

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 112

**SHORT TITLE:** Securities Transfer on Death

**SPONSOR(S):** Rep. Barefoot, et al.

**FISCAL IMPACT**

**Yes ( )      No (X)\*      No Estimate Available (X)\*\***

**FY 1999-00   FY 2000-01   FY 2001-02   FY 2002-03   FY 2003-04**

**REVENUES**

**EXPENDITURES**

**POSITIONS:**

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Department of Revenue\*; Administrative Office of the Courts\*\*

**EFFECTIVE DATE:** October. 1, 1999

\* There is no fiscal impact on the Department of Revenue.

\*\* The Administrative Office of the Courts cannot reliably estimate the loss of revenue.

**BILL SUMMARY:**

TO ENACT THE UNIFORM TRANSFER ON DEATH (TOD) SECURITY REGISTRATION ACT. Changes the title of ch. 41 of the General Statutes to "Estates and Interests in Property" and enacts new art. 4, ch. 41, to provide for the transfer of securities on death of the owner. Provides for the registration of securities in beneficiary form, which means that in the registration the owner designates the person who will become the owner at his or her death. Registration in beneficiary form can only be done if the registration shows sole ownership or multiple ownership by two or more individuals with right of survivorship, such as joint tenants with right of survivorship, tenants by the entireties, or owners of community property held in survivorship form, but not as tenants in common. A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer

or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registering entity, which means a person who originates or transfers a security title, including brokers and transfer agents, is not required to offer or accept a request for security registration in beneficiary form. If it does accept such registration, it may place terms and conditions on the form of registration. On the death of the 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 the owners. Transfer on death is effective by virtue of the contract between the owner and the registering entity and this statute and is not testamentary. The interest of the decedent, however, remains liable for his or her debts in the same manner as personal property included in the decedent's estate. The act applies to registration of securities in beneficiary form made before, on, or after the effective date of the act, which is Oct. 1, 1999, by decedents dying on or after the effective date.

Source: Institute of Government, February 22, 1999.

## **ASSUMPTIONS AND METHODOLOGY:**

### Department of Revenue

According to the department, the addition of a new article to Chapter 41 to allow a change in ownership of a security resulting from a "transfer on death" will not affect inheritance or estate taxes. The provisions of G. S. 105-2 (taxation of assets) and G. S. 105-24 (tax waiver requirements) are clear, and the new section G. S. 41-48 (c) preserves the requirements of the two provisions.

### Administrative Office of the Courts (AOC)

#### Summary

This legislation would change the way some securities and security accounts are handled during the administration of estates. Specifically, it would allow the owner of a security or account to pass the security or account directly to the named beneficiary, without passing under the owner's will or under the laws of intestacy (applies when owner has no will). As a result, the value of the securities or accounts would not be included as part of the state for probate.

The principal court-related fiscal impact would be a reduction in revenues to the General Fund from the General Court of Justice Fees dealing with estates [G. S. 7A-307(a)(2)]. Currently, the clerk collects a flat \$26 fee, other fees pursuant to G. S. 7A-307, and forty cents per \$100 of the gross value of personal property in the estate (referred to as ad valorem fee), up to \$3,000. The ad valorem fee would no longer be collected by clerks if securities were registered in accordance with this legislation.

#### Estimate

The Judicial Department does have limited information that indicates the fiscal impact may be fairly substantial and could be up to \$9.5 million but would probably be less. It is not possible to determine the impact more accurately with currently available data. Fiscal Year 1997-98 data shows a total of 54,768 estate cases were filed statewide and \$10.9 million was collected in estate costs. However, it is not possible for the judicial department to accurately identify how much of the \$10.9 million in total estates costs are derived from each fee under G. S. 7A-307.

The department assumes the majority of these funds are collected from the basic \$26 fee and the ad valorem fee. Thus, if the \$26 fee were collected in all of those cases, approximately \$1.4 million in estate costs could be attributed to this fee. This implies the remaining \$9.5 million would include the ad valorem fee and other less significant estate fees. Some of the other fees included are a \$17 fee collected for probate of a will without qualification of a personal representative and a \$15 fee collected instead of the ad valorem fee for certain personal property received by a trust under a will. Even if the total \$9.5 million was only ad valorem fees, the AOC does not have information on ad valorem fees collected due to the value of securities versus ad valorem fees collected on all other personal property.

The lack of separate information relating to the ad valorem fee and the ad valorem fee on securities in particular makes it very difficult to estimate the fiscal impact of this bill on general fund revenues. Subsequently, no reliable fiscal impact for the Judicial Department is available at this time.

**TECHNICAL CONSIDERATIONS:**

If the AOC could separately account for estate fees in the future with current resources, more accurate data would be available for fiscal impact estimates.

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** March 3, 1999



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