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## DIGEST

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HB 497 Engrossed

2018 Regular Session

Pearson

**Abstract:** Authorizes a surviving spouse to sell up to 50% of a joint securities or brokerage account, until an executor or administrator can be appointed.

Proposed law defines "broker or securities firm" as a person defined as a broker or dealer under the federal securities laws, also includes a bank acting in that capacity.

Proposed law defines "joint securities or brokerage account" as an account which is titled in the name of a husband and wife, which is registered as a community property account, and which requires the endorsement of both husband and wife in order to assign, transfer, or redeem a security, or to grant the power to assign, transfer, or redeem a security.

Present law (R.S. 10:8-102(15)) defines "security" as an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer which is any of the following:

- (1) Represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer.
- (2) One of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.
- (3) (a) Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or (b) Is a medium for investment and by its terms expressly provides that it is a security governed by the Uniform Commercial Code - Investment Securities (R.S. 10:8-102 through 8-511).

Proposed law defines "security" as it is defined by present law (R.S. 10:8-102(15)).

Proposed law defines "securities or brokerage account" as an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

Proposed law provides that upon the death of a joint securities or brokerage account holder and with the authorization and direction of the surviving account holder, a broker or securities firm may sell or transfer securities held in the account not to exceed 50% of the value of each security held in the joint securities account. The value of the securities shall be determined as of the date of the death

of the decedent.

Proposed law provides that the surviving account holder has the right to withdraw the funds or assets generated pursuant to the provisions of proposed law; however, the right of withdrawal shall terminate upon written notice of the appointment of an executor or administrator of the estate of the decedent being delivered to the broker or securities firm.

Proposed law exempts from liability a broker who pays the surviving spouse in accordance with the provisions of proposed law.

Provides that the provisions of proposed law shall not prohibit any right of forced heirship or the collation or collection of funds due to any spouse, heir, legatee, creditor, or other person having rights or claims to funds of the deceased account holder.

Provides that the provisions of proposed law shall not be applicable upon delivery to the broker or securities firm of a written notice of a petition for the divorce of the account holders and final settlement of the community property has been filed and is pending at the time of the death of the account holder.

(Adds R.S. 9:1421)