

DIGEST

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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 any of 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.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Add a definition of "good faith".
2. Allow the registration of a security in beneficiary form to be cancelled or changed by any, rather than all, of the surviving owners.