

**ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)**

**Act 386 of 1998**

Article VI

NONPROBATE TRANSFERS ON DEATH

Part 1

EFFECT OF DEATH

**700.6101 Effect of death.**

Sec. 6101.

(1) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, or other written instrument of similar nature is nontestamentary. This subsection includes a written provision in the instrument that is intended to result in 1 or more of the following:

(a) Money or another benefit due to, controlled by, or owned by a decedent before death is paid after the decedent's death to a person, including a trustee of a trust created by will, whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before, at the same time as, or after the instrument.

(b) Money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand.

(c) Property the decedent controls or owns before death that is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before, at the same time as, or after the instrument.

(2) This section does not limit creditors' rights under another law of this state or another state or under federal law.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010

**Popular Name:** EPIC

Part 3

UNIFORM TOD SECURITY REGISTRATION

**700.6301 Definitions.**

Sec. 6301.

As used in this part:

(a) "Beneficiary form" means a registration of a security that indicates the present owner of the security and the owner's intention regarding the person who will become the security's owner upon the owner's death.

(b) "Register" means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

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

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

(e) "Security account" includes all of the following:

(i) A reinvestment account associated with a security.

(ii) A securities account with a broker, financial institution, or subsidiary or affiliate of a financial institution.

(iii) A cash balance in an account with a broker, financial institution, or subsidiary or affiliate of a financial institution, whether or not credited to the account before the owner's death.

(iv) Cash, interest, earnings, or dividends earned or declared on a security in an account, reinvestment account, or account with a broker, financial institution, or subsidiary or affiliate of a financial institution, whether or not credited to the account before the owner's death.

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

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Compiler's Notes:** At the beginning of subdivision (e)(ii), the lowercase "a" evidently should be an uppercase "A".

**Popular Name:** EPIC

#### **700.6302 Registration in beneficiary form; sole or joint tenancy ownership.**

Sec. 6302.

Only an individual whose registration of a security shows sole ownership by 1 individual or multiple ownership by 2 or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship or as tenants by the entireties, and not as tenants in common.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 54, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6303 Registration in beneficiary form; applicable law.**

Sec. 6303.

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, or the office of its transfer agent or its office making the registration or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6304 Origination of registration in beneficiary form.**

Sec. 6304.

Whether evidenced by certificate or account, a security is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6305 Form of registration in beneficiary form.**

Sec. 6305.

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD", or

by the words "pay on death" or the abbreviation "POD", after the name of the registered owner and before the name of a beneficiary.

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6306 Effect of registration in beneficiary form.**

Sec. 6306.

The designation of a TOD beneficiary on a registration in beneficiary form does not affect ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all the surviving owners without the consent of the beneficiary.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 54, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6307 Ownership on death of owner.**

Sec. 6307.

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survived all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. 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.

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6308 Protection of registering entity.**

Sec. 6308.

(1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this part.

(2) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on the deceased owner's death as provided in this part.

(3) A registering entity is discharged from all claims to a security by a deceased owner's estate, creditors, heirs, or devisees if the entity registers a transfer of the security in accordance with section 6307 and does so in good-faith reliance on all of the following:

(a) The registration.

(b) This part.

(c) Information provided to it by a sworn statement of the deceased owner's personal representative, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

(4) This part's protections do not extend to a reregistration or payment made after a registering entity receives

written notice from a claimant to an interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this part.

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

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6309 Nontestamentary transfer on death.**

Sec. 6309.

(1) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this part, and is not testamentary.

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

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

#### **700.6310 Terms, conditions, and forms for registration.**

Sec. 6310.

(1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for registrations in beneficiary form or for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving a problem concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death.

(2) Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes". This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by an intestate's descendants. Other forms of identifying beneficiaries who are to take on 1 or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation or registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

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

(a) Sole owner-sole beneficiary:

"John S. Brown TOD or POD John S. Brown Jr."

(b) Multiple owners-sole beneficiary:

"John S. Brown and Mary B. Brown JT TEN TOD John S. Brown Jr."

(c) Multiple owners-primary and secondary substituted beneficiaries:

"John S. Brown and Mary B. Brown JT TEN TOD John S. Brown Jr. SUB BENE Peter Q. Brown" or "John S. Brown, Mary B. Brown JT TEN TOD John S. Brown Jr. LDPS."

**History:** 1998, Act 386, Eff. Apr. 1, 2000

**Popular Name:** EPIC

