



H.B. 326

126th General Assembly
(As Introduced)

Reps. Faber, Setzer, Reinhard, C. Evans, McGregor, Kearns

BILL SUMMARY

- Establishes conditions governing how the owners of a joint account at a financial institution may be presumed to have created a survivorship interest in the account.
- Stipulates that funds held in a joint account with a right of survivorship at a financial institution belong to the surviving owner(s) of the account in the absence of fraud, duress, undue influence, or lack of capacity.

CONTENT AND OPERATION

Joint and survivorship accounts

(R.C. 1109.07)

Existing law stipulates that, in the case of a deposit made in the name of two or more persons, payable to either or the survivor, a bank may pay all of the deposit, any part of the deposit, or any interest earned on the deposit, to either of the named persons or the guardian of the estate of either of the named persons, whether or not the other person is living.

Establishing survivorship rights

(R.C. 2131.14(A) and (B))

The bill stipulates that if a financial institution, clearly and conspicuously, provides the appropriate notice (see below) at the time a joint account with right of survivorship is opened, then it shall be irrefutably presumed that all the owners of the account intended to create a survivorship interest in the account in the absence of fraud, duress, undue influence, or lack of capacity of an owner. In that case, the bill specifies that the sum on deposit in the account will belong to the surviving owner(s). If, however, the financial institution does not provide the notice at the

time the account is opened, the sums on deposit in the account still will belong to the surviving owner(s), also in the absence of fraud, duress, undue influence, or lack of capacity, but allows that result to be challenged and overturned by a "preponderance of evidence indicating a different intent."

The bill permits the notice to be provided by the financial institution by means of a signature card or application form at the time the account is opened and requires the notice to be substantially in the following form:

"IMPORTANT: IF ANY OWNER OF THIS ACCOUNT DIES, ALL SUMS IN THE ACCOUNT AT THAT TIME WILL IMMEDIATELY BECOME THE PROPERTY OF THE OTHER OWNER OR OWNERS. YOUR WILL OR OTHER ESTATE PLAN WILL NOT CHANGE THIS RESULT. IF YOU DON'T WANT THIS RESULT, DON'T OPEN THIS KIND OF ACCOUNT."

Definitions

(R.C. 2131.14(C))

The bill establishes the following relevant definitions among others:

(1) "Joint account with right of survivorship" is defined as "an account that by its terms provides that, upon the death of any one or two or more owners, the account is owned by the survivor or survivors without further action by any person."

(2) "Account" is defined to mean a checking, savings, money market, cash management, or brokerage account or a certificate of deposit or share account, or other similar deposit transaction opened at a financial institution after December 31, 2005.

(3) "Financial institutions" means a bank, savings and loan association, savings bank, or credit union authorized to do business by any state, the United States or possession of the United States or a broker-dealer or security firm.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-15-05	p. 1637

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