

SENATE BILL 772

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By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: February 5, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Single–Party and Multiple–Party Accounts – Right to**
3 **Funds on Death of a Party**

4 FOR the purpose of requiring that certain funds in a certain account be transferred on the
5 death of a party to the account to the deceased party's estate; requiring that account
6 agreements for certain accounts opened on or after a certain date contain certain
7 provisions; requiring a certain depository institution, for certain accounts opened on
8 or after a certain date, to give the account party or parties a certain form; requiring
9 that certain materials be given to a party or parties before a certain depository
10 institution establishes a certain type of account or modifies a certain account;
11 requiring that certain materials be printed in a certain manner; authorizing a
12 certain depository institution to use a certain form to determine a certain party's
13 selection of certain rights; establishing a certain form; making stylistic changes; and
14 generally relating to rights to funds on the death of a party to a single–party or
15 multiple–party account.

16 BY repealing and reenacting, with amendments,
17 Article – Financial Institutions
18 Section 1–204
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2015 Supplement)

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

23 **Article – Financial Institutions**

24 1–204.

25 (a) A provision in an account agreement for a transfer on death in compliance
26 with this section is nontestamentary and shall be effective according to the provisions of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 this section. Transfers pursuant to this section are effective in the form and manner
2 prescribed by this section and are not to be considered testamentary.

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

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

6 (ii) "Account" includes:

- 7 1. Checking and other demand deposit accounts;
- 8 2. Negotiable order of withdrawal and other savings
9 accounts;
- 10 3. Share draft accounts; and
- 11 4. Certificated and uncertificated time deposit accounts.

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

15 (4) "Beneficiary" means any person designated on a trust account as a
16 person:

- 17 (i) To whom the account belongs after the death of all trustees for
18 the account; and
- 19 (ii) Who does not possess a present right to draw upon funds in the
20 account during the lifetime of any trustee for the account.

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

- 23 (i) Under a power of attorney given by 1 or more parties to the
24 account; or
- 25 (ii) By virtue of a designation in the account agreement appointing
26 that person as agent of a party or the parties to the account for the convenience of the party
27 or parties.

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

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

1 (ii) Is authorized to maintain accounts.

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

4 (8) (i) “Multiple-party account” means any of the following types of
5 accounts at a depository institution:

6 1. Joint account;

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

8 3. Trust account.

9 (ii) “Multiple-party account” does not include any:

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

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

15 3. Fiduciary account where the relationship is established
16 other than by the account agreement;

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

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

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

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

26 (ii) “Party” includes a trustee of a trust account.

27 (iii) “Party” does not include a:

28 1. Beneficiary of a trust account;

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

3. Convenience person.

(10) "P.O.D. account" means any account established in the name of 1 or more parties where funds in the account may be drawn upon:

(i) By 1 party during the party's lifetime and by 1 or more P.O.D. payees on the party's death; or

(ii) By 1 or more parties during their respective lifetimes and, [upon] ON the death of all the parties, by 1 or more P.O.D. payees.

(11) "P.O.D. payee" means any person designated on a P.O.D. account as a person:

(i) To whom the account belongs after the death of all parties to the account; and

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

(12) (i) "Power of attorney" means any writing signed by 1 or more parties to an account that authorizes 1 or more persons to draw upon funds in the account as agent or agents for the signing party or parties.

(ii) The designation of a person as a convenience person on an account shall be deemed to be a durable power of attorney appointing that person as agent for the party or parties to the account regardless of any disability of the party or parties subsequent to the designation.

(13) (i) "Trust account" means any account established in the name of 1 or more parties as trustees for 1 or more beneficiaries where:

1. None of the beneficiaries is also a trustee;

2. The trust relationship is established by the account agreement; and

3. There is no corpus of the trust other than the funds in the account.

(ii) "Trust account" does not include a:

1. Trust account under a testamentary trust, declaration of trust, or a trust agreement that has significance apart from the account; or

2. Fiduciary account arising from a fiduciary relationship.

1 (c) (1) A depository institution is authorized to establish multiple-party
2 accounts subject to the terms of this section.

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

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

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

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

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

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

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

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

16 A. Increases or decreases the amount of the deposit in the
17 account;

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

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

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

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

27 (2) If the account agreement does not expressly establish the right to funds
28 in the account **[upon] ON** the death of a party, or if there is no account agreement, any
29 funds in the account **[upon] ON** the death of a party shall **[belong to the surviving party or**
30 **parties] BE TRANSFERRED TO THE DECEASED PARTY'S ESTATE ACCORDING TO:**

31 **(I) THE TERMS OF THE DECEASED PARTY'S WILL; OR**

1 (II) IF THE DECEASED PARTY DIED WITHOUT A WILL, STATE
2 LAW.

3 (3) Unless the account agreement expressly provides otherwise, [upon] ON
4 the death of the last party to a multiple-party account, any funds remaining in the account
5 shall belong to:

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

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

8 (iii) Subject to paragraph (4) of this subsection, the personal
9 representative of:

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

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

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

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

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

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

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

23 (i) Any other party; or

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

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

27 (e) (1) Each account agreement for a multiple-party account opened on or
28 after October 1, [1993] 2016, shall contain [a clear and conspicuous written statement
29 specifying that unless contrary direction is given in the account agreement, upon the death
30 of a party, the funds in the multiple-party account shall belong to the surviving party or

1 parties] **PROVISIONS THAT ARE SUBSTANTIALLY SIMILAR TO THE FORM FOR**
2 **MULTIPLE-PARTY ACCOUNTS SPECIFIED UNDER SUBSECTION (J) OF THIS SECTION.**

3 (2) For multiple-party accounts opened on or after October 1, [1993] **2016**,
4 the depository institution shall give to the account party or parties:

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

6 (ii) 1. A [written notice identifying the type of account, the
7 survivorship rights of the parties to the account,] **FORM THAT COMPLIES WITH THE**
8 **REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION;** and

9 2. **A WRITTEN NOTICE IDENTIFYING** the method by which
10 the account party or parties can obtain a copy of the account agreement.

11 (3) **ANY WRITTEN MATERIALS REQUIRED UNDER THIS SUBSECTION**
12 **SHALL BE:**

13 (I) **GIVEN TO A PARTY OR PARTIES BEFORE THE DEPOSITORY**
14 **INSTITUTION:**

15 1. **ESTABLISHES THE TYPE OF ACCOUNT SELECTED BY**
16 **THE PARTY OR PARTIES; OR**

17 2. **MODIFIES AN ACCOUNT OF THE PARTY OR PARTIES;**
18 **AND**

19 (II) **PRINTED IN AT LEAST 14 POINT TYPE.**

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

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

27 (h) [Any] **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, ANY**
28 written materials required by this section to be given to account parties:

29 (1) Shall be deemed given if:

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

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

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

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

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

(J) A DEPOSITORY INSTITUTION MAY USE THE FOLLOWING FORM TO DETERMINE A PARTY’S SELECTION OF THE RIGHTS TO FUNDS IN AN ACCOUNT ON DEATH OF A PARTY.

UNIFORM SINGLE-PARTY OR MULTIPLE-PARTY ACCOUNT SELECTION FORM

PARTY OR PARTIES TO THE ACCOUNT:

PERSONS LISTED AS A PARTY TO THE ACCOUNT OWN THE FUNDS IN THE ACCOUNT IN PROPORTION TO THEIR NET CONTRIBUTIONS. “NET CONTRIBUTIONS” MEANS DEPOSITS MADE BY A PARTY LESS THE AMOUNT OF WITHDRAWALS BY THAT PARTY OR FOR THAT PARTY’S BENEFIT. BE AWARE THAT THE DEPOSITORY INSTITUTION IS NOT RESPONSIBLE FOR DETERMINING PROPORTIONATE OWNERSHIP AND MAY PAY FUNDS TO ANY PARTY TO THE ACCOUNT.

OTHER AUTHORIZED SIGNER OR SIGNERS FOR THE ACCOUNT:

PERSONS LISTED AS AN OTHER AUTHORIZED SIGNER FOR THE ACCOUNT DO NOT OWN THE FUNDS IN THE ACCOUNT BUT MAY WRITE CHECKS OR WITHDRAW FUNDS FROM THE ACCOUNT AS A CONVENIENCE TO A PARTY OR PARTIES TO THE ACCOUNT.

1 AN AUTHORIZED SIGNER DOES NOT HAVE A RIGHT TO THE FUNDS IN THE ACCOUNT
2 FOR THE AUTHORIZED SIGNER'S PERSONAL USE. THE AUTHORITY OF THE
3 AUTHORIZED SIGNER TO WRITE CHECKS OR WITHDRAW FUNDS FROM THE ACCOUNT
4 TERMINATES ON THE DEATH OF THE LAST PARTY TO THE ACCOUNT. BE AWARE THAT
5 THE DEPOSITORY INSTITUTION MAY PAY FUNDS TO ANY AUTHORIZED SIGNER UNTIL
6 NOTIFIED OF THE DEATH OF THE LAST PARTY TO THE ACCOUNT.

7 **RIGHTS AT DEATH**

8 THE SELECTIONS YOU MAKE HERE WILL DETERMINE WHO HAS THE RIGHT TO
9 RECEIVE THE FUNDS IN YOUR ACCOUNT ON YOUR DEATH. UNLESS YOU INDICATE
10 OTHERWISE, THESE SELECTIONS WILL GOVERN WHO RECEIVES YOUR FUNDS IN THE
11 ACCOUNT ON YOUR DEATH INSTEAD OF YOUR WILL.

12 **SINGLE-PARTY ACCOUNT**

13 IF THERE IS ONLY ONE PARTY TO THE ACCOUNT, SELECT ONE OF THE FOLLOWING
14 OPTIONS:

15 _____ ON THE DEATH OF THE PARTY TO THE ACCOUNT, FUNDS SHALL BE
16 TRANSFERRED TO THE DECEASED PARTY'S ESTATE ACCORDING TO THE TERMS OF
17 THE PARTY'S WILL OR STATE LAW IF THE DECEASED PARTY DIED WITHOUT A WILL.

18 _____ ON THE DEATH OF THE PARTY TO THE ACCOUNT, FUNDS SHALL BE
19 TRANSFERRED TO THE FOLLOWING PERSON OR PERSONS:

20 _____

21 **MULTIPLE-PARTY ACCOUNT**

22 IF THERE ARE MULTIPLE PARTIES TO THE ACCOUNT, ANSWER THE FOLLOWING
23 QUESTION:

24 ON THE DEATH OF A PARTY, DO THE DECEASED PARTY'S FUNDS PASS TO OTHER
25 SURVIVING PARTIES? YES_____ NO_____

26 IF YOU SELECTED "NO", EACH PARTY'S SHARE OF FUNDS ON THE DEATH OF THE
27 PARTY SHALL BE TRANSFERRED TO THE DECEASED PARTY'S ESTATE ACCORDING TO
28 THE TERMS OF THE DECEASED PARTY'S WILL OR STATE LAW IF THE DECEASED
29 PARTY DIED WITHOUT A WILL. BE AWARE THAT THE DEPOSITORY INSTITUTION IS
30 NOT RESPONSIBLE FOR DETERMINING PROPORTIONATE OWNERSHIP AND MAY PAY
31 FUNDS TO ANY SURVIVING PARTY TO THE ACCOUNT.

1 IF YOU SELECTED "YES", SELECT ONE OF THE FOLLOWING OPTIONS:

2 _____ ON THE DEATH OF THE LAST PARTY TO THE ACCOUNT, FUNDS SHALL BE
3 TRANSFERRED TO THAT DECEASED PARTY'S ESTATE ACCORDING TO THE TERMS OF
4 THAT DECEASED PARTY'S WILL OR STATE LAW IF THE DECEASED PARTY DIED
5 WITHOUT A WILL.

6 _____ ON THE DEATH OF THE LAST PARTY TO THE ACCOUNT, FUNDS SHALL BE
7 TRANSFERRED TO THE FOLLOWING PERSON OR PERSONS:

8 _____

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2016.