

West's Annotated Code of Maryland  
Financial Institutions  
Title 1. Definitions; General Provisions  
Subtitle 2. General Provisions (Refs & Annos)

MD Code, Financial Institutions, § 1-204

§ 1-204. Transfer of account on death and multiple-party accounts

Currentness

**In general**

(a) A provision in an account agreement for a transfer on death in compliance with this section is nontestamentary and shall be effective according to the provisions of this section. Transfers pursuant to this section are effective in the form and manner prescribed by this section and are not to be considered testamentary.

**Definitions**

(b)(1) In this section the following words have the meanings indicated.

(2)(i) “Account” means any type of deposit or share account at a depository institution.

(ii) “Account” includes:

1. Checking and other demand deposit accounts;
2. Negotiable order of withdrawal and other savings accounts;
3. Share draft accounts; and
4. Certificated and uncertificated time deposit accounts.

(3) “Account agreement” means a written agreement, whether in 1 or more instruments, that establishes the type of account, the terms of account, and the relationship between the depository institution and the party or parties to the account.

(4) “Beneficiary” means any person designated on a trust account as a person:

- (i) To whom the account belongs after the death of all trustees for the account; and
- (ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any trustee for the account.

(5) “Convenience person” means any person who is authorized to draw upon funds in an account:

(i) Under a power of attorney given by 1 or more parties to the account; or

(ii) By virtue of a designation in the account agreement appointing that person as agent of a party or the parties to the account for the convenience of the party or parties.

(6) “Depository institution” means any State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain accounts.

(7) “Joint account” means any account other than a P.O.D. account or a trust account established in the name of 2 or more parties.

(8)(i) “Multiple-party account” means any of the following types of accounts at a depository institution:

1. Joint account;

2. P.O.D. account; or

3. Trust account.

(ii) “Multiple-party account” does not include any:

1. Account established and designated for the deposit of funds of a corporation, partnership, joint venture, limited liability company, or other association of persons for business purposes;

2. Account established and designated for the deposit of funds of a charitable or civic organization;

3. Fiduciary account where the relationship is established other than by the account agreement;

4. Account established and designated as governed under the Maryland Uniform Transfers to Minors Act;<sup>1</sup>

5. Account established and designated as governed under Title 13, Subtitle 4 of the Estates and Trusts Article; or

6. Account that would not be a multiple-party account except for the fact that 1 or more convenience persons are authorized to draw upon funds in the account.

(9)(i) "Party" means any person who, by the terms of the account agreement, possesses a present right to draw upon funds in a multiple-party account.

(ii) "Party" includes a trustee of a trust account.

(iii) "Party" does not include a:

1. Beneficiary of a trust account;

2. P.O.D. payee of a P.O.D. account; or

3. Convenience person.

(10) "P.O.D. account" means any account established in the name of 1 or more parties where funds in the account may be drawn upon:

(i) By 1 party during the party's lifetime and by 1 or more P.O.D. payees on the party's death; or

(ii) By 1 or more parties during their respective lifetimes and, upon the death of all the parties, by 1 or more P.O.D. payees.

(11) "P.O.D. payee" means any person designated on a P.O.D. account as a person:

(i) To whom the account belongs after the death of all parties to the account; and

(ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any party to the account.

(12)(i) "Power of attorney" means any writing signed by 1 or more parties to an account that authorizes 1 or more persons to draw upon funds in the account as agent or agents for the signing party or parties.

(ii) The designation of a person as a convenience person on an account shall be deemed to be a durable power of attorney appointing that person as agent for the party or parties to the account regardless of any disability of the party or parties subsequent to the designation.

(13)(i) "Trust account" means any account established in the name of 1 or more parties as trustees for 1 or more beneficiaries where:

1. None of the beneficiaries is also a trustee;
2. The trust relationship is established by the account agreement; and
3. There is no corpus of the trust other than the funds in the account.

(ii) "Trust account" does not include a:

1. Trust account under a testamentary trust, declaration of trust, or a trust agreement that has significance apart from the account; or
2. Fiduciary account arising from a fiduciary relationship.

#### **Multiple-party accounts**

(c)(1) A depository institution is authorized to establish multiple-party accounts subject to the terms of this section.

(2) Multiple-party accounts established on or after October 1, 1993, shall be subject to and comply with the terms of this section.

(3) A multiple-party account established before October 1, 1993, shall be subject to and comply with the terms of this section if:

(i) The parties expressly state in an account agreement that complies with subsection (e) of this section that the account shall be subject to the terms of this section; or

(ii) 1. The depository institution gives a written notice that:

- A. States that the law applicable to the account has changed;
- B. States that the party's rights under the account may change because of the change in law; and
- C. Repeats the provisions of subsection (d) of this section; and

2. After that notice is given, any party to the account:

- A. Increases or decreases the amount of the deposit in the account;
- B. Presents evidence of the account for crediting of interest;
- C. Corresponds or responds in writing with the depository institution concerning the account without rejecting in writing the provisions of this section; or
- D. Otherwise indicates approval of the account being governed by this section as evidenced by a writing on file with the depository institution.

**Death of party to multiple-party account**

(d)(1) Upon the death of a party to a multiple-party account, the right to any funds in the account shall be determined in accordance with the express terms of the account agreement.

(2) If the account agreement does not expressly establish the right to funds in the account upon the death of a party, or if there is no account agreement, any funds in the account upon the death of a party shall belong to the surviving party or parties.

(3) Unless the account agreement expressly provides otherwise, upon the death of the last party to a multiple-party account, any funds remaining in the account shall belong to:

- (i) The beneficiaries of a trust account who are then living;
- (ii) The P.O.D. payees of a P.O.D. account who are then living; or
- (iii) Subject to paragraph (4) of this subsection, the personal representative of:
  - 1. The last surviving party of a trust account if no beneficiary is then living;
  - 2. The last surviving party of a P.O.D. account if no P.O.D. payee is then living; or
  - 3. The last surviving party of a joint account.

(4) No payment from a multiple-party account may be made to the personal representative of a deceased party unless:

- (i) Proof is presented to the depository institution showing that the deceased party was the last surviving party; or
- (ii) There is no right of survivorship under this section.

(5) If there is no right of survivorship under this section, the depository institution may make payment from a multiple-party account to the personal representative of a deceased party without liability to:

(i) Any other party; or

(ii) Any party's heirs, personal representatives, or assigns.

(6) No funds in an account shall belong to any convenience person by reason of that capacity.

**Agreements for multiple-party accounts opened on or after October 1, 1993**

(e)(1) Each account agreement for a multiple-party account opened on or after October 1, 1993, shall contain a clear and conspicuous written statement specifying that unless contrary direction is given in the account agreement, upon the death of a party, the funds in the multiple-party account shall belong to the surviving party or parties.

(2) For multiple-party accounts opened on or after October 1, 1993, the depository institution shall give to the account party or parties:

(i) A copy of the account agreement; or

(ii) A written notice identifying the type of account, the survivorship rights of the parties to the account, and the method by which the account party or parties can obtain a copy of the account agreement.

**Withdrawal of funds from multiple-party account**

(f) Unless the account agreement expressly provides otherwise, the funds in a multiple-party account may be withdrawn by any party or by a convenience person for any party or parties, whether or not any other party to the account is incapacitated or deceased.

**Compliance with trust account requirements**

(g) A depository institution may presume that an account established by the parties as a trust account complies with the definitional requirements of a trust account as set forth in subsection (b) of this section unless, prior to the establishment of the account, the depository institution is provided with written notice to the contrary.

**Written materials given to account parties**

(h) Any written materials required by this section to be given to account parties:

(1) Shall be deemed given if:

(i) Delivered in person to any one of the account parties; or

(ii) Mailed to the account party or parties by first-class mail, postage prepaid, to the address for the account shown on the records of the depository institution; and

(2) May be provided along with or as part of other materials given to account parties.

**Designation of convenience person**

(i)(1) A person who has an ownership interest in an account that is not a multiple-party account may designate another person as a convenience person on that account.

(2) No funds in the account shall belong to any convenience person by reason of that capacity.

**Credits**

Added by [Acts 1992, c. 578, § 1, eff. Oct. 1, 1992](#). Amended by [Acts 1993, c. 584](#); [Acts 1995, c. 213, § 2, eff. Sept. 29, 1995](#).

[Notes of Decisions \(22\)](#)

**Footnotes**

1 [Estates and Trusts, § 13-301 et seq.](#)

MD Code, Financial Institutions, § 1-204, MD FIN INST § 1-204  
Current through the 2015 Regular Session of the General Assembly