

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1068

53rd Legislature
1993 Regular Session

Passed by the House April 19, 1993
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 6, 1993
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1068** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1068

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Padden, Appelwick, Ludwig, Riley, Chappell,
Campbell, Schmidt, Long, Tate, I. Ballasiotes, Dyer, Johanson and
Thomas

Read first time 01/13/93. Referred to Committee on Judiciary.

1 AN ACT Relating to registration of transfer on death securities;
2 and adding a new chapter to Title 21 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

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

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

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

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

18 (5) "Personal representative" includes executor, administrator,
19 successor personal representative, special administrator, and persons

1 who perform substantially the same function under the law governing
2 their status.

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

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

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

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

18 (10) "Security account" means (a) a reinvestment account associated
19 with a security; a securities account with a broker; a cash balance in
20 a brokerage account; or cash, interest, earnings, or dividends earned
21 or declared on a security in an account, a reinvestment account, or a
22 brokerage account, whether or not credited to the account before the
23 owner's death; or (b) a cash balance or other property held for or due
24 to the owner of a security as a replacement for or product of an
25 account security, whether or not credited to the account before the
26 owner's death.

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

30 NEW SECTION. **Sec. 2.** Only individuals whose registration of a
31 security shows sole ownership by one individual or multiple ownership
32 by two or more with right of survivorship, rather than as tenants in
33 common, may obtain registration in beneficiary form. Multiple owners
34 of a security registered in beneficiary form shall hold the security as
35 joint tenants with right of survivorship either as separate property or
36 as community property, and not as tenants in common.

1 NEW SECTION. **Sec. 3.** A registering entity may register a security
2 in beneficiary form if the form is authorized by this chapter or a
3 substantially identical statute of another state if the state is: (1)
4 The state of organization of the issuer or registering entity, (2) the
5 location of the registering entity's principal office, (3) the location
6 of the office of its transfer agent or its office making the
7 registration, or (4) the location of the owner's listed address at the
8 time of registration. A registration governed by the law of a
9 jurisdiction in which this or substantially identical legislation is
10 not in force or was not in force when a registration in beneficiary
11 form was made is nevertheless presumed to be valid and authorized as a
12 matter of contract law.

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

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

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

28 NEW SECTION. **Sec. 7.** On death of a sole owner or the last to die
29 of all multiple owners, ownership of securities registered in
30 beneficiary form passes to the beneficiary or beneficiaries who survive
31 all owners. On proof of death of all owners and compliance with any
32 applicable requirements of the registering entity, a security
33 registered in beneficiary form may be reregistered in the name of the
34 beneficiary or beneficiaries who survived the death of all owners.
35 Until division of the security after the death of all owners, multiple

1 beneficiaries surviving the death of all owners hold their interests as
2 tenants in common. If no beneficiary survives the death of all owners,
3 the security belongs to the estate of the deceased sole owner or the
4 estate of the last to die of all multiple owners.

5 NEW SECTION. **Sec. 8.** (1) A registering entity is not required to
6 offer or to accept a request for security registration in beneficiary
7 form. If a registration in beneficiary form is offered by a
8 registering entity, the owner requesting registration in beneficiary
9 form assents to the protections given to the registering entity by this
10 chapter.

11 (2) By accepting a request for registration of a security in
12 beneficiary form, the registering entity agrees that the registration
13 will be implemented on death of the deceased owner as provided in this
14 chapter.

15 (3) A registering entity is discharged from all claims to a
16 security by the estate, creditors, heirs, or devisees of a deceased
17 owner if it registers a transfer of a security in accordance with
18 section 7 of this act and does so in good faith reliance (a) on the
19 registration, (b) on this chapter, and (c) on information provided to
20 it by affidavit of the personal representative of the deceased owner,
21 or by the surviving beneficiary or by the surviving beneficiary's
22 representatives, or other information available to the registering
23 entity. The protections of this chapter do not extend to a
24 reregistration or payment made after a registering entity has received
25 written notice from any claimant to any interest in the security
26 objecting to implementation of a registration in beneficiary form. No
27 other notice or other information available to the registering entity
28 affects its right to protection under this chapter.

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

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

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

4 NEW SECTION. Sec. 10. (1) A registering entity offering to accept
5 registrations in beneficiary form may establish the terms and
6 conditions under which it will receive requests (a) for registrations
7 in beneficiary form, and (b) for implementation of registrations in
8 beneficiary form, including requests for cancellation of previously
9 registered TOD beneficiary designations and requests for reregistration
10 to effect a change of beneficiary. The terms and conditions so
11 established may provide for proving death, avoiding or resolving any
12 problems concerning fractional shares, and designating beneficiaries.
13 Other rules for providing proofs and assurances needed to satisfy
14 reasonable concerns by registering entities regarding conditions and
15 identities relevant to accurate implementation of registrations in
16 beneficiary form may be contained in a registering entity's terms and
17 conditions.

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

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

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

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

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

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

31 (3) Unless displaced by the particular provisions of this chapter,
32 the principles of law and equity supplement the provisions of this
33 chapter.

34 NEW SECTION. Sec. 12. This chapter applies to registrations of
35 securities in beneficiary form made before or after the effective date

1 of this act, by decedents dying on or after the effective date of this
2 act.

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

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