

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 16, 2009  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1260 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, line 22, strike "FAILURE" and substitute "A  
2 BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT IN SITUATIONS  
3 IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS. HOWEVER,  
4 FAILURE".

5 Page 4, strike line 12 and substitute the following:

6 "(b) THE PURPOSES OF THIS ARTICLE ARE TO:

7 (I) MAKE EXISTING LAWS";

8 after line 16, insert the following:

9 "(II) ALLOW INDIVIDUALS TO ELECT TO HAVE CERTAIN DEFAULT  
10 PROVISIONS IN STATE STATUTES PROVIDE RIGHTS, BENEFITS, AND  
11 PROTECTIONS TO A DESIGNATED BENEFICIARY IN SITUATIONS IN WHICH NO  
12 VALID AND ENFORCEABLE ESTATE PLANNING DOCUMENTS EXIST.".

13 Page 5, line 5, after "THAT", insert "IS VALID AND ENFORCEABLE AND".

14 Page 6, line 19, strike "NOTARIZED;" and substitute "ACKNOWLEDGED;".

15 Page 9, after line 5, insert the following:

1           "(5) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE  
2 EVIDENCE OF A PARTY'S INTENT TO FORM A COMMON LAW MARRIAGE."

3       Renumber succeeding subsection accordingly.

4       Page 9, after line 9, insert the following:

5           "(7) IN THE EVENT THAT A SUPERSEDING LEGAL DOCUMENT IS  
6 FOUND TO BE INVALID OR UNENFORCEABLE, THE DESIGNATED  
7 BENEFICIARY AGREEMENT SHALL CONTROL DESPITE THE ATTEMPT TO  
8 SUPERSEDE ITS PROVISIONS."

9       Page 13, line 2, after "WAS", insert "SUBSCRIBED, SWORN TO, AND";

10       strike lines 19 and 20 and substitute the following:

11       "**fee.** (1) A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY  
12 AGREEMENT SHALL BE FILED";

13       line 21, strike "BENEFICIARY AGREEMENT";

14       line 26, strike "REGISTRATION FEE OF \_\_\_\_" and substitute "FILING FEE OF  
15 THIRTY";

16       line 27, strike "REGISTERING" and substitute "RECORDING".

17       Page 16, line 5, strike "NOTARIZED." and substitute "ACKNOWLEDGED.";

18       line 11, strike "\_\_\_\_" and substitute "TWENTY";

19       line 12, strike "FEE" and substitute "FEE, AS PROVIDED IN SECTION  
20 30-1-103, C.R.S.,".

21       Page 17, line 13, after "WAS", insert "SUBSCRIBED, SWORN TO, AND".

22       Page 25, line 24, after "TITLE;", insert "EXCEPT THAT IF THE DECEDENT  
23 HAS SURVIVING CHILDREN, THEN THE DESIGNATED BENEFICIARY SHALL  
24 RECEIVE ONE-HALF OF THE INTESTATE ESTATE AND THE SURVIVING  
25 CHILDREN SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE;"

26       Page 33, after line 13, insert the following:

1           **"SECTION 18. Severability.** If any provision of this act or the  
2 application thereof to any person or circumstance is held invalid, such  
3 invalidity shall not affect other provisions or applications of the act that  
4 can be given effect without the invalid provision or application, and to  
5 this end the provisions of this act are declared to be severable."

6   Renumber succeeding sections accordingly.

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