
By: **Senator Giannetti**
Introduced and read first time: February 23, 2004
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions - Multiple-Party Accounts - Tenants by the Entirety**

3 FOR the purpose of providing that a joint account includes an account established in
4 the name of spouses as tenants by the entirety; and generally relating to
5 multiple-party accounts.

6 BY repealing and reenacting, without amendments,
7 Article - Estates and Trusts
8 Section 1-401
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2003 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Financial Institutions
13 Section 1-204
14 Annotated Code of Maryland
15 (2003 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Estates and Trusts**

19 1-401.

20 A provision in an account agreement, as defined in § 1-204(b)(2) of the Financial
21 Institutions Article, for a transfer on death is nontestamentary and shall be effective
22 according to the provisions of § 1-204 of the Financial Institutions Article. Transfers
23 pursuant to § 1-204 of the Financial Institutions Article are effective in the form and
24 manner prescribed by that section and are not to be considered testamentary.

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Article - Financial Institutions

2 1-204.

3 (a) A provision in an account agreement for a transfer on death in compliance
4 with this section is nontestamentary and shall be effective according to the provisions
5 of this section. Transfers pursuant to this section are effective in the form and manner
6 prescribed by this section and are not to be considered testamentary.

7 (b) (1) In this section the following words have the meanings indicated.

8 (2) (i) "Account" means any type of deposit or share account at a
9 depository institution.

10 (ii) "Account" includes:

11 1. Checking and other demand deposit accounts;

12 2. Negotiable order of withdrawal and other savings
13 accounts;

14 3. Share draft accounts; and

15 4. Certificated and uncertificated time deposit accounts.

16 (3) "Account agreement" means a written agreement, whether in 1 or
17 more instruments, that establishes the type of account, the terms of account, and the
18 relationship between the depository institution and the party or parties to the
19 account.

20 (4) "Beneficiary" means any person designated on a trust account as a
21 person:

22 (i) To whom the account belongs after the death of all trustees for
23 the account; and

24 (ii) Who does not possess a present right to draw upon funds in the
25 account during the lifetime of any trustee for the account.

26 (5) "Convenience person" means any person who is authorized to draw
27 upon funds in an account:

28 (i) Under a power of attorney given by 1 or more parties to the
29 account; or

30 (ii) By virtue of a designation in the account agreement appointing
31 that person as agent of a party or the parties to the account for the convenience of the
32 party or parties.

33 (6) "Depository institution" means any State-chartered or federally
34 chartered financial institution, other-state bank, or foreign bank that:

1 (i) Is located in this State or maintains a branch in this State; and

2 (ii) Is authorized to maintain accounts.

3 (7) (I) "Joint account" means any account other than a P.O.D. account
4 or a trust account established in the name of 2 or more parties.

5 (II) "JOINT ACCOUNT" INCLUDES AN ACCOUNT ESTABLISHED IN
6 THE NAME OF SPOUSES AS TENANTS BY THE ENTIRETY.

7 (8) (i) "Multiple-party account" means any of the following types of
8 accounts at a depository institution:

9 1. Joint account;

10 2. P.O.D. account; or

11 3. Trust account.

12 (ii) "Multiple-party account" does not include any:

13 1. Account established and designated for the deposit of
14 funds of a corporation, partnership, joint venture, limited liability company, or other
15 association of persons for business purposes;

16 2. Account established and designated for the deposit of
17 funds of a charitable or civic organization;

18 3. Fiduciary account where the relationship is established
19 other than by the account agreement;

20 4. Account established and designated as governed under the
21 Maryland Uniform Transfers to Minors Act;

22 5. Account established and designated as governed under
23 Title 13, Subtitle 4 of the Estates and Trusts Article; or

24 6. Account that would not be a multiple-party account
25 except for the fact that 1 or more convenience persons are authorized to draw upon
26 funds in the account.

27 (9) (i) "Party" means any person who, by the terms of the account
28 agreement, possesses a present right to draw upon funds in a multiple-party account.

29 (ii) "Party" includes a trustee of a trust account.

30 (iii) "Party" does not include a:

31 1. Beneficiary of a trust account;

32 2. P.O.D. payee of a P.O.D. account; or

1 (2) Multiple-party accounts established on or after October 1, 1993,
2 shall be subject to and comply with the terms of this section.

3 (3) A multiple-party account established before October 1, 1993, shall be
4 subject to and comply with the terms of this section if:

5 (i) The parties expressly state in an account agreement that
6 complies with subsection (e) of this section that the account shall be subject to the
7 terms of this section; or

8 (ii) 1. The depository institution gives a written notice that:

9 A. States that the law applicable to the account has changed;

10 B. States that the party's rights under the account may
11 change because of the change in law; and

12 C. Repeats the provisions of subsection (d) of this section; and

13 2. After that notice is given, any party to the account:

14 A. Increases or decreases the amount of the deposit in the
15 account;

16 B. Presents evidence of the account for crediting of interest;

17 C. Corresponds or responds in writing with the depository
18 institution concerning the account without rejecting in writing the provisions of this
19 section; or

20 D. Otherwise indicates approval of the account being
21 governed by this section as evidenced by a writing on file with the depository
22 institution.

23 (d) (1) Upon the death of a party to a multiple-party account, the right to
24 any funds in the account shall be determined in accordance with the express terms of
25 the account agreement.

26 (2) If the account agreement does not expressly establish the right to
27 funds in the account upon the death of a party, or if there is no account agreement,
28 any funds in the account upon the death of a party shall belong to the surviving party
29 or parties.

30 (3) Unless the account agreement expressly provides otherwise, upon the
31 death of the last party to a multiple-party account, any funds remaining in the
32 account shall belong to:

33 (i) The beneficiaries of a trust account who are then living;

34 (ii) The P.O.D. payees of a P.O.D. account who are then living; or

1 (iii) Subject to paragraph (4) of this subsection, the personal
2 representative of:

3 1. The last surviving party of a trust account if no
4 beneficiary is then living;

5 2. The last surviving party of a P.O.D. account if no P.O.D.
6 payee is then living; or

7 3. The last surviving party of a joint account.

8 (4) No payment from a multiple-party account may be made to the
9 personal representative of a deceased party unless:

10 (i) Proof is presented to the depository institution showing that the
11 deceased party was the last surviving party; or

12 (ii) There is no right of survivorship under this section.

13 (5) If there is no right of survivorship under this section, the depository
14 institution may make payment from a multiple-party account to the personal
15 representative of a deceased party without liability to:

16 (i) Any other party; or

17 (ii) Any party's heirs, personal representatives, or assigns.

18 (6) No funds in an account shall belong to any convenience person by
19 reason of that capacity.

20 (e) (1) Each account agreement for a multiple-party account opened on or
21 after October 1, 1993, shall contain a clear and conspicuous written statement
22 specifying that unless contrary direction is given in the account agreement, upon the
23 death of a party, the funds in the multiple-party account shall belong to the surviving
24 party or parties.

25 (2) For multiple-party accounts opened on or after October 1, 1993, the
26 depository institution shall give to the account party or parties:

27 (i) A copy of the account agreement; or

28 (ii) A written notice identifying the type of account, the
29 survivorship rights of the parties to the account, and the method by which the account
30 party or parties can obtain a copy of the account agreement.

31 (f) Unless the account agreement expressly provides otherwise, the funds in a
32 multiple-party account may be withdrawn by any party or by a convenience person
33 for any party or parties, whether or not any other party to the account is
34 incapacitated or deceased.

1 (g) A depository institution may presume that an account established by the
2 parties as a trust account complies with the definitional requirements of a trust
3 account as set forth in subsection (b) of this section unless, prior to the establishment
4 of the account, the depository institution is provided with written notice to the
5 contrary.

6 (h) Any written materials required by this section to be given to account
7 parties:

8 (1) Shall be deemed given if:

9 (i) Delivered in person to any one of the account parties; or

10 (ii) Mailed to the account party or parties by first-class mail,
11 postage prepaid, to the address for the account shown on the records of the depository
12 institution; and

13 (2) May be provided along with or as part of other materials given to
14 account parties.

15 (i) (1) A person who has an ownership interest in an account that is not a
16 multiple-party account may designate another person as a convenience person on
17 that account.

18 (2) No funds in the account shall belong to any convenience person by
19 reason of that capacity.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2004.