

S. 4/25/96 Do Pass

APR 17 1996
WAYS & MEANS CALENDAR

HOUSE FILE 2500
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 757)

Passed House, ^(P.1873) Date 4/23/96
Vote: Ayes 93 Nays 0
Approved _____

Passed Senate, ^(P.1528) Date 4/29/96
Vote: Ayes 44 Nays 3

A BILL FOR

1 An Act providing for the modification or termination of certain
2 testamentary trusts by the court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2500

1 Section 1. NEW SECTION. 633.699A MODIFICATION OR
2 TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.

3 1. On petition by a trustee or beneficiary, and after
4 notice to all interested parties as determined by the court,
5 if the court determines that the fair market value of a
6 testamentary trust has become so low in relation to the cost
7 of administration that continuation of the trust under its
8 existing terms will defeat or substantially impair the
9 accomplishment of its purposes, the court may, in its
10 discretion, order termination of the trust, modification of
11 the trust, or appointment of a new trustee.

12 a. If the court orders the termination of the trust,
13 disposition of all property shall be made according to the
14 will provisions that address the disposition of the property
15 in the event the trust is terminated. However, if the will
16 does not address the disposition of the property in the event
17 the trust is terminated, the court shall determine the
18 disposition of the trust property, according to what the court
19 determines would be most consistent with the trustor's
20 original intent.

21 b. The existence of a trust provision restraining transfer
22 of the beneficiary's interest does not prevent application of
23 this subsection.

24 2. In the case of a charitable testamentary trust, the
25 attorney general shall be considered an interested party under
26 this section. This section shall not be construed to limit
27 intervention by the attorney general according to section
28 633.303.

29 EXPLANATION

30 This bill adds a new section to the probate code, that
31 permits a court to modify or terminate a testamentary trust
32 when it has become uneconomical to administer.

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HOUSE FILE 2500

H-6037

1 Amend House File 2500 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. _____. Section 614.14, subsection 4, paragraph
5 b, Code 1995, is amended to read as follows:

6 b. That, to the knowledge of the trustee, the
7 person creating the trust was under no disability or
8 infirmity at the time the trust was created.

9 Sec. _____. Section 633.10, subsection 4, Code 1995,
10 is amended by adding the following new paragraph:

11 NEW PARAGRAPH. d. A trust that is administered
12 solely or jointly by an individual trustee or trustees
13 is not subject to the jurisdiction of the court unless
14 jurisdiction is invoked by a trustee or beneficiary,
15 or if otherwise provided by the governing instrument.
16 Upon application of all trustees administering a trust
17 which is subject to the court's jurisdiction, and
18 following notice to beneficiaries as provided in
19 section 633.40, subsection 4, the court shall release
20 the trust from further jurisdiction unless one or more
21 beneficiaries object, on the condition that
22 jurisdiction may thereafter be invoked by a trustee or
23 beneficiary. The provisions of this paragraph shall
24 be effective for applications filed on or after July
25 1, 1996.

26 Sec. _____. Section 633.31, Code 1995, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 3. The fee set forth in
29 subsection 2, paragraph "k" shall not be charged on
30 any property transferred to a testamentary trust from
31 an estate that has been administered in this state and
32 for which court costs have been assessed and paid.

33 Sec. _____. Section 633.410, Code Supplement 1995,
34 is amended to read as follows:

35 633.410 LIMITATION ON FILING CLAIMS AGAINST
36 DECEDENT'S ESTATE.

37 All claims against a decedent's estate, other than
38 charges, whether due or to become due, absolute or
39 contingent, liquidated or unliquidated, founded on
40 contract or otherwise, are forever barred against the
41 estate, the personal representative, and the
42 distributees of the estate, unless filed with the
43 clerk within the later to occur of four months after
44 the date of the second publication of the notice to
45 creditors or, as to each claimant whose identity is
46 reasonably ascertainable, one month after service of
47 notice by ordinary mail to the claimant's last known
48 address. However, notice is not required to be given
49 by mail to any creditor whose claim will be paid or
50 otherwise satisfied during administration and the

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1 personal representative may waive the limitation on
2 filing provided under this section. This section does
3 not bar claims for which there is insurance coverage,
4 to the extent of the coverage, ~~claims-for-debts~~
5 ~~created-under-section-249A.5-relating-to-the-recovery~~
6 ~~of-medical-assistance-payments,~~ or claimants entitled
7 to equitable relief due to peculiar circumstances.

8 Sec. _____. Section 633.440, Code 1995, is amended
9 to read as follows:

10 633.440 CONTENTS OF NOTICE OF DISALLOWANCE.

11 Such a notice of disallowance shall advise the
12 claimant that the claim has been disallowed and will
13 be forever barred unless the claimant shall within
14 twenty days after the date of mailing the notice, file
15 a request for hearing on the claim with the clerk, and
16 mail a copy of such request for hearing to the
17 personal representative and the attorney of record, if
18 any, by certified mail.

19 Sec. _____. Section 633.681, Code 1995, is amended
20 to read as follows:

21 633.681 ASSETS OF MINOR WARD EXHAUSTED.

22 When the assets of a minor ward's conservatorship
23 are exhausted or consist of personal property only of
24 an aggregate value not in excess of four ten thousand
25 dollars, the court, upon application or upon its own
26 motion, may terminate the conservatorship and. The
27 order for termination shall direct the conservator to
28 deliver the any property remaining after the payment
29 of allowed claims and expenses of administration to
30 the-parent-or-other-person-entitled-to-the-custody-of
31 the-minor-ward,-for-the-use-of-the-ward,-after-payment
32 of-allowed-claims-and-expenses-of-administration a
33 custodian under any uniform transfers to minors Act.

34 Such delivery shall have the same force and effect as
35 if delivery had been made to the ward after attaining
36 majority.

37 Sec. _____. Section 633.704, subsection 3, paragraph
38 a, Code Supplement 1995, is amended to read as
39 follows:

40 a. PASSAGE OF DISCLAIMED INTEREST OR PROPERTY.

41 Unless the transferor has otherwise provided, the
42 property, interest, or right disclaimed, and any
43 future interest which is to take effect in possession
44 or enjoyment at or after the termination of the
45 interest or right disclaimed, descends or shall be
46 distributed as if the disclaimant has died prior to
47 the date of the transfer, or if the disclaimant is one
48 designated to take pursuant to a power of appointment
49 exercised by testamentary instrument, then as if the
50 disclaimant has predeceased the donee of the power

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1 unless the donee of the power has otherwise provided.
2 In every case, the disclaimer relates back for all
3 purposes to the date of the transfer. ~~In the case of~~
4 ~~a disclaiming beneficiary under a will, other than a~~
5 ~~spouse, the property, interest, or right disclaimed~~
6 ~~passes to the heirs of the disclaimant unless from the~~
7 ~~terms of the transferor's will the intent is clear and~~
8 ~~explicit to the contrary, in which event the property,~~
9 ~~interest, or right disclaimed passes pursuant to the~~
10 ~~will.~~ In the case of a disclaimer under a will by a
11 spouse the property, interest, or right disclaimed
12 lapses unless from the terms of the transferor's will
13 the intent is clear and explicit to the contrary."
14 2. Title page, line 1, by inserting after the
15 word "for" the following: "certain changes in the
16 probate code, including changes in the jurisdiction of
17 the probate court on certain testamentary trusts, fees
18 payable on certain trusts, claims against estates for
19 medical assistance payments, and".
20 3. By renumbering as necessary.

By LAMBERTI of Polk

H-6037 FILED APRIL 23, 1996

Withdrawn
4-23-96
(P. 1872)

HOUSE FILE 2500

H-6038

1 Amend House File 2500 as follows:

2 1. Page 1, by inserting after line 28 the
3 following:

4 "Sec. ____ . NEW SECTION. 633.800 SHORT TITLE --
5 RULES OF CONSTRUCTION.

6 1. This division shall be known and may be cited
7 as the uniform transfer on death security registration
8 Act.

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

14 3. Unless displaced by the particular provisions
15 of this division, the principles of law and equity
16 supplement the provisions of this division.

17 Sec. ____ . NEW SECTION. 633.801 DEFINITIONS.

18 As used in this division, unless the context
19 otherwise requires:

20 1. "Beneficiary form" means a registration of a
21 security which indicates the present owner of the
22 security and the intention of the owner regarding the
23 person who will become the owner of the security upon
24 the death of the owner.

25 2. "Devisee" means any person designated in a will
26 to receive a disposition of real or personal property.

27 3. "Heir" means a person, including the surviving
28 spouse, who is entitled under the statutes of
29 intestate succession to the property of a decedent.

30 4. "Register" means to issue a certificate showing
31 the ownership of a certificated security or, in the
32 case of an uncertificated security, to initiate or
33 transfer an account showing ownership of the security.

34 5. "Registering entity" means a person who
35 originates or transfers a security title by
36 registration, including a broker maintaining security
37 accounts for customers and a transfer agent or other
38 person acting for or as an issuer of securities.

39 6. "Security" means a share, participation, or
40 other interest in property, in a business, or in an
41 obligation of an enterprise or other issuer, including
42 a certificated security, an uncertificated security,
43 and a security account.

44 7. "Security account" means either of the
45 following:

46 a. Any of the following:

47 (1) A reinvestment account associated with a
48 security.

49 (2) A securities account with a broker.

50 (3) A cash balance in a brokerage account.

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

6 b. A cash balance or other property held for or
7 due to the owner of a security as a replacement for or
8 product of an account security, whether or not
9 credited to the account before the owner's death.

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

14 Sec. ____ . NEW SECTION. 633.802 REGISTRATION IN
15 BENEFICIARY FORM -- SOLE OR JOINT TENANCY OWNERSHIP.

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

26 Sec. ____ . NEW SECTION. 633.803 REGISTRATION IN
27 BENEFICIARY FORM -- APPLICABLE LAW.

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

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

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

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

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

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

46 Sec. ____ . NEW SECTION. 633.804 ORIGINATION OF
47 REGISTRATION IN BENEFICIARY FORM.

48 A security, whether evidenced by a certificate or
49 account, is registered in beneficiary form when the
50 registration includes a designation of a beneficiary

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1 to take the ownership at the death of the owner or the
2 deaths of all multiple owners.

3 Sec. ____ . NEW SECTION. 633.805 FORM OF
4 REGISTRATION IN BENEFICIARY FORM.

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

8 1. The words "transfer on death" or the
9 abbreviation "TOD".

10 2. The words "pay on death" or the abbreviation
11 "POD".

12 Sec. ____ . NEW SECTION. 633.806 EFFECT OF
13 REGISTRATION IN BENEFICIARY FORM.

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

21 Sec. ____ . NEW SECTION. 633.807 UNPAID CLAIMS.

22 1. If other assets of the estate of a deceased
23 owner are insufficient, a transfer at death of a
24 security registered in beneficiary form is not
25 effective against the estate of the deceased owner to
26 the extent needed to pay claims against the estate and
27 statutory allowances to the surviving spouse and
28 children.

29 2. A beneficiary of a transfer on death security
30 registration under this chapter is liable to account
31 to the personal representative of the deceased owner
32 for the value of the security as of the time of the
33 deceased owner's death to the extent necessary to
34 discharge these unpaid claims and allowances. A
35 proceeding against a beneficiary to assert liability
36 shall not be commenced unless the personal
37 representative has received a written demand by the
38 surviving spouse, a creditor, a child, or a person
39 acting for a minor child of the deceased owner. The
40 proceeding must be commenced within one year after the
41 death of the owner.

42 3. A beneficiary against whom a proceeding to
43 account is brought may join a beneficiary of any other
44 security registered in beneficiary form by the
45 deceased owner as a party to the proceeding.

46 Sec. ____ . NEW SECTION. 633.808 THE DEATH OF THE
47 OWNER.

48 On the death of a sole owner or on the death of the
49 sole surviving owner of multiple owners, the ownership
50 of securities registered in beneficiary form passes to

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1 the beneficiary or beneficiaries who survive all
2 owners. On proof of death of all owners and
3 compliance with any applicable requirements of the
4 registering entity, a security registered in
5 beneficiary form may be reregistered in the name of
6 the beneficiary or beneficiaries who survived the
7 death of all owners. A registering entity shall
8 provide notice to the department of revenue and
9 finance of all reregistrations made pursuant to this
10 division. The notice shall include the name, address,
11 and social security number of the descendant and all
12 transferees. Until the division of the security after
13 the death of all owners, multiple beneficiaries
14 surviving the death of all owners hold their interests
15 as tenants in common. If no beneficiary survives the
16 death of all owners, the security belongs to the
17 estate of the deceased sole owner or the estate of the
18 last to die of multiple owners.

19 Sec. ____ . NEW SECTION. 633.809 PROTECTION OF
20 REGISTERING ENTITY.

21 1. A registering entity is not required to offer
22 or to accept a request for security registration in
23 beneficiary form. If a registration in beneficiary
24 form is offered by a registering entity, the owner
25 requesting registration in beneficiary form assents to
26 the protections provided to the registering entity by
27 this division.

28 2. By accepting a request for registration of a
29 security in beneficiary form, the registering entity
30 agrees that the registration in beneficiary form shall
31 be implemented on the death of the deceased owner as
32 provided in this division.

33 3. A registering entity is discharged from all
34 claims to a security by the estate, creditors, heirs,
35 or devisees of a deceased owner if the registering
36 entity registers a transfer of the security in
37 accordance with section 633.807 and does so in good
38 faith reliance on all of the following:

39 a. The registration.

40 b. The provisions of this division.

41 c. Information provided by affidavit of the
42 personal representative of the deceased owner, the
43 surviving beneficiary, or the surviving beneficiary's
44 representative, or other information available to the
45 registering entity.

46 The protections of this division do not extend to a
47 reregistration or payment made after a registering
48 entity has received written notice from any claimant
49 to any interest in the security objecting to
50 implementation of a registration in beneficiary form.

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1 No other notice or other information available to the
2 registering entity affects its right to protection
3 under this division.

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

9 Sec. . NEW SECTION. 633.810 NONTESTAMENTARY
10 TRANSFER ON DEATH.

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

16 2. The provisions of this division do not limit
17 the rights of creditors or security owners against
18 beneficiaries and other transferees under other laws
19 of this state.

20 Sec. . NEW SECTION. 633.811 TERMS,
21 CONDITIONS, AND FORMS FOR REGISTRATION.

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

26 a. Registration in beneficiary form.

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

32 2. a. The terms and conditions established by the
33 registering entity may provide for proving death,
34 avoiding or resolving problems concerning fractional
35 shares, designating primary and contingent
36 beneficiaries, and substituting a named beneficiary's
37 descendants to take in place of the named beneficiary
38 in the event of the beneficiary's death. Substitution
39 may be indicated by appending to the name of the
40 beneficiary the letters "LDPS" standing for "lineal
41 descendants per stirpes". This designation shall
42 substitute a deceased beneficiary's descendants who
43 survive the owner for a beneficiary who fails to
44 survive, with the descendants to be identified and to
45 share in accordance with the law of the beneficiary's
46 domicile at the owner's death governing inheritance by
47 descendants of an intestate. Other forms of
48 identifying beneficiaries who are to take on one or
49 more contingencies, and rules for providing proofs and
50 assurances needed to satisfy reasonable concerns by

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1 registering entities regarding conditions and
2 identities relevant to accurate implementation of
3 registrations in beneficiary form, may be contained in
4 a registering entity's terms and conditions.

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

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

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

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

20 Sec. ____ APPLICATION. The provisions of this
21 division relating to the uniform transfer on death
22 security registration Act apply to registrations of
23 securities in beneficiary form made before, on, or
24 after the effective date of this Act, by decedents
25 dying on or after the effective date of this Act."

26 2. Title page, line 1, by inserting after the
27 word "for" the following: "registration of securities
28 in a transfer-on-death form, and".

29 3. By renumbering as necessary.

By HALVORSON of Clayton

H-6038 FILED APRIL 23, 1996

Withdrawn 4/23/96 (p. 1872)

HOUSE FILE 2500

S-5854

1 Amend House File 2500, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 28 the
4 following:

5 "Sec. ____ . NEW SECTION. 633.800 SHORT TITLE --
6 RULES OF CONSTRUCTION.

7 1. This division shall be known and may be cited
8 as the uniform transfer on death security registration
9 Act.

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

15 3. Unless displaced by the particular provisions
16 of this division, the principles of law and equity
17 supplement the provisions of this division.

18 Sec. ____ . NEW SECTION. 633.801 DEFINITIONS.

19 As used in this division, unless the context
20 otherwise requires:

21 1. "Beneficiary form" means a registration of a
22 security which indicates the present owner of the
23 security and the intention of the owner regarding the
24 person who will become the owner of the security upon
25 the death of the owner.

26 2. "Devisee" means any person designated in a will
27 to receive a disposition of real or personal property.

28 3. "Heir" means a person, including the surviving
29 spouse, who is entitled under the statutes of
30 intestate succession to the property of a decedent.

31 4. "Register" means to issue a certificate showing
32 the ownership of a certificated security or, in the
33 case of an uncertificated security, to initiate or
34 transfer an account showing ownership of the security.

35 5. "Registering entity" means a person who
36 originates or transfers a security title by
37 registration, including a broker maintaining security
38 accounts for customers and a transfer agent or other
39 person acting for or as an issuer of securities.

40 6. "Security" means a share, participation, or
41 other interest in property, in a business, or in an
42 obligation of an enterprise or other issuer, including
43 a certificated security, an uncertificated security,
44 and a security account.

45 7. "Security account" means either of the
46 following:

47 a. Any of the following:

48 (1) A reinvestment account associated with a
49 security.

50 (2) A securities account with a broker.

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1 (3) A cash balance in a brokerage account.
2 (4) Cash, interest, earnings, or dividends earned
3 or declared on a security in an account, a
4 reinvestment account, or a brokerage account, whether
5 or not credited to the account before the owner's
6 death.

7 b. A cash balance or other property held for or
8 due to the owner of a security as a replacement for or
9 product of an account security, whether or not
10 credited to the account before the owner's death.

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

15 Sec. ____ . NEW SECTION. 633.802 REGISTRATION IN
16 BENEFICIARY FORM -- SOLE OR JOINT TENANCY OWNERSHIP.
17 Only an individual whose registration of a security
18 shows sole ownership by one individual or multiple
19 ownership by two or more individuals with a right of
20 survivorship, rather than as tenants in common, may
21 obtain registration in beneficiary form. Multiple
22 owners of a security registered in beneficiary form
23 shall hold as joint tenants with rights of
24 survivorship, tenants by the entireties, or owners of
25 community property held in survivorship form and not
26 as tenants in common.

27 Sec. ____ . NEW SECTION. 633.803 REGISTRATION IN
28 BENEFICIARY FORM -- APPLICABLE LAW.

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

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

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

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

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

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

47 Sec. ____ . NEW SECTION. 633.804 ORIGINATION OF
48 REGISTRATION IN BENEFICIARY FORM.
49 A security, whether evidenced by a certificate or
50 account, is registered in beneficiary form when the

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1 registration includes a designation of a beneficiary
2 to take the ownership at the death of the owner or the
3 deaths of all multiple owners.

4 Sec. ____ . NEW SECTION. 633.805 FORM OF
5 REGISTRATION IN BENEFICIARY FORM.

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

9 1. The words "transfer on death" or the
10 abbreviation "TOD".

11 2. The words "pay on death" or the abbreviation
12 "POD".

13 Sec. ____ . NEW SECTION. 633.806 EFFECT OF
14 REGISTRATION IN BENEFICIARY FORM.

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

22 Sec. ____ . NEW SECTION. 633.807 UNPAID CLAIMS.

23 1. If other assets of the estate of a deceased
24 owner are insufficient, a transfer at death of a
25 security registered in beneficiary form is not
26 effective against the estate of the deceased owner to
27 the extent needed to pay claims against the estate and
28 statutory allowances to the surviving spouse and
29 children.

30 2. A beneficiary of a transfer on death security
31 registration under this chapter is liable to account
32 to the personal representative of the deceased owner
33 for the value of the security as of the time of the
34 deceased owner's death to the extent necessary to
35 discharge these unpaid claims and allowances. A
36 proceeding against a beneficiary to assert liability
37 shall not be commenced unless the personal
38 representative has received a written demand by the
39 surviving spouse, a creditor, a child, or a person
40 acting for a minor child of the deceased owner. The
41 proceeding must be commenced within one year after the
42 death of the owner.

43 3. A beneficiary against whom a proceeding to
44 account is brought may join a beneficiary of any other
45 security registered in beneficiary form by the
46 deceased owner as a party to the proceeding.

47 Sec. ____ . NEW SECTION. 633.808 THE DEATH OF THE
48 OWNER.

49 On the death of a sole owner or on the death of the
50 sole surviving owner of multiple owners, the ownership

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1 of securities registered in beneficiary form passes to
2 the beneficiary or beneficiaries who survive all
3 owners. On proof of death of all owners and
4 compliance with any applicable requirements of the
5 registering entity, a security registered in
6 beneficiary form may be reregistered in the name of
7 the beneficiary or beneficiaries who survived the
8 death of all owners. A registering entity shall
9 provide notice to the department of revenue and
10 finance of all reregistrations made pursuant to this
11 division. The notice shall include the name, address,
12 and social security number of the descendant and all
13 transferees. Until the division of the security after
14 the death of all owners, multiple beneficiaries
15 surviving the death of all owners hold their interests
16 as tenants in common. If no beneficiary survives the
17 death of all owners, the security belongs to the
18 estate of the deceased sole owner or the estate of the
19 last to die of multiple owners.

20 Sec. ____ . NEW SECTION. 633.809 PROTECTION OF
21 REGISTERING ENTITY.

22 1. A registering entity is not required to offer
23 or to accept a request for security registration in
24 beneficiary form. If a registration in beneficiary
25 form is offered by a registering entity, the owner
26 requesting registration in beneficiary form assents to
27 the protections provided to the registering entity by
28 this division.

29 2. By accepting a request for registration of a
30 security in beneficiary form, the registering entity
31 agrees that the registration in beneficiary form shall
32 be implemented on the death of the deceased owner as
33 provided in this division.

34 3. A registering entity is discharged from all
35 claims to a security by the estate, creditors, heirs,
36 or devisees of a deceased owner if the registering
37 entity registers a transfer of the security in
38 accordance with section 633.807 and does so in good
39 faith reliance on all of the following:

40 a. The registration.
41 b. The provisions of this division.
42 c. Information provided by affidavit of the
43 personal representative of the deceased owner, the
44 surviving beneficiary, or the surviving beneficiary's
45 representative, or other information available to the
46 registering entity.

47 The protections of this division do not extend to a
48 reregistration or payment made after a registering
49 entity has received written notice from any claimant
50 to any interest in the security objecting to

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1 implementation of a registration in beneficiary form.
2 No other notice or other information available to the
3 registering entity affects its right to protection
4 under this division.

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

10 Sec. ____ . NEW SECTION. 633.810 NONTESTAMENTARY
11 TRANSFER ON DEATH.

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

17 2. The provisions of this division do not limit
18 the rights of creditors or security owners against
19 beneficiaries and other transferees under other laws
20 of this state.

21 Sec. ____ . NEW SECTION. 633.811 TERMS,
22 CONDITIONS, AND FORMS FOR REGISTRATION.

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

27 a. Registration in beneficiary form.
28 b. Implementation of registrations in beneficiary
29 form, including requests for cancellation of
30 previously registered transfer on death or pay on
31 death beneficiary designations and requests for
32 reregistration to effect a change of beneficiary.

33 2. a. The terms and conditions established by the
34 registering entity may provide for proving death,
35 avoiding or resolving problems concerning fractional
36 shares, designating primary and contingent
37 beneficiaries, and substituting a named beneficiary's
38 descendants to take in place of the name beneficiary
39 in the event of the beneficiary's death. Substitution
40 may be indicated by appending to the name of the
41 beneficiary the letters "LDPS" standing for "lineal
42 descendants per stirpes". This designation shall
43 substitute a deceased beneficiary's descendants who
44 survive the owner for a beneficiary who fails to
45 survive, with the descendants to be identified and to
46 share in accordance with the law of the beneficiary's
47 domicile at the owner's death governing inheritance by
48 descendants of an intestate. Other forms of
49 identifying beneficiaries who are to take on one or
50 more contingencies, and rules for providing proofs and

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1 assurances needed to satisfy reasonable concerns by
2 registering entities regarding conditions and
3 identities relevant to accurate implementation of
4 registrations in beneficiary form, may be contained in
5 a registering entity's terms and conditions.

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

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

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

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

21 Sec. ____ APPLICATION. The provisions of this
22 division relating to the uniform transfer on death
23 security registration Act apply to registrations of
24 securities in beneficiary form made before, on, or
25 after the effective date of this Act, by decedents
26 dying on or after the effective date of this Act."

27 2. Title page, line 1, by inserting after the
28 word "for" the following: "registration of securities
29 in a transfer-on-death form, and".

30 3. By renumbering as necessary.

By MARY LOU FREEMAN

S-5854 FILED APRIL 29, 1996
RULED OUT OF ORDER

(P. 1527)

Disney, Ch
Dinkla
Doderer

HSB 757

WAYS AND MEANS

Succeeded by
SF/HF 2500

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIR-
PERSON HALVORSON)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for the modification or termination of certain
2 testamentary trusts by the court.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 633.699A MODIFICATION OR
2 TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.

3 1. On petition by a trustee or beneficiary, and after
4 notice to all interested parties as determined by the court,
5 if the court determines that the fair market value of a
6 testamentary trust has become so low in relation to the cost
7 of administration that continuation of the trust under its
8 existing terms will defeat or substantially impair the
9 accomplishment of its purposes, the court may, in its
10 discretion, order termination of the trust, modification of
11 the trust, or appointment of a new trustee.

12 a. If the court orders the termination of the trust,
13 disposition of all property shall be made according to the
14 will provisions that address the disposition of the property
15 in the event the trust is terminated. However, if the will
16 does not address the disposition of the property in the event
17 the trust is terminated, the court shall determine the
18 disposition of the trust property, according to what the court
19 determines would be most consistent with the trustor's
20 original intent.

21 b. The existence of a trust provision restraining transfer
22 of the beneficiary's interest does not prevent application of
23 this subsection.

24 2. In the case of a charitable testamentary trust, the
25 attorney general shall be considered an interested party under
26 this section. This section shall not be construed to limit
27 intervention by the attorney general according to section
28 633.303.

29 EXPLANATION

30 This bill adds a new section to the probate code, that
31 permits a court to modify or terminate a testamentary trust
32 when it has become uneconomical to administer.

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HOUSE FILE 2500

this section. This section shall not be construed to limit intervention by the attorney general according to section 633.303.

AN ACT

PROVIDING FOR THE MODIFICATION OR TERMINATION OF CERTAIN TESTAMENTARY TRUSTS BY THE COURT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 633.699A MODIFICATION OR TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.

1. On petition by a trustee or beneficiary, and after notice to all interested parties as determined by the court, if the court determines that the fair market value of a testamentary trust has become so low in relation to the cost of administration that continuation of the trust under its existing terms will defeat or substantially impair the accomplishment of its purposes, the court may, in its discretion, order termination of the trust, modification of the trust, or appointment of a new trustee.

a. If the court orders the termination of the trust, disposition of all property shall be made according to the will provisions that address the disposition of the property in the event the trust is terminated. However, if the will does not address the disposition of the property in the event the trust is terminated, the court shall determine the disposition of the trust property, according to what the court determines would be most consistent with the trustor's original intent.

b. The existence of a trust provision restraining transfer of the beneficiary's interest does not prevent application of this subsection.

2. In the case of a charitable testamentary trust, the attorney general shall be considered an interested party under

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2500, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 15, 1996

TERRY E. BRANSTAD
Governor