Insert: "(7) If an individual who is a recipient of medicaid pursuant to 53-6-131 conveys an interest in real property by means of a beneficiary deed, the department of public health and human services may assert a claim pursuant to 53-6-167 against the property that is the subject of a beneficiary deed to the extent of medical assistance granted by the department."

6. Page 3.
Following: line 3
Insert: " _____ "
(Dated)

7. Page 3.
Following: line 22
Insert: "NEW SECTION. Section 2. Rights of creditors and others. (1) If other assets of the estate are insufficient, a transfer resulting from a beneficiary deed, as provided

OVER

for in [section 1], is not effective against the estate and statutory allowances to the surviving spouse and children.

(2) A surviving party who receives title to real property pursuant to a beneficiary deed is liable to account to the personal representative of the decedent for the value of the property to the extent necessary to discharge the claims and allowances described in subsection (1) remaining unpaid after application of the decedent's estate. A proceeding to assert the liability may not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a child of the decedent. The proceeding must be commenced within 1 year after death of the decedent.

(3) A surviving party against whom a proceeding to account is brought may join as a party to the proceeding any other person claiming an interest in the real property.

(4) Sums recovered by the personal representative must be administered as part of the decedent's estate."

Renumber: subsequent sections

8. Page 4, line 11.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

9. Page 4, lines 12 and 13.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

- END -