

2 **HB 1068** - S COMM AMD

3 By Committee on Law & Justice

4 ADOPTED 4/6/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Beneficiary form" means a registration of a security that
11 indicates the present owner of the security and the intention of the
12 owner regarding the person who will become the owner of the security
13 upon the death of the owner, referred to as a "beneficiary."

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

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

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

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

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

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

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

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

5 (10) "Security account" means (a) a reinvestment account associated
6 with a security; a securities account with a broker; a cash balance in
7 a brokerage account; or cash, interest, earnings, or dividends earned
8 or declared on a security in an account, a reinvestment account, or a
9 brokerage account, whether or not credited to the account before the
10 owner's death; or (b) a cash balance or other property held for or due
11 to the owner of a security as a replacement for or product of an
12 account security, whether or not credited to the account before the
13 owner's death.

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

17 NEW SECTION. **Sec. 2.** Only individuals whose registration of a
18 security shows sole ownership by one individual or multiple ownership
19 by two or more with right of survivorship, rather than as tenants in
20 common, may obtain registration in beneficiary form. Multiple owners
21 of a security registered in beneficiary form shall hold the security as
22 joint tenants with right of survivorship either as separate property or
23 as community property, and not as tenants in common.

24 NEW SECTION. **Sec. 3.** A registering entity may register a security
25 in beneficiary form if the form is authorized by this chapter or a
26 substantially identical statute of another state if the state is: (1)
27 The state of organization of the issuer or registering entity, (2) the
28 location of the registering entity's principal office, (3) the location
29 of the office of its transfer agent or its office making the
30 registration, or (4) the location of the owner's listed address at the
31 time of registration. A registration governed by the law of a
32 jurisdiction in which this or substantially identical legislation is
33 not in force or was not in force when a registration in beneficiary
34 form was made is nevertheless presumed to be valid and authorized as a
35 matter of contract law.

1 NEW SECTION. **Sec. 4.** A security, whether evidenced by certificate
2 or account, is registered in beneficiary form when the registration
3 includes a designation of a beneficiary to take the ownership at the
4 death of a sole owner or at the death of the last to die of multiple
5 owners.

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

10 NEW SECTION. **Sec. 6.** The designation of a TOD or POD beneficiary
11 on a registration in beneficiary form has no effect on ownership of the
12 security until the owner's death, or on community property rights and
13 obligations of owners. A registration of a security in beneficiary
14 form may be canceled or changed at any time by the sole owner or all
15 then surviving owners, without the consent of the beneficiary.

16 NEW SECTION. **Sec. 7.** On death of a sole owner or the last to die
17 of all multiple owners, ownership of securities registered in
18 beneficiary form passes to the beneficiary or beneficiaries who survive
19 all owners. On proof of death of all owners and compliance with any
20 applicable requirements of the registering entity, a security
21 registered in beneficiary form may be reregistered in the name of the
22 beneficiary or beneficiaries who survived the death of all owners.
23 Until division of the security after the death of all owners, multiple
24 beneficiaries surviving the death of all owners hold their interests as
25 tenants in common. If no beneficiary survives the death of all owners,
26 the security belongs to the estate of the deceased sole owner or the
27 estate of the last to die of all multiple owners.

28 NEW SECTION. **Sec. 8.** (1) A registering entity is not required to
29 offer or to accept a request for security registration in beneficiary
30 form. If a registration in beneficiary form is offered by a
31 registering entity, the owner requesting registration in beneficiary
32 form assents to the protections given to the registering entity by this
33 chapter.

34 (2) By accepting a request for registration of a security in
35 beneficiary form, the registering entity agrees that the registration

1 will be implemented on death of the deceased owner as provided in this
2 chapter.

3 (3) A registering entity is discharged from all claims to a
4 security by the estate, creditors, heirs, or devisees of a deceased
5 owner if it registers a transfer of a security in accordance with
6 section 7 of this act and does so in good faith reliance (a) on the
7 registration, (b) on this chapter, and (c) on information provided to
8 it by affidavit of the personal representative of the deceased owner,
9 or by the surviving beneficiary or by the surviving beneficiary's
10 representatives, or other information available to the registering
11 entity. The protections of this chapter do not extend to a
12 reregistration or payment made after a registering entity has received
13 written notice from any claimant to any interest in the security
14 objecting to implementation of a registration in beneficiary form. No
15 other notice or other information available to the registering entity
16 affects its right to protection under this chapter.

17 (4) The protection provided by this chapter to a registering entity
18 does not affect the rights of beneficiaries in disputes between
19 themselves and other claimants to ownership of the security transferred
20 or its value or proceeds.

21 NEW SECTION. **Sec. 9.** (1) A transfer on death resulting from a
22 registration in beneficiary form is effective by reason of the contract
23 regarding the registration between the owner and the registering entity
24 and this chapter and is not testamentary.

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

28 NEW SECTION. **Sec. 10.** (1) A registering entity offering to accept
29 registrations in beneficiary form may establish the terms and
30 conditions under which it will receive requests (a) for registrations
31 in beneficiary form, and (b) for implementation of registrations in
32 beneficiary form, including requests for cancellation of previously
33 registered TOD beneficiary designations and requests for reregistration
34 to effect a change of beneficiary. The terms and conditions so
35 established may provide for proving death, avoiding or resolving any
36 problems concerning fractional shares, and designating beneficiaries.
37 Other rules for providing proofs and assurances needed to satisfy

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

5 (2) The following are illustrations of registrations in beneficiary
6 form that a registering entity may authorize:

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

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

11 (c) Multiple owners-multiple beneficiaries: John S. Brown Mary B.
12 Brown JT TEN TOD John S. Brown Jr. Peter Q. Brown.

13 NEW SECTION. **Sec. 11.** (1) This chapter shall be known as and may
14 be cited as the uniform TOD security registration act.

15 (2) This chapter shall be liberally construed and applied to
16 promote its underlying purposes and policy and to make uniform the laws
17 with respect to the subject of this chapter among states enacting it.

18 (3) Unless displaced by the particular provisions of this chapter,
19 the principles of law and equity supplement the provisions of this
20 chapter.

21 NEW SECTION. **Sec. 12.** This chapter applies to registrations of
22 securities in beneficiary form made before or after the effective date
23 of this act, by decedents dying on or after the effective date of this
24 act.

25 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act shall
26 constitute a new chapter in Title 21 RCW."

27 **HB 1068** - S COMM AMD
28 By Committee on Law & Justice

29 ADOPTED 4/6/93

30 On page 1, line 1 of the title, after "securities;" strike the
31 remainder of the title and insert "and adding a new chapter to Title 21
32 RCW."

--- END ---