

CHAPTER 633D

TRANSFER ON DEATH SECURITY REGISTRATION

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633D.1 Short title — rules of construction.

1. This chapter shall be known and may be cited as the uniform transfer on death security registration Act.

2. The provisions of this chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of its provisions among states enacting this uniform Act.

3. Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement the provisions of this chapter.

97 Acts, ch 178, §17

CS97, §633.800

2005 Acts, ch 38, §52, 53

CS2005, §633D.1

633D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Beneficiary form*” means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

2. “*Devisee*” means any person designated in a will to receive a disposition of real or personal property.

3. “*Heir*” means a person, including the surviving spouse, who is entitled under the statutes of intestate succession to the property of a decedent.

4. “*Register*” means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of the security.

5. “*Registering entity*” means a person who originates or transfers a security title by registration, including a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

6. “*Security*” means a security as defined in section 502.102. For purposes of this chapter, “*security*” includes, but is not limited to, a certificated security, an uncertificated security, and a security account.

7. “*Security account*” means any of the following:

a. Any of the following:

(1) A reinvestment account associated with a security.

(2) A securities account with a broker.

(3) A cash balance in a brokerage account.

(4) Cash, interest, earnings, or dividends earned or declared on a security in an 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, whether or not credited to the account before the owner's death.

c. An investment management or custody account with a bank, trust company, or a trust division of a bank with trust powers, including the securities in the account, cash balance in the account, cash, cash equivalents, interest, earnings, and dividends earned or declared on a security in the account whether or not credited to the account before the owner's death. For purposes of this paragraph, "bank" means an entity as defined in section 12C.1.

8. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

97 Acts, ch 178, §18

CS97, §633.801

2000 Acts, ch 1147, §33; 2002 Acts, ch 1002, §2; 2005 Acts, ch 38, §52, 53

CS2005, §633D.2

633D.3 Registration in beneficiary form — sole or joint tenancy ownership.

Only an individual whose registration of a security shows sole ownership by one individual or multiple ownership by two or more individuals with a right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form shall hold as joint tenants with rights of survivorship, tenants by the entireties, or owners of community property held in survivorship form and not as tenants in common.

97 Acts, ch 178, §19

CS97, §633.802

2005 Acts, ch 38, §53

CS2005, §633D.3

633D.4 Registration in beneficiary form — applicable law.

1. A security may be registered in beneficiary form if the form is authorized by this chapter or a similar statute of the state of any of the following:

a. The state of organization of the issuer or registering entity.

b. The state of location of the registering entity's principal office.

c. The state of location of the office of the entity's transfer agent or the office of the entity making the registration.

d. The state of the address listed as the owner's at the time of registration.

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

97 Acts, ch 178, §20

CS97, §633.803

2005 Acts, ch 38, §52, 53

CS2005, §633D.4

633D.5 Origination of registration in beneficiary form.

A security, whether evidenced by a certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

97 Acts, ch 178, §21

CS97, §633.804

2005 Acts, ch 38, §53

CS2005, §633D.5

633D.6 Form of registration in beneficiary form.

Registration in beneficiary form may be shown by any of the following, appearing after the name of the registered owner and before the name of a beneficiary:

1. The words “transfer on death” or the abbreviation “TOD”.
2. The words “pay on death” or the abbreviation “POD”.

97 Acts, ch 178, §22

CS97, §633.805

2005 Acts, ch 38, §53

CS2005, §633D.6

633D.7 Effect of registration in beneficiary form.

The designation of a transfer on death or pay on death beneficiary on a registration in beneficiary form has no effect on ownership until the owner’s death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all surviving owners without the consent of the beneficiary.

97 Acts, ch 178, §23

CS97, §633.806

2005 Acts, ch 38, §53

CS2005, §633D.7

633D.8 Claims against a beneficiary of a transfer on death security registration.

1. If other assets of the estate of a deceased owner are insufficient to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children, a transfer at death of a security registered in beneficiary form is not effective against the estate of the deceased sole owner, or if multiple owners, against the estate of the last owner to die, to the extent needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children.

2. A beneficiary of a transfer on death security registration under this chapter is liable to account to the personal representative of the deceased owner for the value of the security as of the time of the deceased owner’s death to the extent necessary to discharge debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children. A proceeding against a beneficiary to assert liability shall not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a minor child of the deceased owner.

3. An action for an accounting under this section must be commenced within two years after the death of the owner.

4. A beneficiary against whom a proceeding is brought may elect to transfer to the personal representative the security registered in the name of the beneficiary if the beneficiary still owns the security, or the net proceeds received by the beneficiary upon disposition of the security by the beneficiary. Such transfer fully discharges the beneficiary from all liability under this section.

5. A beneficiary against whom a proceeding for an accounting is brought may join as a party to the proceeding a beneficiary of any other security registered in beneficiary form by the deceased owner.

6. Amounts recovered by the personal representative with respect to a security shall be administered as part of the deceased owner’s estate.

7. A district court in this state shall have subject matter jurisdiction over a claim against a designated beneficiary brought by the decedent’s personal representative or by a claimant to an interest in a security registered under this chapter. Any provision in a security registration form restricting jurisdiction over a claim, or restricting a choice of forum, to a forum outside this state is void.

8. In an action for an accounting brought under this section, where the deceased owner was domiciled in this state, the laws of this state shall apply.

97 Acts, ch 178, §24

CS97, §633.807

2005 Acts, ch 38, §52, 53
CS2005, §633D.8

633D.9 Death of the owner.

On the death of a sole owner or on the death of the sole surviving owner of multiple owners, the ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. A registering entity shall provide notice to the department of revenue of all reregistrations made pursuant to this chapter. The notice shall include the name, address, and social security number of the decedent and all transferees. Until the division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of multiple owners.

97 Acts, ch 178, §25
CS97, §633.808
2003 Acts, ch 145, §286; 2005 Acts, ch 38, §52, 53
CS2005, §633D.9

633D.10 Protection of registering entity.

1. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections provided to the registering entity by this chapter.

2. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration in beneficiary form shall be implemented on the death of the deceased owners as provided in this chapter.

3. A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if the registering entity registers a transfer of the security in accordance with section 633D.9 and does so in good faith reliance on all of the following:

- a. The registration.
- b. The provisions of this chapter.
- c. Information provided by affidavit of the personal representative of the deceased owner, the surviving beneficiary, or the surviving beneficiary's representative, or other information available to the registering entity.

The protections of this chapter do not extend to a reregistration 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 other information available to the registering entity affects its right to protection under this chapter.

4. The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the transferred security, its value, or its proceeds.

97 Acts, ch 178, §26
CS97, §633.809
2005 Acts, ch 38, §52, 53, 55
CS2005, §633D.10

633D.11 Nontestamentary transfer on death.

1. A transfer on death resulting from a registration in beneficiary form shall be effective by reason of the contract regarding the registration between the owner and the registering entity under the provisions of this chapter, and is not testamentary.

2. The provisions of this chapter do not limit the rights of creditors or security owners against beneficiaries and other transferees under other laws of this state.

97 Acts, ch 178, §27

CS97, §633.810

2005 Acts, ch 38, §52, 53

CS2005, §633D.11

633D.12 Terms, conditions, and forms for registration.

1. A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which the registering entity receives requests for either of the following:

a. Registration in beneficiary form.

b. Implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death or pay on death beneficiary designations and requests for reregistration to effect a change of beneficiary.

2. a. The terms and conditions established by the registering entity may provide for proving death, avoiding or resolving problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the beneficiary the letters "LDPS" standing for "lineal descendants per stirpes". This designation shall substitute a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive, with the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. 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 accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

b. The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: OWNER'S NAME transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(2) Multiple owners-sole beneficiary: OWNERS' NAMES, as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: OWNERS' NAMES as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME, or lineal descendants per stirpes.

97 Acts, ch 178, §28

CS97, §633.811

2005 Acts, ch 38, §53

CS2005, §633D.12