

Senate Study Bill 9

Bill Text

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1 1 Section 1. NEW SECTION. 633.800 SHORT TITLE - RULES OF
1 2 CONSTRUCTION.

1 3 1. This division shall be known and may be cited as the
1 4 uniform transfer on death security registration Act.

1 5 2. The provisions of this division shall be liberally
1 6 construed and applied to promote its underlying purposes and
1 7 policy and to make uniform the laws with respect to the
1 8 subject of its provisions among states enacting this uniform
1 9 Act.

1 10 3. Unless displaced by the particular provisions of this
1 11 division, the principles of law and equity supplement the
1 12 provisions of this division.

1 13 Sec. 2. NEW SECTION. 633.801 DEFINITIONS.

1 14 As used in this division, unless the context otherwise
1 15 requires:

1 16 1. "Beneficiary form" means a registration of a security
1 17 which indicates the present owner of the security and the
1 18 intention of the owner regarding the person who will become
1 19 the owner of the security upon the death of the owner.

1 20 2. "Devisee" means any person designated in a will to
1 21 receive a disposition of real or personal property.

1 22 3. "Heir" means a person, including the surviving spouse,
1 23 who is entitled under the statutes of intestate succession to
1 24 the property of a decedent.

1 25 4. "Register" means to issue a certificate showing the
1 26 ownership of a certificated security or, in the case of an
1 27 uncertificated security, to initiate or transfer an account
1 28 showing ownership of the security.

1 29 5. "Registering entity" means a person who originates or
1 30 transfers a security title by registration, including a broker
1 31 maintaining security accounts for customers and a transfer
1 32 agent or other person acting for or as an issuer of
1 33 securities.

1 34 6. "Security" means a share, participation, or other
1 35 interest in property, in a business, or in an obligation of an
2 1 enterprise or other issuer, including a certificated security,
2 2 an uncertificated security, and a security account.

2 3 7. "Security account" means either of the following:

2 4 a. Any of the following:

2 5 (1) A reinvestment account associated with a security.

2 6 (2) A securities account with a broker.

2 7 (3) A cash balance in a brokerage account.

2 8 (4) Cash, interest, earnings, or dividends earned or
2 9 declared on a security in an account, a reinvestment account,
2 10 or a brokerage account, whether or not credited to the account
2 11 before the owner's death.

2 12 b. A cash balance or other property held for or due to the
2 13 owner of a security as a replacement for or product of an
2 14 account security, whether or not credited to the account
2 15 before the owner's death.

2 16 8. "State" includes any state of the United States, the
2 17 District of Columbia, the Commonwealth of Puerto Rico, and any
2 18 territory or possession subject to the legislative authority
2 19 of the United States.

2 20 Sec. 3. NEW SECTION. 633.802 REGISTRATION IN BENEFICIARY
2 21 FORM - SOLE OR JOINT TENANCY OWNERSHIP.

2 22 Only an individual whose registration of a security shows
2 23 sole ownership by one individual or multiple ownership by two
2 24 or more individuals with a right of survivorship, rather than
2 25 as tenants in common, may obtain registration in beneficiary
2 26 form. Multiple owners of a security registered in beneficiary
2 27 form shall hold as joint tenants with rights of survivorship,
2 28 tenants by the entirety, or owners of community property
2 29 held in survivorship form and not as tenants in common.

2 30 Sec. 4. NEW SECTION. 633.803 REGISTRATION IN BENEFICIARY
2 31 FORM - APPLICABLE LAW.

2 32 1. A security may be registered in beneficiary form if the
2 33 form is authorized by this division or a similar statute of
2 34 the state of any of the following:

2 35 a. The state of organization of the issuer or registering
3 1 entity.

3 2 b. The state of location of the registering entity's
3 3 principal office.

3 4 c. The state of location of the office of the entity's
3 5 transfer agent or the office of the entity making the
3 6 registration.

3 7 d. The state of the address listed as the owner's at the
3 8 time of registration.

3 9 2. A registration governed by the law of a jurisdiction in
3 10 which this division or a similar statute is not in force or
3 11 was not in force when a registration in beneficiary form was
3 12 made is presumed to be valid and authorized as a matter of
3 13 contract law.

3 14 Sec. 5. NEW SECTION. 633.804 ORIGINATION OF REGISTRATION
3 15 IN BENEFICIARY FORM.

3 16 A security, whether evidenced by a certificate or account,
3 17 is registered in beneficiary form when the registration
3 18 includes a designation of a beneficiary to take the ownership
3 19 at the death of the owner or the deaths of all multiple
3 20 owners.

3 21 Sec. 6. NEW SECTION. 633.805 FORM OF REGISTRATION IN
3 22 BENEFICIARY FORM.

3 23 Registration in beneficiary form may be shown by any of the
3 24 following, appearing after the name of the registered owner
3 25 and before the name of a beneficiary:

3 26 1. The words "transfer on death" or the abbreviation
3 27 "TOD".

3 28 2. The words "pay on death" or the abbreviation "POD".

3 29 Sec. 7. NEW SECTION. 633.806 EFFECT OF REGISTRATION IN
3 30 BENEFICIARY FORM.

3 31 The designation of a transfer on death or pay on death
3 32 beneficiary on a registration in beneficiary form has no
3 33 effect on ownership until the owner's death. A registration
3 34 of a security in beneficiary form may be canceled or changed
3 35 at any time by the sole owner or all surviving owners without
4 1 the consent of the beneficiary.

4 2 Sec. 8. NEW SECTION. 633.807 UNPAID CLAIMS.

4 3 1. If other assets of the estate of a deceased owner are
4 4 insufficient, a transfer at death of a security registered in
4 5 beneficiary form is not effective against the estate of the
4 6 deceased owner to the extent needed to pay claims against the
4 7 estate and statutory allowances to the surviving spouse and
4 8 children.

4 9 2. A beneficiary of a transfer on death security
4 10 registration under this chapter is liable to account to the
4 11 personal representative of the deceased owner for the value of
4 12 the security as of the time of the deceased owner's death to
4 13 the extent necessary to discharge these unpaid claims and
4 14 allowances. A proceeding against a beneficiary to assert
4 15 liability shall not be commenced unless the personal
4 16 representative has received a written demand by the surviving
4 17 spouse, a creditor, a child, or a person acting for a minor
4 18 child of the deceased owner. The proceeding must be commenced

4 19 within one year after the death of the owner.

4 20 3. A beneficiary against whom a proceeding to account is
4 21 brought may join a beneficiary of any other security
4 22 registered in beneficiary form by the deceased owner as a
4 23 party to the proceeding.

4 24 Sec. 9. NEW SECTION. 633.808 DEATH OF THE OWNER.

4 25 On the death of a sole owner or on the death of the sole
4 26 surviving owner of multiple owners, the ownership of
4 27 securities registered in beneficiary form passes to the
4 28 beneficiary or beneficiaries who survive all owners. On proof
4 29 of death of all owners and compliance with any applicable
4 30 requirements of the registering entity, a security registered
4 31 in beneficiary form may be reregistered in the name of the
4 32 beneficiary or beneficiaries who survived the death of all
4 33 owners. A registering entity shall provide notice to the
4 34 department of revenue and finance of all reregistrations made
4 35 pursuant to this division. The notice shall include the name,
5 1 address, and social security number of the descendant and all
5 2 transferees. Until the division of the security after the
5 3 death of all owners, multiple beneficiaries surviving the
5 4 death of all owners hold their interests as tenants in common.
5 5 If no beneficiary survives the death of all owners, the
5 6 security belongs to the estate of the deceased sole owner or
5 7 the estate of the last to die of multiple owners.

5 8 Sec. 10. NEW SECTION. 633.809 PROTECTION OF REGISTERING
5 9 ENTITY.

5 10 1. A registering entity is not required to offer or to
5 11 accept a request for security registration in beneficiary
5 12 form. If a registration in beneficiary form is offered by a
5 13 registering entity, the owner requesting registration in
5 14 beneficiary form assents to the protections provided to the
5 15 registering entity by this division.

5 16 2. By accepting a request for registration of a security
5 17 in beneficiary form, the registering entity agrees that the
5 18 registration in beneficiary form shall be implemented on the
5 19 death of the deceased owner as provided in this division.

5 20 3. A registering entity is discharged from all claims to a
5 21 security by the estate, creditors, heirs, or devisees of a
5 22 deceased owner if the registering entity registers a transfer
5 23 of the security in accordance with section 633.808 and does so
5 24 in good faith reliance on all of the following:

- 5 25 a. The registration.
- 5 26 b. The provisions of this division.
- 5 27 c. Information provided by affidavit of the personal
5 28 representative of the deceased owner, the surviving
5 29 beneficiary, or the surviving beneficiary's representative, or
5 30 other information available to the registering entity.

5 31 The protections of this division do not extend to a
5 32 reregistration or payment made after a registering entity has
5 33 received written notice from any claimant to any interest in
5 34 the security objecting to implementation of a registration in
5 35 beneficiary form. No other notice or other information
6 1 available to the registering entity affects its right to
6 2 protection under this division.

6 3 4. The protection provided by this division to the
6 4 registering entity of a security does not affect the rights of
6 5 beneficiaries in disputes between themselves and other
6 6 claimants to ownership of the transferred security, its value,
6 7 or its proceeds.

6 8 Sec. 11. NEW SECTION. 633.810 NONTESTAMENTARY TRANSFER
6 9 ON DEATH.

6 10 1. A transfer on death resulting from a registration in
6 11 beneficiary form shall be effective by reason of the contract
6 12 regarding the registration between the owner and the
6 13 registering entity under the provisions of this division, and
6 14 is not testamentary.

6 15 2. The provisions of this division do not limit the rights

6 16 of creditors or security owners against beneficiaries and
6 17 other transferees under other laws of this state.

6 18 Sec. 12. NEW SECTION. 633.811 TERMS, CONDITIONS, AND
6 19 FORMS FOR REGISTRATION.

6 20 1. A registering entity offering to accept registrations
6 21 in beneficiary form may establish the terms and conditions
6 22 under which the registering entity receives requests for
6 23 either of the following:

6 24 a. Registration in beneficiary form.

6 25 b. Implementation of registrations in beneficiary form,
6 26 including requests for cancellation of previously registered
6 27 transfer on death or pay on death beneficiary designations and
6 28 requests for reregistration to effect a change of beneficiary.

6 29 2. a. The terms and conditions established by the
6 30 registering entity may provide for proving death, avoiding or
6 31 resolving problems concerning fractional shares, designating
6 32 primary and contingent beneficiaries, and substituting a named
6 33 beneficiary's descendants to take in place of the named
6 34 beneficiary in the event of the beneficiary's death.

6 35 Substitution may be indicated by appending to the name of the
7 1 beneficiary the letters "LDPS" standing for "lineal
7 2 descendants per stirpes". This designation shall substitute a
7 3 deceased beneficiary's descendants who survive the owner for a
7 4 beneficiary who fails to survive, with the descendants to be
7 5 identified and to share in accordance with the law of the
7 6 beneficiary's domicile at the owner's death governing
7 7 inheritance by descendants of an intestate. Other forms of
7 8 identifying beneficiaries who are to take on one or more
7 9 contingencies, and rules for providing proofs and assurances
7 10 needed to satisfy reasonable concerns by registering entities
7 11 regarding conditions and identities relevant to accurate
7 12 implementation of registrations in beneficiary form, may be
7 13 contained in a registering entity's terms and conditions.

7 14 b. The following are illustrations of registrations in
7 15 beneficiary form which a registering entity may authorize:

7 16 (1) Sole owner-sole beneficiary: OWNER'S NAME transfer on
7 17 death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

7 18 (2) Multiple owners-sole beneficiary: OWNERS' NAMES, as
7 19 joint tenants or tenants in the entirety, transfer on death
7 20 (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

7 21 (3) Multiple owners-primary and secondary (substituted)
7 22 beneficiaries: OWNERS' NAMES as joint tenants or tenants in
7 23 the entirety, transfer on death (TOD) or pay on death (POD) to
7 24 BENEFICIARY'S NAME, or lineal descendants per stirpes.

7 25 Sec. 13. APPLICATION. The provisions of this division
7 26 apply to registrations of securities in beneficiary form made
7 27 before, on, or after the effective date of this Act, by
7 28 decedents dying on or after the effective date of this Act.

7 29 EXPLANATION

7 30 This bill adopts the uniform transfer on death (TOD)
7 31 security registration Act as approved and recommended by the
7 32 national conference of commissioners on uniform state laws at
7 33 its annual conference on July 28 - August 4, 1989. The bill
7 34 allows the owner of securities to register the title in
7 35 "transfer-on-death" (TOD) form. The bill provides that a
8 1 person (e.g., an issuer or broker) may transfer the securities
8 2 directly to the designated transferee on the owner's death,
8 3 passing outside the probate process. The registration
8 4 provides a nonprobate transfer option without providing for
8 5 joint tenancy form of title. The registration form does not
8 6 affect the registered owner's control of the affected security
8 7 during the lifetime of the owner. The bill provides for the
8 8 right of survivorship by registered owners and the rights of
8 9 beneficiaries to take the asset upon the death of the last
8 10 surviving owner. An issuer is not required to implement the
8 11 procedure, and the bill provides protections to the
8 12 registering entity who acts in good faith.

8 13 Specifically, the bill includes the following new Code
8 14 sections:

8 15 Section 633.800 provides for citation of the Act as the
8 16 Uniform Transfer on Death Security Registration Act and for
8 17 liberal construction of the Act to achieve uniformity among
8 18 states enacting this Act.

8 19 Section 633.801 provides definitions of relevant terms used
8 20 in TOD registration including "beneficiary form", "heir",
8 21 "register", "registering entity", "security", "security
8 22 account", and "state".

8 23 Terms such as "beneficiary form", "register", "registering
8 24 entity", "security", and "security account" are new terms to
8 25 the probate code and relate to securities products generally
8 26 and the companies that sell them. The term "security" is
8 27 defined similarly to the term defined in the Uniform
8 28 Commercial Code (chapter 554) and is similar to section
8 29 554.8102. The bill defines the term "heir" differently than
8 30 provided in the probate code, to include a surviving spouse.

8 31 Section 633.802 provides that a sole owner or multiple
8 32 owners of a security held in survivorship form may elect to
8 33 register their ownership in beneficiary form. This
8 34 registration is not available to persons holding as tenants in
8 35 common.

9 1 Section 633.803 provides circumstances which must exist
9 2 before a security may be registered in beneficiary form and
9 3 recognized under the bill's provisions. Further, the bill
9 4 provides general rights under Iowa contract law for Iowa
9 5 residents who elect beneficiary form registration of products
9 6 issued from or held in states that have not adopted the
9 7 Uniform Transfer on Death Security Registration Act.

9 8 Section 633.804 defines how registration in beneficiary
9 9 form takes place.

9 10 Section 633.805 adopts certain words and abbreviations
9 11 which will show registration in beneficiary form. These are
9 12 "transfer on death", "TOD", "pay on death", and "POD".

9 13 Section 633.806 explains that a designation of a "TOD" or
9 14 "POD" beneficiary has no effect until death of the owner or
9 15 the death of the last multiple owner and can be changed
9 16 without consent of the beneficiary.

9 17 Section 633.807 provides for the payment of unpaid claims.

9 18 Section 633.808 provides that on proof of death and
9 19 compliance with any requirements of the registering entity,
9 20 the security may be reregistered in the name of the designated
9 21 beneficiary. The bill requires the registering entity to
9 22 provide notice of reregistrations to the department of revenue
9 23 and finance. On the death of the owner, multiple
9 24 beneficiaries will hold as tenants in common. The bill also
9 25 provides guidelines for circumstances when no beneficiary
9 26 survives.

9 27 Section 633.809 provides that a registering entity which
9 28 elects to provide registration of securities in beneficiary
9 29 form agrees to the conditions of this division. The
9 30 registering entity is discharged from other claims to the
9 31 security if it acts in good faith reliance on the registration
9 32 and information provided by affidavit. The section provides
9 33 that it does not provide protection to a registering entity
9 34 which reregisters or distributes a security after receiving
9 35 written notice of an objection to registration in beneficiary
10 1 form. The bill does not attempt to regulate the rights or
10 2 claims of beneficiaries in disputes among themselves.

10 3 Section 633.810 provides that transfers made under the
10 4 bill's provisions are not testamentary and do not limit the
10 5 rights of creditors against beneficiaries.

10 6 Section 633.811 provides that the registering entity may
10 7 define the precise forms and conditions for registration in
10 8 beneficiary form. This includes examples of recommended
10 9 registrations to be used by registering entities to resolve

10 10 questions regarding fractional shares.
10 11 Section 13 of the bill provides for application of the
10 12 provisions of the bill to registrations of securities in
10 13 beneficiary form which predate or postdate adoption of the
10 14 bill for decedents dying on or after the effective date of the
10 15 bill.
10 16 LSB 1181XL 77
10 17 da/jj/8