

2021 Regular Session

SENATE BILL NO. 91

BY SENATOR PEACOCK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SECURITIES. Authorizes transfer on death of certain securities. (1/1/22)

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AN ACT

To enact Chapter 4 of Code Title I of Code Book III of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:1711 through 1711.9, relative to securities and successions; to provide for uniform transfer on death of certain securities; to enact the Louisiana Uniform Transfer on Death Security Registration Act; to provide certain definitions, terms, procedures, conditions, requirements, exceptions, effects, and applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 4 of Code Title I of Code Book III of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:1711 through 1711.9, is hereby enacted to read as follows:

CHAPTER 4. LOUISIANA UNIFORM TRANSFER ON DEATH

SECURITY REGISTRATION ACT

§1711. Definitions

In this Chapter, the following definitions shall apply unless the context otherwise requires:

(1) "Beneficiary form" means a registration of a security that indicates

1 the present owner or co-owners of the security and the designation of the person
2 in whose name the security is to be registered upon the death of the owner or
3 co-owner.

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

8 (3) "Security" means a share, participation, or other interest in movable
9 property, in a business, or in an obligation of an enterprise or other issuer, and
10 includes a certificated security, an uncertificated security, and a security
11 account. It shall not include a share, participation, or other interest in
12 immovable property.

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

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

24 §1711.1. Registration in beneficiary form

25 Only individuals whose registration of a security shows sole ownership
26 by one individual or multiple ownership by two or more with right of
27 survivorship, rather than as co-owners in indivision or tenants in common, may
28 obtain registration in beneficiary form.

29 §1711.2. Registration in beneficiary form; applicable law

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

10 B. The registration in beneficiary form shall be executed by the owner
11 in authentic form or an act under private signature executed in the presence of
12 two persons.

13 §1711.3. Form of registration in beneficiary form

14 Registration in beneficiary form may be shown by the words "transfer
15 on death" or the abbreviation "TOD", or by the words "pay on death" or the
16 abbreviation "POD", after the name of the registered owner and before the
17 name of a beneficiary, or when registration is in the names of multiple owners
18 by the words "joint tenants with the right of survivorship" or the abbreviation
19 "JTWROS".

20 §1711.4. Effect of registration in beneficiary form

21 A registration of a security in beneficiary form does not constitute a
22 donation inter vivos or mortis causa. A registration of a security in beneficiary
23 form may be canceled or changed at any time by the sole owner or by all the
24 surviving owners without the consent of the beneficiary.

25 §1711.5. Registration on death of owner

26 A. On proof of death of a sole owner or the last to die of all multiple
27 owners, and after compliance with any applicable requirements of the
28 registering entity, a security registered in beneficiary form may be registered
29 in the name of the beneficiary or beneficiaries who survived the death of all

1 owners, in compliance with this Chapter, but this registration in the name of the
2 beneficiary or beneficiaries has no effect on ownership.

3 B. The provisions of this Chapter shall apply notwithstanding the fact
4 that the decedent designates a beneficiary by last will and testament.

5 §1711.6. Registering entity

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

11 B. By accepting a request for registration of a security in beneficiary
12 form, the registering entity agrees that the registration shall be implemented on
13 death of the deceased owner as provided in this Chapter.

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

26 D. The protection provided by this Chapter to the registering entity of
27 a security does not affect the rights of succession representatives, surviving
28 spouses, heirs, legatees, forced heirs, or creditors in disputes between themselves
29 and other claimants to ownership of the security transferred or its value or

1 proceeds.

2 §1711.7. Terms, conditions, and forms for registration

3 A. A registering entity offering to accept registrations in beneficiary
4 form may establish the terms and conditions under which it will receive
5 requests (a) for registrations in beneficiary form, and (b) for implementation of
6 registrations in beneficiary form, including requests for cancellation of
7 previously registered beneficiary designations and requests for reregistration
8 to effect a change of beneficiary.

9 B. The terms and conditions so established may provide for proving
10 death, avoiding or resolving any problems concerning fractional shares,
11 designating primary and contingent beneficiaries, and substituting a named
12 beneficiary's descendants to take in the place of the named beneficiary in the
13 event of the beneficiary's death.

14 C. Substitution may be indicated by appending to the name of the
15 primary beneficiary the letters "LDPS", standing for "lineal descendants per
16 stirpes" or "LDR" for "lineal descendants by representation". This designation
17 substitutes a deceased beneficiary's descendants who survive the owner for a
18 beneficiary who is deceased, the descendants to be identified and to share in
19 accordance with the law of the owner's domicile at the owner's death governing
20 inheritance by descendants of an intestate succession.

21 D. Other forms of identifying beneficiaries who are to take on one or
22 more contingencies, and rules for providing proofs and assurances needed to
23 satisfy reasonable concerns by registering entities regarding conditions and
24 identities relevant to accurate implementation of registrations in beneficiary
25 form, may be contained in a registering entity's terms and conditions.

26 §1711.8. Short title; rules of construction

27 A. This Chapter shall be known as and may be cited as the "Louisiana
28 Uniform Transfer on Death Security Registration Act" or the "Louisiana
29 Uniform TOD Security Registration Act".

1 **B. The provisions of this Chapter shall be liberally construed.**

2 **C. Unless displaced by the particular provisions of this Chapter, the**
 3 **principles of Louisiana law supplement provisions of this Chapter.**

4 **§1711.9. Application of Chapter**

5 **A. This Chapter shall become effective on January 1, 2022, and shall**
 6 **apply only to registrations of securities in beneficiary form made on and after**
 7 **January 1, 2022.**

8 **B. This Chapter shall not preclude or govern the application of payable**
 9 **on death accounts and other transfers by a bank or savings institution as**
 10 **authorized by Title 6 of the Louisiana Revised Statutes of 1950.**

11 Section 2. The Louisiana State Law Institute is hereby directed to prepare Official
 12 Comments to the provisions of this Act, and to revise those Official Comments in the future
 13 as may be necessary.

14 Section 3. The provisions of this Act shall become effective on January 1, 2022.

The original instrument was prepared by Jerry G. Jones. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt Deville.

DIGEST

SB 91 Reengrossed

2021 Regular Session

Peacock

Proposed law enacts the Louisiana Uniform Transfer on Death Security Registration Act, which provides for the transfer of certain securities to a beneficiary on the death of the owner of such securities.

Proposed law provides definitions. Defines "security" as a share, participation, or other interest in movable property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account. It shall not include a share, participation, or other interest in immovable property.

Proposed law provides that only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as co-owners in indivision or tenants in common, may obtain registration in beneficiary form.

Proposed law further provides that a registration of a security in beneficiary form does not constitute a donation inter vivos or mortis causa. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all the surviving owners without the consent of the beneficiary.

Proposed law further provides that, on proof of death of a sole owner or the last to die of all multiple owners, and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be registered in the name of the beneficiary or

beneficiaries who survived the death of all owners, but such registration in the name of the beneficiary or beneficiaries has no effect on ownership.

Proposed law provides certain procedures. Provides that by accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in proposed law. Further provides that such registering entity is discharged from all claims to a security by the estate, surviving spouse, creditors, heirs, legatees, or forced heirs of a deceased owner if it registers a transfer of the security in accordance with the proposed law and does so in good faith reliance (a) on the registration, (b) on the proposed law, and (c) on information provided to it by affidavit of the succession representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives.

Proposed law further provides that its protections do not extend to a registration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or information available to the registering entity affects its right to protection under the proposed law. Also provides that its protections to the registering entity of a security does not affect the rights of succession representatives, surviving spouses, heirs, legatees, forced heirs, or creditors in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Proposed law authorizes certain terms, conditions, and forms for registration.

Proposed law provides that it shall become effective on January 1, 2022, and shall apply only to registrations of securities in beneficiary form made on and after that date. Also provides that it does not preclude or govern the application of payable on death accounts and other transfers by a bank or savings institution as authorized by Title 6 of the Louisiana Revised Statutes of 1950.

Effective January 1, 2022.

(Adds R.S. 9:1711-1711.9)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Removes from the definition of "security" that it shall not include a share, participation, or other interest in property subject to claim by a forced heir for his legitime.
2. Provides for the required form of a security registered in beneficiary form.
3. Specifies that the provisions of proposed law apply to a security registered in beneficiary form following the confirmation of the death of a sole owner or the last to die of all multiple owners despite the fact that the decedent designates a beneficiary by last will and testament.
4. Provides that a registering entity shall not be held liable if it registers a transfer of a security in beneficiary form in accordance with the provisions of proposed law in good faith.
5. Removes the provision that a registering entity may rely on information

available to it other than what is provided in an affidavit of the succession representative of the deceased owner, surviving beneficiary, or surviving beneficiary's representative relative to the registration of a transfer of a security registered in beneficiary form.