

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 422

*An Act to amend the Code of Virginia by adding in Title 64.1 a chapter numbered 10, consisting of sections numbered 64.1-206.1 through 64.1-206.8, relating to the Uniform Transfers on Death Security Registration Act.*

[H 786]

Approved April 7, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 64.1 a chapter numbered 10, consisting of sections numbered 64.1-206.1 through 64.1-206.8, as follows:**

### CHAPTER 10.

#### UNIFORM TRANSFERS ON DEATH (TOD) SECURITY REGISTRATION ACT.

§ 64.1-206.1. *Definitions.*

*In this Act, unless the context otherwise requires:*

*"Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.*

*"Devisee" means any person designated in a will to receive a disposition of real or personal property.*

*"Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.*

*"Personal representative" includes executor, administrator, successor, personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.*

*"Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.*

*"Register," including its derivatives, 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.*

*"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.*

*"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, an uncertificated security, and a security account.*

*"Security account" means (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, or (ii) 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.*

§ 64.1-206.2. *Registration in beneficiary form; sole or joint tenancy ownership; applicable law.*

*A. Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two 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, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.*

*B. A security may be registered in beneficiary form if the form is authorized by this Act or a similar law of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by a similar 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 Act or similar law 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.*

§ 64.1-206.3. *Origination of registration in beneficiary form.*

*A security, whether evidenced by certificate or account, 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.*

§ 64.1-206.4. *Form of registration in beneficiary form; effect.*

*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 the beneficiary.

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on 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 then surviving owners without the consent of the beneficiary.

*§ 64.1-206.5. Ownership on death of owner.*

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to any beneficiaries who survive 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 any 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.

*§ 64.1-206.6. Protection of registering entity.*

A. 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 protection given to the registering entity by this Act.

B. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this Act.

C. A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with § 64.1-206.5 and does so in good faith reliance (i) on the registration, (ii) on this Act, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representative, or other information available to the registering entity. The protections of this Act do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any 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 Act.

D. The protection provided by this Act 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.

*§ 64.1-206.7. Nontestamentary transfer on death.*

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 Act, and is not testamentary.

This Act does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this Commonwealth.

*§ 64.1-206.8. Terms, conditions, and forms for registration; examples.*

A. A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form and (ii) 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 any problems 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.

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 so 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 descendants of an intestate. Other forms of identifying beneficiaries who are to take on one 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 of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

B. The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

1. Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown, Jr.
2. Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown, Jr.
3. Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown 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.*