



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0297

Introduced 2/7/2007, by Sen. Carole Pankau

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Nonprobate Transfer Act. Authorizes a transferring entity to act as an agent for an owner of property subject to a nonprobate transfer. Provides that a nonprobate transfer is nontestamentary and is exempt from the requirements of the Probate Act of 1975 and lists the provisions allowed for the nonprobate transfer. Outlines the transfer, registration, and revocation procedures for nonprobate transfers. Provides that prior to the death of the owner, a beneficiary shall have no rights in the property by reason of the beneficiary designation. Provides that, if a beneficiary disclaims, in whole or in part, the nonprobate transfer, then the disclaimant is treated as having predeceased the owner, unless the beneficiary designation provides otherwise. Disqualifies a beneficiary designation in the event that it is procured by fraud, duress, or undue influence. Sets out rules. Provides that recipients of a recoverable transfer shall pay a pro rata share to cover statutory allowances and claims due by the estate.

LRB095 05016 LCT 25084 b

1 AN ACT concerning nonprobate transfers.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Nonprobate Transfer Act.

6 Section 5. Definitions. As used in this Act:

7 "Beneficiary" means a person or persons designated or  
8 entitled to receive property pursuant to a nonprobate transfer  
9 on surviving one or more persons.

10 "Beneficiary designation" means a provision in writing  
11 that is not a will that designates the beneficiary of a  
12 nonprobate transfer, including the transferee in an instrument  
13 that makes the transfer effective on death of the owner, and  
14 that complies with the conditions of any governing instrument,  
15 the rules of any transferring entity, and applicable law.

16 "Death of the owner" means, in the case of joint owners,  
17 the death of the last surviving owner.

18 "Joint owners" means persons who hold property as joint  
19 tenants with right of survivorship and a husband and wife who  
20 hold property as tenants by the entirety.

21 "Nonprobate transfer" means a transfer of property taking  
22 effect upon the death of the owner, pursuant to a beneficiary  
23 designation. A "nonprobate transfer" does not include

1 survivorship rights in property held as joint tenants or  
2 tenants by the entirety, a transfer to a remainderman on  
3 termination of a life tenancy, an inter vivos or testamentary  
4 transfer under a trust established by an individual, a transfer  
5 pursuant to the exercise or nonexercise of a power of  
6 appointment, or a transfer made on death of a person who did  
7 not have the right to designate his or her estate as the  
8 beneficiary of the transfer.

9 "Owner" means a person or persons having a right,  
10 exercisable alone or with others, regardless of the terminology  
11 used to refer to the owner in any written beneficiary  
12 designation, to designate the beneficiary of a nonprobate  
13 transfer, and includes joint owners.

14 "Ownership in beneficiary form" means a holding of property  
15 pursuant to a registration in beneficiary form or other writing  
16 that names the owner of the property followed by a transfer on  
17 death direction and the designation of a beneficiary.

18 "Person" means a living individual, an entity capable of  
19 owning property, and a fiduciary.

20 "Proof of death" means a death certificate, record, or  
21 report that is prima facie proof or evidence of death.

22 "Property" means any present or future interest in  
23 property, real or personal, tangible or intangible, or legal or  
24 equitable. "Property" includes a right to direct or receive  
25 payment of a debt, money, or other benefits due under a  
26 contract, account agreement, deposit agreement, employment

1 contract, compensation plan, pension plan, individual  
2 retirement plan, employee benefit plan, trust, or law; a right  
3 to receive performance remaining due under a contract; a right  
4 to receive payment under a promissory note or a debt maintained  
5 in a written account record; rights under a certificated or  
6 uncertificated security; rights under an instrument evidencing  
7 ownership of property issued by a governmental agency; and  
8 rights under a document of title as defined in Section 1-201 of  
9 the Uniform Commercial Code.

10 "Registration in beneficiary form" means the titling of an  
11 account record, certificate, or other written instrument  
12 evidencing ownership of property in the name of the owner  
13 followed by a transfer on death direction and the designation  
14 of a beneficiary.

15 "Security" means means a share, participation, or other  
16 interest in property, in a business, or in an obligation of an  
17 enterprise or other issuer and includes a certificated  
18 security, an uncertificated security, and a security account.

19 "Transfer on death direction" means the phrase "transfer on  
20 death to" or the phrase "pay on death to" or the abbreviation  
21 "TOD" or "POD" after the name of the owners and before the  
22 designation of the beneficiary.

23 "Transferring entity" means a person who owes a debt or is  
24 obligated to pay money or benefits, render contract  
25 performance, deliver or convey property, or change the record  
26 of ownership of property on the books, records, and accounts of

1 an enterprise or on a certificate or document of title that  
2 evidences property rights. "Transferring entity" includes any  
3 governmental agency, business entity, or transfer agent that  
4 issues certificates of ownership or title to property and any  
5 person acting as a custodial agent for an owner's property.

6 Section 10. Nonprobate transfers.

7 (a) Any of the following provisions in an insurance policy,  
8 contract of employment, bond, mortgage, promissory note, stock  
9 certificate, account agreement, custodial agreement, deposit  
10 agreement, compensation plan, pension plan, individual  
11 retirement plan, employee benefit plan, trust agreement,  
12 declaration of trust, conveyance, or any other written  
13 instrument effective as a contract, gift, conveyance, or trust  
14 or to evidence ownership of property is deemed to be  
15 nontestamentary and exempt from the requirements of the Probate  
16 Act of 1975:

17 (1) money or other benefits theretofore due to,  
18 controlled, or owned by a decedent that shall be paid after  
19 the decedent's death to a person or persons designated by  
20 the decedent in either the instrument or a separate  
21 writing, including a will, executed at the same time as the  
22 instrument or subsequently;

23 (2) any money due or to become due under the instrument  
24 that shall cease to be payable in event of the death of the  
25 promisee or the promisor before payment or demand;

1           (3) any property that is the subject of the instrument  
2           that shall pass on decedent's death to a person or persons  
3           designated by the decedent in either the instrument or a  
4           separate writing, including a will, executed at the same  
5           time as the instrument or subsequently; or

6           (4) except to the extent specifically excluded by this  
7           Act, any nonprobate transfer under Sections 15 to 155 of  
8           this Act.

9           (b) Nonprobate transfers are effective with or without  
10          consideration and are not to be considered testamentary or  
11          subject to the requirements of a will or probating a will under  
12          the Probate Act of 1975.

13          Section 15. Transferring entity acting as agent. For the  
14          purpose of discharging its duties under this Act, the authority  
15          of a transferring entity acting as agent for an owner of  
16          property subject to a nonprobate transfer shall not cease at  
17          death of the owner. The transferring entity shall transfer the  
18          property to the designated beneficiary in accordance with the  
19          governing instrument, the rules of the transferring entity, and  
20          this Act.

21          Section 20. Agreements between transferring entity and  
22          owner.

23          (a) Provision for a nonprobate transfer is a matter of  
24          agreement between the owner and the transferring entity, under

1 such rules, terms, and conditions as the owner and transferring  
2 entity may agree, when any of the following is required:

3 (1) submission to the transferring entity of a  
4 beneficiary designation under a governing instrument;

5 (2) registration by a transferring entity of a transfer  
6 on death direction on any certificate or record evidencing  
7 ownership of property;

8 (3) consent of a contract obligor for a transfer of  
9 performance due under the contract;

10 (4) consent of a financial institution for a transfer  
11 of an obligation of the financial institution; or

12 (5) consent of a transferring entity for a transfer of  
13 an interest in the transferring entity.

14 (b) Whenever subsection (a) of this Section is applicable,  
15 this Act does not impose an obligation on a transferring entity  
16 to accept an owner's request to make provision for a nonprobate  
17 transfer of property.

18 (c) When a beneficiary designation, revocation, or change  
19 is subject to acceptance by a transferring entity, the  
20 transferring entity's acceptance of the beneficiary  
21 designation, revocation, or change relates back to and is  
22 effective as of the time when the request was received by the  
23 transferring entity.

24 Section 25. Acceptance; registration. When a transferring  
25 entity accepts a beneficiary designation, beneficiary

1 assignment, or registers property in beneficiary form, the  
2 acceptance or registration constitutes the agreement of the  
3 owner and transferring entity that, unless the beneficiary  
4 designation is revoked or changed prior to the owner's death,  
5 on proof of death of the owner and compliance with the  
6 transferring entity's requirements for showing proof of  
7 entitlement, the property will be transferred to and placed in  
8 the name and control of the beneficiary in accordance with the  
9 beneficiary designation or transfer on death direction, the  
10 agreement of the parties, and this Act.

11 Section 30. Beneficiary designation. A beneficiary  
12 designation under a written instrument or law that authorizes a  
13 transfer of property pursuant to a written designation of  
14 beneficiary, transfers the right to receive the property to the  
15 designated beneficiary who survives, effective on death of the  
16 owner, if the beneficiary designation is executed and delivered  
17 in proper form to the transferring entity prior to the death of  
18 the owner.

19 Section 35. Written assignment.

20 (a) A written assignment of a contract right that assigns  
21 the right to receive any performance remaining due under the  
22 contract to an assignee designated by the owner, that expressly  
23 states that the assignment is not to take effect until the  
24 death of the owner, transfers the right to receive performance



1 due under the contract to the designated assignee beneficiary,  
2 effective on death of the owner, if the assignment is executed  
3 and delivered in proper form to the contract obligor prior to  
4 the death of the owner or is executed in proper form and  
5 acknowledged before a notary public or other person authorized  
6 to administer oaths. A beneficiary assignment need not be  
7 supported by consideration or be delivered to the assignee  
8 beneficiary.

9 (b) This Section does not preclude other methods of  
10 assignment that are permitted by law and that have the effect  
11 of postponing enjoyment of a contract right until the death of  
12 the owner.

13 Section 40. Deeds recording.

14 (a) A deed that conveys an interest in real property to a  
15 grantee designated by the owner, that expressly states that the  
16 deed is not to take effect until the death of the owner,  
17 transfers the interest provided to the designated grantee  
18 beneficiary, effective on death of the owner, if the deed is  
19 executed and filed of record with the recorder of deeds in the  
20 city or county or counties in which the real property is  
21 situated prior to the death of the owner. A beneficiary deed  
22 need not be supported by consideration or be delivered to the  
23 grantee beneficiary. A beneficiary deed may be used to transfer  
24 an interest in real property to a trust estate, regardless of  
25 the trust's revocability.

1           (b) This Section does not preclude other methods of  
2 conveyancing that are permitted by law and that have the effect  
3 of postponing enjoyment of an interest in real property until  
4 the death of the owner. This Section does not invalidate any  
5 deed, otherwise effective by law, to convey title to the  
6 interest and estates therein provided that is not recorded  
7 until after the death of the owner.

8           Section 45. Transfer of tangible property.

9           (a) A deed of gift, bill of sale, or other writing intended  
10 to transfer an interest in tangible personal property that  
11 expressly states that the transfer is not to take effect until  
12 the death of the owner, transfers ownership to the designated  
13 transferee beneficiary, effective on death of the owner, if the  
14 instrument is in other respects sufficient to transfer the type  
15 of property involved and is executed by the owner and  
16 acknowledged before a notary public or other person authorized  
17 to administer oaths. A beneficiary transfer instrument need not  
18 be supported by consideration or be delivered to any transferee  
19 beneficiary.

20           (b) This Section does not preclude other methods of  
21 transferring ownership of tangible personal property that are  
22 permitted by law and that have the effect of postponing  
23 enjoyment of property until the death of the owner.

24           Section 50. Direct transfer.

1           (a) A transferor of property, with or without  
2 consideration, may directly transfer the property to a  
3 transferee to hold as owner in beneficiary form.

4           (b) A transferee under an instrument described in  
5 subsection (a) of this Section shall be the owner of the  
6 property for all purposes and shall have all the rights to the  
7 property otherwise provided by law to owners, including the  
8 right to revoke or change the beneficiary designation.

9           (c) A direct transfer of property to a transferee to hold  
10 as owner in beneficiary form is effective when the writing  
11 perfecting the transfer becomes effective to make the  
12 transferee the owner.

13           Section 55. Registration.

14           (a) Property may be held or registered in beneficiary form  
15 by including, in the name in which the property is held or  
16 registered, a direction to transfer the property on death of  
17 the owner to a beneficiary designated by the owner.

18           (b) Property is registered in beneficiary form by showing  
19 on the account record, security certificate, or instrument  
20 evidencing ownership of the property, the name of the owner and  
21 the estate by which 2 or more joint owners hold the property,  
22 followed in substance by the words "transfer on death to  
23 ..... (name of beneficiary)". In lieu of the words  
24 "transfer on death to", the words "pay on death to" or the  
25 abbreviation "TOD" or "POD" may be used.

1           (c) A transfer on death direction may only be placed on an  
2 account record, security certificate, or instrument evidencing  
3 ownership of property by the transferring entity or a person  
4 authorized by the transferring entity.

5           (d) A transfer on death direction transfers the owner's  
6 interest in the property to the designated beneficiary,  
7 effective on the owner's death, if the property is registered  
8 in beneficiary form prior to the death of the owner or if the  
9 request to make the transfer on death direction is delivered in  
10 proper form to the transferring entity prior to the owner's  
11 death.

12           (e) An account record, security certificate, or instrument  
13 evidencing ownership of property that contains a transfer on  
14 death direction written as part of the name in which the  
15 property is held or registered is conclusive evidence, in the  
16 absence of fraud, duress, undue influence, or evidence of  
17 clerical mistake by the transferring entity, that the direction  
18 was regularly made by the owner and accepted by the  
19 transferring entity and was not revoked or changed prior to the  
20 death giving rise to the transfer. The transferring entity  
21 shall have no obligation to retain the original writing, if  
22 any, by which the owner caused the property to be registered in  
23 beneficiary form, more than 6 months after the transferring  
24 entity has mailed or delivered to the owner, at the address  
25 shown on the registration, an account statement, certificate,  
26 or instrument that shows the manner in which the property is

1 held or registered in beneficiary form.

2 Section 60. Effect of beneficiary designation during  
3 lifetime and at death.

4 (a) Prior to the death of the owner, a beneficiary shall  
5 have no rights in the property by reason of the beneficiary  
6 designation and the signature or agreement of the beneficiary  
7 shall not be required for any transaction respecting the  
8 property.

9 (b) On death of one of 2 or more joint owners, property  
10 with respect to which a beneficiary designation has been made  
11 belongs to the surviving joint owner or owners and the right of  
12 survivorship continues as between 2 or more surviving joint  
13 owners.

14 (c) On death of the owner, property passes by operation of  
15 law to the beneficiary.

16 (d) If 2 or more beneficiaries survive, there is no right  
17 of survivorship among the beneficiaries in the event of death  
18 of a beneficiary thereafter, unless the beneficiary  
19 designation expressly provides for survivorship among them  
20 and, unless so expressly provided, surviving beneficiaries  
21 hold their separate interests in the property as tenants in  
22 common. The share of any subsequently deceased beneficiary  
23 belongs to that beneficiary's estate.

24 (e) If no beneficiary survives the owner, the property  
25 belongs to the estate of the owner.

1           Section 65. Revocation; change of designation.

2           (a) A beneficiary designation may be revoked or changed, in  
3 whole or in part, during the lifetime of the owner. A  
4 revocation or change of a beneficiary designation involving  
5 property of joint owners may only be made with the agreement of  
6 all owners then living.

7           (b) A subsequent beneficiary designation revokes a prior  
8 beneficiary designation unless the subsequent beneficiary  
9 designation expressly provides otherwise.

10          (c) A revocation or change in a beneficiary designation  
11 shall comply with the terms of the governing instrument, the  
12 rules of the transferring entity, and the applicable law.

13          (d) A beneficiary designation may not be revoked or changed  
14 by the provisions of a will unless the beneficiary designation  
15 expressly grants the owner the right to revoke or change a  
16 beneficiary designation by will.

17          (e) A transfer during the owner's lifetime of the owner's  
18 interest in property, with or without consideration,  
19 terminates the beneficiary designation with respect to the  
20 property transferred.

21          (f) The effective date of a revocation or change in a  
22 beneficiary designation shall be determined in the same manner  
23 as the effective date of a beneficiary designation.

24          Section 70. Agents right to make, revoke, or change

1 beneficiary.

2 (a) An attorney in fact, custodian, conservator, or other  
3 agent may not make, revoke, or change a beneficiary designation  
4 unless the document establishing the agent's right to act, or a  
5 court order, expressly authorizes that action and that action  
6 complies with the terms of the governing instrument, the rules  
7 of the transferring entity, and applicable law.

8 (b) This Section shall not prohibit the authorized  
9 withdrawal, sale, pledge, or other present transfer of the  
10 property by an attorney in fact, custodian, conservator, or  
11 other agent, notwithstanding the fact that the effect of the  
12 transaction may be to extinguish a beneficiary's right to  
13 receive a transfer of the property at the death of the owner.

14 Section 75. Lost, destroyed, or damaged property. In the  
15 event property subject to a beneficiary designation is lost,  
16 destroyed, damaged, or involuntarily converted during the  
17 owner's lifetime, the beneficiary succeeds to any right with  
18 respect to the loss, destruction, damage, or involuntary  
19 conversion that the owner would have had if the owner had  
20 survived, but has no interest in any payment or substitute  
21 property received by the owner during the owner's lifetime.

22 Section 80. Collateral conveyances; liens.

23 (a) A beneficiary of a nonprobate transfer takes the  
24 owner's interest in the property at death subject to all

1 conveyances, assignments, contracts, setoffs, licenses,  
2 easements, liens, and security interests made by the owner or  
3 to which the owner was subject during the owner's lifetime.

4 (b) A beneficiary of a nonprobate transfer of an account  
5 with a bank, savings and loan association, credit union,  
6 broker, or mutual fund takes the owner's interest in the  
7 property at death subject to all requests for payment of money  
8 issued by the owner prior to death, whether paid by the  
9 transferring entity before or after death or unpaid. The  
10 beneficiary is liable to the payee of an unsatisfied request  
11 for payment to the extent that it represents an obligation that  
12 was enforceable against the owner during the owner's lifetime.

13 (c) To the extent that a claim properly paid by the  
14 personal representative of the owner's estate includes the  
15 amount of an unsatisfied request for payment to the claimant,  
16 the personal representative shall be subrogated to the rights  
17 of the claimant as payee.

18 (d) Each beneficiary's liability with respect to an  
19 unsatisfied request for payment is limited to the same  
20 proportionate share of the request for payment as the  
21 beneficiary's proportionate share of the account under the  
22 beneficiary designation. Beneficiaries shall have the right of  
23 contribution among themselves with respect to requests for  
24 payment that are satisfied after the owner's death, to the  
25 extent the requests for payment would have been enforceable by  
26 the payees. In no event shall a beneficiary's liability to



1 payees, the owner's estate, and other beneficiaries under this  
2 Section and Section 160 of this Act, with respect to all  
3 requests for payment, exceed the value of the account received  
4 by the beneficiary.

5 (e) If a request for payment that would not have been  
6 enforceable under this Section is satisfied from a  
7 beneficiary's share of the account, the beneficiary shall not  
8 be liable to any other payee or the owner's estate under this  
9 Section or Section 160 of this Act for the amount paid, but the  
10 beneficiary shall have no right of contribution against other  
11 beneficiaries with respect to that amount.

12 Section 85. Survival.

13 (a) An individual who is a beneficiary of a nonprobate  
14 transfer shall not be entitled to a transfer unless the  
15 individual survives the owner by 120 hours.

16 (b) If an owner provides and the transferring entity  
17 accepts, or if a governing instrument or applicable law  
18 provides, a period of survival different than 120 hours, the  
19 period designated shall determine the survival requirement of  
20 beneficiaries under this Section. An owner and transferring  
21 entity may agree that certain circumstances raise a different  
22 presumption of survival or nonsurvival.

23 (c) This Section does not apply to survivorship rights of  
24 joint owners.

1           Section 90. Designation of a trustee; amendable or  
2 revokable trust.

3           (a) A beneficiary designation designating a trustee under a  
4 trust established or to be established by the owner or some  
5 other person, including a funded or unfunded trust, shall not  
6 be invalid because the trust is amendable or revocable or both  
7 or because the trust was amended after the designation.

8           (b) Unless a beneficiary designation provides otherwise, a  
9 trust that was revoked or terminated before the death of the  
10 owner shall be deemed not to have survived the owner.

11           (c) Unless a beneficiary designation provides otherwise, a  
12 legal entity or trust that does not exist or come into  
13 existence at the time of the owner's death shall be deemed not  
14 to have survived the owner.

15           Section 95. Lineal descendant substitutes.

16           (a) Whenever a person designated as beneficiary of a  
17 nonprobate transfer is a lineal descendant of the owner, and  
18 the beneficiary is deceased at the time the beneficiary  
19 designation is made, does not survive the owner, or is treated  
20 as not surviving the owner, the nonsurviving beneficiary's  
21 share shall belong to that beneficiary's lineal descendants per  
22 stirpes who survive the owner, to take in place of and in  
23 substitution for the nonsurviving beneficiary the same as the  
24 beneficiary would have taken if the beneficiary had survived.  
25 This subsection (a) shall not apply to a beneficiary

1 designation with the notation "no LDPS" after a beneficiary's  
2 name or other words negating an intention to direct the  
3 transfer to the lineal descendant substitutes of a nonsurviving  
4 beneficiary.

5 (b) A beneficiary designation may provide that the share of  
6 any beneficiary not related to the owner as provided in  
7 subsection (a) of this Section, and who does not survive the  
8 owner, shall belong to that beneficiary's lineal descendants  
9 per stirpes who survive the owner, by including after the name  
10 of the beneficiary the words "and lineal descendants per  
11 stirpes" or the abbreviation "LDPS".

12 (c) Lineal descendants taking as substitutes for a  
13 beneficiary of a nonprobate transfer, if they are of the same  
14 degree of kinship to the nonsurviving beneficiary, share  
15 equally, but if they are of unequal degree, then those of more  
16 remote degree take the share of their parent by representation.

17 (d) Whenever a nonprobate transfer is to be made to a  
18 beneficiary's lineal descendants per stirpes, the property  
19 shall belong to the lineal descendants of the beneficiary who  
20 survive the owner and in such proportions as would result if  
21 the survivors were inheriting personal property of the  
22 beneficiary under the laws of Illinois and the beneficiary had  
23 died, at the time of the owner's death, intestate, unmarried,  
24 domiciled in Illinois, and possessed of the property.

25 (e) Whenever a beneficiary of a nonprobate transfer does  
26 not survive the owner and the beneficiary is a person for whom

1 the beneficiary's surviving lineal descendants take as  
2 substitutes under subsection (a) or (b) of this Section, if  
3 there are no lineal descendants of the beneficiary who survive  
4 the owner, the beneficiary's share shall belong to the  
5 surviving beneficiaries, or to the owner's estate, as would be  
6 the case if transfer to the beneficiary's lineal descendants  
7 were not required to be considered.

8 Section 100. Disclaimer. If a beneficiary of a nonprobate  
9 transfer disclaims, in whole or in part, the nonprobate  
10 transfer in the manner provided by law, then with respect to  
11 the disclaimed transfer, the disclaimant is treated as having  
12 predeceased the owner unless the beneficiary designation  
13 provides otherwise. The possibility that a beneficiary or  
14 descendant may disclaim a transfer shall not require any  
15 transferring entity to withhold making the transfer in the  
16 normal course of business.

17 Section 105. Marriage dissolution; declaration of  
18 invalidity of marriage; remarriage.

19 (a) If, after an owner makes a beneficiary designation, the  
20 owner's marriage is dissolved or declared invalid, any  
21 provision of the beneficiary designation in favor of the  
22 owner's former spouse or a relative of the owner's former  
23 spouse is revoked on the date the marriage is dissolved or  
24 declared invalid, whether or not the beneficiary designation

1 refers to marital status. The beneficiary designation shall be  
2 given effect as if the former spouse or relative of the former  
3 spouse had disclaimed the revoked provision.

4 (b) Subsection (a) of this Section does not apply to a  
5 provision of a beneficiary designation that has been made  
6 irrevocable, that is revocable only with the spouse's consent,  
7 that is made after the marriage was dissolved, or that  
8 expressly states that marriage dissolution shall not affect the  
9 designation of a spouse or relative of a spouse as beneficiary.

10 (c) Any provision of a beneficiary designation revoked  
11 solely by this Section is revived by the owner's remarriage to  
12 the former spouse or by a nullification of the marriage  
13 dissolution or declaration of invalidity.

14 (d) In this Section, "a relative of the owner's former  
15 spouse" means an individual who is related to the owner's  
16 former spouse by blood, adoption, or affinity and who, after  
17 the dissolution of marriage or declaration of invalidity of  
18 marriage, is not related to the owner by blood, adoption, or  
19 affinity.

20 Section 110. Disqualification; fraud; causing owner's  
21 death.

22 (a) A beneficiary designation or a revocation of a  
23 beneficiary designation that is procured by fraud, duress, or  
24 undue influence is void.

25 (b) A beneficiary who willfully and unlawfully causes or

1 participates with another in causing the death of the owner, or  
2 the insured individual under a life insurance policy or  
3 certificate, is disqualified from receiving any benefit of a  
4 nonprobate transfer from the owner or any proceeds payable as a  
5 result of the death of an individual insured under a life  
6 insurance policy or certificate. The beneficiary designation  
7 shall be given effect as if the disqualified beneficiary had  
8 disclaimed it. The fact that a beneficiary willfully and  
9 unlawfully caused or participated with another in causing the  
10 death of the owner may be established by a criminal conviction  
11 or guilty plea, after the right of direct appeal has been  
12 exhausted, or determined in a proceeding pursuant to subsection  
13 (c) of this Section using a preponderance of the evidence  
14 standard.

15 (c) On petition of any interested person or the  
16 transferring entity, the trier of fact shall determine whether  
17 a beneficiary designation or a revocation of a beneficiary  
18 designation is void by reason of subsection (a) of this Section  
19 or whether subsection (b) of this Section applies to prevent  
20 any person from receiving any benefit of the nonprobate  
21 transfer. The trier of fact may mitigate the effect of  
22 subsection (a) or (b) on any person as the trier of fact  
23 determines justice requires. Any party may demand a jury trial.

24 Section 115. Omitted spouse; after-born child.

25 (a) No law intended to protect a spouse or child from

1 unintentional disinheritance by the will of a testator shall  
2 apply to a nonprobate transfer.

3 (b) A beneficiary designation designating the children of  
4 the owner or any other person as a class and not by name shall  
5 include all children of the person, whether born or adopted  
6 before or after the beneficiary designation is made.

7 (c) If a beneficiary designation names an individual who is  
8 a child of the owner, and if the owner has a child born or  
9 adopted after the owner makes the beneficiary designation, the  
10 after-born or after-adopted child shall be entitled to receive  
11 a fractional share of any property otherwise transferable to  
12 any child of the owner who is named in the beneficiary  
13 designation, computed as follows: the numerator of the fraction  
14 shall be one, and the denominator shall be the total number of  
15 the owner's children, whether born or adopted before or after  
16 the beneficiary designation was made and whether named or not  
17 in the beneficiary designation. The property otherwise  
18 transferable to the owner's children named in the beneficiary  
19 designation shall be reduced in the proportion that their  
20 shares bear to each other. If there is no share designated for  
21 any child of the owner, an after-born or after-adopted child  
22 shall receive no share of the property subject to the  
23 nonprobate transfer.

24 (d) A beneficiary designation, a governing instrument, or  
25 the rules of any transferring entity may provide that the  
26 after-born child rule does not apply, in which case after-born

1 and after-adopted children of the owner shall receive no share  
2 of property designated for named children of the owner.

3 (e) A transferring entity shall have no obligation to apply  
4 subsection (c) of this Section in making distribution with  
5 respect to property registered in beneficiary form. This  
6 exception for the transferring entity shall not affect the  
7 ownership interest of the after-born or after-adopted child.

8 Section 120. Rules.

9 (a) The rights and obligations of the owner, beneficiary  
10 and transferring entity shall be governed by this Act.

11 (b) When provision for a nonprobate transfer is a matter of  
12 agreement between the owner and the transferring entity  
13 pursuant to Section 20 of this Act, a transferring entity may  
14 adopt rules for the making, revocation, acceptance, and  
15 execution of beneficiary designations and a transferring  
16 entity may adopt the rules in subsection (c) of this Section,  
17 in whole or in part, by incorporation by reference.

18 (c) The following rules in this subsection (c) shall apply  
19 to all beneficiary designations except as otherwise provided by  
20 any governing instrument, the rules of any transferring entity,  
21 applicable law, or the beneficiary designation:

22 (1) A beneficiary designation or a request for  
23 registration of property in beneficiary form shall be made  
24 in writing, signed by the owner, and dated, except as  
25 provided in item (2) of this subsection (c).



1           (2) A security that is not presently registered in the  
2 name of the owner may be registered in beneficiary form on  
3 instructions given by a broker or a person delivering the  
4 security.

5           (3) A beneficiary designation may designate one or more  
6 primary beneficiaries and one or more contingent  
7 beneficiaries.

8           (4) On property registered in beneficiary form,  
9 primary beneficiaries are the persons shown immediately  
10 following the transfer on death direction. Words  
11 indicating that the persons shown are primary  
12 beneficiaries are not required. If contingent  
13 beneficiaries are designated, their names in the  
14 registration shall be preceded by the words "contingent  
15 beneficiaries", an abbreviation thereof, or words of  
16 similar meaning.

17           (5) Unless a different percentage or fractional share  
18 is stated for each beneficiary, surviving multiple primary  
19 beneficiaries or multiple contingent beneficiaries share  
20 equally. When a percentage or fractional share is  
21 designated for multiple beneficiaries, either primary or  
22 contingent, surviving beneficiaries share in the  
23 proportion that their designated shares bear to each other.

24           (6) Provision for a transfer of unequal shares to  
25 multiple beneficiaries for property registered in  
26 beneficiary form may be expressed in the registration by a

1 number preceding the name of each beneficiary that  
2 represents a percentage share of the property to be  
3 transferred to that beneficiary. The number representing a  
4 percentage share need not be followed by the word "percent"  
5 or a percent sign.

6 (7) A nonprobate transfer of property also transfers  
7 any interest, rent, royalties, earnings, dividends, or  
8 credits earned or declared on the property but not paid or  
9 credited before the owner's death.

10 (8) If a distribution by a transferring entity pursuant  
11 to a nonprobate transfer results in fractional shares in a  
12 security or other property that is not divisible, the  
13 transferring entity may distribute the fractional shares  
14 in the name of all beneficiaries as tenants in common or as  
15 the beneficiaries may direct, or the transferring entity  
16 may sell the property that is not divisible and distribute  
17 the proceeds to the beneficiaries in the proportions to  
18 which they are entitled.

19 (9) On death of the owner, the property, less a setoff  
20 for all amounts and charges owing by the owner to the  
21 transferring entity, shall belong to the surviving  
22 beneficiaries, and their lineal descendants when required  
23 as substitutes, as follows:

24 (A) If a multiple primary beneficiary does not  
25 survive and has no surviving lineal descendant  
26 substitutes, the nonsurviving primary beneficiary's

1 share shall belong to the surviving primary  
2 beneficiaries in the proportion that their shares bear  
3 to each other.

4 (B) If no primary beneficiary or lineal descendant  
5 substitute survives, the property shall belong to the  
6 surviving contingent beneficiaries in equal shares or  
7 in the percentage or fractional share stated.

8 (C) If a multiple contingent beneficiary does not  
9 survive and has no lineal descendant substitutes, the  
10 nonsurviving contingent beneficiary's share shall  
11 belong to the surviving contingent beneficiaries in  
12 the proportion that their shares bear to each other.

13 (D) If no beneficiary survives the owner, the  
14 property shall belong to the owner's estate.

15 (10) The transferring entity may in its discretion make  
16 the distribution as it would be made if the trust did not  
17 survive the owner if (i) a trustee designated as a  
18 beneficiary does not survive the owner, resigns, or is  
19 unable or unwilling to execute the trust as trustee, and  
20 (ii) if within one year of the owner's death no successor  
21 trustee has been appointed or has undertaken to act or if a  
22 trustee is designated as beneficiary and no trust  
23 instrument or probated will creating an express trust has  
24 been presented to the transferring entity.

25 (11) If, within 6 months of the owner's death, the  
26 transferring entity has not been presented evidence that a

1 nonsurviving beneficiary for whom LDPS distribution  
2 applies had lineal descendants who survived the owner, the  
3 transferring entity may in its discretion make the transfer  
4 as if the beneficiary's descendants, if any, did not  
5 survive the owner.

6 (12) If a beneficiary cannot be located at the time the  
7 transfer is made to located beneficiaries, the  
8 transferring entity shall hold the missing beneficiary's  
9 share. If the missing beneficiary's share is not claimed by  
10 the beneficiary or the beneficiary's personal  
11 representative or successors within one year of the owner's  
12 death, the transferring entity shall transfer the share as  
13 if the beneficiary did not survive the owner. The  
14 transferring entity shall have no obligation to attempt to  
15 locate a missing beneficiary, to pay interest on the share  
16 held for a missing beneficiary, or to invest the missing  
17 beneficiary's share in any different property. Cash,  
18 interest, rent, royalties, earnings, or dividends payable  
19 to the missing beneficiary may be held by the transferring  
20 entity at interest or reinvested by the transferring entity  
21 in the account or in a dividend reinvestment account  
22 associated with a security held for the missing  
23 beneficiary.

24 (13) If a transferring entity is required to make a  
25 nonprobate transfer to a minor or a disabled adult, the  
26 transfer may be made pursuant to Illinois Uniform Transfers

1 to Minors Act or a similar law of another state.

2 (14) A written request for execution of a nonprobate  
3 transfer may be made by any beneficiary, a beneficiary's  
4 legal representative or attorney in fact, or the owner's  
5 personal representative. The request shall be under oath or  
6 affirmation, subscribed before a notary public or other  
7 person authorized to administer oaths, and shall include  
8 the following:

9 (A) the full name, address, and tax identification  
10 number of each beneficiary;

11 (B) the percentage or fractional share to be  
12 distributed to each beneficiary;

13 (C) the manner in which percentage or fractional  
14 shares in nondivisible property or the proceeds  
15 therefrom are to be distributed;

16 (D) statement that there are no known disputes as  
17 to the persons entitled to a distribution under the  
18 nonprobate transfer or the amounts to be distributed to  
19 each person and that no known claims that would affect  
20 the distribution requested; and

21 (E) any other information as the transferring  
22 entity may require.

23 (15) A written request pursuant to item (14) of this  
24 subsection (c) shall be accompanied by the following:

25 (A) a certificate or instrument evidencing  
26 ownership of the contract, account, security, or

1 property;

2 (B) proof of death of the owner and any  
3 nonsurviving beneficiary;

4 (C) an inheritance tax waiver from states that  
5 require it;

6 (D) where the request is made by a legal  
7 representative, a certified copy of the court order  
8 appointing the legal representative; and

9 (E) any other proof of entitlement as the  
10 transferring entity may require.

11 Section 125. Transferring entity; protection.

12 (a) The owner in making provision for a nonprobate transfer  
13 under this Act gives to the transferring entity the protections  
14 provided in this Section for executing the owner's beneficiary  
15 designation.

16 (b) The transferring entity may execute a nonprobate  
17 transfer with or without a written request.

18 (c) The transferring entity may rely and act on:

19 (1) a certified or authenticated copy of a death  
20 certificate issued by an official or agency of the place  
21 where the death occurred as showing the fact, place, date,  
22 time of death, and the identity of the decedent; or

23 (2) a certified or authenticated copy of any report or  
24 record of a governmental agency, domestic or foreign, that  
25 a person is missing, detained, dead, or alive and the

1           dates, circumstances, and places disclosed by the record or  
2           report.

3           (d) The transferring entity may rely and act on, and shall  
4           have no duty to verify, information in a written request made  
5           by a person specified in item (14) of subsection (c) of Section  
6           120, under oath or affirmation, subscribed before a notary  
7           public or other person authorized to administer oaths, for  
8           execution of the beneficiary designation.

9           (e) The transferring entity shall have no duty to:

10           (1) give notice to any person of the date, manner, and  
11           persons to whom transfer will be made under the beneficiary  
12           designation, except as provided in subsection (f) of this  
13           Section;

14           (2) attempt to locate any beneficiary or lineal  
15           descendant substitute or determine whether a nonsurviving  
16           beneficiary or descendant had lineal descendants who  
17           survived the owner;

18           (3) locate a trustee or custodian, obtain appointment  
19           of a successor trustee or custodian, or discover the  
20           existence of a trust instrument or will that creates an  
21           express trust; or

22           (4) determine any fact or law that would cause the  
23           beneficiary designation to be revoked, in whole or in part,  
24           as to any person because of change in marital status or  
25           other reason, that would qualify or disqualify any person  
26           to receive a share under the nonprobate transfer, or that

1           would vary the distribution provided in the beneficiary  
2           designation.

3           (f) The transferring entity shall have no duty to withhold  
4           making a transfer based on knowledge of any fact or claim  
5           adverse to the transfer to be made unless, prior to the  
6           transfer, the transferring entity has received written notice  
7           at a place and time and in a manner that affords a reasonable  
8           opportunity to act on it before the transfer is made that:

9                   (1) asserts a claim of beneficial interest in the  
10                   transfer adverse to the transfer to be made;

11                   (2) gives the name of the claimant and an address for  
12                   communications directed to the claimant;

13                   (3) identifies the deceased owner and the property to  
14                   which the claim applies; and

15                   (4) states the amount and nature of the claim as it  
16                   affects the transfer.

17           (g) If a notice as provided in subsection (f) of this  
18           Section is received by the transferring entity, the  
19           transferring entity may discharge any duty to the claimant by  
20           delivering a notice or sending a notice by certified mail to  
21           the claimant at the address given in the notice of claim  
22           advising that a transfer adverse to the claimant's asserted  
23           claim may be made in 30 days from the date of delivery or  
24           mailing unless the transfer is restrained by a court order. If  
25           the transferring entity delivers or mails the notice, it shall  
26           withhold making the transfer for 30 days after the date of



1 delivery or mailing and may then make the transfer unless  
2 restrained by a court order.

3 (h) No other notice or other information shown to have been  
4 available to the transferring entity, its transfer agent, and  
5 their employees, shall affect the right to the protections  
6 provided in this Act.

7 (i) The transferring entity shall have no responsibility  
8 for the application or use of property transferred to a  
9 fiduciary that the fiduciary as such is entitled to receive.

10 (j) Notwithstanding the protections provided the  
11 transferring entity in this Act, in the event the transferring  
12 entity is uncertain as to the beneficiary entitled to receive a  
13 transfer or the beneficiary's proper share, or in the event of  
14 a dispute as to the proper transfer, the transferring entity  
15 may require the parties to adjudicate their respective rights  
16 or to furnish an indemnity bond protecting the transferring  
17 entity.

18 (k) A transfer by the transferring entity in accordance  
19 with this Act, pursuant to the beneficiary designation in good  
20 faith, and in reliance on information the transferring entity  
21 reasonably believes to be accurate, discharges the  
22 transferring entity from all claims for the amounts paid and  
23 the property transferred.

24 (l) The protections provided a transferring entity in this  
25 Act are in addition to protections provided by the Uniform  
26 Commercial Code, Fiduciary Transfer of Securities Act,

1 Illinois Uniform Transfers to Minors Act, and the Trust and  
2 Trustees Act.

3 Section 130. Owner and beneficiary rights.

4 (a) Any protection provided to a transferring entity or to  
5 a purchaser or lender for value under this Act shall have no  
6 bearing on the rights of beneficiaries or others in disputes  
7 among themselves concerning the ownership of the property.

8 (b) Unless the payment or transfer can no longer be  
9 questioned because of adjudication, estoppel, or limitations,  
10 a transferee of money or property pursuant to a nonprobate  
11 transfer that was improperly distributed or paid is liable to  
12 return to the transferring entity or deliver to the rightful  
13 transferees the money or property improperly received and the  
14 income earned thereon by the transferee. If the transferee does  
15 not have the property, then the transferee is liable to return  
16 the value of the property as of the date of disposition and the  
17 income and gain received by the transferee from the property  
18 and its proceeds. If the transferee has encumbered the  
19 property, the transferee shall satisfy any debt incurred that  
20 imposes an encumbrance on the property sufficient to release  
21 any security interest, lien, or other encumbrance on the  
22 property.

23 (c) A purchaser for value of property or a lender who  
24 acquires a security interest in the property in good faith from  
25 a beneficiary of a nonprobate transfer after the death of the

1 owner, takes the property free of any claims of or liability to  
2 the owner's estate, creditors of the owner's estate, persons  
3 claiming rights as beneficiaries under the nonprobate  
4 transfer, or heirs of the owner's estate in absence of actual  
5 knowledge that the transfer was improper or that the  
6 information in an affidavit, if any, provided pursuant to item  
7 (14) of subsection (c) of section 120 is not true. A purchaser  
8 or lender for value shall have no duty to verify sworn  
9 information relating to the nonprobate transfer. The  
10 protection provided by this subsection applies to information  
11 that relates to the ownership interest of the beneficiary in  
12 the property and the beneficiary's right to sell, encumber, and  
13 transfer good title to a purchaser or lender and does not  
14 relieve a purchaser or lender from the notice imparted by  
15 instruments of record respecting the property.

16 (d) A nonprobate transfer that is improper because of the  
17 application of Sections 95, 100, 105, 110, or 115 of this Act  
18 shall impose no liability on the transferring entity, if made  
19 honestly and in good faith, regardless of any negligence in  
20 determining the proper transferees. The remedy of the rightful  
21 transferees shall be limited to an action against the improper  
22 transferees.

23 Section 135. Right of creditors. A deceased owner's  
24 creditors, surviving spouse, and unmarried minor children  
25 shall have the rights set forth in Section 160 with respect to

1 the value of property passing by nonprobate transfer.

2 Section 140. Application.

3 (a) The provisions of this Act apply to all beneficiary  
4 deed executed and filed at any time including, but not limited  
5 to, those executed and filed on or before the effective date of  
6 this Act.

7 (b) Subject to the provisions of Section 150, the Act  
8 applies to a nonprobate transfer on death if at the time the  
9 owner designated the beneficiary:

10 (1) the owner was a resident of this State;

11 (2) the obligation to pay or deliver arose in this  
12 State or the property was situated in this State; or

13 (3) the transferring entity was a resident of this  
14 State or had a place of business in this State or the  
15 obligation to make the transfer was accepted in this State.

16 (c) The direction for a nonprobate transfer on death of the  
17 owner and the obligation to execute the nonprobate transfer  
18 remain subject to the provisions of this Act despite a  
19 subsequent change in the beneficiary, in the rules of the  
20 transferring entity under which the transfer is to be executed,  
21 in the residence of the owner, in the residence or place of  
22 business of the transferring entity, or in the location of the  
23 property.

24 (d) Except for Sections 100, 105, 110, and 160, this Act  
25 shall not apply to accounts or deposits in financial

1 institutions unless the provisions of this Act are incorporated  
2 into the certificate, account, or deposit agreement, in whole  
3 or in part, by express reference.

4 (e) This Act applies to transfer on death directions given  
5 to a custodian by the owner.

6 (f) Except for Sections 100, 105, 110, and 160, this Act  
7 shall not apply to certificates of ownership or title issued by  
8 the Secretary of State.

9 (g) Except for Sections 100, 110, and 160, this Act shall  
10 not apply to property, money, or benefits paid or transferred  
11 at death pursuant to a life or accidental death insurance  
12 policy, annuity, contract, plan, or other product sold or  
13 issued by a life insurance company unless the provisions of  
14 this Act are incorporated into the policy or beneficiary  
15 designation, in whole or in part, by express reference.

16 (h) Except for Sections 100, 105, 110, and 160, this Act  
17 shall not apply to any nonprobate transfer where the governing  
18 instrument or law expressly provides that this Act shall not  
19 apply.

20 (i) Section 105 shall not apply to any employee benefit  
21 plan governed by the Employee Retirement Income Security Act of  
22 1974.

23 Section 145. Probate court jurisdiction. The probate court  
24 may hear and determine questions and issue appropriate orders  
25 concerning the determination of the beneficiary who is entitled

1 to receive a nonprobate transfer, the proper share of each  
2 beneficiary, and any action to obtain the return of any money  
3 or property, or its value and earnings, improperly distributed  
4 to any person.

5 Section 150. Other states; beneficiary designation.

6 (a) A beneficiary designation that purports to have been  
7 made and that is valid under the Uniform Probate Code, Uniform  
8 TOD Security Registration Law, or a similar law of another  
9 state is governed by the law of that state and the nonprobate  
10 transfer may be executed and enforced in this State.

11 (b) The meaning and legal effect of a nonprobate transfer  
12 shall be determined by the local law of the particular state  
13 selected in a governing instrument or beneficiary designation.

14 (c) The provisions of this Act shall be applied and  
15 construed to effectuate their general purpose to make uniform  
16 the law with respect to the subject of this Act among states  
17 enacting a similar law.

18 Section 155. Prior transfers.

19 (a) This Act shall apply to all nonprobate transfers made  
20 on and after the effective date of this Act.

21 (b) Any provision for a nonprobate transfer of money,  
22 benefits, or property at death, as now permitted in this Act,  
23 purported to have been made before the effective date of this  
24 Act, is validated notwithstanding that there was no specific

1 statutory authority for making the nonprobate transfer in that  
2 manner at the time provision for the nonprobate transfer was  
3 made.

4 Section 160. Recoverable transfer.

5 (a) Each recipient of a recoverable transfer of a  
6 decedent's property shall be liable to account for a pro rata  
7 share of the value of all property received, to the extent  
8 necessary to discharge the statutory allowances to the  
9 decedent's surviving spouse and dependent children, and claims  
10 remaining unpaid after application of the decedent's estate,  
11 including expenses of administration and costs as provided in  
12 subsection (c) of this Section, and including estate,  
13 inheritance, or other transfer taxes imposed by reason of the  
14 decedent's death only where payment of those taxes is a  
15 prerequisite to satisfying unpaid claims that have a lower  
16 level of priority. No proceeding may be brought under this  
17 Section when the deficiency described in this subsection (a) is  
18 solely attributable to costs and expenses of administration.

19 (b) The obligation of a recipient of a recoverable transfer  
20 may be enforced by an action for accounting commenced within 18  
21 months following the decedent's death by the decedent's  
22 personal representative or a qualified claimant, but no action  
23 for accounting under this Section shall be commenced by any  
24 qualified claimant unless the personal representative has  
25 received a written demand by a qualified claimant, within 16

1 months following the decedent's death. If the personal  
2 representative fails to commence an action within 30 days of  
3 the receipt of a written demand to do so, any qualified  
4 claimant may commence the action. If the personal  
5 representative fails to commence the action, the personal  
6 representative shall disclose to the qualified claimant or  
7 qualified claimants who made the written demand all material  
8 knowledge within the possession of the personal representative  
9 reasonably relating to the identity of any recipient of a  
10 recoverable transfer made by the decedent. In the event the  
11 personal representative fails to provide the information with  
12 respect to any recoverable transfer of the decedent's property  
13 to the personal representative, the 18-month limitation is  
14 tolled for the recoverable transfer until such time as the  
15 personal representative provides the information. In the event  
16 the personal representative is alleged in a verified pleading  
17 to be a recipient of a recoverable transfer from the decedent,  
18 the court may appoint a special administrator to represent the  
19 estate in any proceeding brought pursuant to this Section. Sums  
20 recovered in an action for accounting under this Section shall  
21 be administered by the personal representative as part of the  
22 decedent's estate.

23 (c) The judgment in a proceeding authorized by this Section  
24 shall take into account the expenses of administration of the  
25 estate including the cost of administering the additional  
26 assets obtained in the proceeding and the costs of the



1 proceeding to the extent authorized by this Section. The court  
2 may order the costs of the proceeding, including attorneys'  
3 fees, to be treated as expenses of administration of the  
4 estate.

5 (d) If an action for accounting has been commenced under  
6 this Section within 18 months following the decedent's death,  
7 then any party to the proceeding may join and bring into the  
8 action for accounting any other recipient of a recoverable  
9 transfer of the decedent's property even if the other recipient  
10 is not joined until more than 18 months following the  
11 decedent's death. If an action for accounting has been  
12 commenced under this Section more than 18 months following the  
13 decedent's death pursuant to the tolling provisions of  
14 subsection (b) of this Section, then the personal  
15 representative, or former personal representative, who  
16 received a recoverable transfer of the decedent's property  
17 shall be liable to account under the provisions of subsection  
18 (a) of this Section for the value of all property received by  
19 the personal representative, or former personal  
20 representative, and no other recipient of a recoverable  
21 transfer of the decedent's property may be joined or brought  
22 into the action, and in such case, full recovery, rather than  
23 pro rata recovery, may be had from the recoverable property  
24 received by the personal representative or former personal  
25 representative.

26 (e) This Section shall not affect the right of any

1 transferring entity to execute a direction of the decedent to  
2 make a payment, to make a recoverable transfer on death of the  
3 decedent, or to make the transferring entity liable to the  
4 decedent's estate, unless before the payment or transfer is  
5 made the transferring entity has been served with process in a  
6 proceeding brought under this Section and the transferring  
7 entity has had a reasonable time to act on it.

8 (f) This Section does not create a lien on any property  
9 that is the subject of a recoverable transfer, except as a lien  
10 may be perfected by the way of attachment, garnishment, or  
11 judgment in an accounting proceeding authorized by this  
12 Section.

13 (g) An action for accounting under the provisions of this  
14 Section may be filed in the circuit court, and the circuit  
15 court may hear and determine questions and issue appropriate  
16 orders in an action for accounting under this Section. Any  
17 proceeding under this Section and any statements by a personal  
18 representative in connection with any recoverable transfer  
19 shall be deemed to be proceedings or statements under the  
20 Probate Act of 1975 that are subject to any fraudulent  
21 statement provisions of that Act.

22 (h) The recipient of any property held in trust that was  
23 subject to the satisfaction of the decedent's debts immediately  
24 prior to the decedent's death, and the recipient of any  
25 property held in joint tenancy with right of survivorship that  
26 was subject to the satisfaction of the decedent's debts

1 immediately prior to the decedent's death, are subject to this  
2 Section, but only to the extent of the decedent's contribution  
3 to the value of the property.

4 (i) The provisions of this Section apply to all actions  
5 commenced after the effective date of this Act, except that  
6 with respect to decedents dying prior to the effective date of  
7 this Act, an action for accounting under this Section may be  
8 commenced within 2 years following the decedent's death.

9 (j) For purposes of this Section:

10 "Creditor" means any person to whom the decedent is  
11 liable, which liability survives whether arising in  
12 contract, tort, or otherwise, and any person to whom the  
13 decedent's estate is liable for funeral expenses and the  
14 reasonable cost of a tombstone.

15 "Dependent child" means the decedent's minor children  
16 whom the decedent was obligated to support and the children  
17 who were in fact being supported by the decedent.

18 "Qualified claimant" means a creditor, surviving  
19 spouse, dependent child, or a person acting for a dependent  
20 child of the decedent.

21 "Recoverable transfer" means a nonprobate transfer of  
22 a decedent's property under this Act and any other transfer  
23 of a decedent's property other than from the administration  
24 of the decedent's probate estate that was subject to  
25 satisfaction of the decedent's debts immediately prior to  
26 the decedent's death, but only to the extent of the

1           decedent's contribution to the value of the property.