

**Assembly Bill No. 1624**

CHAPTER 235

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

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1624, 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at its discretion, and in the interest of justice, to reduce any recovery under the provisions above to reflect funds withdrawn and applied for the benefit of the claiming party.

Existing law provides that rights of survivorship are eliminated for funds withdrawn by a party with a right of withdrawal during the lifetime of the party.

This bill instead would eliminate those rights of survivorship with respect to funds withdrawn to the extent of the withdrawing party's net contribution to the account.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

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

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

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

(b) If a party makes an excess withdrawal 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.

(c) 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 subdivision (b). A court may, at its discretion, and in the interest of justice, reduce any recovery under this section to reflect funds withdrawn and applied for the benefit of the claiming party.

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

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

(f) For purposes of this section, "excess withdrawal" means the amount of a party's withdrawal that exceeds that party's net contribution on deposit in the account immediately preceding the withdrawal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Determine any party's net contribution.

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

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