

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 163

SHORT TITLE: Securities Transfer on Death

SPONSOR(S): Senators Hartsell and Odom

FISCAL IMPACT

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

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

REVENUES

EXPENDITURES

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Revenue and Administrative Office of the Courts

EFFECTIVE DATE: Effective upon ratification; except that the amendment to GS 41-40(9) becomes effective on the later of the effective date of this bill or effective date of SB 87 or HB 134.

***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: *Legislation enacts the Uniform Transfer of Death (TOD) Security Registration Act as recommended by the General Statutes Commission. Adds new Article 4 to G.S. Chapter 41, entitled the Uniform Transfer on Death (TOD) Security Registration Act. Allows sole owner of security or multiple owners with right of survivorship to register a security in beneficiary form, which on death of the owner or owners transfers the security to the designated beneficiaries. Discharges the registering entity from all claims to the security if the entity registers the security in accordance with the requirements of the article. Provides that the interest of the decedent remains liable for the debts of the decedent and that recovery of the interest may be made from the beneficiary of the security when the estate is insufficient to satisfy decedent's debts. Amends G.S. 28A-15-10 to allow acquisition of the*

interest in a security passing in beneficiary form to satisfy claims against the estate. Also provides that if SB 87 or HB 134 (concerning investment securities under the Uniform Commercial Code) is enacted, GS 41-40(9) is amended to include a security entitlement as defined in GS 25-8-102.¹

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

o General 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 [GS 7A-307(a)(2)]. Currently, the clerk collects a flat \$26 fee, other fees pursuant to GS 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.

¹ “Daily Bulletin”, Vol. 1997, No. 11, February 17, 1997, p. 15.

o Rough Estimate

The Judicial Department does have limited information which indicates the fiscal impact may be fairly substantial. Fiscal year 1995-96 data shows a total of 53,561 estate cases were filed statewide and \$9.6 million was collected in estate costs. 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 suggests that a large portion of the \$9.6 million total may come from the ad valorem fee. The AOC does not have information, however, which breaks down ad valorem fees collected due to the value of securities versus other personal property. These figures also do not include estate fees collected from other provisions in GS 7A-307 which would be included in the \$9.6 million. (For example, the ad valorem fee is not assessed on certain personal property received by a trust under a will. Also, a \$17 fee rather than the ad valorem fee, is collected for probate of a will without qualification of a personal representative.) The lack of information relating to securities makes make it very difficult to estimate the fiscal impact this bill may have on general fund revenues. Subsequently, no reliable fiscal impact for the Judicial Department is available at this time.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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