

1 IN THE SENATE

BY SENATOR POLLOCK

2 SENATE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act regarding fiduciary security tran-
7 sactions; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 Section 1. DEFINITIONS. In this Act, unless the context
11 otherwise requires:

12 (1) "Assignment" includes any written stock power,
13 bond power, bill of sale, deed, declaration of trust or other
14 instrument of transfer.

15 (2) "Claim of beneficial interest" includes a claim
16 of any interest by a decedent's legatee, distributee, heir or
17 creditor, a beneficiary under a trust, a ward, a beneficial own-
18 er of a security registered in the name of a nominee, or a minor
19 owner of a security registered in the name of a custodian, or a
20 claim of any similar interest, whether the claim is asserted by
21 the claimant or by a fiduciary or by any other authorized person
22 on his behalf, and includes a claim that the transfer would be
23 in breach of fiduciary duties.

24 (3) "Corporation" means a private or public corpora-
25 tion, association or trust issuing a security.

26 (4) "Fiduciary" means an executor, administrator,
27 trustee, guardian, committee, conservator, curator, tutor,
28 custodian or nominee.

29 (5) "Person" includes an individual, a corporation,

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1 government or governmental subdivision or agency, business trust,
2 estate, trust, partnership or association, two or more persons
3 having a joint or common interest, or any other legal or com-
4 mercial entity.

5 (6) "Security" includes any share of stock, bond, de-
6 benture, note or other security issued by a corporation which is
7 registered as to ownership on the books of the corporation.

8 (7) "Transfer" means a change on the books of a cor-
9 poration in the registered ownership of a security.

10 (8) "Transfer agent" means a person employed or
11 authorized by a corporation to transfer securities issued by the
12 corporation.

13 Sec. 2. REGISTRATION IN THE NAME OF A FIDUCIARY. A corpor-
14 ation or transfer agent registering a security in the name of a
15 person who is a fiduciary or who is described as a fiduciary is
16 not bound to inquire into the existence, extent, or correct
17 description of the fiduciary relationship, and thereafter the
18 corporation and its transfer agent may assume without inquiry -
19 that the newly registered owner continues to be the fiduciary un-
20 til the corporation or transfer agent receives written notice
21 that the fiduciary is no longer acting as such with respect to
22 the particular security.

23 Sec. 3. ASSIGNMENT BY A FIDUCIARY. Except as otherwise
24 provided in this Act, a corporation or transfer agent making a
25 transfer of a security pursuant to an assignment by a fiduciary

26 (1) may assume without inquiry that the assignment,
27 even though to the fiduciary himself or to his nominee, is with-
28 in his authority and capacity and is not in breach of his fidu-
29 ciary duties;

1 (2) may assume without inquiry that the fiduciary has
2 complied with any controlling instrument and with the law of the
3 jurisdiction governing the fiduciary relationship, including any
4 law requiring the fiduciary to obtain court approval of the
5 transfer; and

6 (3) is not charged with notice of and is not bound to
7 obtain or examine any court record or any recorded or unrecorded
8 document relating to the fiduciary relationship or the assign-
9 ment, even though the record or document is in its possession.

10 Sec. 4. EVIDENCE OF APPOINTMENT OR INCUMBENCY. A corpora-
11 tion or transfer agent making a transfer pursuant to an assign-
12 ment by a fiduciary who is not the registered owner shall obtain
13 the following evidence of appointment or incumbency:

14 (1) In the case of a fiduciary appointed or qualified
15 by a court, a certificate issued by or under the direction or
16 supervision of that court or an officer thereof and dated within
17 60 days before the transfer; or

18 (2) In any other case, a copy of a document showing
19 the appointment or a certificate issued by or on behalf of a
20 person reasonably believed by the corporation or transfer agent
21 to be responsible or, in the absence of such a document or certi-
22 ficate, other evidence reasonably deemed by the corporation or
23 transfer agent to be appropriate. Corporations and transfer
24 agents may adopt standards with respect to evidence of appoint-
25 ment or incumbency under this Paragraph (2) provided such
26 standards are not manifestly unreasonable. Neither the corpora-
27 tion nor transfer agent is charged with notice of the contents
28 of any document obtained pursuant to this Paragraph (2) except
29 to the extent that the contents relate directly to the appoint-

1 ment or incumbency.

2 Sec. 5. ADVERSE CLAIMS. a. A person asserting a claim of
3 beneficial interest adverse to the transfer of a security pur-
4 suant to an assignment by a fiduciary may give the corporation
5 or transfer agent written notice of the claim. The corporation
6 or transfer agent is not put on notice unless the written notice
7 identifies the claimant, the registered owner and the issue of
8 which the security is a part, provides an address for communica-
9 tions directed to the claimant and is received before the trans-
10 fer. Nothing in this Act relieves the corporation or transfer
11 agent of any liability for making or refusing to make the trans-
12 fer after it is so put on notice, unless it proceeds in the
13 manner authorized in Subsec. b.

14 b. As soon as practicable after the presentation of a
15 security for transfer pursuant to an assignment by a fiduciary,
16 a corporation or transfer agent which has received notice of a
17 claim of beneficial interest adverse to the transfer may send
18 notice of the presentation by registered or certified mail to
19 the claimant at the address given by him. If the corporation or
20 transfer agent so mails such a notice, it shall withhold the
21 transfer for 30 days after the mailing and shall then make the
22 transfer unless restrained by a court order.

23 Sec. 6. NON-LIABILITY OF CORPORATION AND TRANSFER AGENT.
24 A corporation or transfer agent incurs no liability to any
25 person by making a transfer or otherwise acting in a manner
26 authorized by this Act.

27 Sec. 7. NON-LIABILITY OF THIRD PERSONS. a. No person who
28 participates in the acquisition, disposition, assignment or
29 transfer of a security by or to a fiduciary including a person

1 who guarantees the signature of the fiduciary is liable for
2 participation in any breach of fiduciary duty by reason of fail-
3 ure to inquire whether the transaction involves such a breach
4 unless it is shown that he acted with actual knowledge that the
5 proceeds of the transaction were being or were to be used
6 wrongfully for the individual benefit of the fiduciary or that
7 the transaction was otherwise in breach of duty.

8 b. If a corporation or transfer agent makes a transfer pur-
9 suant to an assignment by a fiduciary, a person who guaranteed
10 the signature of the fiduciary is not liable on the guarantee to
11 any person to whom the corporation or transfer agent by reason
12 of this Act incurs no liability.

13 c. This section does not impose any liability upon the
14 corporation or its transfer agent.

15 Sec. 8. TERRITORIAL APPLICATION. a. The rights and duties
16 of a corporation and its transfer agents in registering a secur-
17 ity in the name of a fiduciary or in making a transfer of a
18 security pursuant to an assignment by a fiduciary are governed
19 by the law of the jurisdiction under whose laws the corporation
20 is organized.

21 b. This Act applies to the rights and duties of a person
22 other than the corporation and its transfer agents with regard to
23 acts and omissions in this state in connection with the acquisi-
24 tion, disposition, assignment or transfer of a security by or to
25 a fiduciary and of a person who guarantees in this state the
26 signature of a fiduciary in connection with such a transaction.

27 Sec. 9. TAX OBLIGATIONS. This Act does not affect any
28 obligation of a corporation or transfer agent with respect to
29 estate, inheritance, succession or other taxes imposed by the

1 laws of this state.

2 Sec. 10. UNIFORMITY OF INTERPRETATION. This Act shall be
3 so construed as to effectuate its general purpose to make uni-
4 form the law of those states which enact it.

5 Sec. 11. SHORT TITLE. This Act may be cited as the Uni-
6 form Act for Simplification of Fiduciary Security Transfers.

7 Sec. 12. EFFECTIVE DATE. This Act takes effect on the day
8 after its passage and approval or on the day it becomes law with-
9 out such approval.

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