

AMENDED IN SENATE JULY 6, 2012  
AMENDED IN SENATE JUNE 21, 2012  
AMENDED IN ASSEMBLY MARCH 15, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1624**

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**Introduced by Assembly Member Gatto**

February 9, 2012

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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 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 specify that if a party makes an excess withdrawal, as defined, from an account, the other parties to the account shall have an ownership interest in the excess withdrawal in proportion to the net contributions of each to the amount on deposit in the account immediately following the excess withdrawal, unless there is clear and convincing evidence of a contrary agreement between the parties. The bill would define excess withdrawal as the amount of a party's withdrawal that exceeds that party's net contribution on deposit in the account immediately preceding the withdrawal. The bill would also provide that only a living party, or a conservator, guardian, or agent acting on behalf of a living

party, shall be permitted to make a claim to recover the living party’s ownership interest in an excess withdrawal pursuant to the provisions above. However, the bill would authorize a court, at its discretion, and in the interest of justice, to reduce any recovery under the provisions above to reflect funds withdrawn and applied ~~solely~~ for the benefit of the claiming party.

Existing law provides that rights of survivorship are eliminated for funds withdrawn by a party with a right of withdrawal during the lifetime of the party.

This bill instead would eliminate those rights of survivorship with respect to funds withdrawn to the extent of the withdrawing party’s net contribution to the account.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) An account belongs, during the lifetime of all parties,  
 4 to the parties in proportion to the net contributions by each, unless  
 5 there is clear and convincing evidence of a different intent.

6 (b) If a party makes an excess withdrawal from an account, the  
 7 other parties to the account shall have an ownership interest in the  
 8 excess withdrawal in proportion to the net contributions of each  
 9 to the amount on deposit in the account immediately following the  
 10 excess withdrawal, unless there is clear and convincing evidence  
 11 of a contrary agreement between the parties.

12 (c) Only a living party, or a conservator, guardian, or agent  
 13 acting on behalf of a living party, shall be permitted to make a  
 14 claim to recover the living party’s ownership interest in an excess  
 15 withdrawal, pursuant to subdivision (b). A court may, at its  
 16 discretion, and in the interest of justice, reduce any recovery under  
 17 this section to reflect funds withdrawn and applied ~~solely~~ for the  
 18 benefit of the claiming party.

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

1 (e) In the case of a Totten trust account, the beneficiary has no  
2 rights to the sums on deposit during the lifetime of any party, unless  
3 there is clear and convincing evidence of a different intent. If there  
4 is an irrevocable trust, the account belongs beneficially to the  
5 beneficiary.

6 (f) For purposes of this section, “excess withdrawal” means the  
7 amount of a party’s withdrawal that exceeds that party’s net  
8 contribution on deposit in the account immediately preceding the  
9 withdrawal.

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

11 5303. (a) The provisions of Section 5302 as to rights of  
12 survivorship are determined by the form of the account at the death  
13 of a party.

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

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

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

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

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

25 (c) During the lifetime of a party, the terms of the account may  
26 be changed as provided in subdivision (b) to eliminate or to add  
27 rights of survivorship. Withdrawal of funds from the account by  
28 a party also eliminates rights of survivorship with respect to the  
29 funds withdrawn to the extent of the withdrawing party’s net  
30 contribution to the account.

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

32 5401. (a) Financial institutions may enter into multiple-party  
33 accounts to the same extent that they may enter into single-party  
34 accounts. Any multiple-party account may be paid, on request and  
35 according to its terms, to any one or more of the parties or agents.

36 (b) The terms of the account or deposit agreement may require  
37 the signatures of more than one of the parties to a multiple-party  
38 account during their lifetimes or of more than one of the survivors  
39 after the death of any one of them on any check, check  
40 endorsement, receipt, notice of withdrawal, request for withdrawal,

1 or withdrawal order. In such case, the financial institution shall  
2 pay the sums on deposit only in accordance with such terms, but  
3 those terms do not limit the right of the sole survivor or of all of  
4 the survivors to receive the sums on deposit.

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

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

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

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

16 (d) All funds in an account, unless otherwise agreed in writing  
17 by the financial institution and the parties to the account, remain  
18 subject to liens, security interests, rights of setoff, and charges,  
19 notwithstanding the determination or allocation of net contributions  
20 with respect to the parties.