

Chapter 21.35 RCW
UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT

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RCW 21.35.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Beneficiary form" means a registration of a security that 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, referred to as a "beneficiary."

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

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

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

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

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

(7) "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.

(8) "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.

(9) "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.

(10) "Security account" means (a) a reinvestment account associated with a security; a securities account with a broker; a cash balance in a brokerage account; or cash, cash equivalents, 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; (b) an agency account including, without limitation, an investment management account, investment advisory account, or custody account, with a trust company or a trust division of a bank with trust powers, including the securities in the account; a cash balance in the account; and cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death; or (c) 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.

(11) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States. [2005 c 97 § 14; 2003 c 118 § 1; 1993 c 287 § 1.]

RCW 21.35.010 Security registered in beneficiary form—

Ownership. 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 shall hold the security as joint tenants with right of survivorship either as separate property or as community property, and not as tenants in common. [1993 c 287 § 2.]

RCW 21.35.015 Registering a security in beneficiary form—

Authorization. A registering entity may register a security in beneficiary form if the form is authorized by this chapter or a substantially identical statute of another state if the state is: (1) The state of organization of the issuer or registering entity, (2) the location of the registering entity's principal office, (3) the location of the office of its transfer agent or its office making the registration, or (4) the location of the owner's listed address at the time of registration. A registration governed by the law of a jurisdiction in which this or substantially identical 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. [1993 c 287 § 3.]

RCW 21.35.020 Registering a security in beneficiary form—

Designation of beneficiary. 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 a sole owner or at the death of the last to die of multiple owners. [1993 c 287 § 4.]

RCW 21.35.025 Registering a security in beneficiary form—Words of designation. 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 or owners and before the name of a beneficiary. [1993 c 287 § 5.]

RCW 21.35.030 Designation of a TOD or POD beneficiary—Effect on ownership—Cancellation or change. The designation of a TOD or POD beneficiary on a registration in beneficiary form has no effect on ownership of the security until the owner's death, or on community property rights and obligations of owners. 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. [1993 c 287 § 6.]

RCW 21.35.035 Death of owner or owners—Ownership passes to beneficiaries. 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 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 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. [1993 c 287 § 7.]

RCW 21.35.040 Registering entity—Protection. (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 chapter.

(2) 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 chapter.

(3) 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 a security in accordance with RCW 21.35.035 and does so in good faith reliance (a) on the registration, (b) on this chapter, and (c) 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 representatives, or other information available to the registering

entity. The protections of this chapter 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 chapter.

(4) The protection provided by this chapter to a registering entity 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. [1993 c 287 § 8.]

RCW 21.35.045 Transfer on death—Contract—Rights of creditors.

(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 chapter and is not testamentary.

(2) This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this state. [1993 c 287 § 9.]

RCW 21.35.050 Registering entity—Terms and conditions—Forms authorized. (1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (a) for registrations in beneficiary form, and (b) 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, and designating beneficiaries. Other 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.

(2) 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 Mary B. Brown JT TEN TOD John S. Brown Jr.

(c) Multiple owners-multiple beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. Peter Q. Brown. [1993 c 287 § 10.]

RCW 21.35.900 Short title—Statutory construction. (1) This chapter shall be known as and may be cited as the uniform TOD security registration act.

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

(3) Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement the provisions of this chapter. [1993 c 287 § 11.]

RCW 21.35.901 Application. This chapter applies to registrations of securities in beneficiary form made before or after July 25, 1993, by decedents dying on or after July 25, 1993. [1993 c 287 § 12.]

RCW 21.35.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 62.]