

CHAPTER 43

AN ACT to repeal 112.01 (4); to repeal and recreate 180.85; and to create 112.06 of the statutes, relating to a uniform law on fiduciary security transfers, and to other security transfers and transactions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 112.01 (4) of the statutes is repealed.

SECTION 2. 112.06 of the statutes is created to read:

112.06 UNIFORM ACT FOR SIMPLIFICATION OF FIDUCIARY TRANSFERS. (1) DEFINITIONS. In this section, unless the context otherwise requires:

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

(b) "Claim of beneficial interest" includes a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on his behalf, and includes a claim that the transfer would be in breach of fiduciary duties.

(c) "Corporation" means a private or public corporation, association or trust issuing a security.

(d) "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian or nominee.

(e) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

(f) "Security" includes any share of stock, bond, debenture, note or other security issued by a corporation which is registered as to ownership on the books of the corporation.

(g) "Transfer" means a change on the books of a corporation in the registered ownership of a security.

(h) "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

(2) REGISTRATION IN THE NAME OF A FIDUCIARY. A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as such with respect to the particular security.

(3) ASSIGNMENT BY A FIDUCIARY. Except as otherwise provided in this section, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

(a) May assume without inquiry that the assignment, even though to the fiduciary himself or to his nominee, is within his authority and capacity and is not in breach of his fiduciary duties;

(b) May assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) Is not charged with notice of and is not bound to obtain or examine any court record or any recorded or unrecorded document relating to the fiduciary relationship or the assignment, even though the record or document is in its possession.

(4) EVIDENCE OF APPOINTMENT OR INCUMBENCY. A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

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

(b) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate. Corporations and transfer agents may adopt standards with respect to evidence of appointment or incumbency under this subsection provided such standards are not manifestly unreasonable. Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to this paragraph except to the extent that the contents relate directly to the appointment or incumbency.

(5) ADVERSE CLAIMS. (a) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim. The corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner and the issue of which the security is a part, provides an address for communications directed to the claimant and is received before the transfer. Nothing in this section relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in par. (b).

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

(6) NONLIABILITY OF CORPORATION AND TRANSFER AGENT. A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this section.

(7) NONLIABILITY OF THIRD PERSONS. (a) No person who participates in the acquisition, disposition, assignment or transfer of a security by or to a fiduciary including a person who guarantees the signature of the fiduciary is liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that he acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

(b) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of

the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent by reason of this section incurs no liability.

(c) This subsection does not impose any liability upon the corporation or its transfer agent.

(8) **TERRITORIAL APPLICATION.** (a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

(b) This section applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment or transfer of a security by or to a fiduciary and of a person who guarantees in this state the signature of a fiduciary in connection with such a transaction.

(9) **TAX OBLIGATIONS.** This section does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession or other taxes imposed by the laws of this state.

(10) **UNIFORMITY OF INTERPRETATION.** This section shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(11) **SHORT TITLE.** This section may be cited as the "Uniform Act for Simplification of Fiduciary Security Transfers".

SECTION 3. 180.85 of the statutes is repealed and recreated to read:

**180.85 LIMITATION OF LIABILITY ON TRANSFERS.** (1) For the purposes of this section, unless the context requires otherwise:

(a) "Assignment", "fiduciary", "person", "security", "transfer", and "transfer agent" have the meanings as in s. 112.06.

(b) A corporation has "actual knowledge" of a matter for a particular transaction from the time when it becomes actually known to the individual conducting the transaction, and in any event from the time when it would have become actually known to him if every other person who acquired knowledge while acting for the corporation had exercised due diligence in transmitting such information to such individual.

(c) "Corporation" includes any transfer agent, registrar or other agent acting for a corporation.

(d) "Transferor" is the registered owner as shown on the security registry books of the corporation and also unregistered transferees of the registered owner by assignment or by operation of law.

(2) In registering a transfer of its securities, no corporation is bound to inquire into, or shall be liable to any person suffering loss as a result of such registration for failure to inquire into, the power, authority or capacity of a transferor making an assignment of the security so transferred or the rightfulness of the transfer by such transferor in any of the following cases:

(a) As to an assignment made by a fiduciary, to the extent provided in s. 112.06;

(b) As to an assignment made by a receiver or other successor to the interest of any person by operation of law, other than a fiduciary, provided proof is furnished to the corporation that the signer had been appointed such receiver or successor by any state or federal court and was such at the date of assignment;

(c) As to an assignment made by an incompetent unless the corporation has actual knowledge that the signer is under adjudication of incompetence or is under guardianship;

(d) As to an assignment made by an infant unless the corporation has actual knowledge that such infant is under guardianship;

(e) As to an assignment made by the survivor or survivors of 2 or more individuals who are joint tenants or who are named in a registration describing them as joint tenants or with right of survivorship, provided proof is furnished to the corporation that every individual named in such registration and not joining in such assignment is dead.

(3) In addition to the registration of transfers, the provisions of s. 112.06 and this section shall also apply to transactions and assignments in connection with the exchange, conversion into other securities, purchase, redemption or retirement by the corporation of its securities.

(4) A corporation acting outside this state in connection with the registration, transfer, exchange, conversion into other securities, purchase, redemption or retirement of its securities, shall have no greater obligation to the holder or owner of any interest in such securities than one acting within this state.

(5) This section does not relieve any corporation of liability in any case where the person signing the assignment is not a transferor as defined in this section or in any case where the corporation has actual knowledge that the person signing the assignment had no power, authority or capacity to make such assignment or was acting wrongfully in making such assignment or in effecting the transaction for which such assignment is required. This section does not limit the effect of s. 112.06, in respect to fiduciary transfers.

(6) If a corporation makes a transfer pursuant to any assignment under sub. (2), a person who guarantees the signature of a transferor in connection with the assignment is not liable on the guarantee to any person to whom the corporation by reason of this section incurs no liability.

Approved May 18, 1959.

---