

BILL ANALYSIS

C.S.H.B. 1590
By: Paxton
Judicial Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, each party to a multiple party account may use the funds in that account. For instance, one party could withdraw the entire balance and deposit the funds in his or her own personal account. In addition, a party to a multiple party account cannot prevent the estate of a deceased party to the account from transferring to a survivor the sums needed to pay debts, taxes and the expenses of administration if other estate assets are insufficient.

A court decision in Kansas reported in a widely read banking trade publication raised the issue of whether a secured creditor of one party to a multiple party account can seize the funds in that account to satisfy a lien against that party. It is generally understood in Texas that a secured creditor has this right - that any party to a multiple party account may pledge that account. C.S.H.B. 1590 clarifies Texas law in this area to provide statutory basis for what is already widely accepted practice in the banking community. The bill also makes it clear that a convenience signer (who has no ownership interest in the account) may not pledge an account.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1590 amends Section 442 of the Probate Code to provide that no multiple-party account will be effective against the claim of a secured creditor who has a lien on the account. A party to a multiple-party account may pledge the account or otherwise create a security interest in the account without the joinder of, as appropriate, a P.O.D (pay on death) payee, a beneficiary, convenience signer, or any other party to a joint account, regardless of whether there is a right of survivorship.

The bill specifies that a convenience signer may not pledge or otherwise create a security interest in an account.

The bill adds the term "claims" to the part of the existing Section 442 relating to the liability of a financial institution to the estate of a deceased party.

The bill also requires that certain notice be provided to any party to a multiple party account who did not create the security interest in the account.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds a provision requiring that certain notice be provided to any party to a multiple party

account who did not create the security interest in the account.