

2022 Regular Session

SENATE BILL NO. 374

BY SENATOR PEACOCK

SECURITIES. Provides relative to transfer on death of securities. (8/1/22)

AN ACT

To amend and reenact R.S. 9:1711(1) and (5), 1711.2, 1711.3, 1711.4, 1711.5(A), 1711.6(B) and (D), 1711.7, 1711.8(A), and 1711.9(A), and the heading of R.S. 9:1711.1, and to enact R.S. 9:1711.6(E), relative to securities and successions; to provide for uniform transfer on death of certain securities; 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. R.S. 9:1711(1) and (5), 1711.2, 1711.3, 1711.4, 1711.5(A), 1711.6(B) and (D), 1711.7, 1711.8(A), 1711.9(A), and the heading of R.S. 9:1711.1 are hereby amended and reenacted, and R.S. 9:1711.6(E) is hereby enacted to read as follows:

§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 the present owner or co-owners of the security and ~~the designation of~~ **designates** the person in whose name the security is to be registered upon ~~the~~ death of the owner or

co-owner.

* * *

(5) "Security account" means the following:

(a) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a ~~security in an~~ **securities** account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death.

(b) A cash balance or other property held for or due to the owner of a security as a replacement for or product of ~~an account security~~ **a securities account**, whether or not credited to the **securities** account before the owner's death.

* * *

§1711.1. Registration **of a security** in beneficiary form

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.

§1711.2. Registration **of a security** in beneficiary form; applicable law

A. A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or ~~its~~ **the** office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration.

B. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

~~BC.~~ The registration in beneficiary form shall be executed by the owner in authentic form or an act under private signature executed in the presence of two

persons.

§1711.3. Form of registration **of a security** in beneficiary form

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

§1711.4. Effect of registration **of a security** in beneficiary form

~~A. A registration~~ **Registration** of a security in beneficiary form does not constitute a donation inter vivos or mortis causa, **pursuant to Civil Code Articles 1468 and 1469.**

~~B. A registration~~ **Registration** of a security in beneficiary form may be canceled or changed at any time by the sole owner or by any of the surviving owners without the consent of the beneficiary.

§1711.5. Registration ~~on~~ **upon** death of owner

A. ~~On~~ **Upon** proof of death of a sole owner or the last to die of all multiple owners, and after 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, ~~in compliance with this Chapter,~~ but this registration in the name of the beneficiary or beneficiaries has no effect on ownership.

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§1711.6. Registering entity

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

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1 **D.** The protections of this Chapter do not extend to a registration or payment
2 made after a registering entity has received written notice from any claimant to any
3 interest in the security objecting to implementation of a registration in beneficiary
4 form. No other notice or information available to the registering entity affects its
5 right to protection under this Chapter.

6 ~~D.E.~~ The protection provided by this Chapter to the registering entity of a
7 security does not affect the rights of succession representatives, surviving spouses,
8 heirs, legatees, forced heirs, or creditors in disputes between themselves and other
9 claimants to ownership of the security transferred or its value or proceeds.

10 §1711.7. Terms, conditions, and forms for registration

11 A. A registering entity offering to accept registrations in beneficiary form
12 may establish the terms and conditions under which it will receive requests for
13 registrations in beneficiary form, and for implementation of registrations in
14 beneficiary form, including requests for cancellation of previously registered
15 beneficiary designations and requests for reregistration to ~~effect a change~~ **the** of
16 beneficiary **designation**.

17 B. The terms and conditions ~~so established~~ may provide for proving death,
18 avoiding or resolving any problems concerning fractional shares, designating
19 primary and contingent beneficiaries, and substituting a named beneficiary's
20 descendants to take in the place of the named beneficiary in the event of the
21 beneficiary's death.

22 C. Substitution may be indicated by appending to the name of the primary
23 beneficiary the letters "LDPS", ~~standing~~ **which stands** for "lineal descendants per
24 stirpes" or "LDR" for "lineal descendants by representation". This designation
25 substitutes a deceased beneficiary's descendants who survive the owner for a
26 beneficiary who is deceased, the descendants to be identified and to share in
27 accordance with the law of the owner's domicile at the owner's death governing
28 inheritance by descendants of an intestate succession.

29 D. Other forms of identifying beneficiaries ~~who are to take on one or more~~

contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to the accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

§1711.8. Short title; rules of construction

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

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§1711.9. Application of Chapter

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

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra R. Bias.

DIGEST

SB 374 Original

2022 Regular Session

Peacock

Present 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.

Present 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.

Present 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.

Present 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.

Present 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.

Present 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.

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

Present 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.

Proposed law makes technical changes.

Present law provides that registration of a security in beneficiary form does not constitute a donation inter vivos or mortis causa. Proposed law adds to present law the statutes referencing donations inter vivos and mortis causa.

Present law requires registration in beneficiary form to be implemented on death. Proposed law changes on to upon.

Effective August 1, 2022.

(Amends R.S. 9:1711(1) and (5), 1711.2, 1711.3, 1711.4, 1711.5(A), 1711.6(B) and (D), 1711.7, 1711.8(A), and 1711.9(A), and the heading of R.S. 9:1711.1; adds R.S. 9:1711.6(E))