

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

A Bill

ACT 114 OF 1993
HOUSE BILL 1105

4 By: Representatives Mike Wilson and Shaver

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For An Act To Be Entitled

8 "THE UNIFORM TRANSFER ON DEATH SECURITY
9 REGISTRATION ACT"

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Subtitle

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12 "THE UNIFORM TRANSFER ON DEATH SECURITY
13 REGISTRATION ACT"

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

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

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

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

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

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

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

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

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

35 (8) "Registering entity" means a person who originates or transfers a security
36 title by registration, and includes a broker maintaining security accounts for customers and a

1 transfer agent or other person acting for or as an issuer of securities.

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

5 (10) "Security account" means (i) a reinvestment account associated with a
6 security, a securities account with a broker, a cash balance in a brokerage account, cash,
7 interest, earnings, or dividends earned or declared on a security in an account, a reinvestment
8 account, or a brokerage account, whether or not credited to the account before the owner's
9 death, or (ii) a cash balance or other property held for or due to the owner of a security as a
10 replacement for or product of an account security, whether or not credited to the account
11 before the owner's death.

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

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16 SECTION 2. REGISTRATION IN BENEFICIARY FORM; SOLE OR JOINT
17 TENANCY OWNERSHIP. Only individuals whose registration of a security shows sole
18 ownership by one individual or multiple ownership by two or more with right of survivorship,
19 rather than as tenants in common, may obtain registration in beneficiary form. Multiple
20 owners of a security registered in beneficiary form hold as joint tenants with right of
21 survivorship, as tenants by the entireties, or as owners of community property held in
22 survivorship form, and not as tenants in common.

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24 SECTION 3. REGISTRATION IN BENEFICIARY FORM; APPLICABLE LAW.
25 A security may be registered in beneficiary form if the form is authorized by this or a similar
26 statute of the state of organization of the issuer or registering entity, the location of the
27 registering entity's principal office, the office of its transfer agent or its office making the
28 registration, or by this or a similar statute of the law of the state listed as the owner's address
29 at the time of registration. A registration governed by the law of a jurisdiction in which this or
30 similar legislation is not in force or was not in force when a registration in beneficiary form
31 was made is nevertheless presumed to be valid and authorized as a matter of contract law.

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33 SECTION 4. ORIGINATION OF REGISTRATION IN BENEFICIARY FORM.
34 A security, whether evidenced by certificate or account, is registered in beneficiary form when
35 the registration includes a designation of a beneficiary to take the ownership at the death of the

1 owner or the deaths of all multiple owners.

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3 **SECTION 5. FORM OF REGISTRATION IN BENEFICIARY FORM.**

4 **Registration in beneficiary form may be shown by the words "transfer on death" or the**
5 **abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name**
6 **of the registered owner and before the name of a beneficiary.**

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

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14 **SECTION 7. OWNERSHIP ON DEATH OF OWNER. On death of a sole owner or**
15 **the last to die of all multiple owners, ownership of securities registered in beneficiary form**
16 **passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all**
17 **owners and compliance with any applicable requirements of the registering entity, a security**
18 **registered in beneficiary form may be reregistered in the name of the beneficiary or**
19 **beneficiaries who survived the death of all owners. Until division of the security after the death**
20 **of all owners, multiple beneficiaries surviving the death of all owners hold their interests as**
21 **tenants in common. If no beneficiary survives the death of all owners, the security belongs to**
22 **the estate of the deceased sole owner or the estate of the last to die of all multiple owners.**

23

24 **SECTION 8. PROTECTION OF REGISTERING ENTITY.**

25 **(a) A registering entity is not required to offer or to accept a request for**
26 **security registration in beneficiary form. If a registration in beneficiary form is offered by a**
27 **registering entity, the owner requesting registration in beneficiary form assents to the**
28 **protections given to the registering entity by this act.**

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

32 **(c) A registering entity is discharged from all claims to a security by the estate,**
33 **creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in**
34 **accordance with Section 7 and does so in good faith reliance (i) on the registration, (ii) on this**
35 **act, and (iii) on information provided to it by affidavit of the personal representative of the**

1 **deceased owner, or by the surviving beneficiary or by the surviving beneficiary's**
2 **representatives, or other information available to the registering entity. The protections of this**
3 **act do not extend to a reregistration or payment made after a registering entity has received**
4 **written notice from any claimant to any interest in the security objecting to implementation of**
5 **a registration in beneficiary form. No other notice or other information available to the**
6 **registering entity affects its right to protection under this act.**

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

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11 **SECTION 9. NONTESTAMENTARY TRANSFER ON DEATH.**

12 **(a) A transfer on death resulting from a registration in beneficiary form is**
13 **effective by reason of the contract regarding the registration between the owner and the**
14 **registering entity and this act and is not testamentary.**

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

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18 **SECTION 10. TERMS, CONDITIONS, AND FORMS FOR REGISTRATION.**

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

1 terms and conditions.

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

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

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

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

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12 SECTION II. SHORT TITLE; RULES OF CONSTRUCTION.

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

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

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

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

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

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

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

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APPROVED: 02/11/93