

By: Murr

H.B. No. 1954

A BILL TO BE ENTITLED

AN ACT

1
2 relating to convenience and trust accounts established at financial
3 institutions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 113.002, Estates Code, is amended to
6 read as follows:

7 Sec. 113.002. DEFINITION OF PARTY. (a) In this chapter,
8 "party" means a person who, by the terms of a multiple-party
9 account, has a present right, subject to request, to payment from
10 the account. Except as otherwise required by the context, the term
11 includes a guardian, personal representative, or assignee,
12 including an attaching creditor, of a party. [~~The term also~~
13 ~~includes a person identified as a trustee of an account for another~~
14 ~~regardless of whether a beneficiary is named. The term does not~~
15 ~~include a named beneficiary unless the beneficiary has a present~~
16 ~~right of withdrawal.~~]

17 (b) A P.O.D. payee, including a charitable organization,
18 [~~or beneficiary of a trust account~~] is a party only after the
19 account becomes payable to the P.O.D. payee [~~or beneficiary~~] by
20 reason of the P.O.D. payee [~~or beneficiary~~] surviving the original
21 payee [~~or trustee~~].

22 SECTION 2. Section 113.004, Estates Code, is amended to
23 read as follows:

24 Sec. 113.004. TYPES OF ACCOUNTS. In this chapter:

1 (1) [~~"Convenience account" means an account that:~~

2 [~~(A) is established at a financial institution by~~
3 ~~one or more parties in the names of the parties and one or more~~
4 ~~convenience signers, and~~

5 [~~(B) has terms that provide that the sums on~~
6 ~~deposit are paid or delivered to the parties or to the convenience~~
7 ~~signers "for the convenience" of the parties.~~

8 [~~(2)~~] "Joint account" means an account payable on
9 request to one or more of two or more parties, regardless of whether
10 there is a right of survivorship.

11 (2) [~~(3)~~] "Multiple-party account" means a joint
12 account or [~~, a convenience account,~~] a P.O.D. account [~~, or a trust~~
13 ~~account~~]. The term does not include an account established for the
14 deposit of funds of a partnership, joint venture, or other
15 association for business purposes, or an account controlled by one
16 or more persons as the authorized agent or trustee for a
17 corporation, unincorporated association, charitable or civic
18 organization, or a regular fiduciary or trust account in which the
19 relationship is established other than by deposit agreement.

20 (3) [~~(4)~~] "P.O.D. account," including an account
21 designated as a transfer on death or T.O.D. account, means an
22 account payable on request to:

23 (A) one person during the person's lifetime and,
24 on the person's death, to one or more P.O.D. payees; or

25 (B) one or more persons during their lifetimes
26 and, on the death of all of those persons, to one or more P.O.D.
27 payees.

1 ~~[(5) "Trust account" means an account in the name of~~
2 ~~one or more parties as trustee for one or more beneficiaries in~~
3 ~~which the relationship is established by the form of the account and~~
4 ~~the deposit agreement with the financial institution and in which~~
5 ~~there is no subject of the trust other than the sums on deposit in~~
6 ~~the account. The deposit agreement is not required to address~~
7 ~~payment to the beneficiary. The term does not include:~~

8 ~~[(A) a regular trust account under a testamentary~~
9 ~~trust or a trust agreement that has significance apart from the~~
10 ~~account; or~~

11 ~~[(B) a fiduciary account arising from a fiduciary~~
12 ~~relationship, such as the attorney-client relationship.]~~

13 SECTION 3. Section 113.052, Estates Code, is amended to
14 read as follows:

15 Sec. 113.052. FORM. A financial institution may use the
16 following form to establish the type of account selected by a party:

17 UNIFORM SINGLE-PARTY OR MULTIPLE-PARTY ACCOUNT SELECTION
18 FORM NOTICE: The type of account you select may determine how
19 property passes on your death. Your will may not control the
20 disposition of funds held in some of the following accounts.

21 You may choose to designate one or more convenience signers
22 on an account [~~even if the account is not a convenience account~~].

23 A designated convenience signer may make transactions on your
24 behalf during your lifetime, but does not own the account during
25 your lifetime. The designated convenience signer owns the account
26 on your death only if the convenience signer is also designated as a
27 P.O.D. payee [~~or trust account beneficiary~~].

1 Select one of the following accounts by placing your initials
2 next to the account selected:

3 ___ (1) SINGLE-PARTY ACCOUNT WITHOUT "P.O.D." (PAYABLE ON
4 DEATH) DESIGNATION. The party to the account owns the account. On
5 the death of the party, ownership of the account passes as a part of
6 the party's estate under the party's will or by intestacy.

7 Enter the name of the party:
8 _____

9 Enter the name(s) of the convenience signer(s), if you want
10 one or more convenience signers on this account:

11 _____
12 _____

13 ___ (2) SINGLE-PARTY ACCOUNT WITH "P.O.D." (PAYABLE ON
14 DEATH) DESIGNATION. The party to the account owns the account. On
15 the death of the party, ownership of the account passes to the
16 P.O.D. beneficiaries of the account. The account is not a part of
17 the party's estate.

18 Enter the name of the party:
19 _____

20 Enter the name or names of the P.O.D. beneficiaries:
21 _____

22 _____

23 Enter the name(s) of the convenience signer(s), if you want
24 one or more convenience signers on this account:

25 _____
26 _____

27 ___ (3) MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF

1 SURVIVORSHIP. The parties to the account own the account in
2 proportion to the parties' net contributions to the account. The
3 financial institution may pay any sum in the account to a party at
4 any time. On the death of a party, the party's ownership of the
5 account passes as a part of the party's estate under the party's
6 will or by intestacy.

7 Enter the names of the parties:

8 _____
9 _____
10 _____

11 Enter the name(s) of the convenience signer(s), if you want
12 one or more convenience signers on this account:

13 _____
14 _____

15 ____ (4) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF
16 SURVIVORSHIP. The parties to the account own the account in
17 proportion to the parties' net contributions to the account. The
18 financial institution may pay any sum in the account to a party at
19 any time. On the death of a party, the party's ownership of the
20 account passes to the surviving parties.

21 Enter the names of the parties:

22 _____
23 _____

24 Enter the name(s) of the convenience signer(s), if you want
25 one or more convenience signers on this account:

26 _____
27 _____

1 ___ (5) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP
2 AND P.O.D. (PAYABLE ON DEATH) DESIGNATION. The parties to the
3 account own the account in proportion to the parties' net
4 contributions to the account. The financial institution may pay
5 any sum in the account to a party at any time. On the death of the
6 last surviving party, the ownership of the account passes to the
7 P.O.D. beneficiaries.

8 Enter the names of the parties:

9 _____
10 _____

11 Enter the name or names of the P.O.D. beneficiaries:

12 _____
13 _____

14 Enter the name(s) of the convenience signer(s), if you want
15 one or more convenience signers on this account:

16 _____
17 _____

18 [~~___ (6) CONVENIENCE ACCOUNT. The parties to the account~~
19 ~~own the account. One or more convenience signers to the account~~
20 ~~may make account transactions for a party. A convenience signer~~
21 ~~does not own the account. On the death of the last surviving party,~~
22 ~~ownership of the account passes as a part of the last surviving~~
23 ~~party's estate under the last surviving party's will or by~~
24 ~~intestacy. The financial institution may pay funds in the account~~
25 ~~to a convenience signer before the financial institution receives~~
26 ~~notice of the death of the last surviving party. The payment to a~~
27 ~~convenience signer does not affect the parties' ownership of the~~

1 ~~account.~~

2 ~~[Enter the names of the parties:~~

3 ~~_____~~

4 ~~_____~~

5 ~~[Enter the name(s) of the convenience signer(s):~~

6 ~~_____~~

7 ~~_____~~

8 ~~[____ (7) TRUST ACCOUNT. The parties named as trustees to~~
9 ~~the account own the account in proportion to the parties' net~~
10 ~~contributions to the account. A trustee may withdraw funds from the~~
11 ~~account. A beneficiary may not withdraw funds from the account~~
12 ~~before all trustees are deceased. On the death of the last~~
13 ~~surviving trustee, the ownership of the account passes to the~~
14 ~~beneficiary. The trust account is not a part of a trustee's estate~~
15 ~~and does not pass under the trustee's will or by intestacy, unless~~
16 ~~the trustee survives all of the beneficiaries and all other~~
17 ~~trustees.~~

18 ~~[Enter the name or names of the trustees:~~

19 ~~_____~~

20 ~~_____~~

21 ~~[Enter the name or names of the beneficiaries:~~

22 ~~_____~~

23 ~~_____~~

24 ~~[Enter the name(s) of the convenience signer(s), if you want~~
25 ~~one or more convenience signers on this account:~~

26 ~~_____~~

27 ~~_____]~~

1 SECTION 4. Section 113.101, Estates Code, is amended to
2 read as follows:

3 Sec. 113.101. EFFECT OF CERTAIN PROVISIONS REGARDING
4 OWNERSHIP BETWEEN PARTIES AND OTHERS. The provisions of this
5 subchapter and Subchapters B and D that relate to beneficial
6 ownership between parties to multiple-party accounts~~[,]~~ or between
7 parties and P.O.D. payees ~~[or beneficiaries]~~ of multiple-party
8 accounts:

9 (1) are relevant only to controversies between those
10 persons and those persons' creditors and other successors; and

11 (2) do not affect the withdrawal power of those
12 persons under the terms of an account contract.

13 SECTION 5. Section 113.106, Estates Code, is amended to
14 read as follows:

15 Sec. 113.106. OWNERSHIP AND OPERATION OF ~~[OTHER]~~ ACCOUNT
16 WITH CONVENIENCE SIGNER; PAYMENT; LIABILITY. (a) One or more
17 convenience signers may be designated on ~~[An account established by~~
18 ~~one or more parties at a financial institution that is not~~
19 ~~designated as a convenience account, but is instead designated as]~~
20 a single-party account or ~~[another type of]~~ multiple-party
21 account~~[, may provide that the sums on deposit may be paid or~~
22 ~~delivered to the parties or to one or more convenience signers]~~ "for
23 the convenience of the party or parties." A convenience signer is
24 not an owner of the account but, on behalf of the party or parties to
25 the account, may make deposits to and be paid or delivered sums on
26 deposit from the account during the lifetime of the party or
27 parties. A convenience signer may be designated as a P.O.D. payee

1 of the account.

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

4 [~~(1) the provisions of Sections 113.105, 113.206, and~~
5 ~~113.208 apply to an account described by Subsection (a), including~~
6 ~~provisions relating to the ownership of the account during the~~
7 ~~lifetimes and on the deaths of the parties and provisions relating~~
8 ~~to the powers and duties of the financial institution at which the~~
9 ~~account is established; and~~

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

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

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

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

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

25 (g) A financial institution is completely released from
26 liability for a payment made from an account described by
27 Subsection (a) before the financial institution receives notice in

1 writing signed by a party not to make the payment in accordance with
2 the terms of the account. After receipt of the notice from a party,
3 the financial institution may require a party to approve any
4 further payments from the account.

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

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

20 SECTION 6. Section 113.151(d), Estates Code, is amended to
21 read as follows:

22 (d) If there are two or more surviving parties to a joint
23 account that is subject to a right of survivorship agreement:

24 (1) during the parties' lifetimes respective
25 ownerships are in proportion to the parties' previous ownership
26 interests under Sections 113.102 and[7] 113.103 [~~and 113.104~~], as
27 applicable, augmented by an equal share for each survivor of any

1 interest a deceased party owned in the account immediately before
2 that party's death; and

3 (2) the right of survivorship continues between the
4 surviving parties if a written agreement signed by a party who dies
5 provides for that continuation.

6 SECTION 7. Section 113.1541, Estates Code, is amended to
7 read as follows:

8 Sec. 113.1541. OWNERSHIP OF ~~[OTHER]~~ ACCOUNT WITH
9 CONVENIENCE SIGNER ON DEATH OF LAST SURVIVING PARTY. On the death
10 of the last surviving party to an account that has a convenience
11 signer designated as provided by Section 113.106, the convenience
12 signer does not have a right of survivorship in the account and the
13 estate of the last surviving party owns the account unless the
14 convenience signer is also designated as a P.O.D. payee ~~[or as a~~
15 ~~beneficiary]~~.

16 SECTION 8. Sections 113.155, 113.156, and 113.158, Estates
17 Code, are amended to read as follows:

18 Sec. 113.155. EFFECT OF DEATH OF PARTY ON CERTAIN ACCOUNTS
19 WITHOUT RIGHTS OF SURVIVORSHIP. The death of a party to a
20 multiple-party account to which Sections 113.151 and ~~[~~ 113.152 ~~]~~
21 ~~and 113.153]~~ do not apply has no effect on the beneficial ownership
22 of the account, other than to transfer the rights of the deceased
23 party as part of the deceased party's estate.

24 Sec. 113.156. APPLICABILITY OF CERTAIN PROVISIONS ON DEATH
25 OF PARTY. Sections 113.151, 113.152, ~~[113.153]~~ and 113.155 as to
26 rights of survivorship are determined by the form of the account at
27 the death of a party.

1 Sec. 113.158. NONTESTAMENTARY NATURE OF CERTAIN TRANSFERS.
2 Transfers resulting from the application of Sections 113.151,
3 113.152, [~~113.153~~] and 113.155 are effective by reason of the
4 account contracts involved and this chapter and are not to be
5 considered testamentary transfers or subject to the testamentary
6 provisions of this title.

7 SECTION 9. Section 113.203(b), Estates Code, is amended to
8 read as follows:

9 (b) Payment may not be made to the personal representative
10 or heir of a deceased party unless:

11 (1) proofs of death are presented to the financial
12 institution showing that the deceased party was the last surviving
13 party; or

14 (2) there is no right of survivorship under Sections
15 113.151, 113.152, [~~113.153~~] and 113.155.

16 SECTION 10. Section 113.209(a), Estates Code, is amended to
17 read as follows:

18 (a) Payment made in accordance with Section 113.202,
19 113.203, 113.204, [~~113.205~~] or 113.207 discharges the financial
20 institution from all claims for those amounts paid regardless of
21 whether the payment is consistent with the beneficial ownership of
22 the account between parties, P.O.D. payees, [~~or beneficiaries~~] or
23 their successors.

24 SECTION 11. Sections 113.251(a) and (d), Estates Code, are
25 amended to read as follows:

26 (a) A party to a multiple-party account may pledge the
27 account or otherwise create a security interest in the account

1 without the joinder of, as applicable, a P.O.D. payee, [~~a~~
2 ~~beneficiary,~~] a convenience signer, or any other party to a joint
3 account, regardless of whether a right of survivorship exists.

4 (d) The financial institution is not required to provide the
5 notice described by Subsection (c) to a P.O.D. payee[~~r~~
6 ~~beneficiary,~~] or convenience signer.

7 SECTION 12. Section 113.252(b), Estates Code, is amended to
8 read as follows:

9 (b) A party or[~~r~~] P.O.D. payee[~~, or beneficiary~~] who
10 receives payment from a multiple-party account after the death of a
11 deceased party is liable to account to the deceased party's
12 personal representative for amounts the deceased party owned
13 beneficially immediately before the party's death to the extent
14 necessary to discharge the claims and charges described by
15 Subsection (a) that remain unpaid after application of the deceased
16 party's estate. The party or[~~r~~] P.O.D. payee[~~, or beneficiary~~] is
17 not liable in an amount greater than the amount the party or[~~r~~]
18 P.O.D. payee[~~, or beneficiary~~] received from the multiple-party
19 account.

20 SECTION 13. Section 153.001(3), Estates Code, is amended to
21 read as follows:

22 (3) "P.O.D. account" has [~~and "trust account" have~~]
23 the meaning [~~meanings~~] assigned by Section 113.004.

24 SECTION 14. Section 153.002, Estates Code, is amended to
25 read as follows:

26 Sec. 153.002. INAPPLICABILITY OF CHAPTER. This chapter
27 does not apply to:

- 1 (1) an account with a beneficiary designation;
2 (2) a P.O.D. account; or
3 (3) [~~a trust account, or~~
4 [~~(4)~~] an account that provides for a right of
5 survivorship.

6 SECTION 15. Sections 113.001(2), 113.104, 113.105,
7 113.153, 113.154, 113.205, 113.206, and 113.208, Estates Code, are
8 repealed.

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

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

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

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

23 (c) A convenience account or trust account opened before the
24 effective date of this Act with respect to which a financial
25 institution has not notified the party or parties to the account in
26 writing that the financial institution has converted the account to
27 a type of account, other than a convenience account or trust

1 account, is governed by the law in effect on the date the account
2 was opened or last modified, and the former law is continued in
3 effect until the earliest of the date on which:

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

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

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

12 (d) The repeal by this Act of provisions of Chapter [113](#),
13 Estates Code, relating to trust accounts and convenience accounts
14 does not affect the validity of any account or deposit agreement
15 between a financial institution and a depositor or other person
16 that is entered into before September 1, 2017.

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