

Thank you chair. My name is Tom Kading and I am a Representative in District 45. This bill today concerns Trusts and Estates.

For those of you who are family farmers or have real estate that you may inherit or will to someone. – this bill may affect you

The idea behind this bill was brought to me by a constituent. He had gone through an ordeal following the passing of his parents in which it took over 10 years to settle the estate and almost a million in legal fees. His attorney stated to me that given the simplicity of the estate it should have been settled in a very short time period and have taken about \$2,000 in legal fees total.

What happened appeared to have occurred as a result in a string of seemingly unjust applications of existing law. Now I am no expert in legal matters related to Trusts and Estates, but what I can tell is that how his parents' estate was ultimately settled is just wrong. What happened to him, could very well happen to any of us. The person who experienced the injustice is here today to tell his story, so I am going to leave those details to him. What I will say is that the estate was simple, there was two brothers who were supposed to each inherit one half of the land and assets, valued at around \$3.5 million. There was a very minor dispute over the status of 2 checks under \$100. The Personal Representative was mad about the checks and did not let it go and would not settle, the court heard the matter and said there was no wrongdoing regarding the \$100. It would make sense that estate could be simply settled from there, but it took 13 years for the attorneys to figure out the attorney's fees and figuring out the attorney's fees ultimately caused almost a million in attorney's fees to be taken against one of the two brothers. On its face it is a ridiculous story. What is even more shocking to me is that the Personal Representative, who was one of the brothers, was able to use the other brother's inheritance to pay all the legal fees.

Again, the individual affected will tell his story. His estate attorney is the individual who helped draft the language of this bill. Unfortunately, he could not make it to testify at this time. Otherwise he had planned to testify.

What this bill does is clarify that property passes at the exact time of death. A recent court case shed some confusion on this, and I believe it is important to clarify. This bill provides that real property is transferred to the person presumptively entitled unless a court order determines otherwise. For about 300 years of common law - even before the formation of the state, this was the understood law.

So where this is important is in this example, lets say child rents a quarter of land from his parents and pays discounted rent. If the will indicates the child is to inherit the land, upon the exact time of death the parent, the child effectively takes ownership as long as it is not encumbered by liens or needed for payment of debt in the estate. What this legal theory ensures is that a personal representative who does not get along with the person inheriting cannot arbitrarily hold up the inheritance and force payment of a modified rent, as in my constituents case.

As I stated the long-standing rule is nothing new and I urge the committee to give this a do pass recommendation.