

SENATE BILL NO. 91

BY SENATOR PEACOCK

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

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

(2) "Good faith" has the same meaning as provided in R.S. 10:1-201.

(3) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an

1 issuer of securities.

2 (4) "Security" means a share, participation, or other interest in movable
3 property, in a business, or in an obligation of an enterprise or other issuer, and
4 includes a certificated security, an uncertificated security, and a security
5 account. It shall not include a share, participation, or other interest in
6 immovable property.

7 (5) "Security account" means (a) a reinvestment account associated with
8 a security, a securities account with a broker, a cash balance in a brokerage
9 account, cash, interest, earnings, or dividends earned or declared on a security
10 in an account, a reinvestment account, or a brokerage account, whether or not
11 credited to the account before the owner's death, or (b) a cash balance or other
12 property held for or due to the owner of a security as a replacement for or
13 product of an account security, whether or not credited to the account before
14 the owner's death.

15 (6) "State" includes any state of the United States, the District of
16 Columbia, the Commonwealth of Puerto Rico, and any territory or possession
17 subject to the legislative authority of the United States.

18 §1711.1. Registration in beneficiary form

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

23 §1711.2. Registration in beneficiary form; applicable law

24 A. A security may be registered in beneficiary form if the form is
25 authorized by this or a similar statute of the state of organization of the issuer
26 or registering entity, the location of the registering entity's principal office, the
27 office of its transfer agent or its office making the registration, or by this or a
28 similar statute of the law of the state listed as the owner's address at the time of
29 registration. A registration governed by the law of a jurisdiction in which this
30 or similar legislation is not in force or was not in force when a registration in

1 beneficiary form was made is nevertheless presumed to be valid and authorized
2 as a matter of contract law.

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

6 §1711.3. Form of registration in beneficiary form

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

13 §1711.4. Effect of registration in beneficiary form

14 A registration of a security in beneficiary form does not constitute a
15 donation inter vivos or mortis causa. A registration of a security in beneficiary
16 form may be canceled or changed at any time by the sole owner or by any of the
17 surviving owners without the consent of the beneficiary.

18 §1711.5. Registration on death of owner

19 A. On proof of death of a sole owner or the last to die of all multiple
20 owners, and after compliance with any applicable requirements of the
21 registering entity, a security registered in beneficiary form may be registered
22 in the name of the beneficiary or beneficiaries who survived the death of all
23 owners, in compliance with this Chapter, but this registration in the name of the
24 beneficiary or beneficiaries has no effect on ownership.

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

27 §1711.6. Registering entity

28 A. A registering entity is not required to offer or to accept a request for
29 security registration in beneficiary form. If a registration in beneficiary form
30 is offered by a registering entity, the owner requesting registration in

1 beneficiary form assents to the protections given to the registering entity by this
2 Chapter.

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

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

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

23 §1711.7. Terms, conditions, and forms for registration

24 A. A registering entity offering to accept registrations in beneficiary
25 form may establish the terms and conditions under which it will receive
26 requests (a) for registrations in beneficiary form, and (b) for implementation of
27 registrations in beneficiary form, including requests for cancellation of
28 previously registered beneficiary designations and requests for reregistration
29 to effect a change of beneficiary.

30 B. The terms and conditions so established may provide for proving

1 death, avoiding or resolving any problems concerning fractional shares,
2 designating primary and contingent beneficiaries, and substituting a named
3 beneficiary's descendants to take in the place of the named beneficiary in the
4 event of the beneficiary's death.

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

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

17 §1711.8. Short title; rules of construction

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

21 B. The provisions of this Chapter shall be liberally construed.

22 C. Unless displaced by the particular provisions of this Chapter, the
23 principles of Louisiana law supplement provisions of this Chapter.

24 §1711.9. Application of Chapter

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

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

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____