

ENROLLED SENATE
BILL NO. 1028

By: Hendrick and Muegge of the
Senate

and

Vaughn (Ray) of the House

An Act relating to designations of beneficiaries; amending 6 O.S. 1991, Sections 901 and 2025, which relate to certain accounts of banks and savings and loans, 12A O.S. 1991, Section 8-308, which relates to endorsements and instructions for certain securities, 15 O.S. 1991, Section 178, which relates to certain contracts containing certain provisions, 18 O.S. 1991, Sections 381.39 and 381.40, which relate to certain accounts and deposits of savings and loan associations, 58 O.S. 1991, Section 1210, as amended by Section 3, Chapter 158, O.S.L. 1993 (58 O.S. Supp. 1993, Section 1210), which relates to creation and transfer of certain custodial property, Section 2 of Enrolled House Bill No. 2122 of the 2nd Session of the 44th Oklahoma Legislature, which relates to definitions of terms used in the Oklahoma Uniform TOD Securities Registration Act, and 84 O.S. 1991, Section 231, which relates to inheritance of benefits by certain persons causing death; clarifying language; making certain accounts, deposits, shares, securities, and contracts subject to provisions relating to certain beneficiaries and others receiving certain death benefits after divorce or annulment of marriage; providing for designations of beneficiaries for certain accounts and deposits held by savings and loan associations under certain circumstances; clarifying that certain custodial property may be registered in TOD form; clarifying definition; making persons causing death ineligible to receive property pursuant to certain beneficiary designations; deleting obsolete language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 6 O.S. 1991, Section 901, is amended to read as follows:

Section 901. ~~1.~~ A. When a deposit has been made or shall hereafter be made in any bank in the names of two or more persons, payable to any of them or payable to any of them or the survivor, such deposit, or any part thereof, or any interest thereon, may be

paid to either of said persons, whether one of such persons shall be a minor or not, and whether the other be living or not; and the receipt or acquittance of the person so paid shall be valid and sufficient release and discharge to the bank for any payment so made ~~or when.~~

B. 1. When a deposit ~~is~~ has been made or shall hereafter be made in any bank using the terms "Payable on Death" or "P.O.D.", such deposits shall be payable on the designated person's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. Such deposit shall constitute a contract between the depositor and the bank that upon the death of the named owner of the account the bank will hold the funds for or pay them to the named beneficiary or the estate of the named beneficiary.

2. No change in the designation of a named beneficiary shall be valid unless executed by the owner of the fund and ~~be~~ in the form and manner prescribed by the bank; however, this section shall be subject to the provisions of Section 178 of Title 15 of the Oklahoma Statutes.

~~2.~~ 3. The receipt or acquittance of the named beneficiary so paid or the legal representative of such named beneficiary's estate, if deceased, shall be valid and sufficient release and discharge to the bank for any payment so made, unless, prior to such payment, the bank receives notice in the form and manner required in Section 905 of this title.

~~3.~~ C. The provisions of this section shall apply to all forms of deposit accounts, including, but not limited to, transaction accounts, savings accounts, certificates of deposits, negotiable order of withdrawal (N.O.W.) accounts, and M.M.D.A. accounts.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 2025, is amended to read as follows:

Section 2025. When shares are owned or a deposit made by a member using the terms "Payable on Death" or "Payable on the Death of" or "P.O.D.", such shares and deposit shall be payable on the member or owner's death to the named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. The receipt or acquittance of the named beneficiary so paid or the legal representative of the named beneficiary's estate, if deceased, shall be valid and sufficient release and discharge to the credit union for any payment so made. No change in the designation of a named beneficiary shall be valid unless executed by the member or owner of the shares or deposit in the form and manner prescribed by the credit union; however, this section shall be subject to the provisions of Section 178 of Title 15 of the Oklahoma Statutes. Until the member or owner's death, the member or owner shall possess and may exercise all rights respecting the shares or deposits, including the power to vote, pledge, withdraw, in whole or in part, make additions to, and to in any way deal with the shares or deposit; the receipt or acquittance of the member or owner shall be a valid and sufficient release and discharge of the credit union as to any payment to the member or owner.

SECTION 3. AMENDATORY 12A O.S. 1991, Section 8-308, is amended to read as follows:

Section 8-308. Endorsements; Instructions

(1) An endorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or his signature is written without more upon the back of the security.

(2) An endorsement may be in blank or special. An endorsement in blank includes an endorsement to bearer. A special endorsement specifies to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank endorsement into a special endorsement.

(3) An endorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

- (a) a writing signed by an appropriate person; or
- (b) a communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate person" in subsection (1) of this section means the person specified by the certificated security or by special endorsement to be entitled to the security.

(7) "An appropriate person" in subsection (5) of this section means:

- (a) for an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or
- (b) for an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7) of this section, "an appropriate person" in subsections (1) and (5) of this section includes:

- (a) if the person designated is described as a fiduciary but is no longer serving in the described capacity, either that person or his successor;
- (b) if the persons designated are described as more than one person as fiduciaries and one or more are no longer serving in the described capacity, the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified;
- (c) if the person designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, his executor, administrator, guardian, or like fiduciary;
- (d) if the persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, the survivor or survivors;
- (e) a person having power to sign according to applicable law or controlling instrument; ~~and~~

- (f) a person who is a TOD beneficiary pursuant to the Oklahoma Uniform TOD Security Registration Act and who has survived all owners; and
- (g) to the extent that the person designated or any of the foregoing persons may act through an agent, his authorized agent.

(9) Unless otherwise agreed, the endorser of a certificated security by his endorsement or the originator of an instruction by his origination assumes no obligation that the security will be honored by the issuer but only the obligations provided for in Section 8-306 of this title.

(10) Whether the person signing is appropriate is determined as of the date of signing and an endorsement made by or an instruction originated by him does not become unauthorized for the purposes of this article by virtue of any subsequent change of circumstances.

(11) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render his endorsement or an instruction originated by him unauthorized for the purposes of this article.

SECTION 4. AMENDATORY 15 O.S. 1991, Section 178, is amended to read as follows:

Section 178. A. If, after entering into a written contract in which a beneficiary is designated or provision is made for the payment of any death benefit (including life insurance contracts, annuities, retirement arrangements, compensation agreements, depository agreements, security registrations, and other contracts designating a beneficiary of any right, property, or money in the form of a death benefit), the party to the contract with the power to designate the beneficiary or to make provision for payment of any death benefit dies after being divorced from the person designated as the beneficiary or named to receive such death benefit in the contract, all provisions in ~~such~~ the contract in favor of the decedent's former spouse are thereby revoked. Annulment of the marriage shall have the same effect as a divorce. In the event of either divorce or annulment, the decedent's former spouse shall be treated for all purposes under the contract as having predeceased the decedent.

B. Subsection A of this section shall not apply:

1. If the decree of divorce or annulment is vacated;
2. If the decedent had remarried ~~said~~ the former spouse and was married to said spouse at the time of the decedent's death;
3. If the decree of divorce or annulment contains a provision expressing an intention contrary to subsection A of this section;
4. If the decedent makes the contract subsequent to the divorce or annulment;
5. To the extent, if any, the contract contains a provision expressing an intention contrary to subsection A of this section; or
6. If the decedent renames ~~said~~ the former spouse as the beneficiary or as the person or persons to whom payment of a death benefit is to be made in a writing ~~or~~ delivered to the payor of the benefit ~~or~~ prior to the death of the decedent and subsequent to the divorce or annulment.

C. For purposes of subsection A of this section, "death benefit" shall not include:

1. Any interest in property in which the decedent's former spouse has an interest as a joint tenant; or
2. Any interest in property in which the decedent's former spouse has a beneficial interest in an express trust created by the

decedent during the decedent's lifetime for which provision is made in Section 175 of Title 60 of the Oklahoma Statutes.

D. This section shall apply to any contract of a decedent made and entered into on or after November 1, 1987 and to depository agreements and security registrations made and entered into on or after September 1, 1994.

SECTION 5. AMENDATORY 18 O.S. 1991, Section 381.39, is amended to read as follows:

Section 381.39 A. Savings accounts or savings deposits may be opened and held solely and absolutely in his own right by, or in trust or other fiduciary capacity for, any person, including an adult or minor individual, partnership, association, fiduciary, corporation, or political subdivision or public or governmental unit. Such accounts or deposits or any interest therein shall be transferable only on the books of the association and upon proper written application by the transferee. The association may treat the holder of record of an account or deposit as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge of such savings account or savings deposit.

B. Savings accounts or savings deposits may be made payable on the death of the owner to a named beneficiary if living and if not living to a named beneficiary's estate notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. Such accounts and deposits shall constitute a contract between the owner and the association and may be designated using the terms "payable on death" or "POD" or other similar terms as permitted by the association. No change in the designation of a named beneficiary shall be valid unless executed by the owner in the form and manner prescribed by the association.

SECTION 6. AMENDATORY 18 O.S. 1991, Section 381.40, is amended to read as follows:

Section 381.40 A. Any association or federal association may issue its savings accounts or savings deposits in the joint names of two or more persons or their survivor or survivors, and such an account shall create a single membership in a mutual association. The payment of any part or all of the withdrawal value of such account or deposit to or on the order of any such person, or the transfer of said account or deposit on the books of the association upon order or assignment by any such person, whether or not such other person is or other persons are living, shall discharge the association from liability with respect to the payment or transfer so made. The pledge or hypothecation to any association or federal association of all or part of an account or deposit so held in joint tenancy, signed by any joint tenant, shall be a valid pledge of all or that part of the account or deposit pledged or hypothecated, and shall not operate to sever the joint and survivorship status of the account or deposit.

B. Joint accounts and deposits may be made payable on the death of all joint owners to a named beneficiary if living and if not living to a named beneficiary's estate notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. Such accounts and deposits shall constitute a contract between the owners and the association and may be designated using the terms "payable on death" or "POD" or other similar terms as permitted by the association. No change in the designation of a named beneficiary shall be valid unless executed by an owner in the form and manner prescribed by the association.

SECTION 7. AMENDATORY 58 O.S. 1991, Section 1210, as amended by Section 3, Chapter 158, O.S.L. 1993 (58 O.S. Supp. 1993, Section 1210), is amended to read as follows:

Section 1210. A. Custodial property is created and a transfer is made whenever:

1. An uncertificated security or a certificated security in registered form is either:

- a. registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or
- b. delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection B of this section; or

2. Money is paid or delivered or a security held in the name of a broker, financial institution, or its nominee is transferred to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act". Money paid or delivered to a financial institution as prescribed in this paragraph also may be deposited using the terms "Payable on Death" or "P.O.D.", in which case, such deposits shall be payable on the designated minor's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. A security held or transferred as prescribed in this paragraph also may be subject to a beneficiary designation pursuant to the Oklahoma Uniform TOD Security Registration Act, in which case, the security shall be transferable on the designated minor's death to a named beneficiary, if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes; or

3. The ownership of a life or endowment insurance policy or annuity contract is either:

- a. registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or
- b. assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

4. An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as

custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

5. An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

6. A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

- a. issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or
- b. delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

7. An interest in any property not described in paragraphs 1, 2, 3, 4, 5 and 6 is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection B of this section.

B. An instrument in the following form satisfies the requirements of subparagraph b of paragraph 1 and paragraph 7 of subsection A of this section:

"TRANSFER UNDER THE OKLAHOMA UNIFORM TRANSFERS TO MINORS ACT
I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Oklahoma Uniform Transfers to Minors Act.

Dated: _____

(Signature of Custodian)

C. A transferor shall place the custodian in control of the custodial property as soon as practicable.

SECTION 8. AMENDATORY Section 2 of Enrolled House Bill No. 2122 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 2. As used in the Oklahoma Uniform TOD Security Registration Act, unless the context otherwise requires:

1. "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;
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, a limited liability company, 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:

a. to issue a certificate showing the ownership of a certificated security ~~or,~~

b. in the case of an uncertificated security ~~or a certificated security held in the name of a registering entity or its nominee on behalf of the beneficial owner,~~ to initiate or transfer an account showing ownership of securities, or

c. in the case of a certificated or uncertificated security titled in the name of a registering entity or its nominee on behalf of one or more beneficial owners, to initiate or transfer an account showing beneficial ownership of securities;

8. "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker or a bank 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 or a bank, 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

b. 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; and

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.

SECTION 9. AMENDATORY 84 O.S. 1991, Section 231, is amended to read as follows:

Section 231. No person who is convicted of murder in the first degree, ~~as defined in 21 O.S. 1971, Section 701.1, or murder in the second degree, as defined in 21 O.S. 1971, Section 701.2,~~ ~~subparagraph 1 or 2,~~ or manslaughter in the first degree, as defined in 21 O.S. 1971, Section 711, subparagraph 2, under by the laws of this state, or the laws of any other state or foreign country, of having taken, caused, or procured another ~~to~~ to take, the life of an individual, shall inherit from ~~such~~ the victim, or receive any interest in the estate of the victim, or take by devise or legacy, or as a designated beneficiary of an account or security which is a POD or TOD designation, or as a surviving joint tenant, or by descent or distribution, from ~~him, or her~~ the victim, any portion of

~~his or her,~~ the victim's estate; and no beneficiary of any policy of insurance or certificate of membership issued by any benevolent association or organization, payable upon the death or disability of any person, who in like manner takes, ~~or~~ causes, or procures to be taken, the life upon which such policy or certificate is issued, or who causes or procures a disability of such person, shall take the proceeds of such policy or certificate; but in every instance mentioned in this section all benefits that would accrue to any such person upon the death or disability of the person whose life is thus taken, or who is thus disabled, shall become subject to distribution among the other heirs of such deceased person according to the laws of descent and distribution, in the case of death, and in case of disability, the benefits thereunder shall be paid to the disabled person; provided, however, that an insurance company shall be discharged of all liability under a policy issued by it upon payment of the proceeds in accordance with the terms thereof, unless before such payment the company shall have written notice by or in behalf of some claimant other than the beneficiary named in the policy that a claim to the proceeds of such policy will be made by heirs of such deceased under the provisions of this ~~act~~ section.

SECTION 10. This act shall become effective September 1, 1994.

Passed the Senate the 24th day of May, 1994.

President of the Senate

Passed the House of Representatives the 27th day of May, 1994.

Speaker of the House of Representatives

