

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Murphy and Shaver**

5

6

7

For An Act To Be Entitled

8 "THE UNIFORM MULTIPLE-PERSON ACCOUNTS ACT"

9

10

Subtitle

11 "THE UNIFORM MULTIPLE-PERSON ACCOUNTS ACT"

12

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14

15 ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

16 SECTION 1. DEFINITIONS. In this act:

17 (1) "Account" means a contract of deposit between a depositor and a
18 financial institution, and includes a checking account, savings account,
19 certificate of deposit, and share account.

20 (2) "Agent" means a person authorized to make account transactions for
21 a party.

22 (3) "Beneficiary" means a person named as one to whom sums on deposit
23 in an account are payable on request after death of all parties or for whom a
24 party is named as trustee.

25 (4) "Devisee" means any person designated in a will to receive a
26 testamentary disposition of real or personal property.

27 (5) "Financial institution" means an organization authorized to do
28 business under state or federal laws relating to financial institutions, and
29 includes a bank, trust company, savings bank, building and loan association,
30 savings and loan company or association, and credit union.

31 (6) "Heirs" means those persons, including surviving spouse, who are
32 entitled under the statutes of intestate succession to the property of a
33 decedent.

34 (7) "Multiple-party account" means an account payable on request to one
35 or more of two or more parties, whether or not a right of survivorship is

1 mentioned.

2 (8) "Party" means a person who, by the terms of an account, has a
3 present right, subject to request, to payment from the account other than as a
4 beneficiary or agent.

5 (9) "Payment" of sums on deposit includes withdrawal, payment to a
6 party or third person pursuant to check or other request, and a pledge of sums
7 on deposit by a party, or a set-off, reduction, or other disposition of all or
8 part of an account pursuant to a pledge.

9 (10) "Person" means an individual, a corporation, an organization, or
10 other legal entity.

11 (11) "Personal representative" includes executor, administrator,
12 successor personal representative, special administrator, and persons who
13 perform substantially the same function under the law governing their status.

14 (12) "POD designation" means the designation of (i) a beneficiary in an
15 account payable on request to one party during the party's lifetime and on the
16 party's death to one or more beneficiaries, or to one or more parties during
17 their lifetimes and on death of all of them to one or more beneficiaries, or
18 (ii) a beneficiary in an account in the name of one or more parties as trustee
19 for one or more beneficiaries if the relationship is established by the terms
20 of the account and there is no subject of the trust other than the sums on
21 deposit in the account, whether or not payment to the beneficiary is
22 mentioned.

23 (13) "Receive," as it relates to notice to a financial institution,
24 means receipt in the office or branch office of the financial institution in
25 which the account is established, but if the terms of the account require
26 notice at a particular place, in the place required.

27 (14) "Request" means a request for payment complying with all terms of
28 the account, including special requirements concerning necessary signatures
29 and regulations of the financial institution; but, for purposes of this act,
30 if terms of the account condition payment on advance notice, a request for
31 payment is treated as immediately effective and a notice of intent to withdraw
32 is treated as a request for payment.

33 (15) "State" includes any state of the United States, the District of
34 Columbia, the Commonwealth of Puerto Rico, and any territory or possession
35 subject to the legislative authority of the United States.

1 (16) "Successors" means those persons, other than creditors, who are
2 entitled to property of a decedent under the decedent's will or otherwise.

3 (17) "Sums on deposit" means the balance payable on an account,
4 including interest and dividends earned, whether or not included in the
5 current balance, and any deposit life insurance proceeds added to the account
6 by reason of death of a party.

7 (18) "Terms of the account" includes the deposit agreement and other
8 terms and conditions, including the form, of the contract of deposit.

9

10 SECTION 2. SCOPE OF ACT.

11 (a) This act applies to accounts in this State.

12 (b) This act does not apply to (i) an account established for a
13 partnership, joint venture, or other organization for a business purpose, (ii)
14 an account controlled by one or more persons as an agent or trustee for a
15 corporation, unincorporated association, or charitable or civic organization,
16 or (iii) a fiduciary or trust account in which the relationship is established
17 other than by the terms of the account.

18

19 SECTION 3. TYPES OF ACCOUNT; EXISTING ACCOUNTS.

20 (a) An account may be for a single party or multiple parties. A
21 multiple-party account may be with or without a right of survivorship between
22 the parties. Subject to Section 12(c), either a single-party account or a
23 multiple-party account may have a POD designation, an agency designation, or
24 both.

25 (b) An account established before, on, or after the effective date of
26 this act, whether in the form prescribed in Section 4 or in any other form, is
27 either a single-party account or a multiple-party account, with or without
28 right of survivorship, and with or without a POD designation or an agency
29 designation, within the meaning of this act, and is governed by this act.

30

31 SECTION 4. FORMS.

32 (a) A contract of deposit that contains provisions in substantially the
33 following form establishes the type of account provided, and the account is
34 governed by the provisions of this act applicable to an account of that type:

35 UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

1 PARTIES [Name One or More Parties]:

2 _____

3

4 OWNERSHIP [Select One And Initial]:

5 _____ SINGLE-PARTY ACCOUNT

6 _____ MULTIPLE-PARTY ACCOUNT

7 Parties own account in proportion to net contributions unless there is clear
8 and convincing evidence of a different intent.

9

10 RIGHTS AT DEATH [Select One And Initial]:

11 _____ SINGLE-PARTY ACCOUNT

12 At death of party, ownership passes as part of party's estate.

13 _____ SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH)

14 DESIGNATION

15 [Name One Or More Beneficiaries]:

16 _____

17 At death of party, ownership passes to POD beneficiaries and is not part of
18 party's estate.

19 _____ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

20 At death of party, ownership passes to surviving parties.

21 _____ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND

22 POD (PAY ON DEATH) DESIGNATION

23 [Name One Or More Beneficiaries]:

24 _____

25 At death of last surviving party, ownership passes to POD beneficiaries and is
26 not part of last surviving party's estate.

27 _____ MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF

28 SURVIVORSHIP

29 At death of party, deceased party's ownership passes as part of deceased
30 party's estate.

31

32 AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

33 Agents may make account transactions for parties but have no ownership or
34 rights at death unless named as POD beneficiaries.

1 [To Add Agency Designation To Account, Name One Or More Agents]:

2 _____

3 [Select One And Initial]:

4 _____ AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

5 _____ AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

6 (b) A contract of deposit that does not contain provisions in
7 substantially the form provided in subsection (a) is governed by the
8 provisions of this act applicable to the type of account that most nearly
9 conforms to the depositor's intent.

10

11 SECTION 5. DESIGNATION OF AGENT.

12 (a) By a writing signed by all parties, the parties may designate as
13 agent of all parties on an account a person other than a party.

14 (b) Unless the terms of an agency designation provide that the
15 authority of the agent terminates on disability or incapacity of a party, the
16 agent's authority survives disability and incapacity. The agent may act for a
17 disabled or incapacitated party until the authority of the agent is
18 terminated.

19 (c) Death of the sole party or last surviving party terminates the
20 authority of an agent.

21

22 SECTION 6. APPLICABILITY OF ACT. The provisions of Article 2
23 concerning beneficial ownership as between parties or as between parties and
24 beneficiaries apply only to controversies between those persons and their
25 creditors and other successors, and do not apply to the right of those persons
26 to payment as determined by the terms of the account. Article 3 governs the
27 liability and set-off rights of financial institutions that make payments
28 pursuant to it.

29

30 ARTICLE 2. OWNERSHIP AS BETWEEN PARTIES AND OTHERS

31 SECTION 11. OWNERSHIP DURING LIFETIME.

32 (a) In this section, "net contribution" of a party means the sum of all
33 deposits to an account made by or for the party, less all payments from the
34 account made to or for the party which have not been paid to or applied to the
35 use of another party and a proportionate share of any charges deducted from

1 the account, plus a proportionate share of any interest or dividends earned,
2 whether or not included in the current balance. The term includes any deposit
3 life insurance proceeds added to the account by reason of death of the party
4 whose net contribution is in question.

5 (b) During the lifetime of all parties, an account belongs to the
6 parties in proportion to the net contribution of each to the sums on deposit,
7 unless there is clear and convincing evidence of a different intent. As
8 between parties married to each other, in the absence of proof otherwise, the
9 net contribution of each is presumed to be an equal amount.

10 (c) A beneficiary in an account having a POD designation has no right
11 to sums on deposit during the lifetime of any party.

12 (d) An agent in an account with an agency designation has no beneficial
13 right to sums on deposit.

14

15 SECTION 12. RIGHTS AT DEATH.

16 (a) Except as otherwise provided in this act, on death of a party sums
17 on deposit in a multiple-party account belong to the surviving party or
18 parties. If two or more parties survive and one is the surviving spouse of
19 the decedent, the amount to which the decedent, immediately before death, was
20 beneficially entitled under Section 11 belongs to the surviving spouse. If
21 two or more parties survive and none is the surviving spouse of the decedent,
22 the amount to which the decedent, immediately before death, was beneficially
23 entitled under Section 11 belongs to the surviving parties in equal shares,
24 and augments the proportion to which each survivor, immediately before the
25 decedent's death, was beneficially entitled under Section 11, and the right of
26 survivorship continues between the surviving parties.

27 (b) In an account with a POD designation:

28 (1) On death of one of two or more parties, the rights in sums on
29 deposit are governed by subsection (a).

30 (2) On death of the sole party or the last survivor of two or
31 more parties, sums on deposit belong to the surviving beneficiary or
32 beneficiaries. If two or more beneficiaries survive, sums on deposit belong
33 to them in equal and undivided shares, and there is no right of survivorship
34 in the event of death of a beneficiary thereafter. If no beneficiary
35 survives, sums on deposit belong to the estate of the last surviving party.

1 (c) Sums on deposit in a single-party account without a POD
2 designation, or in a multiple-party account that, by the terms of the account,
3 is without right of survivorship, are not affected by death of a party, but
4 the amount to which the decedent, immediately before death, was beneficially
5 entitled under Section 11 is transferred as part of the decedent's estate. A
6 POD designation in a multiple-party account without right of survivorship is
7 ineffective. For purposes of this section, designation of an account as a
8 tenancy in common establishes that the account is without right of
9 survivorship.

10 (d) The ownership right of a surviving party or beneficiary, or of the
11 decedent's estate, in sums on deposit is subject to requests for payment made
12 by a party before the party's death, whether paid by the financial institution
13 before or after death, or unpaid. The surviving party or beneficiary, or the
14 decedent's estate, is liable to the payee of an unpaid request for payment.
15 The liability is limited to a proportionate share of the amount transferred
16 under this section, to the extent necessary to discharge the request for
17 payment.

18

19 SECTION 13. ALTERATION OF RIGHTS.

20 (a) Rights at death under Section 12 are determined by the type of
21 account at the death of a party. The type of account may be altered by
22 written notice given by a party to the financial institution to change the
23 type of account or to stop or vary payment under the terms of the account.
24 The notice must be signed by a party and received by the financial institution
25 during the party's lifetime.

26 (b) A right of survivorship arising from the express terms of the
27 account, Section 12, or a POD designation, may not be altered by will.

28

29 SECTION 14. ACCOUNTS AND TRANSFERS NONTESTAMENTARY. Except [as
30 provided in the statutes governing augmented estates or] as a consequence of,
31 and to the extent directed by, Section 15, a transfer resulting from the
32 application of Section 12 is effective by reason of the terms of the account
33 involved and this act and is not testamentary or subject to estate
34 administration.

35

1 SECTION 15. RIGHTS OF CREDITORS AND OTHERS.

2 (a) If other assets of the estate are insufficient, a transfer
3 resulting from a right of survivorship or POD designation under this act is
4 not effective against the estate of a deceased party to the extent needed to
5 pay claims against the estate and statutory allowances to the surviving spouse
6 and children.

7 (b) A surviving party or beneficiary who receives payment from an
8 account after death of a party is liable to account to the personal
9 representative of the decedent for a proportionate share of the amount
10 received to which the decedent, immediately before death, was beneficially
11 entitled under Section 11, to the extent necessary to discharge the claims and
12 allowances described in subsection (a) remaining unpaid after application of
13 the decedent's estate. A proceeding to assert the liability may not be
14 commenced unless the personal representative has received a written demand by
15 the surviving spouse, a creditor, a child, or a person acting for a child of
16 the decedent. The proceeding must be commenced within one year after death of
17 the decedent.

18 (c) A surviving party or beneficiary against whom a proceeding to
19 account is brought may join as a party to the proceeding a surviving party or
20 beneficiary of any other account of the decedent.

21 (d) Sums recovered by the personal representative must be administered
22 as part of the decedent's estate. This section does not affect the protection
23 from claims of the personal representative or estate of a deceased party
24 provided in Section 26 for a financial institution that makes payment in
25 accordance with the terms of the account.

26 (e) In this section:

27 (1) "Child" includes any individual entitled to take as a child
28 by intestate succession from the parent whose relationship is involved and
29 excludes any person who is only a stepchild, a foster child, a grandchild, or
30 any more remote descendant.

31 (2) "Claims," in respect to the estate of a decedent, includes
32 liabilities of the decedent whether arising in contract, tort or otherwise,
33 and liabilities of the estate which arise at or after the death of the
34 decedent, including funeral expenses and expenses of administration. The term
35 does not include estate or inheritance taxes, or demands or disputes regarding

1 title of a decedent to specific assets alleged to be included in the estate.

2

3 SECTION 16. COMMUNITY PROPERTY AND TENANCY BY THE ENTIRETIES.

4 (a) A deposit of community property in an account does not alter the
5 community character of the property or community rights in the property, but a
6 right of survivorship between parties married to each other arising from the
7 express terms of the account or Section 12 may not be altered by will.

8 (b) This act does not affect the law governing tenancy by the
9 entireties.

10

11 ARTICLE 3. PROTECTION OF FINANCIAL INSTITUTIONS

12 SECTION 21. AUTHORITY OF FINANCIAL INSTITUTION. A financial
13 institution may enter into a contract of deposit for a multiple-party account
14 to the same extent it may enter into a contract of deposit for a single-party
15 account, and may provide for a POD designation and an agency designation in
16 either a single-party account or a multiple-party account. A financial
17 institution need not inquire as to the source of a deposit to an account or as
18 to the proposed application of a payment from an account.

19

20 SECTION 22. PAYMENT ON MULTIPLE-PARTY ACCOUNT. A financial
21 institution, on request, may pay sums on deposit in a multiple-party account
22 to:

23 (1) one or more of the parties, whether or not another party is
24 disabled, incapacitated, or deceased when payment is requested and whether or
25 not the party making the request survives another party; or

26 (2) the personal representative, if any, or, if there is none, the heirs
27 or devisees of a deceased party if proof of death is presented to the
28 financial institution showing that the deceased party was the survivor of all
29 other persons named on the account either as a party or beneficiary, unless
30 the account is without right of survivorship under Section 12.

31

32 SECTION 23. PAYMENT ON POD DESIGNATION. A financial institution, on
33 request, may pay sums on deposit in an account with a POD designation to:

34 (1) one or more of the parties, whether or not another party is
35 disabled, incapacitated, or deceased when the payment is requested and whether

1 or not a party survives another party;

2 (2) the beneficiary or beneficiaries, if proof of death is presented to
3 the financial institution showing that the beneficiary or beneficiaries
4 survived all persons named as parties; or

5 (3) the personal representative, if any, or, if there is none, the heirs
6 or devisees of a deceased party, if proof of death is presented to the
7 financial institution showing that the deceased party was the survivor of all
8 other persons named on the account either as a party or beneficiary.

9

10 SECTION 24. PAYMENT TO DESIGNATED AGENT. A financial institution, on
11 request of an agent under an agency designation for an account, may pay to the
12 agent sums on deposit in the account, whether or not a party is disabled,
13 incapacitated, or deceased when the request is made or received, and whether
14 or not the authority of the agent terminates on the disability or incapacity
15 of a party.

16

17 SECTION 25. PAYMENT TO MINOR. If a financial institution is required
18 or permitted to make payment pursuant to this act to a minor designated as a
19 beneficiary, payment may be made pursuant to the Uniform Transfers to Minors
20 Act.

21

22 SECTION 26. DISCHARGE.

23 (a) Payment made pursuant to this act in accordance with the type of
24 account discharges the financial institution from all claims for amounts so
25 paid, whether or not the payment is consistent with the beneficial ownership
26 of the account as between parties, beneficiaries, or their successors.
27 Payment may be made whether or not a party, beneficiary, or agent is disabled,
28 incapacitated, or deceased when payment is requested, received, or made.

29 (b) Protection under this section does not extend to payments made
30 after a financial institution has received written notice from a party, or
31 from the personal representative, surviving spouse, or heir or devisee of a
32 deceased party, to the effect that payments in accordance with the terms of
33 the account, including one having an agency designation, should not be
34 permitted, and the financial institution has had a reasonable opportunity to
35 act on it when the payment is made. Unless the notice is withdrawn by the

1 person giving it, the successor of any deceased party must concur in a request
2 for payment if the financial institution is to be protected under this
3 section. Unless a financial institution has been served with process in an
4 action or proceeding, no other notice or other information shown to have been
5 available to the financial institution affects its right to protection under
6 this section.

7 (c) A financial institution that receives written notice pursuant to
8 this section or otherwise has reason to believe that a dispute exists as to
9 the rights of the parties may refuse, without liability, to make payments in
10 accordance with the terms of the account.

11 (d) Protection of a financial institution under this section does not
12 affect the rights of parties in disputes between themselves or their
13 successors concerning the beneficial ownership of sums on deposit in accounts
14 or payments made from accounts.

15

16 SECTION 27. SET-OFF. Without qualifying any other statutory right to
17 set-off or lien and subject to any contractual provision, if a party is
18 indebted to a financial institution, the financial institution has a right to
19 set-off against the account. The amount of the account subject to set-off is
20 the proportion to which the party is, or immediately before death was,
21 beneficially entitled under Section 11 or, in the absence of proof of that
22 proportion, an equal share with all parties.

23

24 ARTICLE 4. SHORT TITLE, CONSTRUCTION, TRANSITIONAL PROVISIONS

25 SECTION 31. SHORT TITLE. This act may be cited as the Uniform
26 Multiple-Person Accounts Act.

27

28 SECTION 32. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This act shall
29 be applied and construed to effectuate its general purpose to make uniform the
30 law with respect to the subject of this act among states enacting it.

31

32 SECTION 33. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE. Unless
33 displaced by the particular provisions of this act, the principles of law and
34 equity supplement its provisions.

35

1 SECTION 34. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

4

5 SECTION 35. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

10

11 SECTION 36. All laws and parts of laws in conflict with this act are
12 hereby repealed.

13

14 SECTION 37. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

15 (a) This act takes effect September 1, 1993.

16 (b) On the effective date of this act:

17 (1) An act done before the effective date and any accrued right
18 is not impaired by this act. If a right is acquired, extinguished, or barred
19 on the expiration of a prescribed period of time that has commenced to run by
20 the provisions of any statute before the effective date, the provisions shall
21 remain in force with respect to that right.

22 (2) Any rule of construction or presumption provided in this act
23 applies to accounts established before the effective date unless there is a
24 clear indication of a contrary intent.

25 (c) The rights of a party, beneficiary, or creditor in an account
26 established before the effective date of this act are governed by the law
27 applicable before the effective date for a period of one year after the
28 effective date and thereafter are governed by this act.

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