WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

HOUSE BILL No. 4101

(By Delegate Lithtel)

Passed March 10, 1994

In Effect 90 Days From Passage
AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten, relating to enacting the uniform transfer on death security registration act; definitions; registration in beneficiary form, sole or joint tenancy ownership; applicable law; origination of registration in beneficiary form; form of registration in beneficiary form; effect of registration in beneficiary form; ownership on death of owner; protection of registering entity; nontestamentary transfer on death; terms, conditions and forms for registration; short title; rules of construction; and application of act.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten, to read as follows:

ARTICLE 10. UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT.

§36-10-1. Definitions.

1 In this article, unless the context otherwise requires:

2 (1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the
person who will become the owner of the security upon
the death of the owner.

(2) "Deviser" means any person designated in a will
to receive a disposition of real or personal property.

(3) "Heirs" means those persons, including the
surviving spouse, who are entitled under the statutes of
intestate succession to the property of a decedent.

(4) "Person" means an individual, a corporation, an
organization or other legal entity.

(5) "Personal representative" includes executor,
administrator, successor personal representative, special
administrator and persons who perform substantially
the same function under the law governing their status.

(6) "Property" includes both real and personal
property or any interest therein and means anything
that may be the subject of ownership.

(7) "Register," including its derivatives, means to issue
a certificate showing the ownership of a certificated
security or, in the case of an uncertificated security, to
initiate or transfer an account showing ownership of
securities.

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

(9) "Security" means a share, participation, or other
interest in property, in a business, or in an obligation
of an enterprise or other issuer, and includes a certif-
icated security, an uncertificated security and a security
account.

(10) "Security account" means (i) a reinvestment
account associated with a security, a securities account
with a broker, a cash balance in a brokerage account,
cash, interest, earnings, or dividends earned or declared
on a security in an account, a reinvestment account, or
a brokerage account, whether or not credited to the
account before the owner's death, or (ii) a cash balance
or other property held for or due to the owner of a
security as a replacement for or product of an account
security, whether or not credited to the account before
the owner's death.

(11) “State” includes any state of the United States,
the District of Columbia, the Commonwealth of Puerto
Rico, and any territory or possession subject to the
legislative authority of the United States.

§36-10-2. Registration in beneficiary form; sole or joint
tenancy ownership.

Only individuals whose registration of a security
shows sole ownership by one individual or multiple
ownership by two or more with right of survivorship,
rather than as tenants in common, may obtain registra-
tion in beneficiary form. Multiple owners of a security
registered in beneficiary form hold as joint tenants with
right of survivorship, as tenants by the entireties, or as
owners of community property held in survivorship
form, and not as tenants in common.

§36-10-3. Registration in beneficiary form; applicable
law.

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

§36-10-4. Origination of registration in beneficiary form.

A security, whether evidenced by certificate or
account, is registered in beneficiary form when the
registration includes a designation of a beneficiary to
take the ownership at the death of the owner or the
deaths of all multiple owners.
§36-10-5. Form of registration in beneficiary form.

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

§36-10-6. Effect of registration in beneficiary form.

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

§36-10-7. Ownership of death of owner.

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

§36-10-8. Protection of registering entity.

(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this article.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on
death of the deceased owner as provided in this article.
(c) A registering entity is discharged from all claims
to a security by the estate, creditors, heirs or devisees
of a deceased owner if it registers a transfer of the
security in accordance with section seven of this article
and does so in good faith reliance (i) on the registration,
(ii) on this article, and (iii) on information provided to
it by affidavit of the personal representative of the
deceased owner, or by the surviving beneficiary or by
the surviving beneficiary's representatives, or other
information available to the registering entity. The
protections of this article do not extend to a reregistra-
tion or payment made after a registering entity has
received written notice from any claimant to any
interest in the security objecting to implementation of
a registration in beneficiary form. No other notice or
other information available to the registering entity
affects its right to protection under this article.
(d) The protection provided by this article to the
registering entity of a security does not affect the rights
of beneficiaries in disputes between themselves and
other claimants to ownership of the security transferred
or its value or proceeds.
(a) A transfer on death resulting from a registration
in beneficiary form is effective by reason of the contract
regarding the registration between the owner and the
registering entity and this article and is not
testamentary.
(b) This article does not limit the rights of creditors
of security owners against beneficiaries and other
transferees under other laws of this state.
§36-10-10. Terms, conditions and forms for registration.
(a) A registering entity offering to accept registrations
in beneficiary form may establish the terms and
conditions under which it will receive requests (i) for
registrations in beneficiary form, and (ii) for implement-
tation 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.


§36-10-11. Short title; rules of construction.

(a) This article shall be known as and may be cited as the Uniform TOD Security Registration Act.

(b) This article shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this article among states enacting it.
(c) Unless displaced by the particular provisions of this article the principles of law and equity supplement its provisions.


This article applies to registrations of securities in beneficiary form made before or after its initial enactment, by decedents dying on or after its initial enactment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 29th day of March, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/94
Time 9:58 AM