

Regular Session, 2010

HOUSE BILL NO. 432

BY REPRESENTATIVE PEARSON

SECURITIES: Authorizes a surviving spouse to access funds in a securities account prior to the naming of an executor

1 AN ACT

2 To enact R.S. 9:1421, relative to successions; to authorize access to certain assets; to provide
3 for definitions; to provide for the sale or transfer of securities under certain
4 circumstances; to provide for payment to the surviving spouse pending the
5 appointment of an executor or administrator; to provide for limitations; to provide
6 a limitation of liability for brokers; to provide for the preservation of certain claims;
7 to provide for applicability pending actions for divorce; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:1421 is hereby enacted to read as follows:

11 §1421. Joint securities accounts; surviving account holder; definitions

12 A. For purposes of this Section, the following terms shall have the following
13 meanings:

14 (1) "Broker or securities firm" means a person defined as a broker or dealer
15 under the federal securities laws but without excluding a bank acting in that capacity.

16 (2) "Joint securities or brokerage account" means an account which is titled
17 in the name of a husband and wife, which is registered as a community property
18 account, and which requires the endorsement of both husband and wife in order to
19 assign, transfer, or redeem a security, or to grant the power to assign, transfer, or
20 redeem a security.

1 (3) "Security" means a security as defined by R.S. 10:8-102.

2 (4) "Securities or brokerage account" means an account to which a financial
3 asset is or may be credited in accordance with an agreement in which the person
4 maintaining the account undertakes to treat the person for whom the account is
5 maintained as entitled to exercise the rights that comprise the financial asset.

6 B. Upon the death of a joint securities or brokerage account holder and with
7 the authorization and direction of the surviving account holder, a broker or securities
8 firm may sell or transfer securities held in the account not to exceed fifty percent of
9 the value of each security held in the joint securities account. The value of the
10 securities shall be determined as of the date of the death of the decedent.

11 C. The surviving account holder shall have the right to withdraw the funds
12 or assets generated pursuant to the provisions of Subsection B of this Section;
13 however, the right of withdrawal shall terminate upon the delivery of written notice
14 to the broker or securities firm of the appointment of an executor or administrator of
15 the estate of the decedent.

16 D. A broker or securities firm paying a surviving joint securities or
17 brokerage account holder in accordance with the provisions of this Section shall not
18 be liable to the estate or any heir of the decedent nor shall the securities or brokerage
19 account holder be liable for any estate, inheritance, or succession taxes which may
20 be due the state, and delivery of the funds shall constitute a full and complete
21 discharge of the broker or securities firm for the payment or delivery so made and
22 shall relieve the broker or securities firm from all adverse claims by a person
23 claiming as a surviving or former spouse or a successor to such a spouse.

24 E. The provisions of this Section shall not prohibit any right of forced
25 heirship or the collation or collection of funds due any spouse, heir, legatee, creditor,
26 or other person having rights or claims to funds of the deceased account holder.

27 F. The provisions of this Section shall not be applicable if a petition for the
28 divorce of the joint securities or brokerage account holders has been filed and the
29 final settlement of the community property is pending at the time of the death of the

1 account holder, and written notice of the filing of the petition for divorce has been
 2 delivered to the broker or securities firm.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pearson

HB No. 432

Abstract: Authorizes a surviving spouse to sell up to 50% of a joint securities or brokerage account, until an executor or administrator can be appointed.

Proposed law defines "broker or securities firm" as a person defined as a broker or dealer under the federal securities laws but without excluding a bank acting in that capacity.

Proposed law defines "joint securities or brokerage account" as an account which is titled in the name of a husband and wife which is registered as a community property account, and which requires the endorsement of both husband and wife in order to assign, transfer, or redeem a security, or to grant the power to assign, transfer, or redeem a security.

Present law (R.S. 10:8-102(15)) defines "security" as an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer which is any of the following:

- (1) Represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer.
- (2) One of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.
- (3) (a) Is, or is of a type, dealt in or traded on securities exchanges or securities markets or (b) Is a medium for investment and by its terms expressly provides that it is a security governed by the Uniform Commercial Code - Investment Securities (R.S. 10:8-102-8-511).

Proposed law defines "security" as it is defined by present law (R.S. 10:8-102(15)).

Proposed law defines "securities or brokerage account" as an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

Proposed law provides that upon the death of a joint securities or brokerage account holder and with the authorization and direction of the surviving account holder, a broker or securities firm may sell or transfer securities held in the account not to exceed 50% of the value of each security held in the joint securities account. The value of the securities shall be determined as of the date of the death of the decedent.

Proposed law provides that the surviving account holder shall have the right to withdraw the funds or assets generated pursuant to the provisions of proposed law; however, the right of withdrawal shall terminate upon written notice of the appointment of an executor or administrator of the estate of the decedent being delivered to the broker or securities firm.

Proposed law exempts from liability a broker who pays the surviving spouse in accordance with the provisions of proposed law.

Proposed law provides that the provisions of proposed law shall not prohibit any right of forced heirship or the collation or collection of funds due any spouse, heir, legatee, creditor, or other person having rights or claims to funds of the deceased account holder.

Proposed law provides that the provisions of proposed law shall not be applicable upon delivery to the broker or securities firm of a written notice of a petition for the divorce of the account holders and final settlement of the community property has been filed and is pending at the time of the death of the account holder.

(Adds R.S. 9:1421)