

Act No. 433
Public Acts of 1996
Approved by the Governor
December 2, 1996
Filed with the Secretary of State
December 2, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Alley, Middaugh, Gnodtke, Wetters, Bodem, Gernaat, Randall, Porreca, Kaza, Rhead and Murphy

ENROLLED HOUSE BILL No. 4113

AN ACT to allow the owner of securities to register the title of the securities in transfer-on-death form; to prescribe the duties and protections of certain persons; and to prescribe the terms, conditions, and forms for registration.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

(a) "Beneficiary form" means a registration of a security that indicates the owner of the security and the intention of the owner to have title to the security transfer to another person upon the death of the owner.

(b) "Devisee" means a person designated in a will to receive a disposition of real or personal property.

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

(d) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

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

(f) "Property" includes both real and personal property.

(g) "Register" 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.

(h) "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.

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

(j) "Security account" means both of the following:

(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.

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

Sec. 2. (1) Except for security held in tenants in common, an individual whose registration of a security shows ownership by 1 individual or multiple ownership by 2 or more individuals may obtain registration of the security in beneficiary form.

(2) To register a security in beneficiary form if the security is held by multiple owners, the interest of the owners shall be as joint tenants with right of survivorship, tenants by the entireties, or as owners of community property held in survivorship form.

Sec. 3. (1) A security may be registered in beneficiary form if the form is authorized by this act or a similar act of the state in which the issuer or registering entity was organized, the state of the registering entity's principal office or the office of its transfer agent, or the state in which the office making the registration is located.

(2) A registration made in a state in which a similar act to this act is not in force or was not in force when a registration in beneficiary form was made is presumed to be valid and enforceable under contract law.

Sec. 4. A security is registered in beneficiary form when the registration includes a designation of a beneficiary to take ownership of the security on the death of the owner or the deaths of all multiple owners.

Sec. 5. Registration in beneficiary form may be shown by the words "transfer on death" or "TOD", or by the words "pay on death" or "POD", after the name of the registered owner and before the name of a beneficiary.

Sec. 6. (1) A registration in beneficiary form has no effect on ownership until the owner's death.

(2) A registration of a security in beneficiary form may be canceled or changed at any time by the owner or owners without the consent of the beneficiary.

Sec. 7. (1) On the death of the owner or the death of the last of the multiple owners, ownership of securities registered in beneficiary form passes to the surviving beneficiary or beneficiaries.

(2) 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.

(3) 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.

(4) If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased owner or the estate of the last of the multiple owners to die.

Sec. 8. (1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form.

(2) 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 act.

(3) 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 act.

(4) 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 7 and does so in good faith reliance on the registration and information provided to it by affidavit of the personal representative of the deceased owner.

(5) The protections of this act do not extend to a reregistration or payment made after a registering entity has received written notice from a claimant to an interest in the security.

(6) The protection provided by this act 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 the security's value or proceeds.

Sec. 9. (1) A transfer on death resulting from a registration in beneficiary form is not testamentary.

(2) This act does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this state.

Sec. 10. (1) 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.

(2) 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 survive the owner. The descendants shall share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate.

(3) A registering entity may include in its terms and conditions other forms of identifying beneficiaries who are to take on 1 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.

(4) The following are examples of registrations in beneficiary form that a registering entity may authorize:

(a) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S Brown Jr.

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

(c) Multiple owners-primary and secondary beneficiaries: John S Brown, Mary B Brown JT TEN TOD John S Brown Jr SUB BENE Peter Q Brown or John S Brown, Mary B Brown JT TEN TOD John S Brown Jr LDPS.

Sec. 11. This act applies to registrations of securities in beneficiary form made before or after the effective date of this act, by owners of securities dying on or after the effective date of this act.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.