

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Mike Wilson and Shaver**

5

6

7

For An Act To Be Entitled

8 "THE UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT"

9

10

Subtitle

11 "THE UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT"

12

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14

15 SECTION 1. DEFINITIONS. In this act, unless the context otherwise
16 requires:

17 (1) "Beneficiary form" means a registration of a security which
18 indicates the present owner of the security and the intention of the owner
19 regarding the person who will become the owner of the security upon the death
20 of the owner.

21 (2) "Devisee" means any person designated in a will to receive a
22 disposition of real or personal property.

23 (3) "Heirs" means those persons, including the surviving spouse,
24 who are entitled under the statutes of intestate succession to the property of
25 a decedent.

26 (4) "Person" means an individual, a corporation, an organization,
27 or other legal entity.

28 (5) "Personal representative" includes executor, administrator,
29 successor personal representative, special administrator, and persons who
30 perform substantially the same function under the law governing their status.

31 (6) "Property" includes both real and personal property or any
32 interest therein and means anything that may be the subject of ownership.

1 (7) "Register," including its derivatives, means to issue a
2 certificate showing the ownership of a certificated security or, in the case
3 of an uncertificated security, to initiate or transfer an account showing
4 ownership of securities.

5 (8) "Registering entity" means a person who originates or
6 transfers a security title by registration, and includes a broker maintaining
7 security accounts for customers and a transfer agent or other person acting
8 for or as an issuer of securities.

9 (9) "Security" means a share, participation, or other interest in
10 property, in a business, or in an obligation of an enterprise or other issuer,
11 and includes a certificated security, an uncertificated security, and a
12 security account.

13 (10) "Security account" means (i) a reinvestment account
14 associated with a security, a securities account with a broker, a cash balance
15 in a brokerage account, cash, interest, earnings, or dividends earned or
16 declared on a security in an account, a reinvestment account, or a brokerage
17 account, whether or not credited to the account before the owner's death, or
18 (ii) a cash balance or other property held for or due to the owner of a
19 security as a replacement for or product of an account security, whether or
20 not credited to the account before the owner's death.

21 (11) "State" includes any state of the United States, the
22 District of Columbia, the Commonwealth of Puerto Rico, and any territory or
23 possession subject to the legislative authority of the United States.

24

25 SECTION 2. REGISTRATION IN BENEFICIARY FORM; SOLE OR JOINT TENANCY
26 OWNERSHIP. Only individuals whose registration of a security shows sole
27 ownership by one individual or multiple ownership by two or more with right of
28 survivorship, rather than as tenants in common, may obtain registration in
29 beneficiary form. Multiple owners of a security registered in beneficiary
30 form hold as joint tenants with right of survivorship, as tenants by the
31 entirety, or as owners of community property held in survivorship form, and
32 not as tenants in common.

33

34 SECTION 3. REGISTRATION IN BENEFICIARY FORM; APPLICABLE LAW. A
35 security may be registered in beneficiary form if the form is authorized by

1 this or a similar statute of the state of organization of the issuer or
2 registering entity, the location of the registering entity's principal office,
3 the office of its transfer agent or its office making the registration, or by
4 this or a similar statute of the law of the state listed as the owner's
5 address at the time of registration. A registration governed by the law of a
6 jurisdiction in which this or similar legislation is not in force or was not
7 in force when a registration in beneficiary form was made is nevertheless
8 presumed to be valid and authorized as a matter of contract law.

9

10 SECTION 4. ORIGINATION OF REGISTRATION IN BENEFICIARY FORM. A
11 security, whether evidenced by certificate or account, is registered in
12 beneficiary form when the registration includes a designation of a beneficiary
13 to take the ownership at the death of the owner or the deaths of all multiple
14 owners.

15

16 SECTION 5. FORM OF REGISTRATION IN BENEFICIARY FORM. Registration in
17 beneficiary form may be shown by the words "transfer on death" or the
18 abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD,"
19 after the name of the registered owner and before the name of a beneficiary.

20

21 SECTION 6. EFFECT OF REGISTRATION IN BENEFICIARY FORM. The designation
22 of a TOD beneficiary on a registration in beneficiary form has no effect on
23 ownership until the owner's death. A registration of a security in
24 beneficiary form may be canceled or changed at any time by the sole owner or
25 all then surviving owners without the consent of the beneficiary.

26

27 SECTION 7. OWNERSHIP ON DEATH OF OWNER. On death of a sole owner or
28 the last to die of all multiple owners, ownership of securities registered in
29 beneficiary form passes to the beneficiary or beneficiaries who survive all
30 owners. On proof of death of all owners and compliance with any applicable
31 requirements of the registering entity, a security registered in beneficiary
32 form may be reregistered in the name of the beneficiary or beneficiaries who
33 survived the death of all owners. Until division of the security after the
34 death of all owners, multiple beneficiaries surviving the death of all owners
35 hold their interests as tenants in common. If no beneficiary survives the

1 death of all owners, the security belongs to the estate of the deceased sole
2 owner or the estate of the last to die of all multiple owners.

3

4 SECTION 8. PROTECTION OF REGISTERING ENTITY.

5 (a) A registering entity is not required to offer or to accept a
6 request for security registration in beneficiary form. If a registration in
7 beneficiary form is offered by a registering entity, the owner requesting
8 registration in beneficiary form assents to the protections given to the
9 registering entity by this act.

10 (b) By accepting a request for registration of a security in
11 beneficiary form, the registering entity agrees that the registration will be
12 implemented on death of the deceased owner as provided in this act.

13 (c) A registering entity is discharged from all claims to a
14 security by the estate, creditors, heirs, or devisees of a deceased owner if
15 it registers a transfer of the security in accordance with Section 7 and does
16 so in good faith reliance (i) on the registration, (ii) on this act, and (iii)
17 on information provided to it by affidavit of the personal representative of
18 the deceased owner, or by the surviving beneficiary or by the surviving
19 beneficiary's representatives, or other information available to the
20 registering entity. The protections of this act do not extend to a
21 reregistration or payment made after a registering entity has received written
22 notice from any claimant to any interest in the security objecting to
23 implementation of a registration in beneficiary form. No other notice or
24 other information available to the registering entity affects its right to
25 protection under this act.

26 (d) The protection provided by this act to the registering entity
27 of a security does not affect the rights of beneficiaries in disputes between
28 themselves and other claimants to ownership of the security transferred or its
29 value or proceeds.

30

31 SECTION 9. NONTESTAMENTARY TRANSFER ON DEATH.

32 (a) A transfer on death resulting from a registration in
33 beneficiary form is effective by reason of the contract regarding the
34 registration between the owner and the registering entity and this act and is
35 not testamentary.

1 (b) This act does not limit the rights of creditors of security
2 owners against beneficiaries and other transferees under other laws of this
3 State.

4

5 SECTION 10. TERMS, CONDITIONS, AND FORMS FOR REGISTRATION.

6 (a) A registering entity offering to accept registrations in
7 beneficiary form may establish the terms and conditions under which it will
8 receive requests (i) for registrations in beneficiary form, and (ii) for
9 implementation of registrations in beneficiary form, including requests for
10 cancellation of previously registered TOD beneficiary designations and
11 requests for reregistration to effect a change of beneficiary. The terms and
12 conditions so established may provide for proving death, avoiding or resolving
13 any problems concerning fractional shares, designating primary and contingent
14 beneficiaries, and substituting a named beneficiary's descendants to take in
15 the place of the named beneficiary in the event of the beneficiary's death.
16 Substitution may be indicated by appending to the name of the primary
17 beneficiary the letters LDPS, standing for "lineal descendants per stirpes."
18 This designation substitutes a deceased beneficiary's descendants who survive
19 the owner for a beneficiary who fails to so survive, the descendants to be
20 identified and to share in accordance with the law of the beneficiary's
21 domicile at the owner's death governing inheritance by descendants of an
22 intestate. Other forms of identifying beneficiaries who are to take on one or
23 more contingencies, and rules for providing proofs and assurances needed to
24 satisfy reasonable concerns by registering entities regarding conditions and
25 identities relevant to accurate implementation of registrations in beneficiary
26 form, may be contained in a registering entity's terms and conditions.

27 (b) The following are illustrations of registrations in
28 beneficiary form which a registering entity may authorize:

29 (1) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S
30 Brown Jr.

31 (2) Multiple owners-sole beneficiary: John S Brown Mary B Brown
32 JT TEN TOD John S Brown Jr.

33 (3) Multiple owners-primary and secondary (substituted)
34 beneficiaries: John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB BENE
35 Peter Q Brown or John S Brown Mary B Brown JT TEN TOD John S Brown Jr LDPS.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 11. SHORT TITLE; RULES OF CONSTRUCTION.

(1) This act shall be known as and may be cited as the Uniform TOD Security Registration Act.

(2) This act shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this act among states enacting it.

(3) Unless displaced by the particular provisions of this act, the principles of law and equity supplement its provisions.

SECTION 12. APPLICATION OF ACT. This act applies to registrations of securities in beneficiary form made before or after effective date, by decedents dying on or after effective date.

SECTION 13. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 15. All laws and parts of laws in conflict with this act are hereby repealed.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8