DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2010 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 6.

 UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT

**SECTION 35‑6‑10.** Short title; definitions.

(A) This chapter may be cited as the Uniform Transfer on Death Security Registration Act.

(B) As used in this chapter:

(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 a person designated in a will to receive a disposition of property.

(3) “Heirs” means those persons, including the surviving spouse, who are entitled under the laws 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 a personal representative, administrator, or other person who performs substantially the same functions by law.

(6) “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.

(7) “Registration 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.

(8) “Security” means and is defined as provided in Section 35‑1‑102(28) and as a security account.

(9) “Security account” means:

(a) 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

(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.

(10) “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 35‑6‑20.** Individuals eligible to obtain registration in beneficiary form; multiple owners of security.

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, and not as tenants in common.

**SECTION 35‑6‑30.** Security allowed to be registered in beneficiary form when form authorized by certain laws; presumption of validity.

A security may be registered in beneficiary form, if the form is authorized by this chapter, by the laws of the state of organization of the issuer or registering entity; by the laws of the state of the location of the registering entity’s principal office, the office of its transfer agent, or its office making the registration; or by the laws 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 these provisions are 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.

**SECTION 35‑6‑40.** Designation of beneficiary to take ownership upon death of owner or owners to be included for security to be registered in beneficiary form.

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

**SECTION 35‑6‑50.** Certain words signify registration in beneficiary form.

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.

**SECTION 35‑6‑60.** Ownership not affected until owner’s death; cancellation or change.

The designation of a transfer on death 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.

**SECTION 35‑6‑70.** Death of sole owner or last of multiple owners; passing of ownership; reregistration; lack of surviving beneficiary.

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.

**SECTION 35‑6‑80.** Registering entities; duties and protections.

(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 protections given to the registering entity by this chapter.

(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 chapter.

(C) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devises of a deceased owner if it registers a transfer of a security in accordance with Section 35‑6‑70 and does so in good faith reliance (1) on the registration, (2) on this chapter, and (3) 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.

(D) The protection provided by this chapter 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 of proceeds.

**SECTION 35‑6‑90.** Effectiveness of transfer on death by reason of contract; effect of chapter on rights of creditors of security owners against beneficiaries and transferees.

(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 chapter and is not testamentary.

(B) This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.

**SECTION 35‑6‑100.** Registering entities; establishment of terms and conditions under which they will receive requests.

A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (1) for registrations in beneficiary form, and (2) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions 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 descendant 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.