



HOUSE BILL No. 5475

December 12, 1995, Introduced by Reps. Pitoniak, Gnodtke, Baade, DeHart, Yokich, DeMars, Martinez, LaForge, Anthony, Scott, Willard, Goschka, DeLange, Freeman, Curtis and Palamara 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. This act shall be known and may be cited as the
2 "Michigan transfer-on-death security registration act".

3 Sec. 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

24 (i) A reinvestment account associated with a security, a
25 securities account with a broker, a cash balance in a brokerage
26 account, cash, interest, earnings, or dividends earned or
27 declared on a security in an account, a reinvestment account, or

1 a brokerage account, whether or not credited to the account
2 before the owner's death.

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

7 Sec. 3. (1) Except for a security held in tenants in
8 common, an individual whose registration of a security shows
9 ownership by 1 individual or multiple ownership by 2 or more
10 individuals may obtain registration of the security in benefi-
11 ciary form.

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

17 Sec. 4. (1) A security may be registered in beneficiary
18 form if the form is authorized by this act or a similar act of
19 the state in which the issuer or registering entity was orga-
20 nized, the state of the registering entity's principal office or
21 the office of its transfer agent, or the state in which the
22 office making the registration is located.

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

1 Sec. 5. A security is registered in beneficiary form when
2 the registration includes a designation of a beneficiary to take
3 ownership of the security on the death of the owner or the deaths
4 of all multiple owners.

5 Sec. 6. Registration in beneficiary form may be shown by
6 the words "transfer on death" or "TOD", or by the words "pay on
7 death" or "POD", after the name of the registered owner and
8 before the name of a beneficiary.

9 Sec. 7. (1) A registration in beneficiary form has no
10 effect on ownership until the owner's death.

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

14 Sec. 8. (1) On the death of the owner or the death of the
15 last of the multiple owners, ownership of securities registered
16 in beneficiary form passes to the surviving beneficiary or
17 beneficiaries.

18 (2) On proof of death of all owners and compliance with the
19 applicable requirements of the registering entity, a security
20 registered in beneficiary form may be reregistered in the name of
21 the beneficiary or beneficiaries.

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

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

1 Sec. 9. (1) A registering entity is not required to offer
2 or to accept a request for security registration in beneficiary
3 form.

4 (2) If a registration in beneficiary form is offered by a
5 registering entity, the owner requesting registration in benefi-
6 ciary form assents to the protections given to the registering
7 entity by this act.

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

12 (4) A registering entity is discharged from all claims to a
13 security by the estate, creditors, heirs, or devisees of a
14 deceased owner if it registers a transfer of the security in
15 accordance with section 8 and does so in good faith reliance on
16 the registration and information provided to it by affidavit of
17 the personal representative of the deceased owner.

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

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

25 Sec. 10. (1) A transfer on death resulting from a registra-
26 tion in beneficiary form is not testamentary.

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

4 Sec. 11. (1) A registering entity offering to accept regis-
5 trations in beneficiary form may establish the terms and condi-
6 tions under which it will receive requests for registrations in
7 beneficiary form and for implementation of registrations in bene-
8 ficiary form including requests for cancellation of previously
9 registered TOD beneficiary designations and requests for reregis-
10 tration to effect a change of beneficiary. The terms and condi-
11 tions so established may provide for proving death, avoiding or
12 resolving all problems concerning fractional shares, designating
13 primary and contingent beneficiaries, and substituting a named
14 beneficiary's descendants to take in the place of the named bene-
15 ficiary in the event of the beneficiary's death.

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

24 (3) A registering entity may include in its terms and condi-
25 tions other forms of identifying beneficiaries who are to take on
26 1 or more contingencies and rules for providing proofs and
27 assurances needed to satisfy reasonable concerns by registering

1 entities regarding conditions and identities relevant to accurate
2 implementation of registrations in beneficiary form.

3 Sec. 12. This act applies to registrations of securities in
4 beneficiary form made before or after the effective date of this
5 act, by owners of securities dying on or after the effective date
6 of this act.