

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 41 (Second Edition)  
**SHORT TITLE:** Securities Transfer on Death  
**SPONSOR(S):** Rep. Barefoot, et al.

**FISCAL IMPACT**

	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available (X)</b>		
	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>
<b>REVENUES</b> due	<b>There will be a small decrease in General Fund revenues to loss of court fees collected on estates</b>				
<b>EXPENDITURES</b>					
<b>POSITIONS:</b>	0				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	General Fund Revenues				
<b>EFFECTIVE DATE:</b>	This act becomes effective October 1, 2001.				

**BILL SUMMARY:**

Changes the title of Ch. 41 of the General Statutes to "Estates and Interests in Property", and enacts new Article 4, Chapter 41, to provide for the transfer of securities in "beneficiary form" upon the death of the owner. The beneficiary form is defined as registration that indicates the present owner of the security and his or her intention regarding the person to become the owner when the present owner dies. Upon death of a sole owner or last to die of multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all 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. However, the interest of the decedent remains liable for his or her debts in the same manner as personal property included in the decedent's estate. The law does not affect estate or inheritance tax laws and has no effect on ownership of the security until the owner's death. Limits registration to securities in sole ownership or in tenancy in common.

## **ASSUMPTIONS AND METHODOLOGY:**

A change in the handling of securities transfers upon death could affect General Fund revenues either through its impact on estate taxes or through its impact on court fees collected related to estates.

According to the Department of Revenue, 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.

However, 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. As a result, the value of the securities or accounts would not be included as part of the state for probate.

This would result in some cases in 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 \$30 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. To the extent that securities are registered in accordance with this bill, they would not be included in the value of the estate, and the forty cents per \$100 in value that is collected under current law, would not be collected.

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 estate costs collected were from each fee (flat vs. ad valorem), or the amount of court costs derived from each type of property in the estate. Although it would seem likely that securities and security accounts would represent a significant proportion of the assets of many estates, data is not available as to what that proportion may be. Hence, neither AOC, nor the Fiscal Research Division can determine the extent to which estates in North Carolina consist of securities or security accounts, on which the ad valorem fee is being collected under current law. In addition, because the ad valorem fee is capped at \$3,000, if other assets exceed \$750,000, the removal of securities from the base would have no impact on the fees due. Finally, even if it were possible to estimate the amount in court costs being collected from the ad valorem fee on securities, it would be difficult to estimate the extent to which the owners of the securities would take advantage of the provisions of the bill, and avoid those costs.

Some more detailed information was available from a 1-week sample in Wake County in 1999. Of 40 cases sampled, 12.5% would result in a different total court fee under this proposed change with the dollar difference about \$80. **If** this week and county were representative, the total lost revenue would be in the neighborhood of \$52,000. (= \$80\*52weeks/.08 Wake share of state population). The Fiscal Research Division believes that based on the limited data available to the AOC, the amount collected in ad valorem court fees on securities is minimal and would result in only a minor revenue loss to the General Fund. Neither the AOC, nor the Fiscal Research Division is able to calculate a precise amount or provide a reliable estimate regarding the amount of revenue that would be lost under this bill.

**SOURCES OF DATA:** Judicial Branch; Department of Revenue

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** 733-4910

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