

SENATE RESOLUTION NO. 133

BY SENATOR ABRAHAM

A RESOLUTION

To create a task force to study the use of payable-on-death and transfer-on-death accounts and to evaluate the need for revisions to applicable state laws.

WHEREAS, Louisiana has long recognized the designation of beneficiaries on payable-on-death accounts as a method of account registration that does not transfer ownership during the lifetime of the account holder; and

WHEREAS, Louisiana has only recently recognized transfer-on-death accounts as a method of registration of an account without transferring ownership; and

WHEREAS, as a result, considerable uncertainty and litigation has developed concerning payable-on-death and transfer-on-death accounts; and

WHEREAS, a comprehensive review of these provisions of law regarding both payable-on-death and transfer-on-death accounts is necessary to provide clarity, ensure consistency with state law, and evaluate whether revisions to existing law are warranted.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby establish and provide for the Task Force on Payable-on-death and Transfer-on-death Accounts to study the use of payable-on-death and transfer-on-death accounts, to evaluate the need for revisions to applicable state laws, and to propose recommendations, together with specific proposals for legislation, by written report to the legislature and to the David R. Poynter Legislative Research Library as required by R.S. 24:771 and 772, no later than March 1, 2027.

BE IT FURTHER RESOLVED that the task force shall include, at a minimum, consideration of the following:

(1) The interaction of transfer-on-death accounts with Louisiana laws on forced heirship, including whether the statutory entitlement of a beneficiary to proceeds "against the estate, heirs, and legatees" is consistent with Louisiana law governing legitime and reduction.

(2) The classification of transfer-on-death account proceeds under community

property law, including the rights of surviving spouses and the characterization of account funds.

(3) The treatment of transfer-on-death accounts as nonprobate transfers, including the statutory exemption of proceeds from probate and whether the exemption should be limited or conditioned.

(4) The legal effect of beneficiary designations made by contract, including whether the designations should supersede testamentary dispositions or be subject to collation, reduction, or other succession principles.

(5) The requirement that beneficiary designations be executed by authentic act and the prohibition on electronic designations or execution by power of attorney, including the practical and legal implications of the requirements.

(6) The rights, duties, and liability protections afforded to financial institutions, including statutory discharge from liability upon payment to a named beneficiary and the scope of such protections.

(7) The extent to which heirs, forced heirs, or the estate may assert claims, including claims based on vices of consent, and whether the remedies are sufficient to protect Louisiana policy interests.

(8) The treatment of multiple owners of transfer-on-death accounts, including requirements for unanimous execution and the implications for ownership rights and beneficiary designations.

(9) The authority of financial institutions to impose additional contractual conditions and the extent to which the conditions may conflict with or be preempted by law.

(10) The treatment of secured interests, including the exclusion of pledged or assigned account funds from the operation of transfer-on-death provisions.

(11) The interaction between transfer-on-death accounts and existing Louisiana laws governing payable-on-death accounts, multiple-party accounts, and similar beneficiary designations.

(12) The rights of creditors of the decedent and whether the accounts should be subject to claims for debts, expenses of administration, or reimbursement.

(13) Conflict of law issues, including recognition and enforcement of

transfer-on-death accounts established under the laws of other states.

(14) Consumer protection considerations, including risks of fraud, undue influence, or abuse, particularly in light of restrictions on power of attorney and electronic execution.

(15) The overall compatibility of transfer-on-death and payable-on-death accounts with Louisiana's civil law tradition.

(16) Recommendations for statutory revisions necessary to provide clarity, uniformity, and predictability in Louisiana law.

(17) The development and drafting of proposed legislation sufficient to resolve identified legal uncertainties, reconcile conflicts with existing law, and implement the recommendations of the task force.

BE IT FURTHER RESOLVED that the task force shall consist of the following members:

(1) Two private attorneys with expertise in tax and estate planning matters, appointed by the chairperson of the Senate Committee on Commerce, Consumer Protection and International Affairs.

(2) Two members representing the banking and securities industry, appointed by the chairperson of the Senate Committee on Commerce, Consumer Protection and International Affairs.

(3) Two members of the Louisiana State Law Institute with expertise in property, successions, or related areas of law, appointed by the president of the council.

BE IT FURTHER RESOLVED that each designating authority shall submit the names of designees to the task force to the chairperson of the Senate Committee on Commerce, Consumer Protection and International Affairs no later than September 1, 2026.

BE IT FURTHER RESOLVED the task force shall convene for its first meeting no later than October 1, 2026, at the call of the director of the Louisiana State Law Institute, and at the first meeting, the members shall elect a chairperson and other officers as the task force may deem appropriate.

BE IT FURTHER RESOLVED that a majority of the task force shall constitute a quorum for the transaction of business. All official actions of the task force shall require the affirmative vote of a majority of the members.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall provide administrative support to the task force.

BE IT FURTHER RESOLVED that the members of the task force shall serve without compensation, except per diem or expenses reimbursement to which they may be individually entitled as members of their constituent organizations.

BE IT FURTHER RESOLVED that the task force shall terminate on the date of the submission of its report or March 1, 2027, whichever occurs first.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana State Law Institute.

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PRESIDENT OF THE SENATE