

By: Murr

H.B. No. 1954

A BILL TO BE ENTITLED

AN ACT

relating to convenience and trust accounts established at financial institutions.

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

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

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

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

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

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. You  
21 may choose to designate one or more convenience signers on an  
22 account~~[, even if the account is not a convenience account]~~. A  
23 designated convenience signer may make transactions on your behalf  
24 during your lifetime, but does not own the account during your  
25 lifetime. The designated convenience signer owns the account on  
26 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~~[7]~~ or between parties and P.O.D. payees  
7 ~~[or beneficiaries]~~ of multiple-party accounts:

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

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

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

14 Sec. 113.106. OWNERSHIP AND OPERATION OF ~~[OTHER]~~ ACCOUNT  
15 WITH CONVENIENCE SIGNER; PAYMENT; LIABILITY. (a) An account  
16 established by one or more parties at a financial institution that  
17 is ~~[not designated as a convenience account, but is instead]~~  
18 designated as a single-party account or another type of  
19 multiple-party account, may provide that the sums on deposit may be  
20 paid or delivered to the parties or to one or more convenience  
21 signers "for the convenience of the parties."

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

24 ~~[(1) the provisions of Sections 113.105, 113.206, and~~  
25 ~~113.208 apply to an account described by Subsection (a), including~~  
26 ~~provisions relating to the ownership of the account during the~~  
27 ~~lifetimes and on the deaths of the parties and provisions relating~~



1 ~~to the powers and duties of the financial institution at which the~~  
2 ~~account is established, and~~

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

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

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

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

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

18 (g) A financial institution is completely released from  
19 liability for a payment made from an account described by  
20 Subsection (a) before the financial institution receives notice in  
21 writing signed by a party not to make the payment in accordance with  
22 the terms of the account. After receipt of the notice from a party,  
23 the financial institution may require a party to approve any  
24 further payments from the account.

25 (h) A financial institution that makes a payment of the sums  
26 on deposit in an account described by Subsection (a) to a  
27 convenience signer after the death of the last surviving party, but

1 before the financial institution receives written notice of the  
2 last surviving party's death, is completely released from liability  
3 for the payment.

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

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

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

17 (1) during the parties' lifetimes respective  
18 ownerships are in proportion to the parties' previous ownership  
19 interests under Sections 113.102 and ~~113.103~~ ~~and 113.104~~, as  
20 applicable, augmented by an equal share for each survivor of any  
21 interest a deceased party owned in the account immediately before  
22 that party's death; and

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

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

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

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

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

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

21           Sec. 113.158. NONTESTAMENTARY NATURE OF CERTAIN TRANSFERS.  
22 Transfers resulting from the application of Sections 113.151,  
23 113.152, [~~113.153~~] and 113.155 are effective by reason of the  
24 account contracts involved and this chapter and are not to be  
25 considered testamentary transfers or subject to the testamentary  
26 provisions of this title.

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

1 read as follows:

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

4 (1) proofs of death are presented to the financial  
5 institution showing that the deceased party was the last surviving  
6 party; or

7 (2) there is no right of survivorship under Sections  
8 113.151, 113.152, [~~113.153~~] and 113.155.

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

11 (a) Payment made in accordance with Section 113.202,  
12 113.203, 113.204, [~~113.205~~] or 113.207 discharges the financial  
13 institution from all claims for those amounts paid regardless of  
14 whether the payment is consistent with the beneficial ownership of  
15 the account between parties, P.O.D. payees, [~~or beneficiaries~~] or  
16 their successors.

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

19 (a) A party to a multiple-party account may pledge the  
20 account or otherwise create a security interest in the account  
21 without the joinder of, as applicable, a P.O.D. payee, [~~a~~  
22 ~~beneficiary~~] a convenience signer, or any other party to a joint  
23 account, regardless of whether a right of survivorship exists.

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

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

1 read as follows:

2 (b) A party or[7] P.O.D. payee[~~7~~, ~~or beneficiary~~] who  
3 receives payment from a multiple-party account after the death of a  
4 deceased party is liable to account to the deceased party's  
5 personal representative for amounts the deceased party owned  
6 beneficially immediately before the party's death to the extent  
7 necessary to discharge the claims and charges described by  
8 Subsection (a) that remain unpaid after application of the deceased  
9 party's estate. The party or[7] P.O.D. payee[~~7~~, ~~or beneficiary~~] is  
10 not liable in an amount greater than the amount the party or[7]  
11 P.O.D. payee[~~7~~, ~~or beneficiary~~] received from the multiple-party  
12 account.

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

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

17 SECTION 14. Section 153.002, Estates Code, is amended to  
18 read as follows:

19 Sec. 153.002. INAPPLICABILITY OF CHAPTER. This chapter  
20 does not apply to:

- 21 (1) an account with a beneficiary designation;
- 22 (2) a P.O.D. account; or
- 23 (3) [~~a trust account, or~~
- 24 [~~4~~] an account that provides for a right of
- 25 survivorship.

26 SECTION 15. Sections 113.001(2), 113.104, 113.105,  
27 113.153, 113.154, 113.205, 113.206, and 113.208, Estates Code, are

1 repealed.

2           SECTION 16. (a) The changes in law made by this Act,  
3 including the repeal of provisions of Chapter 113, Estates Code,  
4 apply only to a financial institution account opened or modified on  
5 or after the effective date of this Act. A financial institution  
6 account opened or modified before the effective date of this Act is  
7 governed by the law in effect on the date the account was opened or  
8 modified, and the former law is continued in effect for the limited  
9 purpose of winding up convenience and trust accounts and the  
10 agreements governing those accounts until a convenience or trust  
11 account is closed or the last surviving party to a convenience or  
12 trust account dies.

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

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