

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 772

(The President)(By Request - Office of the Attorney
General)

Finance

**Financial Institutions - Single-Party and Multiple-Party Accounts - Right to
Funds on Death of a Party**

This bill requires, if an account agreement does not expressly establish the right to funds in an account on the death of a party or if there is no account agreement, that funds in a multiple-party account be transferred to the deceased party's estate. If the deceased party died intestate, then the funds must be transferred in accordance with State law. The bill also requires that (1) account agreements for multiple-party accounts opened on or after October 1, 2016, contain specified provisions; (2) depository institutions give the account party (or parties) an account selection form, as specified; and (3) specified written materials be given to a party (or parties) before a depository institution establishes or modifies the account selected by the party or parties.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: Each account agreement for a multiple-party account opened on or after October 1, 2016, must contain provisions that are substantially similar to a specified form included in the bill. The depository institution must give to the account party or parties (1) a copy of the account agreement or (2) a form that complies with the bill's specified

requirements as well as a written notice identifying the method by which the account party or parties can obtain a copy of the account agreement. Any written materials must be given to a party or parties before the depository institution (1) establishes the type of account selected by the party or parties or (2) modifies an account of the party or parties. The materials must also be printed in at least 14 point type.

The bill includes text for a form to determine a party's selection of the rights to fund in an account on the death of a party. Among other things, the form states:

“The selections you make here will determine who has the right to receive the funds in your account on your death. Unless you indicate otherwise, these selections will govern who receives your funds in the account on your death instead of your will.”

For single-party accounts, on the death of the party to the account, the account holder may either choose for funds to (1) be transferred to the deceased party's estate according to the terms of the party's will or State law if the deceased party died without a will or (2) be transferred to persons specified by the account holder.

For multiple-party accounts, on the death of a party, the account holders must indicate whether funds are to be passed to other surviving parties. If the account holders select “no,” then each party's share of funds on the death of a party must be transferred to the deceased party's estate according to the terms of the deceased party's will or State law if the deceased party died without a will. The depository institution is not responsible for determining proportionate ownership and may pay funds to any surviving party to the account.

If the account holders indicate funds are to be passed on to other surviving parties, they must then indicate how funds are to be transferred on the death of the last party to the account. The account holders must choose for funds to (1) be transferred to that deceased party's estate according to the terms of that deceased party's will or State law if the deceased party died without a will or (2) be transferred to specified persons.

Current Law/Background: Under the Financial Institutions Article, “account” means any type of deposit or share account at a depository institution, including (1) checking and other demand deposit accounts; (2) negotiable order of withdrawal and other savings accounts; (3) share draft accounts; and (4) certificated and uncertificated time deposit accounts. A “multiple-party account” is a (1) joint account; (2) P.O.D. (payable on death) account; or (3) trust account.

Upon the death of a party to a multiple-party account, the right to any funds in the account must be determined in accordance with the express terms of the account agreement. If the

account agreement does not expressly establish the right to funds in the account upon the death of a party or, if there is no account agreement, any funds in the account upon the death of a party belong to the surviving party or parties.

Each account agreement for a multiple-party account opened on or after October 1, 1993, must contain a clear and conspicuous written statement specifying that, unless contrary direction is given in the account agreement, upon the death of a party, the funds in the multiple-party account belong to the surviving party or parties. The depository institution must give to the account party or parties (1) a copy of the account agreement or (2) a written notice identifying the type of account, the survivorship rights of the parties to the account, and the method by which the account party or parties can obtain a copy of the account agreement.

The Office of the Attorney General advises the bill is particularly relevant for the elderly, disabled, and other vulnerable populations who need to add friends, relatives, and others to their accounts in order to better manage their financial responsibilities.

Additional Information

Prior Introductions: None.

Cross File: HB 1314 (The Speaker)(By Request - Office of the Attorney General) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Register of Wills; Department of Legislative Services

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md/kdm

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