

Fiscal Estimate Narratives
DOR 7/21/2005

LRB Number 05-0888/1	Introduction Number SB-255	Estimate Type Original
Subject Nonprobate transfer of real property at death		

Assumptions Used in Arriving at Fiscal Estimate

The bill creates a new method under which real property can be transferred at the death of the owner without going through probate. Under this method, a transfer on death (TOD) beneficiary may be designated on the deed to the property. This designation may occur at the original recording of the deed or at a re-recording of the deed. The designation of a TOD is not effective unless the deed is recorded with the register of deeds.

Under current law, the register of deeds is required to collect a real estate transfer fee of \$0.30 per \$1,000 of value on deed transfers or recordings, unless the transfer or recording is exempt. The county retains 20% of fee collections, and remits the remaining 80% to the state. Transfers that are exempt from the fee include those between spouses, between a parent and child for nominal or no consideration, between an agent and principal or from a trustee to beneficiary for no consideration, to a trust (if a direct transfer to the beneficiary would be exempt), and by will, descent, or survivorship.

Under the bill, recordings for the sole purpose of designating a TOD beneficiary and recordings to transfer property to a TOD beneficiary on death would be exempt from the real estate transfer fee.

The Department of Revenue (DOR) is unable to predict how many people would take advantage of the new procedure for transferring property. However, it is reasonable to assume that most of the transfers that would occur under the provisions of the bill are exempt from the fee under current law. Therefore, the reduction in real estate transfer fees that this bill would engender is expected to be minor.

Long-Range Fiscal Implications