

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.

SUCCESSIONS. 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 (a)
12 immovable property, or (b) property subject to claim by a forced heir for his
13 legitime.

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

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

25 §1711.1. Registration in beneficiary form

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

1 §1711.2. Registration in beneficiary form; applicable law

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

11 §1711.3. Form of registration in beneficiary form

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

18 §1711.4. Effect of registration in beneficiary form

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

23 §1711.5. Registration on death of owner

24 On proof of death of a sole owner or the last to die of all multiple owners,
25 and after compliance with any applicable requirements of the registering entity,
26 a security registered in beneficiary form may be registered in the name of the
27 beneficiary or beneficiaries who survived the death of all owners, but this
28 registration in the name of the beneficiary or beneficiaries has no effect on
29 ownership.

1 §1711.6. Registering entity

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

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

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

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

28 §1711.7. Terms, conditions, and forms for registration

29 A. A registering entity offering to accept registrations in beneficiary

1 form may establish the terms and conditions under which it will receive
2 requests (a) for registrations in beneficiary form, and (b) for implementation of
3 registrations in beneficiary form, including requests for cancellation of
4 previously registered beneficiary designations and requests for reregistration
5 to effect a change of beneficiary.

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

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

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

23 §1711.8. Short title; rules of construction

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

27 B. The provisions of this Chapter shall be liberally construed and applied
28 to promote its underlying purposes and policy.

29 C. Unless displaced by the particular provisions of this Chapter, the

1 principles of Louisiana law supplement provisions of this Chapter.

2 §1711.9. Application of Chapter

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

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

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

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

SB 91 Engrossed

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 (a) immovable property, or (b) property subject to claim by a forced heir for his legitime.

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, or other information available to the registering entity.

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)