STATE OF NEW YORK

8425

IN SENATE

January 29, 2024

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing a process for designating transfer-on-death beneficiaries for farming implements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 30 and sections 550, 551, 552, 553, 554, and 555 of the agriculture and markets law, as renumbered by chapter 524 of the laws of 2014, are renumbered article 50 and sections 1000, 1001, 1002, 1003, 1004, and 1005, respectively.

§ 2. The agriculture and markets law is amended by adding a new article 30 to read as follows:

ARTICLE 30

TRANSFER-ON-DEATH OF FARMING IMPLEMENTS

Section 560. Definitions.

561. Transfer-on-death beneficiary; farm implements.

§ 560. Definitions. As used in this article:

1. "Farm implement" means a tractor or machine, including any associated accessories, attachments, fuel, and repair parts, used exclusively and directly in farming including, but not limited to, implements of husbandry, farm type tractors and all terrain type vehicles used exclusively for agricultural or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines, including caterpillar or crawler-type equipment, used exclusively in growing, harvesting or handling farm produce, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes. "Farm implement" shall not include personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement to real property, and does not include buildings or improvements to real property, regardless of any contribution that the personal property makes to the production process of any machine and

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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regardless of the extent to which that personal property functions as a machine except that the following shall be considered farm implements regardless of the extent to which they are fastened to, connected to, or built into real property:

(a) Auxiliary power generators.

(b) Bale loaders.

(c) Barn elevators.

(d) Conveyors.

(e) Feed elevators and augers.

(f) Grain dryers and grinders.

(g) Milk coolers.

(h) Milking machines, including piping, pipeline washers, and compressors.

(i) Silo unloaders.

(j) Powered feeders, but not including platforms or troughs constructed from ordinary building materials.

2. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, government subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

3. "Transfer-on-death beneficiary" means a person designated as a beneficiary on a document filed with the commissioner under this article.

§ 561. Transfer-on-death beneficiary; farm implements. 1. Any interest in a farm implement may be transferred without probate to a designated transfer-on-death beneficiary as provided in this section on the death of the sole owner or the last to die of multiple owners.

2. (a) A transfer-on-death beneficiary may be designated using a document filed with the commissioner that includes:

(i) The name of the owner or owners of the interest in a farm implement that will be transferred.

(ii) The name of the designated transfer-on-death beneficiary.

(iii) A statement indicating that the transfer is effective only upon the death of the owner or owners.

(iv) If the interest that will be transferred is an interest in property owned by a spouse as marital property, the signatures of both spouses who have an interest in the marital property.

(b) The designation of a transfer-on-death beneficiary may be made by use of the words "transfer-on-death" after the name of the owner or owners of the property and before the name of the transfer-on-death beneficiary or beneficiaries. The owner or owners may designate one or more persons as a primary transfer-on-death beneficiary and may designate one or more persons as a contingent transfer-on-death beneficiary if a primary transfer-on-death beneficiary does not survive the sole owner or the last to die of multiple owners. The designation may be included on the original document that passes the property interest to the owner or owners or may be made at a later time by the sole owner or all then surviving owners by executing another document that designates a transfer-on-death beneficiary.

(c) A document designating a transfer-on-death beneficiary filed with the commissioner under this section shall:

(i) be in writing.

(ii) be signed by all owners. If an owner is unable to sign, another person may sign for the owner with the owner's consent.

(iii) be signed by at least two witnesses, at least one of whom is a disinterested witness, either together or at different times, who signed within a reasonable time after:

(A) The signing of the document designating a transfer-on-death beneficiary, in the presence of the witness.

(B) The owner's implicit or explicit acknowledgment of the owner's signature on the document designating a transfer-on-death beneficiary, in the presence of the witness.

(C) The owner's implicit or explicit acknowledgment of the document designating a transfer-on-death beneficiary, in the presence of the witness.

(D) If there are multiple owners, a witness may be a witness for multiple owners.

(d) Any person who, at the time of execution of the document designating a transfer-on-death beneficiary, would be competent to testify as a witness in court to the facts relating to execution may act as a witness to the document designating a transfer-on-death beneficiary. Subsequent incompetency of a witness is not a ground for denying or voiding the transfer-on-death beneficiary designation if the execution of the document designating a transfer-on-death beneficiary is otherwise satisfactorily proved.

3. The designation of a transfer-on-death beneficiary on a document filed with the commissioner does not affect ownership of the property until the death of the sole owner or the last to die of multiple owners regardless of whether the document provides otherwise. The designation may be canceled or changed at any time by the sole owner or all then surviving owners, without the consent of the transfer-on-death beneficiary, by executing another document that designates a different transfer-on-death beneficiary or no beneficiary and filing such document with the commissioner. The execution and filing of a document that designates a transfer-on-death beneficiary or no beneficiary revokes any designation made in a previously executed and filed document relating to the same property interest.

4. On the death of the sole owner or the last to die of multiple owners, ownership of the interest in the farm implement passes, subject to any lien or encumbrance against the farm implement, to the designated transfer-on-death beneficiary or beneficiaries who survive all owners or, if no beneficiary survives the death of the owner or the last to die of all multiple owners with right of survivorship, then such interest in the farm implement belongs to the estate of the deceased owner or the last to die of all multiple owners with right of survivorship.

5. A designation of a transfer-on-death beneficiary on a document filed with the commissioner shall not be considered a testamentary disposition.

6. A will shall not revoke or supersede a designation of a transfer-on-death beneficiary on a document filed with the commissioner, regardless of when the will was made.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.