

3B : 30 - 1

LEGISLATIVE HISTORY CHECKLIST
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(Uniform Transfer on Death Act)

JSA: 3B:30-1

LAWS OF: 1995 CHAPTER: 130

BILL NO: S1327

SPONSOR(S): Connors and Sinagra

DATE INTRODUCED: September 12, 1994

COMMITTEE: ASSEMBLY: ---
SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: June 12, 1995
SENATE: March 30, 1995

DATE OF APPROVAL: June 22, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

P.L. 1995, CHAPTER 130, approved June 22, 1995
1994 Senate No. 1327

1 AN ACT concerning the registration and transfer-on-death of
2 certain securities.

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. This act shall be known and may be cited as the "Uniform
7 TOD Security Registration Act."

8 2. As used in the act:

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

13 "Devisee" means any person designated in a will to receive a
14 disposition of real or personal property.

15 "Heirs" means those persons, including the surviving spouse,
16 who are entitled under the statutes of intestate succession to the
17 property of a decedent.

18 "Person" means an individual, a corporation, an organization or
19 other legal entity.

20 "Personal representative" includes executor, administrator,
21 successor personal representative, special administrator, and
22 persons who perform substantially the same function under the
23 law governing their status.

24 "Property" includes both real and personal property or any
25 interest therein and means anything that may be the subject of
26 ownership.

27 "Register" including its derivatives, means to issue a
28 certificate showing the ownership of a certificated security or, in
29 the case of an uncertificated security, to initiate or transfer an
30 account showing ownership of securities.

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

35 "Security" means a share, participation, or other interest in
36 property, in a business, or in an obligation of an enterprise or
37 other issuer, and includes a certificated security, an
38 uncertificated security, and a security account.

39 "Security account" means: a reinvestment account associated
40 with a security, a securities account with a broker, a cash
41 balance in a brokerage account, cash, interest, earnings, or
42 dividends earned or declared on a security in an account, a
43 reinvestment account, or a brokerage account, whether or not
44 credited to the account before the owner's death; or a cash
45 balance or other property held for or due to the owner of a

1 security as a replacement for or product of an account security,
2 whether or not credited to the account before the owner's death.

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

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

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

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

30 6. *Registration in beneficiary form may be shown by the words*
31 *"transfer on death" or the abbreviation "TOD," or by the words*
32 *"pay on death" or the abbreviation "POD," after the name of the*
33 *registered owner and before the name of the beneficiary.*

34 7. The designation of a TOD beneficiary on a registration in
35 *beneficiary form has no effect on ownership until the owner's*
36 *death. A registration of a security in beneficiary form may be*
37 *cancelled or changed at any time by the sole owner or all then*
38 *surviving owners, without the consent of the beneficiary.*

39 8. *On death of a sole owner or the last to die of all multiple*
40 *owners, ownership of securities registered in beneficiary form*
41 *passes to the beneficiary or beneficiaries who survive all owners.*
42 *On proof of death of all owners and compliance with any*
43 *applicable requirements of the registering entity, a security*
44 *registered in beneficiary form may be reregistered in the name of*
45 *the beneficiary or beneficiaries who survived the death of all*
46 *owners. Until division of the security after the death of all*
47 *owners, multiple beneficiaries surviving the death of all owners*
48 *hold their interests as tenants in common. If no beneficiary*
49 *survives the death of all owners, the security belongs to the*
50 *estate of the deceased sole owner or the estate of the last to die*
51 *of all multiple owners.*

52 9. a. A registering entity is not required to offer or to accept
53 a request for security registration in beneficiary form. If a
54 *registration in beneficiary form is offered by a registering entity,*

1 the owner requesting registration in beneficiary form assents to
2 the protections given to the registering entity by this act.

3 b. By accepting a request for registration of a security in
4 beneficiary form, the registering entity agrees that the
5 registration will be implemented on death of the deceased owner
6 as provided in this act.

7 c. A registering entity is discharged from all claims to a
8 security by the estate, creditors, heirs, or devisees of a deceased
9 owner if it registers a transfer of a security in accordance with
10 section 8 of this act and does so in good faith reliance on:

11 (1) the registration;

12 (2) this act; and

13 (3) on information provided to it by affidavit of the personal
14 representative of the deceased owner, or by the surviving
15 beneficiary or by the surviving beneficiary's representatives, or
16 other information available to the registering entity.

17 The protections of this act do not extend to a reregistration or
18 payment made after a registering entity has received written
19 notice from any claimant to any interest in the security objecting
20 to implementation of a registration in beneficiary form. No
21 other notice or other information available to the registering
22 entity affects its right to protection under this act.

23 d. The protection provided by this act to the registering entity
24 of a security does not affect the rights of beneficiaries in
25 disputes between themselves and other claimants to ownership of
26 the security transferred or its value or proceeds.

27 10. a. A transfer on death resulting from a registration in
28 beneficiary form is effective by reason of the contract regarding
29 the registration between the owner and the registering entity and
30 this act and is not testamentary.

31 b. This act does not limit the rights of creditors of security
32 owners against beneficiaries and other transferees under other
33 laws of this State.

34 11. a. A registering entity offering to accept registration in
35 beneficiary form may establish the terms and conditions under
36 which it will receive requests for registrations in beneficiary
37 form, and for implementation of registrations in beneficiary
38 form, including requests for reregistration to effect a change of
39 beneficiary. The terms and conditions so established may provide
40 for proving death, avoiding or resolving any problems concerning
41 fractional shares, designating primary and contingent
42 beneficiaries, and substituting a named beneficiary's descendants
43 to take in the place of the named beneficiary in the event of the
44 beneficiary's death. Substitution may be indicated by appending
45 to the name of the primary beneficiary the letters LDPS,
46 standing for "lineal descendants per stirpes." This designation
47 substitutes a deceased beneficiary's descendants who survive the
48 owner for a beneficiary who fails to so survive, the descendants
49 to be identified and to share in accordance with the law of the
50 beneficiary's domicile at the owner's death governing
51 inheritance by decedents of an intestate. Other forms of
52 identifying beneficiaries who are to take on one or more
53 contingencies, and rules for providing proofs and assurances
54 needed to satisfy reasonable concerns by registering entities

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

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

6 (1) sole owner-sole beneficiary: John S. Brown TOD (or POD)
7 John S. Brown Jr.;

8 (2) multiple owners-sole beneficiary: John S. Brown, Mary B.
9 Brown JT TEN TOD John S. Brown Jr.;

10 (3) multiple owner-primary and secondary (substituted)
11 beneficiaries: John S. Brown, Mary B. Brown JT TEN TOD John S.
12 Brown Jr. LDOS.

13 12. a. This act shall be liberally construed and applied to
14 promote its underlying purposes and policy and to make uniform
15 the laws with respect to the subject of this act among states
16 enacting it.

17 b. Unless displaced by the particular provisions of this act, the
18 principles of law and equity supplement its provisions.

19 13. This act shall take effect 90 days after enactment and
20 shall apply to registration of securities in beneficiary form made
21 before or after its effective date by decedents dying on or after
22 its effective date.

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STATEMENT

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27 *The transfer-on-death (TOD) registration proposed by this bill*
28 *is designed to give the owner of securities who wishes to arrange*
29 *for a non-probate transfer at death as an alternative to the joint*
30 *tenancy form of title. Use of the TOD form has no effect on the*
31 *registered owner's full control of the affected security during*
32 *the owner's lifetime.*

33 Under the bill, a TOD designation and beneficiary interest ends
34 whenever the registered asset is transferred, or whenever the
35 owner otherwise complies with the issuer's conditions for
36 changing the title form of the investment.

37 In addition, the bill provides that co-owners with right of
38 survivorship may be registered as owners together with a TOD
39 beneficiary designated to take if the registration remains
40 unchanged until the beneficiary survives the joint owners. In such
41 a case, the survivor of the joint owners has full control of the
42 asset and may change the registration form as the surviving
43 owner sees fit after the other's death.

44 The bill makes the implementation of its provisions wholly
45 optional with issuers.

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50 Enacts the "Uniform TOD Security Registration Act."

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1327

STATE OF NEW JERSEY

DATED: JANUARY 12, 1995

The Senate Commerce Committee reports favorably Senate, No. 1327.

The transfer-on-death (TOD) registration proposed by this bill is designed to give the owner of securities who wishes to arrange for a non-probate transfer at death an alternative to the joint tenancy form of title. Use of the TOD form has no effect on the registered owner's full control of the affected security during the owner's lifetime. A TOD registration may be cancelled or changed at any time by the owner, without the consent of the beneficiary. Also, a TOD designation and beneficiary interest ends whenever the registered asset is transferred.

In addition, the bill provides that co-owners with right of survivorship may be registered as owners together with a TOD beneficiary designated to take ownership if the registration remains unchanged until the beneficiary survives the joint owners. In such a case, the survivor of the joint owners has full control of the asset and may change the registration form as the surviving owner sees fit after the other's death.

On death of a sole owner or the last to die of all multiple owners, ownership of securities with the TOD registration form passes to the beneficiary or beneficiaries who survive all owners.

The bill makes the implementation of its provisions wholly optional with the registering entity. A registering entity may establish the terms and conditions under which it will accept TOD registrations and for implementation thereof.

The provisions of this bill do not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.