

AMENDED IN ASSEMBLY MARCH 1, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 69**

**Introduced by Assembly Member Harman**

January 3, 2005

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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 amended, 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:

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

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

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

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

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

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

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

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

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

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

30 (c) During the lifetime of a party, the terms of the account may  
31 be changed as provided in subdivision (b) to eliminate or to add  
32 rights of survivorship. Withdrawal of funds from the account by  
33 a party also eliminates rights of survivorship with respect to the  
34 funds withdrawn to the extent of the *withdrawing* party's net  
35 contribution to the account.

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

37 5401. (a) Financial institutions may enter into multiple-party  
38 accounts to the same extent that they may enter into single-party

1 accounts. Any multiple-party account may be paid, on request  
2 and according to its terms, to any one or more of the parties or  
3 agents.

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

13 (c) A financial institution is not required to do any of the  
14 ~~following pursuant~~ *following pursuant* to Section 5301, 5303, or  
15 any other provision of this part:

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

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

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

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