

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 965, L.D. 1328, Bill, "An Act to Enact the Uniform Transfer on Death Security Registration Act"

Amend the bill in section 1 in that part designated "§6-302." by striking out all of subsections (b) to (f) (page 1, lines 26 to 43 in L.D.)

Further amend the bill in section 1 in that part designated "§6-302." by striking out all of subsection (k) (page 2, lines 25 to 28 in L.D.)

Further amend the bill in section 1 in that part designated "§6-302." by relettering the subsections to read consecutively.

Further amend the bill in section 1 by striking out all of that part designated "§6-303." (page 3, lines 4 to 14 in L.D.) and inserting in its place the following:

'§6-303. Registration in beneficiary form; sole or joint tenancy ownership

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by 2 or more individuals 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 and not as tenants in common.'

COMMITTEE AMENDMENT

Further amend the bill in section 1 after that part designated "§6-303." by inserting after that part related to "**UNIFORM COMMENT**" the following:

'MAINE COMMENT

The ownership forms of tenancy by the entirety and community property have been deleted from the Uniform Transfer on Death Security Registration Act because they cannot be created under Maine law.'

Further amend the bill in section 1 by striking out all of that part designated "§6-306." and inserting in its place the following:

'§6-306. Form of registration in beneficiary form

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD" after the name of the registered owner and before the name of a beneficiary.'

Further amend the bill in section 1 after that part designated "§6-306." by inserting after that part related to "**UNIFORM COMMENT**" the following:

'MAINE COMMENT

The use of the abbreviation "POD" and the words "pay on death" do not appear in section 6-306 because of the concern that these terms imply that securities or security accounts must be liquidated before a transfer to the named beneficiary or beneficiaries.'

Further amend the bill in section 1 by striking out all of that part designated "§6-310." and inserting in its place the following:

'§6-310. Nontestamentary transfer on death

(a) 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 or subject to Articles I through IV, except as provided in sections 2-201 through 2-207, and except as a consequence of, and to the extent directed by, subsection (b).

(b) A registration in beneficiary form is not effective against an estate of a deceased owner to transfer to a survivor sums needed to pay debts, taxes and expenses of administration.

2 including statutory allowances to the surviving spouse, minor
4 children and dependent children, if other assets of the estate
6 are insufficient. A surviving sole owner or beneficiary who
8 receives a security after the death of a deceased owner is liable
10 to account to the personal representative of the decedent's
12 estate for amounts the decedent owned beneficially immediately
14 before the decedent's death to the extent necessary to discharge
16 the claims and charges mentioned above remaining unpaid after
18 application of the decedent's estate. A proceeding to assert
20 this liability may not be commenced later than 2 years following
22 the death of the decedent. Sums recovered by the personal
24 representative must be administered as part of the decedent's
26 estate.'

Further amend the bill in section 1 after that part
designated "§6-310." by inserting after that part related to
"UNIFORM COMMENT" the following:

'MAINE COMMENT

As with P.O.D. bank accounts (sections 6-106 and 6-107 of
the Maine Probate Code), registration in beneficiary form does
not defeat the elective share and statutory allowances. Further,
the transfer of securities is subject to the claims of creditors,
taxes and the expenses of administration.'

Further amend the bill in section 1 by striking out all of
that part designated "§6-311." and inserting in its place the
following:

'§6-311. Terms, conditions and forms for registration

(a) A registering entity offering to accept registrations
in beneficiary form may establish the terms and conditions under
which it receives requests for registrations in beneficiary form
and 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 PCEG, standing for "per capita at
each generation." 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

2 the owner's death governing inheritance by descendants of an
3 intestate. Other forms of identifying beneficiaries who are to
4 take on one or more contingencies, and rules for providing proofs
5 and assurances needed to satisfy reasonable concerns by
6 registering entities regarding conditions and identities relevant
7 to accurate implementation of registrations in beneficiary form,
8 may be contained in a registering entity's terms and conditions.

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

12 (1) Sole owner - sole beneficiary: John S. Brown TOD (or
13 POD) John S. Brown Jr.;

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15 (2) Multiple owners - sole beneficiary: John S. Brown, Mary
16 B. Brown JT TEN TOD John S. Brown Jr.; or

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18 (3) Multiple owners - primary and secondary (substituted)
19 beneficiaries by either:

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21 (i) John S. Brown, Mary B. Brown, JT TEN TOD John S.
22 Brown Jr. SUB BENE Peter O. Brown; or

23
24 (ii) John S. Brown, Mary B. Brown JT TEN TOD John S.
25 Brown Jr. PCEG.'

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27 Further amend the bill in section 1 after that part
28 designated "~~§6-311.~~" by inserting after that part relating to
29 "UNIFORM COMMENT" the following:

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31 **'MAINE COMMENT**

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33 Consistent with section 2-106, the abbreviation "PCEG" is
34 used to indicate distribution per capita at each generation.

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36 **§6-312. Cancellation of beneficiary registration by will**

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38 Registrations in beneficiary form may be canceled by
39 inclusion in the will of the sole owner or the last to die of
40 multiple owners of a general reference that all such beneficiary
41 forms be canceled or by specific reference to one or more
42 securities or security accounts, but the terms of the revocation
43 are not binding on a registering entity unless the registering
44 entity has received written notice from any claimant to an
45 interest in any security objecting to implementation of a
46 registration in beneficiary form prior to the registering entity
47 reregistering the security. If a beneficiary registration is
48 canceled, the security belongs to the estate of the deceased sole
49 owner or the estate of the last to die of all multiple owners.
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MAINE COMMENT

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All registrations in beneficiary form may be canceled by a general reference in a will that such designations be ignored. Specific registrations may be canceled by specific reference in a will that the specific registrations be ignored.'

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SUMMARY

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This amendment makes several changes to the Uniform Transfer on Death Security Registration Act.

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Several definitions are deleted because they are contained elsewhere in the Maine Probate Code.

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The ownership forms of tenancy by the entirety and community property are deleted because they can not be created under Maine law.

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The abbreviation "POD" and the words "pay on death" are deleted from the provisions concerning registration of securities in beneficiary form. This eliminates the erroneous interpretation that the securities or security accounts would have to be liquidated before being transferred to the named beneficiary or beneficiaries.

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This amendment ensures that registration in beneficiary form does not defeat the elective share and statutory allowances. This is consistent with POD bank accounts as provided in sections 6-106 and 6-107 of the Probate Code.

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Current law governs the intestate succession of property. Section 2-106 of the Maine Probate Code provides that property is to be distributed under the concept of per capita at each generation. This amendment makes the beneficiary designation consistent with current Maine law.

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This amendment adds a section not included in the Uniform Act governing cancellation of registrations in beneficiary form. The security registrations in beneficiary form may be canceled by a general reference in a will that such designations be ignored. Specific registrations may be canceled by specific reference in a will that the indicated registrations be ignored.

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