

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 1954  
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Business & Commerce  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Estates Code includes references to two account types that are generally no longer used by financial institutions:

- The "trust accounts" referenced in current law are not used to set up a formal trust, but rather are another way to establish "pay on death" beneficiaries (POD). Thus, a POD account currently offered by financial institutions adequately serves the purpose of a trust account.
- A "convenience account" referenced in current law provides a way of permitting accounts to have authorized signers who are not owners of the account. This type of account was necessary before the law changed in 2009 to allow "convenience signers" on any type of account, but is no longer necessary.

H.B. 1954 eliminates "trust" and "convenience" accounts in the Estates Code, as the functions of both are adequately covered by other types of accounts offered by financial institutions. The bill includes clear transitional language so that existing trust and convenience accounts will be properly protected. This change will eliminate redundancy in the law and avoid confusion for bankers and the public. (Original author's / Sponsor's Statement of Intent)

C.S.H.B. 1954 amends current law relating to certain accounts established at financial institutions, including disclosures related to those accounts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 113.002, Estates Code, as follows:

Sec. 113.002. DEFINITION OF PARTY. (a) Deletes existing text providing that "party" includes a person identified as a trustee of an account for another regardless of whether a beneficiary is named and providing that "party" does not include a named beneficiary unless the beneficiary has a present right of withdrawal.

(b) Deletes a beneficiary of a trust account from payees to whom this subsection applies.

SECTION 2. Amends Section 113.004, Estates Code, as follows:

Sec. 113.004. TYPES OF ACCOUNTS. Provides that in this chapter (Multiple-Party Accounts):

(1) Deletes existing text relating to the definition of "convenience account." Redesignates existing Subdivision (2) as Subdivision (1).

(2) Redefines "multiple-party account." Redesignates Subdivision (3) as Subdivision (2).

(3) Redesignates existing Subdivision (4) as Subdivision (3). Deletes Subdivision (5) relating to the definition of "trust account."

SECTION 3. Amends Section 113.052, Estates Code, as follows:

Sec. 113.052. FORM. Authorizes a financial institution to use a certain form to establish the type of account selected by a party. Amends the language of the form to provide that a person may choose to designate one or more convenience signers on an account, rather than on an account even if the account is not a convenience account. Includes an acknowledgement statement. Deletes existing text providing that the designated convenience signer owns the account on the person's death only if the convenience signer is also designated as a trust account beneficiary. Deletes convenience accounts and trust accounts from accounts which a person can select.

SECTION 4. Amends Section 113.053, Estates Code, as follows:

Sec. 113.053. REQUIRES DISCLOSURE; USE OF FORM. (a) Creates an exception under Subsection (d). Requires a financial institution to disclose the information provided in this subchapter to a customer before, rather than at the time, the customer selects or modifies an account.

(a-1) Creates this subsection from existing text. Provides that a financial institution is considered to have disclosed the information provided in this subchapter if the financial institution uses the form provided by Section 113.052 and the customer signs the acknowledgment provided at the end of the form, rather than the customer places the customer's initials to the right of each paragraph of the form.

(b) Requires the financial institution to disclose the information provided by this subchapter (Uniform Account Form) separately from other account information except that the financial institution is authorized to disclose that information as part of other account documentation if the disclosures are the first items of the documentation, rather than authorizes the financial institution to make disclosures in the account agreement or in any other form that discloses the information provided by this subchapter, if a financial institution varies the format of the form provided by Section 113.052. Deletes existing text requiring that disclosures under this subsection meet certain criteria.

(c) Provides that the requirement of a financial institution to notify the customer of the type of account the customer selected is satisfied by providing the customer with a copy of the account opening or modification documentation, as appropriate, in paper or electronic format.

(d) Provides that, if a type of multiple-party account is not available from a financial institution, the financial institution is not required to make a disclosure about that type of account.

(e) Creates this subsection from existing text. Provides that this section does not apply to a credit union or an account that is opened or modified by a customer who is a legal entity, including a governmental entity, or is acting as a legal representative for another person.

SECTION 5. Amends Section 113.101, Estates Code, to provide that the provisions of this subchapter (Ownership and Operation of Accounts) and Subchapters B and D (Rights of Survivorship in Accounts) that relate to beneficial ownership between parties to multiple-party accounts or between parties and pay on death (P.O.D.) payees of multiple-party accounts, rather than between parties, or between parties and P.O.D. payees or beneficiaries of multiple-party

accounts, are relevant only to controversies between those persons and those persons' creditors and other successors and do not affect the withdrawal power of those persons under the terms of an account contract.

SECTION 6. Amends Section 113.106, Estates Code, as follows:

Sec. 113.106. New heading: OWNERSHIP AND OPERATION OF ACCOUNT WITH CONVENIENCE SIGNER; PAYMENT; LIABILITY. (a) Authorizes one or more convenience signers to be designated on a single-party account or multiple-party account "for the convenience of the party or parties." Provides that a convenience signer is not an owner of the account but, on behalf of the party or parties to the account, is authorized to make deposits to and be paid or delivered sums on deposit from the account during the lifetime of the party or parties. Authorizes a convenience signer to be designated as a P.O.D. payee of the account. Deletes existing text authorizing 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 to 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) Provides that Subsections (c) through (i) apply to an account described by Subsection (a) except as provided by Section 113.1541. Deletes existing text providing that, except as provided by Section 113.1541, certain sections apply to an account described by Subsection (a) and that 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) Provides that the making of a deposit in an account described by Subsection (a) does not affect the title to the deposit.

(d) Provides that 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) Provides that 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) Authorizes deposits to an account described by Subsection (a) and additions and accruals to the deposits to be paid to a party or a convenience signer.

(g) Provides that 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. Authorizes the financial institution, after receipt of the notice from a party, to require a party to approve any further payments from the account.

(h) Provides that 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) Provides that 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. Provides that the personal representative's receipt of the funds is a complete release and discharge of the financial institution.

SECTION 7. Amends Section 113.151(d), Estates Code, to provide that, if there are two or more surviving parties to a joint account that is subject to a right of survivorship agreement during the parties' lifetimes respective ownerships are in proportion to the parties' previous ownership interests under Sections 113.102 (Ownership of Joint Account During Parties' Lifetimes) and 113.103 (Ownership of P.O.D. Account During Original Payee's Lifetimes), rather than Sections 113.102, 113.103, and 113.104 (Ownership of Trust Account During Trustee' Lifetime), as applicable, augmented by an equal share for each survivor of any interest a deceased party owned in the account immediately before that party's death.

SECTION 8. Amends Section 113.1541, Estates Code, as follows:

Sec. 113.1541. New heading: OWNERSHIP OF ACCOUNT WITH CONVENIENCE SIGNER ON DEATH OF LAST SURVIVING PARTY. Provides that, on the death of the last surviving party to an account that has a convenience signer designated as provided by Section 113.106 (Ownership and Operation of Other Account with Convenience Signer), the convenience signer does not have a right of survivorship in the account and the estate of the last surviving party owns the account unless the convenience signer is also designated as a P.O.D. payee, rather than as a P.O.D. payee or as a beneficiary.

SECTION 9. Amends Sections 113.155, 113.156, and 113.158, Estates Code, as follows:

Sec. 113.155. EFFECT OF DEATH OF PARTY ON CERTAIN ACCOUNTS WITHOUT RIGHTS OF SURVIVORSHIP. Deletes Section 113.153 (Ownership of Trust Account on Death of Trustee) from the list of sections applicable to the beneficial ownership of an account.

Sec. 113.156. APPLICABILITY OF CERTAIN PROVISIONS ON DEATH OF PARTY. Makes a conforming change.

Sec. 113.158. NONTESTAMENTARY NATURE OF CERTAIN TRANSFERS. Makes a conforming change.

SECTION 10. Amends Section 113.203(b), Estates Code, to make a conforming change.

SECTION 11. Amends Section 113.209(a), Estates Code, to delete Section 113.205 (Payment of Trust Account) from the list of sections with which a payment is made in accordance. Provides that payments made in accordance with certain sections discharges the financial institution from all claims for those amounts paid regardless of whether the payment is consistent with the beneficial ownership of the account between parties, P.O.D. payees, or their successors, rather than between parties, P.O.D. payees, or beneficiaries, or their successors.

SECTION 12. Amends Sections 113.251(a) and (d), Estates Code, to make conforming changes.

SECTION 13. Amends Section 113.252(b), Estates Code, to make nonsubstantive and conforming changes.

SECTION 14. Amends Section 153.001(3), Estates Code, to redefine "P.O.D. account."

SECTION 15. Amends Section 153.002, Estates Code, to delete a trust account from the list of accounts to which this chapter (Access to Intestate's Account With Financial Institution) does not apply.

SECTION 16. Repealers: Sections 113.001(2) (relating to the definition of "beneficiary"), 113.104 (Ownership of Trust Account During Trustee's Lifetime), 113.105 (Ownership of Convenience Account; Additions and Accruals), 113.153 (Ownership of Trust Account on Death of Trustee), 113.154 (Ownership of Convenience Account on Death of Party), 113.205 (Payment

of Trust Account), 113.206 (Payment of Convenience Account), and 113.208 (Liability for Payment from Convenience Account), Estates Code.

SECTION 17. (a) Defines "convenience account" and "trust account."

(b) Provides that the changes in law made by this Act, except as provided by Subsection (e), including the repeal by this Act of certain provisions of Chapter 113, Estates Code, apply only to a financial institution account opened on or after the effective date of this Act and 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) Provides that a certain 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 certain dates.

(d) Provides that the repeal by this Act of provisions of 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.

(e) Provides that Section 113.053, Estates Code, as amended by this Act, applies only to a financial institution account opened or modified on or after the effective date of this Act. Provides that 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 that purpose.

SECTION 18. Effective date: September 1, 2017.