

House File 940 - Introduced

HOUSE FILE 940
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 713)

A BILL FOR

- 1 An Act relating to probate law, including providing notice to
- 2 named beneficiaries and a process for named beneficiaries to
- 3 obtain ownership of property held by others.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **633.359 Beneficiary notice —**
2 **affidavits — third-party protection.**

3 1. For purposes of this section, "*beneficiary designation*"
4 means the same as defined in section 633.358, subsection 1.

5 2. If the holder of property that has a beneficiary
6 designation has been notified of the death of the owner of
7 the property, the holder of property shall within ten business
8 days provide notice to each person listed under the beneficiary
9 designation that the person may have a right to the property and
10 provide the person with the contact information of the holder of
11 the property.

12 3. A person listed under the beneficiary designation may
13 present an affidavit to the holder of the property or to any
14 person with information about the property for the purpose of
15 obtaining the property or information regarding the property.
16 The affidavit must state all of the following:

17 a. The decedent's name and last known address.

18 b. A general description of the property to the extent known.

19 c. The person listed under the beneficiary designation's
20 name, address, and primary contact information.

21 d. A request that the property be paid or transferred to
22 the person listed under the beneficiary designation or that
23 information about the property be given to the person listed
24 under the beneficiary designation.

25 e. No one other than the person listed under the beneficiary
26 designation has a right to the interest in the property listed in
27 the affidavit.

28 f. The affidavit has been signed by the person listed under
29 the beneficiary designation under penalty of perjury before a
30 notary public as provided in chapter 9B.

31 g. The information in the affidavit is true and correct.

32 4. The holder of the property shall not request any
33 additional personal information from the person listed under the
34 beneficiary designation, including but not limited to any of the
35 following:

1 a. Social security number or driver's license number.

2 b. Contact information.

3 c. Personal financial information.

4 5. If the requirements of this section are satisfied, all of
5 the following apply:

6 a. The decedent's property shall be paid, delivered, or
7 transferred to or for the benefit of the person listed under
8 the beneficiary designation if the affidavit has requested the
9 transfer of ownership of the property to the person.

10 b. A transfer agent of a security described in the affidavit
11 shall change registered ownership on the books of the corporation
12 from the decedent to or for the benefit of the person listed
13 under the beneficiary designation if the affidavit has requested
14 the transfer of ownership of the property to the person.

15 c. The information requested in the affidavit shall be
16 delivered to the person.

17 6. The holder of the property and any person who in
18 good faith delivers the property or information requested in
19 reliance on information a person listed under the beneficiary
20 designation provides under this section, who has no knowledge
21 that representations contained in the affidavit are incorrect,
22 shall not be liable to any person for so acting and may
23 assume without inquiry the existence of the facts contained
24 in the affidavit. The time to verify a person listed under
25 the beneficiary designation authority shall not exceed thirty
26 days from the date of delivery of the affidavit. Any right
27 or title acquired from the person listed under the beneficiary
28 designation in consideration of the provision of property or
29 information under this section is not invalid in consequence
30 of misapplication by the person listed under the beneficiary
31 designation. A transaction and a lien created by a transaction
32 entered into by the person listed under the beneficiary
33 designation and anyone acting in reliance on the affidavit under
34 this section is enforceable against the property the person has
35 requested.

1 7. If the holder of the property refuses to provide the
2 requested property or information within thirty days after
3 receiving the affidavit, the person listed under the beneficiary
4 designation may bring an action against the holder of the
5 property to recover the property or receive the information or
6 to compel the delivery of the property. An action brought under
7 this section must be brought within one year after the date of
8 the act or failure to act. If the court finds that the holder
9 of the property acted unreasonably in failing to deliver the
10 property or information as requested in the affidavit, the court
11 may award to the person listed under the beneficiary designation
12 any or all of the following:

13 a. Damages sustained by the person.

14 b. Costs of the action.

15 c. A penalty in an amount determined by the court between
16 five hundred dollars and ten thousand dollars.

17 d. Reasonable attorney fees based on the value of the time
18 reasonably expended by the attorney and not by the amount of the
19 recovery on behalf of the person.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to probate law regarding notice provided
24 to named beneficiaries. The bill provides that if a holder of
25 property that has a beneficiary designation owned by a decedent
26 has been notified of the death of the decedent, the property
27 holder shall within 10 business days notify each person listed
28 under the beneficiary designation that the person may have a
29 right to the property and provide contact information of the
30 holder. For purposes of the bill, beneficiary designation
31 means the provision in an instrument designating a beneficiary,
32 including an annuity or insurance policy, an account with a
33 designation for payment on death, a security registered in
34 beneficiary form, a pension, profit-sharing, retirement, or
35 other employment-related benefit plan, and any other nonprobate

1 transfer at death.

2 The bill allows a person listed under the beneficiary
3 designation to present an affidavit to any person for the purpose
4 of obtaining property, or information regarding property, owned
5 by a decedent for which the person is a designated beneficiary.
6 The bill provides the representations and requirements of the
7 affidavit presented. The bill prohibits a person from requesting
8 any additional personal information of a person listed under the
9 beneficiary designation.

10 The bill provides that upon completion of the bill's
11 requirements, the person listed under the beneficiary designation
12 shall receive the decedent's property as the beneficiary and a
13 transfer agent of a security described in the affidavit shall
14 change registered ownership on the books of the corporation from
15 the decedent to or for the benefit of the successor. The
16 bill provides that a person in good faith that relies upon
17 and has no knowledge that the representations in the affidavit
18 are incorrect shall not be liable to any person for so acting
19 in reliance of the affidavit. The person who received the
20 request has 30 days to verify the affidavit and provide the
21 information or requested property to the person listed under
22 the beneficiary designation. Upon failing to do so, the person
23 listed under the beneficiary designation may bring an action to
24 recover the property, information, or to compel the delivery of
25 the property against the person to whom the person listed under
26 the beneficiary designation presented the affidavit. The bill
27 allows an action to be brought within one year after the date
28 of the act or failure to act. If the person listed under the
29 beneficiary designation prevails in the court action, the court
30 may also award damages sustained, costs of the action, a penalty
31 determined by the court of not less than \$500 and not more than
32 \$10,000, and reasonable attorney fees.