

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 299 Session of  
1995

INTRODUCED BY RUBLEY, BARLEY, FARGO, WOGAN, M. N. WRIGHT, STERN,  
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CIVERA, YOUNGBLOOD AND BAKER, JANUARY 25, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 23, 1995

## AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, allowing owners of  
3 securities to register the title to same in transfer-on-death  
4 form.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 20 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a chapter to read:

## 9 CHAPTER 64

## 10 TRANSFER ON DEATH SECURITY REGISTRATION

11 Sec.

12 6401. Definitions.

13 6402. Registration in beneficiary form.

14 6403. Law applicable to registration.

15 6404. Origination of registration in beneficiary form.

16 6405. Form of registration in beneficiary form.

17 6406. Effect of registration in beneficiary form.

1 6407. Ownership on death of owner.

2 6408. Protection of registering entity.

3 6409. Nontestamentary transfer on death.

4 6410. Terms, conditions and forms for registration.

5 6411. Construction of chapter.

6 6412. Application of chapter.

7 § 6401. Definitions.

8 The following words and phrases when used in this chapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Beneficiary form." A registration of a security which  
12 indicates the present owner of the security and the intention of  
13 the owner regarding the person who will become the owner of the  
14 security upon the death of the owner.

15 ~~"Devisee." A person designated in a will to receive a~~ <—  
16 ~~disposition of real or personal property.~~

17 "FINANCIAL INSTITUTION." ANY REGULATED FINANCIAL INSTITUTION <—  
18 INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ITS  
19 SUCCESSOR OR AN AFFILIATE OF THE FINANCIAL INSTITUTION.

20 "Heirs." Those persons, including the surviving spouse, who  
21 are entitled under the statutes of intestate succession to the  
22 property of a decedent.

23 "Person." An individual, a corporation, an organization or  
24 other legal entity.

25 "Personal representative." The term includes an executor,  
26 administrator, successor personal representative, special  
27 administrator and persons who perform substantially the same  
28 function under the law governing their status.

29 "Property." The term includes both real and personal  
30 property or any interest therein and anything that may be the

1 subject of ownership.

2 "Register." To issue a certificate showing the ownership of  
3 a certificated security or, in the case of an uncertificated  
4 security, to initiate or transfer an account showing ownership  
5 of securities.

6 "Registering entity." A person who originates or transfers a  
7 security title by registration. The term includes a broker  
8 maintaining security accounts for customers and a transfer agent  
9 or other person acting for or as an issuer of securities.

10 "Security." A share, participation or other interest in  
11 property, in a business or in an obligation of an enterprise or  
12 other issuer. The term also includes a certificated security, an  
13 uncertificated security and a security account.

14 "Security account."

15 (1) A reinvestment account associated with a security, a  
16 securities account with a ~~broker,~~ a FINANCIAL INSTITUTION OR <—  
17 A SECURITIES DEALER OR BROKER AND ANY cash balance in a  
18 brokerage account WITH A FINANCIAL INSTITUTION OR A <—  
19 SECURITIES DEALER OR BROKER OR cash, interest, earnings or  
20 dividends earned or declared on a security in an account, a  
21 reinvestment account or a brokerage account, whether or not  
22 credited to the account before the owner's death.

23 (2) A cash balance or other property held for or due to  
24 the owner of a security as a replacement for or product of an  
25 account security, whether or not credited to the account  
26 before the owner's death.

27 "State." Any state of the United States, the District of  
28 Columbia, the Commonwealth of Puerto Rico and any territory or  
29 possession subject to the legislative authority of the United  
30 States.

1 § 6402. Registration in beneficiary form.

2 Only individuals whose registration of a security shows sole  
3 ownership by one individual or multiple ownership by two or more  
4 with right of survivorship, rather than as tenants in common,  
5 may obtain registration in beneficiary form. Multiple owners of  
6 a security registered in beneficiary form hold as joint tenants  
7 with right of survivorship, as tenants by the entirety or as  
8 owners of community property held in survivorship form and not  
9 as tenants in common.

10 § 6403. Law applicable to registration.

11 A security may be registered in beneficiary form if the form  
12 is authorized by this or a similar statute of the state of  
13 organization of the issuer or registering entity, the location  
14 of the registering entity's principal office, the office of its  
15 transfer agent or its office making the registration, or by this  
16 or a similar statute of the law of the state listed as the  
17 owner's address at the time of registration. A registration  
18 governed by the law of a jurisdiction in which this or similar  
19 legislation is not in force or was not in force when a  
20 registration in beneficiary form was made is nevertheless  
21 presumed to be valid and authorized as a matter of contract law.

22 § 6404. Origination of registration in beneficiary form.

23 A security, whether evidenced by certificate or account, is  
24 registered in beneficiary form when the registration includes a  
25 designation of a beneficiary, WHICH MAY INCLUDE A TRUSTEE OF A <—  
26 TRUST, to take the ownership at the death of the owner or the  
27 deaths of all multiple owners.

28 § 6405. Form of registration in beneficiary form.

29 Registration in beneficiary form may be shown by the words  
30 "transfer on death" or the acronym "TOD," or by the words "pay

1 on death" or the acronym "POD," after the name of the registered  
2 owner and before the name of a beneficiary.

3 § 6406. Effect of registration in beneficiary form.

4 The designation of a TOD beneficiary on a registration in  
5 beneficiary form has no effect on ownership until the owner's  
6 death. A registration of a security in beneficiary form may be  
7 canceled or changed at any time by the sole owner or all then  
8 surviving owners, without the consent of the beneficiary.

9 § 6407. Ownership on death of owner.

10 On death of a sole owner or the last to die of all multiple  
11 owners, ownership of securities registered in beneficiary form  
12 passes to the beneficiary or beneficiaries who survive all  
13 owners. On proof of death of all owners and compliance with any  
14 applicable requirements of the registering entity, a security  
15 registered in beneficiary form may be reregistered in the name  
16 of the beneficiary or beneficiaries who survived the death of  
17 all owners. Until division of the security after the death of  
18 all owners, multiple beneficiaries surviving the death of all  
19 owners hold their interests as tenants in common. If no  
20 beneficiary survives the death of all owners, the security  
21 belongs to the estate of the deceased sole owner or the estate  
22 of the last to die of all multiple owners.

23 § 6408. Protection of registering entity.

24 (a) General rule.--A registering entity is not required to  
25 offer or to accept a request for security registration in  
26 beneficiary form. If a registration in beneficiary form is  
27 offered by a registering entity, the owner requesting  
28 registration in beneficiary form assents to the protections  
29 given to the registering entity by this chapter.

30 (b) Implementation.--By accepting a request for registration

1 of a security in beneficiary form, the registering entity agrees  
2 that the registration will be implemented on death of the  
3 deceased owner as provided in this chapter.

4 (c) Discharge.--A registering entity is discharged from all  
5 claims to a security by the estate, creditors, heirs or devisees  
6 of a deceased owner if it registers a transfer of a security in  
7 accordance with section 6407 (relating to ownership on death of  
8 owner) and does so in good faith reliance on the registration,  
9 on this chapter and on information provided to it by affidavit  
10 of the personal representative of the deceased owner or by the  
11 surviving beneficiary or by the surviving beneficiary's  
12 representatives, or other information available to the  
13 registering entity. The protections of this chapter do not  
14 extend to a reregistration or payment made after the registering  
15 entity has received written notice from any claimant to any  
16 interest in the security objecting to implementation of a  
17 registration in beneficiary form. No other notice or other  
18 information available to the registering entity affects its  
19 right to protection under this chapter.

20 (d) Rights of beneficiaries not affected.--The protection  
21 provided by this chapter to the registering entity of a security  
22 does not affect the rights of beneficiaries in disputes between  
23 themselves and other claimants to ownership of the security  
24 transferred or its value or proceeds.

25 § 6409. Nontestamentary transfer on death.

26 (a) General rule.--A transfer on death resulting from a  
27 registration in beneficiary form is effective by reason of the  
28 contract regarding the registration between the owner and the  
29 registering entity and this chapter and is not testamentary.

30 (b) Creditors.--This chapter does not limit the rights of

creditors of security owners against beneficiaries and other transferees under other laws of this Commonwealth.

§ 6410. Terms, conditions and forms for registration.

(a) Terms and conditions.--A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for registrations in beneficiary form and for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters "LDPS," standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, 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) Forms.--The following are illustrations of registrations

1 in beneficiary form which a registering entity may authorize:

2 (1) Sole owner-sole beneficiary: John S. Brown TOD (or  
3 POD) John S. Brown, Jr., OR JOHN S. BROWN TOD TO SALLY SMITH, <—  
4 TRUSTEE UNDER MY TRUST (UNDER WILL OR DEED) DATED.

5 (2) Multiple owners-sole beneficiary: John S. Brown Mary  
6 B. Brown JT TEN TOD John S. Brown, Jr.

7 (3) Multiple owners-primary and secondary (substituted)  
8 beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S.  
9 Brown, Jr. SUB BENE Peter Q. Brown or John S. Brown Mary B.  
10 Brown JT TEN TOD John S. Brown, Jr., LDPS.

11 § 6411. Construction of chapter.

12 This chapter shall be liberally construed and applied to  
13 promote its underlying purposes and policy and to make uniform  
14 the laws with respect to the subject of this chapter among  
15 states enacting it. Unless displaced by the particular  
16 provisions of this chapter, the principles of law and equity  
17 supplement its provisions.

18 § 6412. Application of chapter.

19 This chapter applies to registration of securities in  
20 beneficiary form made before or after the effective date of this  
21 chapter by decedents dying on or after the effective date of  
22 this chapter.

23 Section 2. This act shall take effect in 60 days.