

SIDE-BY-SIDE

Article 6- Nonprobate Transfers-Part 1

ARTICLE 6: EXISTING CODE LANGUAGE	Bill # S. 1243
Article 6.Part 1. Multiple Party Accounts	Article 6.Part 1. Definitions and General Provisions
<p>SECTION 62-6-101. Definitions.</p> <p>In this part [Sections 62-6-101 et seq.], unless the context otherwise requires:</p> <p>(1) “Account” means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangement.</p> <p>(2) “Beneficiary” means a person named in a trust account as one for whom a party to the account is named as trustee.</p> <p>(3) “Financial institution” means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.</p> <p>(4) “Joint account” means an account payable on request to one or more of two or more parties (whether “and”, “or”, “and/or”, or any other designation), whether or not mention is made of any right of survivorship.</p> <p>(5) A “Multiple-Party account” is any of the following types of account: (i) a joint account, (ii) a P.O.D. account, or (iii) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.</p> <p>(6) “Net contribution” of a party to a joint account as of any given time is the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a prorata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.</p> <p>(7) “Party” means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the</p>	<p>SECTION 62-6-101.</p> <p>In this subpart [Sections 62-6-101 et seq.], unless the context otherwise requires:</p> <p>(1) ‘Account’ means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangement <u>arrangements</u>.</p> <p>(2) <u>‘Agent’ means a person authorized to make account transactions for a party.</u></p> <p>(3) <u>‘Beneficiary’ means a person named in a trust account as one for whom a party to the account is named as trustee as one to whom sums on deposit in an account are payable on request after death of all parties or for whom a party is named as trustee.</u></p> <p>(3)(4) (4) ‘Financial institution’ means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions <u>and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.</u></p> <p>(4) ‘Joint account’ means an account payable on request to one or more of two or more parties (whether ‘and’, ‘or’, ‘and/or’, or any other designation), whether or not mention is made of any right of survivorship.</p> <p>(5) A ‘Multiple-Party account’ is any of the following types of account: (i) a joint account, (ii) a P.O.D. account, or (iii) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement <u>means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned including, but not limited to, joint accounts or POD accounts.</u></p> <p>(6) ‘Net contribution’ of a party to a joint account as of any given time is <u>means</u> the sum of all deposits thereto to an account made by or for him the party, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a prorata share</p>

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<p>original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal.</p> <p>(8) “Payment” of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any set-off, or reduction or other disposition of all or part of an account pursuant to a pledge.</p> <p>(9) “Proof of death” includes a death certificate or record or report which is prima facie proof of death under Section 62-1-107.</p> <p>(10) “P.O.D. account” means an account payable on request to one person during his lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.</p> <p>(11) “P.O.D. payee” means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.</p> <p>(12) “Request” means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.</p> <p>(13) “Sums On Deposit” means the balance payable on a multiple-party account including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.</p> <p>(14) “Trust account” means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relationship such as attorney-client.</p> <p>(15) “Withdrawal” includes payment to a third person pursuant to check or other directive of a party.</p>	<p>of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.</p> <p>(7) ‘Party’ means a person who, by the terms of the an account, has a present right, subject to request, to payment from a multiple party the account <u>other than as a beneficiary or agent. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal.</u></p> <p>(8) ‘Payment’ of sums on deposit includes withdrawal, payment on check or other directive of to a party, and any pledge of sums on deposit by a party and any set-off, or reduction or other disposition of all or part of an account pursuant or third person pursuant to a check or other request, and a pledge of sums on deposit by a party, or a set-off, reduction, or other disposition of all or part of an account pursuant to a pledge.</p> <p>(9) ‘Proof of death’ includes a death certificate or record or report which is prima facie proof of death under Section 62-1-107 <u>62-1-507</u>.</p> <p>(10) ‘P.O.D. account’ means an account payable on request to one person during his lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees <u>designation’ means the designation of: (i) a beneficiary in an account payable on request to one party during the party’s lifetime and on the party’s death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries, or (ii) a beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.</u></p> <p>(11) ‘P.O.D. payee’ means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons <u>‘Receive’ as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a</u></p>

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<p>REPORTER’S COMMENTS</p> <p>Section 62-6-101 defines the terms of the application of Part 1 generally to the “joint” (4), the “P.O.D.” (10) and the “trust” (14) versions of the “multiple-party” (5) “accounts” (1) offered by “financial institutions” (3), with certain types of accounts expressly excluded (5) and (14), and also the application of Part 1 more specifically to the “withdrawal” (15) or “payment” (8) of the “net contributions” of a party (6) or of the “sums on deposit” (13) in such accounts, as per the “request” (12) of a “party,” or his representative (7), of a “P.O.D. payee” (11) or of a “beneficiary” (2), perhaps on some “proof of death” (9).</p>	<p><u>particular place, in the place required.</u></p> <p>(12) ‘Request’ means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal <u>complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution.</u> <u>However, for purposes of this subpart, if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.</u></p> <p>(13) ‘Sums on deposit’ means the balance payable on a multiple-party account including interest, <u>and dividends earned, whether or not included in the current balance,</u> and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.</p> <p>(14) ‘Trust account’ means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relationship such as attorney client.</p> <p>(15) ‘Withdrawal’ includes payment to a third person pursuant to check or other directive of a party <u>‘Terms of the account’ includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.</u></p> <p>REPORTER’S COMMENTS</p> <p>This and the sections that follow are designed to reduce certain questions concerning many forms of multiple-person accounts. A ‘payable on death’ designation and an ‘agency’ designation are also authorized for both single-party and multiple-party accounts. An agent (paragraph (2)) may not be a party. The agency designation must be signed by all parties, and the agent is the agent of all parties. See Section 62-6-105 (designation of agent). A ‘beneficiary’ of a party (paragraph (3)) may be a POD beneficiary. See paragraph (10) (‘POD designation’ defined). The definition of ‘beneficiary’ refers to a ‘person,’ who may be an individual, corporation, organization, or other legal entity Thus, a church, trust company, family</p>

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<p data-bbox="180 1079 1341 1144">SECTION 62-6-102. Ownership as between parties and others; protection of financial institutions.</p> <p data-bbox="180 1177 1341 1380">The provisions of Sections 62-6-103 to 62-6-105 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. The provisions of Sections 62-6-108 to 62-6-113 govern the liability of financial institutions who make payments pursuant thereto and their set-off rights.</p>	<p data-bbox="1341 240 2507 1047">corporation, or other entity, as well as any individual, may be designated as a beneficiary. The term ‘multiple-party account’ (paragraph 5) is used in this part in a broad sense to include any account having more than one owner with a present interest in the account. Thus, an account may be a ‘multiple-party account’ within the meaning of this part regardless of whether the terms of the account refer to it as ‘joint tenancy’ or as ‘tenancy in common,’ regardless of whether the parties named are coupled by ‘or’ or ‘and,’ and regardless of whether any reference is made to survivorship rights, whether expressly or by abbreviation such as JTWROS or JT TEN. Survivorship rights in a multiple-party account are determined by the terms of the account, by statute and by the intent of the party, and survivorship is not a necessary incident of a multiple-party account. See Section 62-6-202 (rights at death). ‘Net contribution’ as defined in paragraph (6) has no application to the financial institution-depositor relationship. Rather, it is relevant only to controversies that may arise between parties to a multiple-party account. See Section 62-6-201 (ownership during lifetime). Under paragraph (7), a ‘party’ is a person with a present right to payment from an account. Therefore, present owners of a multiple-party account are parties, as is the present owner of an account with a POD designation. The beneficiary of an account with a POD designation is not a party, but is entitled to payment only on the death of all parties. An agent with the right of withdrawal on behalf of a party is not itself a party. A person claiming on behalf of a party such as a guardian or conservator, or claiming the interest of a party such as a creditor, is not itself a party, and the right of such a person to payment is governed by general law other than this part. Various signature requirements may be involved in order to meet the payment requirements of the account. A ‘request’ (paragraph (12)) involves compliance with these requirements. A party is one to whom an account is presently payable without regard to whose signature may be required for a ‘request.’</p> <p data-bbox="1341 1079 2507 1112">SECTION 62-6-102.</p> <p data-bbox="1341 1177 2507 1416">The provisions of Sections 62-6-103 to 62-6-105 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. The provisions of Sections 62-6-108 to 62-6-113 govern the liability of financial institutions who make payments pursuant thereto and their set-off rights. This article does not apply to: (i) an account established for a partnership, joint venture, or other</p>

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<p>REPORTER’S COMMENTS</p> <p>Section 62-6-102 serves to protect financial institutions against the claims of contributing parties, their creditors, noncontributing parties, and any other persons, founded on the alleged mispayment of the funds on deposit in multiple-party accounts. If the financial institution makes payment of the funds in accordance with the terms of the account contract, then Sections 6-108 through 6-113 apply to protect it.</p> <p>SECTION 62-6-103. Ownership during lifetime.</p> <p>(a) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.</p> <p>(b) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by subsection (a) of this section.</p> <p>(c) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by subsection (a) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.</p>	<p><u>organization for a business purpose, (ii) an account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association, or charitable or civic organization, or (iii) a fiduciary or trust account in which the relationship is established other than by the terms of the account.</u></p> <p>REPORTER’S COMMENTS</p> <p>The reference to a fiduciary or trust account in item (iii) includes a regular trust account under a testamentary trust or a trust agreement that has significance apart from the account, and a fiduciary account arising from a fiduciary relation such as attorney-client.</p> <p>SECTION 62-6-103.</p> <p>(a) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.</p> <p>(b) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by subsection (a) of this section.</p> <p>(c) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by subsection (a) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary. <u>(a) An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to Section 62-6-202(c), either a single-party account or a multiple-party account may have a POD designation, an agency designation, or both.</u></p> <p><u>(b) An account established after January 1, 2013, whether in the form prescribed in Section 62-6-104 or in any other form, is either a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, within the meaning of this subpart, and is governed by this article.</u></p>

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<p>REPORTER’S COMMENTS</p> <p>Section 62-6-103 establishes the beneficial ownership of the funds on deposit in multiple-party accounts, first, as among the living parties, contributing and noncontributing, and, second, as between the living parties and the P.O.D. payees and trust account beneficiaries. First, under Section 62-6-103(a), (b), and (c), living parties, as defined in Section 62-6-101(7), as among themselves, share beneficial ownership of the funds on deposit not only in joint accounts but also in P.O.D. accounts, as original payees, as well as in trust accounts, as trustees. They always share in proportion to the individual net contributions made by or for them, as defined in Section 62-6-101(6). Deceased parties’ ownership, if any, is governed by Sections 62-6-104, 62-6-105, and 62-6-107. Second, under Section 62-6-103(b) and (c), living parties do not share beneficial ownership with P.O.D. payees and with trust account beneficiaries; instead, the living parties exclude the others from ownership during their own lives, unless, under Section 62-6-103(c), an irrevocable trust is shown, and then the trust account beneficiary beneficially owns the funds on deposit even during the life of the living party, trustee.</p> <p>SECTION 62-6-104. Right of survivorship.</p> <p>(a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is a writing filed with the financial institution at the time the account is created (or subsequently as provided under Section 62-6-105) which indicates a different intention. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under Section 62-6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.</p> <p>(b) If the account is a P.O.D. account:</p> <p>(1) on death of one of two or more original payees the rights to any sums remaining on deposit are governed by subsection (a);</p> <p>(2) on death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in the event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.</p> <p>(c) If the account is a trust account:</p>	<p>REPORTER’S COMMENTS</p> <p>In the case of an account established after the effective date of this part that is not in substantially the form provided in Section 62-6-104, the account is governed by the provisions of this part applicable to the type of account that most nearly conforms to the depositor’s intent. See Section 62-6-104 (forms).</p> <p>Thus, a tenancy in common account established before or after the effective date of this part would be classified as a ‘multiple-party account’ for purposes of this part. See Section 62-6-101(5) (‘multiple-party account’ defined). On death of a party there would not be a right of survivorship since the tenancy in common title would be treated as a multiple-party account without right of survivorship. See Section 62-6-202(c). It should be noted that a POD designation may not be made in a multiple-party account without right of survivorship. See Sections 62- 6-101(10) (‘POD designation’ defined), 62-6-104 (forms), and 62-6-202 (rights at death).</p> <p>SECTION 62-6-104.</p> <p>(a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is a writing filed with the financial institution at the time the account is created (or subsequently as provided under Section 62-6-105) which indicates a different intention. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under Section 62-6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.</p> <p>(b) If the account is a P.O.D. account:</p> <p>(1) on death of one of two or more original payees the rights to any sums remaining on deposit are governed by subsection (a);</p> <p>(2) on death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in the event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.</p> <p>(c) If the account is a trust account:</p>

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<p>(1) on death of one of two or more trustees, the right to any sums remaining on deposit are governed by subsection (a);</p> <p>(2) on death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account on deposit agreement expressly provide for survivorship between them.</p> <p>(d) In other cases, the death of any party to a multiple party account has no effect on beneficial ownership on the account other than to transfer the rights of the decedent as part of his estate.</p> <p>(e) A right to survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will; however, a party who owns a joint account under the provisions of Section 62-6-103(a) may effect such change by will to the extent of his ownership if the will contains clear and convincing evidence of his intent to do so.</p> <p>(f) The provisions of Section 62-6-104(a), (b), and (c) are applicable to all multiple-party accounts created subsequent to the effective date of this section, and unless there is clear and convincing evidence of a different intention at the time the account was created, to all multiple-party accounts created prior to the effective date of this section.</p>	<p>(1) on death of one of two or more trustees, the right to any sums remaining on deposit are governed by subsection (a);</p> <p>(2) on death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account on deposit agreement expressly provide for survivorship between them.</p> <p>(d) In other cases, the death of any party to a multiple party account has no effect on beneficial ownership on the account other than to transfer the rights of the decedent as part of his estate.</p> <p>(e) A right to survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will; however, a party who owns a joint account under the provisions of Section 62-6-103(a) may effect such change by will to the extent of his ownership if the will contains clear and convincing evidence of his intent to do so.</p> <p>(f) The provisions of Section 62-6-104(a), (b), and (c) are applicable to all multiple party accounts created subsequent to the effective date of this section, and unless there is clear and convincing evidence of a different intention at the time the account was created, to all multiple party accounts created prior to the effective date of this section. A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this subpart applicable to an account of that type:</p> <p style="text-align: center;"><u>‘UNIFORM SINGLE-OR MULTIPLE-PARTY ACCOUNT FORM</u></p> <p><u>PARTIES [Name One or More Parties]:</u></p> <p>_____</p> <p><u>OWNERSHIP [Select One And Initial]:</u></p> <p><u>__SINGLE-PARTY ACCOUNT</u></p>

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	<p><u> MULTIPLE-PARTY ACCOUNT</u> <u>Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.</u></p> <p><u>RIGHTS AT DEATH [Select One And Initial]:</u></p> <p><u>If Single-Party Account is chosen in 2. above, choose one of following:</u></p> <p><u> SINGLE-PARTY ACCOUNT</u> <u>At death of party, ownership passes as part of party’s estate.</u></p> <p><u> SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION</u> <u>[Name One Or More Beneficiaries]:</u></p> <p>_____</p> <p><u>At death of party, ownership passes to POD beneficiaries and is not part of party’s estate.</u></p> <p><u>If Multiple-Party Account is chosen in 2. above, choose one of following:</u></p> <p><u> MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP</u></p> <p><u>At death of party, ownership passes to surviving parties. The last surviving party owns the entire account. (Note: This can be overridden by clear and convincing evidence of a contrary intent.)</u></p> <p><u> MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH) DESIGNATION</u> <u>[Name One Or More Beneficiaries]:</u></p> <p>_____</p> <p><u>At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party’s estate.</u></p>

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<p>REPORTER’S COMMENTS</p> <p>Section 62-6-104 establishes the beneficial ownership of the funds on deposit in multiple-party accounts, as between, first, the estates of deceased parties and, second, the yet living parties, P.O.D. payees and trust account beneficiaries; it establishes the right of survivorship. Under Section 62-6-104(a), (b), (c), and (f), the estates of deceased parties, as defined at Section 62-6-101(7), lose their shares of ownership of the funds on deposit in both joint accounts as well as in P.O.D. accounts, as original payees, and in trust accounts, as trustees. The surviving party or parties, whether as such, Section 62-6-104(a) and (f), or as original payees, Section 62-6-104(b)(1), or as trustees, Section 62-6-104(c)(1), and whether one or more survives, continue as beneficial owners of the funds on deposit in the multiple-party account. They continue as such owners individually if only one survives and, if more than one survives, they continue as owners as under Section 62-6-103, with some adjustment, however, to dispose of the deceased party’s share. In those cases in which no parties, as original payees or as trustees, survive beyond the death of the deceased party, the surviving P.O.D. payees or the surviving</p>	<p><u>MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP</u> <u>At death of party, deceased party’s ownership passes as part of deceased party’s estate.</u></p> <p><u>DESIGNATION OF AGENT FOR ACCOUNT [Optional]</u> <u>Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.</u> <u>[To Add Agency Designation To Account, Name One Or More Agents]:</u></p> <p>_____</p> <p><u>[Select One And Initial]:</u> <u>_____ AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES</u></p> <p><u>_____ AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES’</u></p> <p><u>(b) A contract of deposit that does not contain provisions in substantially the form provided in subsection (a) is governed by the provisions of this article applicable to the type of account that most nearly conforms to the depositor’s intent.</u></p> <p>REPORTER’s COMMENTS</p> <p>This section provides short forms for single- and multiple-party accounts which, if used, bring the accounts within the terms of this part. A financial institution that uses the statutory form language in its accounts is protected in acting in reliance on the form of the account. See also Section 62-6-306 (discharge).</p> <p>The forms provided in this section enable a person establishing a multiple-party account to state expressly in the account whether there are to be survivorship rights between the parties. The account forms permit greater flexibility than traditional account designations.</p> <p>An account that is not substantially in the form provided in this section is nonetheless governed by this part. See Section 62-6-103 (types of account; existing accounts).</p>

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<p>trust account beneficiaries become the beneficial owners of the funds on deposit in the multiple-party account, individually, however, whether one or more than one survives, and without any right of survivorship as among themselves.</p> <p>The provisions of Section 62-6-104 establishing the right of survivorship will normally apply, even to accounts established prior to the effective date of this statute, Section 62-6-104(f), but they may be overcome by sufficient expressions of an intention to the contrary, as in a writing filed with the financial institution under either of Sections 62-6-104(a), 62-6-104(b)(2), and 62-6-104(c)(2), or 62-6-105, and also as in the will of a party, who by way of his net contributions owns some part of an account under Section 62-6-103(a), as under the proviso to Section 62-6-104(e), but otherwise not by will. Once the provisions of Section 62-6-104 are overcome the death of a party does not occasion the passing by right of survivorship of any funds on deposit, Section 62-6-104(d).</p> <p>SECTION 62-6-105. Effect of written notice to financial institution.</p> <p>The provisions of Section 62-6-104 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order of the same party during his lifetime.</p> <p>REPORTER'S COMMENTS</p> <p>Section 62-6-105 allows a writing signed by one of the parties and filed with the financial institution to overcome the normally applicable provisions of Section 62-6-104 establishing the right of survivorship with respect to a multiple-party account. See the comment to Section 62-6-104. Either a contributing party or a noncontributing party may alone order the alteration</p>	<p>SECTION 62-6-105.</p> <p>The provisions of Section 62-6-104 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order of the same party during his lifetime. <u>By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party. Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated. Death of the sole party or last surviving party terminates the authority of an agent. The designated agent on an account is authorized to make all transactions on the account that the party can make, including, but not limited to, closing the account. An agent serving under a durable power of attorney can change, modify, or revoke an agent designated on an account.</u></p> <p>REPORTER'S COMMENTS</p> <p>An agent has no beneficial interest in the account. See Section 62-6-201 (ownership during lifetime). The agency relationship is governed by the general law of agency of the state, except to the extent this part provides express rules, including the rule that the agency survives the disability or incapacity of a party.</p>

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<p>of the right of survivorship, consistent with the rule of Section 62-6-103(a), that funds on deposit in a joint account belong to the living parties in proportion to their respective net contributions, and with the rules of Section 62-6-108 et seq., as to the noncontributing parties' rights.</p> <p>SECTION 62-6-106. Accounts and transfers nontestamentary.</p> <p>Any transfers resulting from the application of Section 62-6-104 are effective by reason of the account contracts involved and this statute and are not to be considered as testamentary or subject to Articles 1 through 4 [Sections 62-1-101 thru 62-4-101 et seq.] except as a consequence of, and to the extent directed by, Section 62-6-107.</p> <p>REPORTER'S COMMENTS Section 62-6-106 establishes the theoretical basis for the legally effective transfer at death by survivorship right of multiple-party account assets, more practically established by Sections 62-6-104 and 62-6-105. The transfers are effective as third party beneficiary contracts to make gifts, and by statutory allowance, even though they are testamentary in their nature, and they are not to be governed by this Code's provisions otherwise governing testamentary transfers except so far as they are affected by Section 62-6-107.</p> <p>SECTION 62-6-107. Rights of creditors.</p> <p>Subject to the provisions contained in Section 62-3-916, no multiple-party account is effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, if other assets of the estate are insufficient; a surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party is liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's</p>	<p>A financial institution may make payments at the direction of an agent notwithstanding disability, incapacity, or death of the party, subject to receipt of a stop notice. Section 62-6-306 (discharge); see also Section 62-6-304 (payment to designated agent). The rule of subsection (b) applies to agency designations on all types of accounts, including nonsurvivorship as well as survivorship forms of multiple-party accounts.</p> <p>SECTION 62-6-106.</p> <p>Any transfers resulting from the application of Section 62-6-104 are effective by reason of the account contracts involved and this statute and are not to be considered as testamentary or subject to Articles 1 through 4 [Sections 62-1-101 thru 62-4-101 et seq.] except as a consequence of, and to the extent directed by, Section 62-6-107. The provisions of Part 2 concerning beneficial ownership as between parties or as between parties and beneficiaries apply only to controversies between those persons and their creditors and other successors, and do not apply to the right of those persons to payment as determined by the terms of the account. Part 3 governs the liability and set-off rights of financial institutions that make payments pursuant to it.</p> <p>SECTION 62-6-107.</p> <p>Subject to the provisions contained in Section 62-3-916, no multiple-party account is effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, if other assets of the estate are insufficient; a surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party is liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's</p>

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<p>estate. No proceeding to assert this liability may be commenced unless the personal representative has received a written demand by a creditor of the decedent, and no proceeding may be commenced later than two years following the death of the decedent. Sums recovered by the personal representative must be administered as part of the decedent’s estate. This section does not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof or make it liable to the estate of a deceased party unless before payment the institution has been served with an order of the probate court.</p> <p>REPORTER’S COMMENTS</p> <p>Section 62-6-107, in derogation of the survivorship rights established in Sections 62-6-104 through 62-6-106, establishes in the estate of a deceased party a limited beneficial ownership of the funds on deposit in a multiple-party account, limited, however, to the payment of the debts, taxes, and the expenses of administration of the estate of the deceased party, and existing only if other assets of that estate are insufficient to that purpose, only up to the amount to which the deceased party was beneficially entitled prior to death, and only if a creditor’s claim proceeding is brought within two years of the deceased party’s death.</p> <p>SECTION 62-6-108. Financial institution protection; payment on signature of one party.</p> <p>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, to any one or more of the parties, unless a contrary intent is manifested by the terms of the account or the deposit agreement. A financial institution may not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account, for purposes of establishing net contributions.</p> <p>REPORTER’S COMMENTS</p> <p>Section 62-6-108 allows the financial institution to make payment, on request, to any one or more of the parties to any multiple-party account. See Section 62-6-101(7) for the definition of “party,” and see Sections 62-6-109, 62-6-110, and 62-6-111 for more specific provisions concerning the several commonly available versions of the multiple-party account. Under Section 62-6-108, the financial institution need not inquire of the source of funds deposited or of the application of funds withdrawn.</p>	<p>estate. No proceeding to assert this liability may be commenced unless the personal representative has received a written demand by a creditor of the decedent, and no proceeding may be commenced later than two years following the death of the decedent. Sums recovered by the personal representative must be administered as part of the decedent’s estate. This section does not affect the right of a financial institution to make payment on multiple party accounts according to the terms thereof or make it liable to the estate of a deceased party unless before payment the institution has been served with an order of the probate court.</p> <p>SECTION 62-6-108.</p> <p>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, to any one or more of the parties, unless a contrary intent is manifested by the terms of the account or the deposit agreement. A financial institution may not be required to inquire as to the source of funds received for deposit to a multiple party account, or to inquire as to the proposed application of any sum withdrawn from an account, for purposes of establishing net contributions.</p>

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<p data-bbox="190 272 1330 337">SECTION 62-6-109. Financial institution protection; payment after death or disability; joint account.</p> <p data-bbox="190 375 1330 573">Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under Section 62-6-104.</p> <p data-bbox="190 610 540 638">REPORTER’S COMMENTS</p> <p data-bbox="190 646 1330 873">Section 62-6-109 allows the financial institution to make payment of a “joint account,” on request, to any party, not only to contributing parties but also to noncontributing parties, whether any other party, e.g., a contributing party, is then dead or is yet alive and even though the other party is not only then alive but also is incapacitated. Notwithstanding the limits on the rights of noncontributing parties as against those of yet living contributing parties, established under Section 62-6-103(a), the financial institution may make payment of a joint account to any party and will be protected.</p> <p data-bbox="190 881 1330 1044">Because of the survivorship aspect of the rights of the respective parties to a joint account, assumed under Section 62-6-104(a), unless negated as provided for in Sections 62-6-104(a), 62-6-104(e), or 62-6-105; under Section 62-6-109 the financial institution may not make payment of a joint account to the representatives of a deceased party unless it is shown that he was the survivor of all the parties.</p> <p data-bbox="190 1081 1163 1109">SECTION 62-6-110. Financial institution protection; payment of P.O.D. account.</p> <p data-bbox="190 1146 1330 1409">Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.</p>	<p data-bbox="1352 272 1615 300">SECTION 62-6-109.</p> <p data-bbox="1352 375 2491 573">Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under Section 62-6-104.</p> <p data-bbox="1352 1081 1615 1109">SECTION 62-6-110.</p> <p data-bbox="1352 1146 2491 1409">Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.</p>

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<p>REPORTER’S COMMENTS</p> <p>Section 62-6-110 allows the financial institution to make payment of a “P.O.D. account,” on request, to any party, “original party,” thereby invoking the application of Section 62-6-109 to P.O.D. accounts to the extent that as between the several parties themselves such accounts may be described as “joint accounts.” See Section 62-6-103(a) and (b) and the comment to Section 62-6-109. However, the last sentence of Section 62-6-110 also concerns a matter which is part of the concern of Section 62-6-109, but goes further than does Section 62-6-109 to preclude the financial institution from making payment of a P.O.D. account to the representatives of a deceased party, unless it is shown that he was the survivor of both all the parties and also all the P.O.D. payees. That is consistent with the rights established under Section 62-6-104(b)(2). Section 62-6-110 allows the financial institution to make payment of a “P.O.D. account” to a P.O.D. payee, or his representative, only if it is shown that he was the survivor of all of the parties, “original payees.” That is consistent with the limitation of the rights of a P.O.D. payee to a right of survivorship, as under Sections 62-6-103(b) and 62-6-104(b)(2).</p> <p>SECTION 62-6-111. Financial institution protection; payment of trust account.</p> <p>Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any trust account may be paid, on request, to any trustee. Unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as trustee or beneficiary. Payment may be made, on request, to the beneficiary or to the personal representative or heirs of a deceased beneficiary upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.</p> <p>REPORTER’S COMMENTS</p> <p>Section 62-6-111 allows the financial institution to make payment of a “trust account,” on request, to any party, “trustee,” without regard to whether the trust is irrevocable and without regard to whether the beneficiary has a vested interest, thereby preserving the administrative control of the trustee of the funds on deposit. The application of Section 62-6-109 to trust accounts is invoked to the extent that as between the several parties themselves, if there are several, such accounts may be described as “joint accounts.” See Section 62-6-103(a) and (c)</p>	<p>SECTION 62-6-111.</p> <p>Unless a contrary intent is manifested by the terms of the account or the deposit agreement, any trust account may be paid, on request, to any trustee. Unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as trustee or beneficiary. Payment may be made, on request, to the beneficiary or to the personal representative or heirs of a deceased beneficiary upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.</p>

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<p>and the comment to Section 62-6-109. However, the second sentence of Section 62-6-111 also concerns a matter which is part of the concern of Section 62-6-109, but goes further than does Section 62-6-109 to preclude the financial institution from making payment of a trust account to the representatives of a deceased party, not only unless it is shown that he was the survivor of both all the parties and also all the beneficiaries, consistent with the rights established under Section 62-6-104(c)(2), but also if the beneficiary is shown to have had a vested interest not dependent upon his surviving the trustee, as projected as a possibility by Section 62-6-103(c). Section 62-6-111 allows the financial institution to make payment of a “trust account” to a beneficiary, only if it is shown that he was the survivor of all the parties, “trustees.” That is consistent with the limitation of the rights of a trust account beneficiary to a right of survivorship, as under Sections 62-6-103(c) and 62-6-104(c)(2), which obtains unless some greater right is shown to have been intended.</p> <p>SECTION 62-6-112. Financial institution protection; discharge.</p> <p>Payment made pursuant to Section 62-6-108, 62-6-109, 62-6-110, or 62-6-111 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.</p> <p>REPORTER’S COMMENTS</p> <p>Under Section 62-6-112, notwithstanding its receipt of other notice or information, the financial institution is discharged of all responsibility in the matter of the competing rights of the contributing parties, of their creditors and of the noncontributing parties, unless a party has given written notice to, and unless a creditor of a deceased party has served a probate court order on, the financial institution not to permit withdrawals in accordance with the terms of the</p>	<p>SECTION 62-6-112.</p> <p>Payment made pursuant to Section 62-6-108, 62-6-109, 62-6-110, or 62-6-111 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple party accounts.</p>

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<p>account, Section 62-6-107.</p> <p>SECTION 62-6-113. Financial institution protection; set-off.</p> <p>Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to set-off against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to set-off is that proportion to which the debtor is, or was immediately before his death, beneficially entitled, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal.</p> <p>REPORTER’S COMMENTS Section 62-6-113 allows the financial institution, as creditor of a party, to set off in its own favor an amount from a multiple-party account to cover the indebtedness of that party, but that set-off is limited to affect the amount to which the party is, or was, beneficially entitled.</p>	<p>SECTION 62-6-113.</p> <p>Without qualifying any other statutory right to set off or lien and subject to any contractual provision, if a party to a multiple party account is indebted to a financial institution, the financial institution has a right to set off against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to set off is that proportion to which the debtor is, or was immediately before his death, beneficially entitled, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal.</p>