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HOUSE BILL NO. 944

Offered January 26, 1998

A BILL to amend and reenact §§ 6.1-125.5 and 6.1-125.15 of the Code of Virginia, relating to banking and finance; joint accounts; rights of survivorship; identification of joint accounts.

Patrons—Dickinson (By Request), Cranwell, Croshaw, Jackson and Woodrum

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-125.5 and 6.1-125.15 of the Code of Virginia are amended and reenacted as follows:

§ 6.1-125.5. Right of survivorship.

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 clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under § 6.1-125.3 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 shall be owned in proportion to their previous ownership interests as provided under § 6.1-125.3, with the interests of all joint owners, including the estate of the decedent, to be the same as they may have owned in the account immediately prior to the death of any joint owner.

B. If the account is a P.O.D. account:

1. On the death of one of two or more original payees the rights to any sums remaining on deposit are governed by subsection A of this section;

2. On the 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.

All accounts established as P.O.D. accounts shall be executed by the owner of the account with the same formality as a will.

C. If the account is a trust account:

1. On the death of one of two or more trustees, the rights to any sums remaining on deposit are governed by subsection A of this section;

2. On the 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 or deposit agreement expressly provide for survivorship between them.

D. In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate. If the terms of the account clearly indicate that there is no right of survivorship, the estate of a decedent party shall succeed to the rights of decedent in such account.

E. A right of 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~~ *may* be changed by the will of the owner, provided the will was made and executed subsequent to the establishment of any such account. However, unless the bank or other institution holding funds in any such account has been advised of and has received a copy of a will making any such change of designation, the bank or other institution shall make payment to the party shown on the account as entitled to such payment. The bank or institution shall not be liable to any party for making payment to the party shown on the account as entitled to such payment if the bank or institution did not receive a copy of the will changing such designation, but the party entitled to such funds under the terms of the will may recover the funds from the party to whom the payment was made.

§ 6.1-125.15. Identification of joint accounts.

Every financial institution in this Commonwealth offering joint accounts to its depositors shall either:

1. Maintain two separate forms for the creation of joint accounts, one of which shall be clearly labeled "JOINT ACCOUNT WITH SURVIVORSHIP" and the other of which shall be clearly labeled "JOINT ACCOUNT - NO SURVIVORSHIP," both of which shall be made available to all persons opening joint accounts; or

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60 2. Maintain one form for the creation of such accounts that shall contain the two labels "JOINT
61 ACCOUNT WITH SURVIVORSHIP" and "JOINT ACCOUNT - NO SURVIVORSHIP," with
62 appropriate blank space or lines beside such labels for the parties to sign in order to indicate the type of
63 account desired, which signature requirement shall be in addition to any signature verification form.

64 The forms provided for in ~~alternative~~ *subdivision* 1 may be identical in all respects except for the
65 labels therein specified. This section shall not be construed to prevent any financial institution from
66 changing from one method of identification to the other method of identification at any time, nor to
67 require a financial institution making such a change to make any changes to the forms of its existing
68 accounts. This section is not applicable to joint accounts created before July 1, 1980.

69 *All accounts establishing a joint account with survivorship or a joint account with no survivorship*
70 *shall be executed by the owner or owners of the account with the same formalities as a will.*

71 *In order to establish a joint account with no survivorship, the owner of the account shall execute,*
72 *with the same formalities as a will, a document specifically stating that a new joint owner will own an*
73 *equal share in this account and that this ownership shall continue after the death of any joint owner,*
74 *unless the account is established to specifically state otherwise.*