

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Harman

January 3, 2005

An act to amend Sections 5301, 5303, and 5401 of the Probate Code, relating to multiple-party accounts.

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as introduced, Harman. Multiple-party accounts.

The California Multiple-Party Accounts Law regulates the ownership interests of funds deposited in an account, as defined. Existing law provides that an account belongs to the parties, during their lifetimes, in proportion to the net contributions by each party to the sums on deposit, unless there is clear and convincing evidence of a different intent. Existing law provides that the withdrawal of funds by a party from a multiple-party account limits the rights of survivorship upon the death of the party, as specified.

This bill would provide that the proportional ownership interests in an account, as described above, are not limited to the sums on deposit. The bill would make clarifying changes with regard to the right of survivorship with respect to funds in a multiple-party account and would make conforming changes with regard to the protection of financial institutions in connection with multiple-party accounts.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5301 of the Probate Code is amended to
2 read:

1 5301. (a) An account belongs, during the lifetime of all
2 parties, to the parties in proportion to the net contributions by
3 each to the sums on deposit, unless there is clear and convincing
4 evidence of a different intent.

5 (b) In the case of a P.O.D. account, the P.O.D. payee has no
6 rights to the sums on deposit during the lifetime of any party,
7 unless there is clear and convincing evidence of a different intent.

8 (c) In the case of a Totten trust account, the beneficiary has no
9 rights to the sums on deposit during the lifetime of any party,
10 unless there is clear and convincing evidence of a different intent.
11 If there is an irrevocable trust, the account belongs beneficially to
12 the beneficiary.

13 SEC. 2. Section 5303 of the Probate Code is amended to read:

14 5303. (a) The provisions of Section 5302 as to rights of
15 survivorship are determined by the form of the account at the
16 death of a party.

17 (b) Once established, the terms of a multiple-party account can
18 be changed only by any of the following methods:

19 (1) Closing the account and reopening it under different terms.

20 (2) Presenting to the financial institution a modification
21 agreement that is signed by all parties with a present right of
22 withdrawal. If the financial institution has a form for this
23 purpose, it may require use of the form.

24 (3) If the provisions of the terms of the account or deposit
25 agreement provide a method of modification of the terms of the
26 account, complying with those provisions.

27 (4) As provided in subdivision (c) of Section 5405.

28 (c) During the lifetime of a party, the terms of the account may
29 be changed as provided in subdivision (b) to eliminate or to add
30 rights of survivorship. Withdrawal of funds from the account by
31 a party ~~with a present right of withdrawal during the lifetime of a~~
32 ~~party~~ also eliminates rights of survivorship ~~upon the death of that~~
33 ~~party~~ with respect to the funds withdrawn *to the extent of the*
34 *party's net contribution to the account.*

35 SEC. 3. Section 5401 of the Probate Code is amended to read:

36 5401. (a) Financial institutions may enter into multiple-party
37 accounts to the same extent that they may enter into single-party
38 accounts. Any multiple-party account may be paid, on request
39 and according to its terms, to any one or more of the parties or
40 agents.

1 (b) The terms of the account or deposit agreement may require
2 the signatures of more than one of the parties to a multiple-party
3 account during their lifetimes or of more than one of the
4 survivors after the death of any one of them on any check, check
5 endorsement, receipt, notice of withdrawal, request for
6 withdrawal, or withdrawal order. In such case, the financial
7 institution shall pay the sums on deposit only in accordance with
8 such terms, but those terms do not limit the right of the sole
9 survivor or of all of the survivors to receive the sums on deposit.

10 (c) A financial institution is not required to do any of the
11 following *pursuant to Section 5301, 5303, or any other provision*
12 *of this part*:

13 (1) Inquire as to the source of funds received for deposit to a
14 multiple-party account, or inquire as to the proposed application
15 of any sum withdrawn from an account, for purposes of
16 establishing net contributions.

17 (2) Determine any party's net contribution.

18 (3) Limit withdrawals or any other use of an account based on
19 the net contribution of any party, whether or not the financial
20 institution has actual knowledge of each party's contribution.

21 (d) All funds in an account, unless otherwise agreed in writing
22 by the financial institution and the parties to the account, remain
23 subject to liens, security interests, rights of setoff, and charges,
24 notwithstanding the determination or allocation of net
25 contributions with respect to the parties.