

SENATE BILL REPORT

HB 1068

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 23, 1993

Brief Description: Providing for registration of transfer on death securities.

SPONSORS: Representatives Padden, Appelwick, Ludwig, Riley, Chappell, Campbell, Schmidt, Long, Tate, Ballasiotes, Dyer, Johanson and Thomas

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, Roach, and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: March 19, 1993; March 23, 1993

BACKGROUND:

Under current Washington law, two means by which securities can be transferred upon the death of an owner, without first going through probate, is to hold the securities in joint tenancy with right of survivorship or to make them part of a community property agreement.

If the securities are held in joint tenancy, the surviving joint tenant or tenants become the owner(s). If two spouses enter into a community property agreement, securities covered by that agreement become the sole property of the surviving spouse.

These methods permit the automatic transfer of ownership upon an owner's death, but require shared ownership during the owner's lifetime.

The American Bar Association has approved model legislation, the Uniform Transfer On Death Security Registration Act (UTODA), that enables a security owner, while retaining all normal rights of ownership during his or her lifetime, to designate an individual or other entity that will automatically become the security owner upon the current owner's death. The UTODA or similar legislation recently has been adopted in the states of Colorado, Missouri, New Mexico, North Dakota, Oregon, and Wisconsin. Such legislation reportedly also is under consideration in the states of Alaska, Minnesota, and New York.

SUMMARY:

A new form of security ownership is created, enabling a security owner to designate one or more beneficiaries who will become the security owner or owners upon the current owner's death. The ownership of the security, whether certificated or noncertificated, passes to the designated beneficiary or beneficiaries outside of probate.

An individual or individuals holding as joint tenants with rights of survivorship, either as separate or community property, may own a security registered in such beneficiary form. Security owners other than individuals are ineligible since such owners may have perpetual existence.

The designation of a "transfer-on-death" (TOD) beneficiary on a security registration has no effect on ownership prior to the death of the owner or owners. Before then, the owner or owners may cancel or change the designation at any time, without the consent of the beneficiary. The designation of a TOD beneficiary does not affect the community property rights and obligations of owners.

A registering entity, such as a broker maintaining security accounts or a transfer agent, is not required to offer security registrations in beneficiary form, and may establish the terms and conditions under which it will do so.

On proof of death of all owners, and compliance with any requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the surviving beneficiary or beneficiaries. 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.

Upon the death of the owner or owners, the registering entity is not liable to adverse claimants to a security, provided the entity acts in good faith, and without written objection from an adverse claimant.

SUMMARY OF PROPOSED SENATE AMENDMENT:

Two technical amendments are made to the bill: (1) there is a grammatical rewrite of section 3; and (2) an inadvertently omitted reference to "POD" (pay on death) is included in section 6.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The act would allow more Washington citizens to avoid probate with regard to securities at minimal cost and inconvenience.

TESTIMONY AGAINST: None

TESTIFIED: Representative Mike Padden, prime sponsor; Mark Roberts, WA State Bar Assn.; Mark Greenberg, Securities Industry Assn.