

BILL ANALYSIS

C.S.H.B. 1954
By: Murr
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the law relating to convenience and trust accounts established at a financial institution is confusing and redundant because the functions of both types of accounts are adequately covered by other types of accounts offered by financial institutions. C.S.H.B. 1954 seeks to abolish convenience and trust accounts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1954 amends the Estates Code to provide for the abolition of convenience and trust accounts established at a financial institution under statutory provisions governing multiple-party accounts by removing statutory references to such accounts and by repealing statutory provisions relating to such accounts. The bill clarifies that a convenience signer designated on a single-party or multiple-party account is not an owner of the account but authorizes a convenience signer, on behalf of the party or parties to the account, to make deposits to and be paid or delivered sums on deposit from the account during the lifetime of the party or parties. The bill authorizes a convenience signer to be designated as a P.O.D. payee of the account.

C.S.H.B. 1954 applies only to a financial institution account opened on or after the bill's effective date and a convenience account or trust account opened before the bill's effective date with respect to which a financial institution has notified the party or parties to the account in writing that the financial institution has converted the account to a type of account other than a convenience account or trust account. The bill establishes that a convenience account or trust account opened before the bill's effective date with respect to which a financial institution has not notified the party or parties to the account in writing that the financial institution has converted the account to a type of account other than a convenience account or trust account is governed by the law in effect on the date the account was opened or last modified, and the former law is continued in effect until the earliest of the date on which the financial institution notifies the party or parties to the account in writing that it has converted the account to a type of account other than a convenience account or a trust account, the convenience account or trust account is closed, or the last surviving party to a convenience account or trust account dies.

C.S.H.B. 1954 repeals the following provisions of the Estates Code:

- Section 113.001(2)

- Section 113.104
- Section 113.105
- Section 113.153
- Section 113.154
- Section 113.205
- Section 113.206
- Section 113.208

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1954 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 113.002, Estates Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 113.004, Estates Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 113.052, Estates Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 113.101, Estates Code, is amended to read as follows: Sec. 113.101. EFFECT OF CERTAIN PROVISIONS REGARDING OWNERSHIP BETWEEN PARTIES AND OTHERS. The provisions of this subchapter and Subchapters B and D that relate to beneficial ownership between parties[;] or between parties and P.O.D. payees [or beneficiaries] of multiple-party accounts: (1) are relevant only to controversies between those persons and those persons' creditors and other successors; and (2) do not affect the withdrawal power of those persons under the terms of an account contract.	SECTION 4. Section 113.101, Estates Code, is amended to read as follows: Sec. 113.101. EFFECT OF CERTAIN PROVISIONS REGARDING OWNERSHIP BETWEEN PARTIES AND OTHERS. The provisions of this subchapter and Subchapters B and D that relate to beneficial ownership between parties <u>to multiple-party accounts</u> [;] or between parties and P.O.D. payees [or beneficiaries] of multiple-party accounts: (1) are relevant only to controversies between those persons and those persons' creditors and other successors; and (2) do not affect the withdrawal power of those persons under the terms of an account contract.
SECTION 5. Section 113.106, Estates Code, is amended to read as follows: Sec. 113.106. OWNERSHIP AND OPERATION OF [OTHER] ACCOUNT WITH CONVENIENCE SIGNER;	SECTION 5. Section 113.106, Estates Code, is amended to read as follows: Sec. 113.106. OWNERSHIP AND OPERATION OF [OTHER] ACCOUNT WITH CONVENIENCE SIGNER;

PAYMENT; LIABILITY. (a) An account established by one or more parties at a financial institution that is [not designated as a convenience account, but is instead] designated as a single-party account or another type of multiple-party account, may provide that the sums on deposit may be paid or delivered to the parties or to one or more convenience signers "for the convenience of the parties."

(b) Subsections (c)-(i) apply to an account described by Subsection (a) except [Except] as provided by Section 113.1541[:

[1] the provisions of Sections 113.105, 113.206, and 113.208 apply to an account described by Subsection (a), including provisions relating to the ownership of the account during the lifetimes and on the deaths of the parties and provisions relating to the powers and duties of the financial institution at which the account is established; and

[(2) any other law relating to a convenience signer applies to a convenience signer designated as provided by this section to the extent the law applies to a convenience signer on a convenience account].

(c) The making of a deposit in an account described by Subsection (a) does not affect the title to the deposit.

(d) A party to an account described by Subsection (a) is not considered to have made a gift of the deposit, or of any additions or accruals to the deposit, to a convenience signer.

(e) An addition made to an account described by Subsection (a) by anyone other than a party, and accruals to the addition, are considered to have been made by a party.

(f) Deposits to an account described by Subsection (a) and additions and accruals to the deposits may be paid to a party or a convenience signer.

(g) A financial institution is completely released from liability for a payment made from an account described by Subsection (a) before the financial institution receives notice in writing signed by a party not to

PAYMENT; LIABILITY. (a) One or more convenience signers may be designated on [An account established by one or more parties at a financial institution that is not designated as a convenience account, but is instead designated as] a single-party account or [another type of] multiple-party account[; may provide that the sums on deposit may be paid or delivered to the parties or to one or more convenience signers] "for the convenience of the party or parties."

A convenience signer is not an owner of the account but, on behalf of the party or parties to the account, may make deposits to and be paid or delivered sums on deposit from the account during the lifetime of the party or parties. A convenience signer may be designated as a P.O.D. payee of the account.

(b) Subsections (c)-(i) apply to an account described by Subsection (a) except [Except] as provided by Section 113.1541[:

[1] the provisions of Sections 113.105, 113.206, and 113.208 apply to an account described by Subsection (a), including provisions relating to the ownership of the account during the lifetimes and on the deaths of the parties and provisions relating to the powers and duties of the financial institution at which the account is established; and

[(2) any other law relating to a convenience signer applies to a convenience signer designated as provided by this section to the extent the law applies to a convenience signer on a convenience account].

(c) The making of a deposit in an account described by Subsection (a) does not affect the title to the deposit.

(d) A party to an account described by Subsection (a) is not considered to have made a gift of the deposit, or of any additions or accruals to the deposit, to a convenience signer.

(e) An addition made to an account described by Subsection (a) by anyone other than a party, and accruals to the addition, are considered to have been made by a party.

(f) Deposits to an account described by Subsection (a) and additions and accruals to the deposits may be paid to a party or a convenience signer.

(g) A financial institution is completely released from liability for a payment made from an account described by Subsection (a) before the financial institution receives notice in writing signed by a party not to

make the payment in accordance with the terms of the account. After receipt of the notice from a party, the financial institution may require a party to approve any further payments from the account.

(h) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to a convenience signer after the death of the last surviving party, but before the financial institution receives written notice of the last surviving party's death, is completely released from liability for the payment.

(i) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to the personal representative of the deceased last surviving party's estate after the death of the last surviving party, but before a court order prohibiting payment is served on the financial institution, is, to the extent of the payment, released from liability to any person claiming a right to the funds. The personal representative's receipt of the funds is a complete release and discharge of the financial institution.

SECTION 6. Section 113.151(d), Estates Code, is amended.

SECTION 7. Section 113.1541, Estates Code, is amended.

SECTION 8. Sections 113.155, 113.156, and 113.158, Estates Code, are amended.

SECTION 9. Section 113.203(b), Estates Code, is amended.

SECTION 10. Section 113.209(a), Estates Code, is amended.

SECTION 11. Sections 113.251(a) and (d), Estates Code, are amended.

SECTION 12. Section 113.252(b), Estates Code, is amended.

SECTION 13. Section 153.001(3), Estates Code, is amended.

SECTION 14. Section 153.002, Estates Code, is amended.

SECTION 15. Sections 113.001(2), 113.104, 113.105, 113.153, 113.154,

make the payment in accordance with the terms of the account. After receipt of the notice from a party, the financial institution may require a party to approve any further payments from the account.

(h) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to a convenience signer after the death of the last surviving party, but before the financial institution receives written notice of the last surviving party's death, is completely released from liability for the payment.

(i) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to the personal representative of the deceased last surviving party's estate after the death of the last surviving party, but before a court order prohibiting payment is served on the financial institution, is, to the extent of the payment, released from liability to any person claiming a right to the funds. The personal representative's receipt of the funds is a complete release and discharge of the financial institution.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.

113.205, 113.206, and 113.208, Estates Code, are repealed.

SECTION 16.

(a) The changes in law made by this Act, including the repeal of provisions of Chapter 113, Estates Code, apply only to

a financial institution account opened or modified on or after the effective date of this Act.

A financial institution account opened or modified before the effective date of this Act is governed by the law in effect on the date the account was opened or modified, and the former law is continued in effect for the limited purpose of winding up convenience and trust accounts and the agreements governing those accounts until a convenience or trust account is closed or the last surviving party to a convenience or trust account dies.

(b) The repeal by this Act of provisions of

SECTION 16. (a) In this section, "convenience account" and "trust account" have the meanings assigned by Section 113.004, Estates Code, as that section existed on January 1, 2017.

(b) The changes in law made by this Act, including the repeal by this Act of certain provisions of Chapter 113, Estates Code, apply only to:

(1) a financial institution account opened on or after the effective date of this Act; and

(2) a convenience account or trust account opened before the effective date of this Act with respect to which a financial institution has notified the party or parties to the account in writing that the financial institution has converted the account to a type of account, other than a convenience account or trust account.

(c) A convenience account or trust account opened before the effective date of this Act with respect to which a financial institution has not notified the party or parties to the account in writing that the financial institution has converted the account to a type of account, other than a convenience account or trust account, is governed by the law in effect on the date the account was opened or last modified, and the former law is continued in effect until the earliest of the date on which:

(1) the financial institution notifies the party or parties to the account in writing that it has converted the account to a type of account, other than a convenience account or a trust account;

(2) the convenience account or trust account is closed; or

(3) the last surviving party to a convenience account or trust account dies.

(d) The repeal by this Act of provisions of

Chapter 113, Estates Code, relating to trust and convenience accounts does not affect the validity of any account or deposit agreement between a financial institution and a depositor or other person that is entered into before September 1, 2017.

SECTION 17. This Act takes effect September 1, 2017.

Chapter 113, Estates Code, relating to trust accounts and convenience accounts does not affect the validity of any account or deposit agreement between a financial institution and a depositor or other person that is entered into before September 1, 2017.

SECTION 17. Same as introduced version.