

AMENDED IN ASSEMBLY MARCH 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1624

Introduced by Assembly Member Gatto

February 9, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1624, as amended, Gatto. Multiple-party accounts.

The California Multiple-Party Accounts Law regulates the ownership interest of parties to a multiple-party account, and provides that during the lifetime of the parties, a party's ownership interest is based on the proportion of the party's net contribution to the sums on deposit.

This bill instead would base a party's ownership interest in the account on the proportion of the party's net contributions to the account. *The bill would also provide that when one party makes a withdrawal from the account and uses the funds solely for the benefit of another party, and the benefited party or its estate, heir, or agent subsequently seeks to recover a proportion of the amount withdrawn from the party that made the withdrawal, a court may, at its discretion and in the interest of justice, reduce the benefited party's ownership interest in the amount withdrawn.*

Existing law provides that rights of survivorship are eliminated for funds withdrawn by a party with a right of withdrawal during the lifetime of the party.

This bill instead would eliminate those rights of survivorship with respect to funds withdrawn to the extent of the withdrawing party's net

contribution to the account. The bill would also make conforming changes.

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

6 (2) *If one party makes a withdrawal from the account and uses*
7 *the funds withdrawn solely for the benefit of another party, and*
8 *the benefited party or its estate, heir, or agent subsequently seeks*
9 *to recover a proportion of the amount withdrawn from the party*
10 *that made the withdrawal, a court may, at its discretion and in the*
11 *interest of justice, reduce the benefited party's ownership interest*
12 *in the amount withdrawn.*

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

16 (c) In the case of a Totten trust account, the beneficiary has no
17 rights to the sums on deposit during the lifetime of any party, unless
18 there is clear and convincing evidence of a different intent. If there
19 is an irrevocable trust, the account belongs beneficially to the
20 beneficiary.

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

22 5303. (a) The provisions of Section 5302 as to rights of
23 survivorship are determined by the form of the account at the death
24 of a party.

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

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

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

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

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

5 (c) During the lifetime of a party, the terms of the account may
6 be changed as provided in subdivision (b) to eliminate or to add
7 rights of survivorship. Withdrawal of funds from the account by
8 a party also eliminates rights of survivorship with respect to the
9 funds withdrawn to the extent of the withdrawing party's net
10 contribution to the account.

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

12 5401. (a) Financial institutions may enter into multiple-party
13 accounts to the same extent that they may enter into single-party
14 accounts. Any multiple-party account may be paid, on request and
15 according to its terms, to any one or more of the parties or agents.

16 (b) The terms of the account or deposit agreement may require
17 the signatures of more than one of the parties to a multiple-party
18 account during their lifetimes or of more than one of the survivors
19 after the death of any one of them on any check, check
20 endorsement, receipt, notice of withdrawal, request for withdrawal,
21 or withdrawal order. In such case, the financial institution shall
22 pay the sums on deposit only in accordance with such terms, but
23 those terms do not limit the right of the sole survivor or of all of
24 the survivors to receive the sums on deposit.

25 (c) A financial institution is not required to do any of the
26 following pursuant to Section 5301, 5303, or any other provision
27 of this part:

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

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

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

36 (d) All funds in an account, unless otherwise agreed in writing
37 by the financial institution and the parties to the account, remain
38 subject to liens, security interests, rights of setoff, and charges,

- 1 notwithstanding the determination or allocation of net contributions
- 2 with respect to the parties.

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