



HOUSE BILL No. 4113

January 17, 1995, Introduced by Reps. Alley, Middaugh, Gnodtke, Wetters, Bodem, Gernaat, Randall, Porreca, Kaza, Rhead and Murphy and referred to the Committee on Commerce.

A bill 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:

1 Sec. 1. As used in this act:

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

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

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

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

3 (e) "Personal representative" includes executor, administra-
4 tor, successor personal representative, special administrator,
5 and persons who perform substantially the same function under the
6 law governing their status.

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

8 (g) "Register" means to issue a certificate showing the
9 ownership of a certificated security or, in the case of an uncer-
10 tificated security, to initiate or transfer an account showing
11 ownership of securities.

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

16 (i) "Security" means a share, participation, or other inter-
17 est in property, a business, or an obligation of an enterprise or
18 other issuer, and includes a certificated or uncertificated
19 security and a security account.

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

21 (i) A reinvestment account associated with a security, a
22 securities account with a broker, a cash balance in a brokerage
23 account, cash, interest, earnings, or dividends earned or
24 declared on a security in an account, a reinvestment account, or
25 a brokerage account, whether or not credited to the account
26 before the owner's death.

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

5 Sec. 2. (1) Except for security held in tenants in common,
6 an individual whose registration of a security shows ownership by
7 1 individual or multiple ownership by 2 or more individuals may
8 obtain registration of the security in beneficiary form.

9 (2) To register a security in beneficiary form if the secur-
10 ity is held by multiple owners, the interest of the owners shall
11 be as joint tenants with right of survivorship, tenants by the
12 entirety, or as owners of community property held in survivor-
13 ship form.

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

20 (2) A registration made in a state in which a similar act to
21 this act is not in force or was not in force when a registration
22 in beneficiary form was made is presumed to be valid and enforce-
23 able under contract law.

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

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

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

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

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

14 (2) On proof of death of all owners and compliance with any
15 applicable requirements of the registering entity, a security
16 registered in beneficiary form may be reregistered in the name of
17 the beneficiary or beneficiaries.

18 (3) Until division of the security after the death of all
19 owners, multiple beneficiaries surviving the death of all owners
20 hold their interests as tenants in common.

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

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

1 (2) If a registration in beneficiary form is offered by a
2 registering entity, the owner requesting registration in
3 beneficiary form assents to the protections given to the regis-
4 tering entity by this act.

5 (3) By accepting a request for registration of a security in
6 beneficiary form, the registering entity agrees that the regis-
7 tration will be implemented on death of the deceased owner as
8 provided in this act.

9 (4) A registering entity is discharged from all claims to a
10 security by the estate, creditors, heirs, or devisees of a
11 deceased owner if it registers a transfer of the security in
12 accordance with section 7 and does so in good faith reliance on
13 the registration and information provided to it by affidavit of
14 the personal representative of the deceased owner.

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

18 (6) The protection provided by this act to the registering
19 entity of a security does not affect the rights of beneficiaries
20 in disputes between themselves and other claimants to ownership
21 of the security transferred or the security's value or proceeds.

22 Sec. 9. (1) A transfer on death resulting from a registra-
23 tion in beneficiary form is not testamentary.

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

1 Sec. 10. (1) A registering entity offering to accept
2 registrations in beneficiary form may establish the terms and
3 conditions under which it will receive requests for registrations
4 in beneficiary form and for implementation of registrations in
5 beneficiary form including requests for cancellation of previ-
6 ously registered TOD beneficiary designations and requests for
7 reregistration to effect a change of beneficiary. The terms and
8 conditions so established may provide for proving death, avoiding
9 or resolving any problems concerning fractional shares, designat-
10 ing primary and contingent beneficiaries, and substituting a
11 named beneficiary's descendants to take in the place of the named
12 beneficiary in the event of the beneficiary's death.

13 (2) Substitution may be indicated by appending to the name
14 of the primary beneficiary the letters LDPS, standing for "lineal
15 descendants per stirpes". This designation substitutes a
16 deceased beneficiary's descendants who survive the owner for a
17 beneficiary who fails to survive the owner. The descendants
18 shall share in accordance with the law of the beneficiary's domi-
19 cile at the owner's death governing inheritance by descendants of
20 an intestate.

21 (3) A registering entity may include in its terms and condi-
22 tions other forms of identifying beneficiaries who are to take on
23 1 or more contingencies and rules for providing proofs and assur-
24 ances needed to satisfy reasonable concerns by registering enti-
25 ties regarding conditions and identities relevant to accurate
26 implementation of registrations in beneficiary form.

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

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

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

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

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