

Part 1 Multiple-Party Accounts

75-6-101 Definitions.

As used in this part:

- (1) "Account" means a contract of deposit of funds between a depositor and a financial institution and includes:
 - (a) a checking account;
 - (b) a savings account;
 - (c) a certificate of deposit;
 - (d) a share account; and
 - (e) other like arrangement.
- (2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.
- (3) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation:
 - (a) banks;
 - (b) trust companies;
 - (c) industrial banks;
 - (d) savings banks;
 - (e) building and loan associations;
 - (f) savings and loan companies or associations; and
 - (g) credit unions.
- (4) "Joint account" means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship.
- (5)
 - (a) "Multiple-party account" means any of the following types of account:
 - (i) a joint account;
 - (ii) a P.O.D. account; or
 - (iii) a trust account.
 - (b) "Multiple-party account" does not include:
 - (i) accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes; or
 - (ii) accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.
- (6)
 - (a) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits to it made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance.
 - (b) "Net contribution" includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.
- (7)
 - (a) "Party" means a person, including a minor, who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account.

- (b) A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee and includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party.
- (c) "Party" includes a person identified as a trustee of an account for another whether or not a beneficiary is named.
- (d) "Party" does not include any named beneficiary unless the named beneficiary has a present right of withdrawal.
- (8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff, reduction, or other disposition of all or part of an account pursuant to a pledge.
- (9) "Proof of death" includes a death certificate or record or report which is prima facie proof of death under Section 75-1-107.
- (10) "P.O.D. account" means an account payable on request to one person during lifetime and on that person's death to:
 - (a) one or more P.O.D. payees; or
 - (b) one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.
- (11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.
- (12) "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.
- (13) "Sums on deposit" means the balance payable on a multiple-party account, including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.
- (14)
 - (a) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; and it is not essential that payment to the beneficiary be mentioned in the deposit agreement.
 - (b) A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client.
- (15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

Amended by Chapter 92, 2004 General Session

75-6-102 Ownership as between parties and others -- Protection of financial institutions.

The provisions of Sections 75-6-103 through 75-6-105 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by

the terms of account contracts. The provisions of Sections 75-6-108 through 75-6-113 govern the liability of financial institutions who make payments pursuant thereto, and their setoff rights.

Enacted by Chapter 150, 1975 General Session

75-6-103 Ownership during lifetime.

- (1) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.
- (2) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by Subsection (1) of this section.
- (3) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is other clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by Subsection (1) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

Enacted by Chapter 150, 1975 General Session

75-6-104 Right of survivorship.

- (1) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under Section 75-6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.
- (2) If the account is a P.O.D. account:
 - (a) On death of one of two or more original payees the rights to any sums remaining on deposit are governed by Subsection (1);
 - (b) On death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.
- (3) If the account is a trust account:
 - (a) On death of one of two or more trustees, the rights to any sums remaining on deposit are governed by Subsection (1);
 - (b) On death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; and if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

- (4) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate.
- (5) A right of survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will.

Amended by Chapter 194, 1977 General Session

75-6-105 Effect of written notice to financial institution.

The provisions of Section 75-6-104 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order of the same party during his lifetime.

Enacted by Chapter 150, 1975 General Session

75-6-106 Accounts and transfers nontestamentary.

Any transfers resulting from the application of Section 75-6-104 are effective by reason of the account contracts involved and this statute and are not to be considered as testamentary or subject to Chapter 1, General Provisions, Definitions, and Probate Jurisdiction of Court, Chapter 2, Intestate Succession and Wills, Chapter 3, Probate of Wills and Administration, and Chapter 4, Foreign Personal Representatives - Ancillary Administration, except as provided in Sections 75-2-201 through 75-2-214, and except as a consequence of, and to the extent directed by, Sections 75-6-107 and 75-3-916.

Amended by Chapter 39, 1998 General Session

75-6-107 Rights of creditors.

No multiple-party account will be effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children, if other assets of the estate are insufficient. A surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's estate. No proceeding to assert this liability shall be commenced unless the personal representative has received a written demand by a surviving spouse, a creditor, or one acting for a minor or dependent child of the decedent; and no proceeding shall be commenced later than two years following the death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof or make it liable to the estate of a deceased party unless before payment the institution has been served with process in a proceeding by the personal representative.

Enacted by Chapter 150, 1975 General Session

75-6-108 Financial institution protection -- Payment on signature of one party.

Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account, for purposes of establishing net contributions.

Enacted by Chapter 150, 1975 General Session

75-6-109 Financial institution protection -- Payment after death or disability -- Joint account.

Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under Section 75-6-104.

Enacted by Chapter 150, 1975 General Session

75-6-110 Financial institution protection -- Payment of P.O.D. account.

Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.

Enacted by Chapter 150, 1975 General Session

75-6-111 Financial institution protection -- Payment of trust account.

Any trust account may be paid, on request, to any trustee. Unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as trustee or beneficiary. Payment may be made, on request, to the beneficiary upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

Enacted by Chapter 150, 1975 General Session

75-6-112 Financial institution protection -- Discharge.

Payment made pursuant to Section 75-6-108, 75-6-109, 75-6-110 or 75-6-111 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in

any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Enacted by Chapter 150, 1975 General Session

75-6-113 Financial institution protection -- Setoff -- Attachment, garnishment, and other legal process.

- (1) Without qualifying any other statutory right to setoff or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to setoff against the balance in any account in which the party has or had immediately before his death a present right of withdrawal.
- (2) Without regard to the ownership of funds in any multiple-party account and without incurring liability for wrongful dishonor, conversion, or other liability or damage to any person, a financial institution may refuse to permit any withdrawals from the account after service on the financial institution of an attachment, garnishment, execution, or other legal process against the account. The financial institution shall not be required to pay out any part of the credit balance in the account pursuant to an attachment, garnishment, judgment, or other legal process issued in any proceeding against any one or more but less than all of the persons to whom the account is payable until the institution has been furnished with a certified copy of an order of the court determining which of the persons owned the credit balance at the time the process was served on the institution. Payment pursuant to the process in the amount specified in the court order shall be valid and release the financial institution as to any persons claiming an interest in the account.

Enacted by Chapter 150, 1975 General Session

75-6-114 Financial institution protection -- Costs and attorneys' fees.

A financial institution shall have a lien for its costs and attorneys' fees on the sums on deposit in any multiple-party account in such institution which becomes the subject of any litigation as to the rights to such sums. This lien shall attach only if the financial institution acted in good faith and with good cause.

Enacted by Chapter 150, 1975 General Session

75-6-115 Agency accounts.

Nothing in this chapter shall preclude a party to an account from adding the name of another person to such an account with the designation "agent." This agent shall have no present or future interest in the sums on deposit in such account, but the financial institution may honor requests for payment from such account by such agent, whether the principal be incapacitated or deceased at the time the payment is demanded, unless the financial institution has actual knowledge of such death or incapacity. Payments from such account by such financial institution at the request of such agent shall discharge such financial institution from all claims for amounts so paid.

Amended by Chapter 194, 1977 General Session

