

EHB 2626

THE STATE SENATE
Wednesday, March 29, 2006

ENGROSSED

House Bill No. 2626

As Amended

ENGROSSED HOUSE BILL NO. 2626 - By: PRUETT of the House and RABON of the Senate.

[banks and trust companies - payable on death accounts - procedures - access to safe deposit box - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 6 O.S. 2001, Section 901, is

amended to read as follows:

Section 901. A. When a deposit has been made or shall hereafter be made in any bank in the names of two or more persons, payable to any of them or payable to any of them or the survivor, such deposit, or any part thereof, or any interest thereon, may be paid to either of the persons, whether one of such persons shall be a minor or not, and whether the other be living or not; and the receipt or acquittance of the person so paid shall be valid and sufficient release and discharge to the bank for any payment so made.

B. 1. When a deposit has been made or shall hereafter be made in any bank using the terms "Payable on Death" or "P.O.D.", such deposits shall be payable on the death of the account owner to a

1 ~~trust designated in the deposit account agreement as the "P.O.D."~~
2 ~~beneficiary~~ one or more designated P.O.D. beneficiaries, or to an
3 individual or individuals named beneficiary if living and if not
4 living, to the named estate of the beneficiary, notwithstanding any
5 provision to the contrary contained in Sections 41 through 57 of
6 Title 84 of the Oklahoma Statutes. ~~Such~~ Each designated P.O.D.
7 beneficiary shall be a trust, an individual, or a nonprofit
8 organization exempt from taxation pursuant to the provisions of the
9 Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

10 2. A deposit account with a P.O.D. designation shall constitute
11 a contract between the account owner, (or owners, if more than one)
12 and the bank that upon the death of the last surviving owner of the
13 account, and after payment of account proceeds to any secured party
14 with a valid security interest in the account, the bank will hold
15 the funds for or pay them to the named primary beneficiary or ~~the~~
16 ~~estate of the named beneficiary~~ beneficiaries if living. If any
17 named primary beneficiary is not living, the share of that
18 beneficiary shall instead be held for or paid to the estate of that
19 deceased beneficiary unless contingent beneficiaries have been
20 designated by the account owner as allowed by paragraph 4 of this
21 subsection.

1 ~~2.~~ 3. Each P.O.D. beneficiary designated on a deposit account
2 shall be a primary beneficiary unless specifically designated as a
3 contingent beneficiary.

4 4. If there is only one primary P.O.D. beneficiary on a deposit
5 account and that beneficiary is an individual, the account owner may
6 designate one or more contingent beneficiaries for whom the funds
7 shall be held or to whom the funds shall be paid if the primary
8 beneficiary is not living when the last surviving owner of the
9 account dies. If there is more than one primary P.O.D. beneficiary
10 on a deposit account, contingent beneficiaries shall not be allowed
11 on that account.

12 5. If the only primary P.O.D. beneficiary is not living and one
13 or more contingent beneficiaries have been designated as allowed by
14 paragraph 4 of this subsection, the funds shall be held for or paid
15 to the contingent beneficiaries in equal shares, and shall not
16 belong to the estate of the deceased primary beneficiary. If the
17 only primary beneficiary is not living, and a contingent beneficiary
18 or contingent beneficiaries have been designated as allowed by
19 paragraph 4 of this subsection, but one or more designated
20 contingent beneficiaries are also not living, the share that
21 otherwise would belong to any deceased contingent beneficiary shall
22 instead be held for or paid to the estate of that deceased
23 contingent beneficiary.

1 6. In order to designate multiple primary payable on death
2 P.O.D. beneficiaries for a deposit account, the account should be
3 styled as follows:

4 "(Name of Account Owner), payable on death (or P.O.D.) to (Name
5 of Beneficiary), (Name of Beneficiary), and (Name of Beneficiary, in
6 equal shares.)"

7 7. If only one primary P.O.D. beneficiary has been designated
8 on a deposit account, the account owner may add the following, or
9 words of similar meaning, in the style of the account or in the
10 account agreement:

11 "If the designated P.O.D. beneficiary is deceased, then payable
12 on the death of the account owner to (Name of Beneficiary), (Name of
13 Beneficiary), and (Name of Beneficiary), as contingent
14 beneficiaries, in equal share."

15 ~~3.~~ 8. Adjustments may be made in the styling, depending upon
16 the number of owners of the account, to allow for survivorship
17 rights, and the number of beneficiaries. It is to be understood
18 that each beneficiary is entitled to a proportionate share of the
19 account proceeds only after the death of the last surviving account
20 owner, and after payment of account proceeds to any secured party
21 with a valid security interest in the account. In the event of the
22 death of a beneficiary prior to the death of the account owner, the
23 share of ~~the~~ that beneficiary shall go to the estate of ~~the~~ that

1 beneficiary. ~~It is not permissible for an account to designate~~
2 ~~unequal shares for different payable-on-death beneficiaries~~ Unless
3 one or more contingent beneficiaries have been designated to take
4 the place of that beneficiary as provided in paragraph 4 of this
5 subsection. All designated primary P.O.D. beneficiaries shall have
6 equal shares. All designated contingent P.O.D. beneficiaries shall
7 have equal shares as if the sole primary beneficiary is deceased.

8 ~~4.~~ 9. A bank may require the owner of an account to provide an
9 address for any primary or contingent ~~payable-on-death~~ P.O.D.
10 beneficiary. If the P.O.D. account is an interest-bearing account
11 and the funds are not claimed by the ~~payable-on-death~~ P.O.D.
12 beneficiary or beneficiaries within sixty (60) days after the death
13 of the last surviving account holder, or after the bank has notice
14 of the death of the last surviving account holder, whichever is
15 later, the bank has the right to convert the account to a non-
16 interest-bearing account.

17 ~~5.~~ 10. No change in the designation of a named beneficiary
18 shall be valid unless executed by the owner of the fund and in the
19 form and manner prescribed by the bank; however, this section shall
20 be subject to the provisions of Section 178 of Title 15 of the
21 Oklahoma Statutes.

22 ~~6.~~ 11. The receipt or acquittance of the named beneficiary so
23 paid, or of the legal representative of such named beneficiary's

1 estate, if the beneficiary is deceased and there is no contingent
2 beneficiary designated to take the place of that beneficiary, if
3 ~~deceased,~~ shall be valid and sufficient release and discharge to the
4 bank for any payment so made, unless, prior to such payment, the
5 bank receives notice in the form and manner required in Section 905
6 of this title.

7 C. The provisions of this section shall apply to all forms of
8 deposit accounts, including, but not limited to, transaction
9 accounts, savings accounts, certificates of deposits, negotiable
10 order of withdrawal (N.O.W.) accounts, and M.M.D.A. accounts.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1301.2 of Title 6, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A lessee of a safe deposit box may grant authorization for
15 one or more persons to have access to that safe deposit box upon the
16 death of the lessee, and the financial institution in which the safe
17 deposit box is located shall grant such access, subject to the
18 provision of this section.

19 B. The authorization shall be in writing in the following form:
20 "I hereby authorize access to safe deposit box (number or other
21 identification) at (name of financial institution) upon my death to
22 (name of person)." The form shall be signed and dated by the
23 lessee, and the signature of the lessee shall be notarized. The

1 authorization may be revoked in writing in the following form: "I
2 hereby revoke the authorization for access to safe deposit box
3 (number or other identification) at (name of financial institution)
4 upon my death to (name of person)." The revocation form shall be
5 signed and dated by the lessee, and the signature of the lessee
6 shall be notarized. The authorization also shall be revoked as a
7 matter of law if the lessee is divorced from the person to whom the
8 authorization was granted, and no subsequent written authorization
9 to the former spouse is executed. A copy of any written
10 authorization and any written revocation shall be provided to the
11 financial institution at which the safe deposit box is located. In
12 the event there is more than one lessee for a safe deposit box, all
13 the lessees must authorize access in the manner provided by this
14 subsection.

15 C. At any time during the ten (10) days or more following the
16 death of the lessee, a person who has been authorized access may
17 submit an affidavit to the financial institution in which the safe
18 deposit box is located. The affidavit shall state:

19 1. That the last surviving lessee of the safe deposit box has
20 died;

21 2. That the person providing the affidavit is the same person
22 named in the authorization, a copy of which shall be attached to the
23 affidavit;

1 3. That the authorization has not been revoked; and

2 4. That the affiant believes that no estate proceeding will be
3 commenced with respect to the estate of the lessee.

4 D. Upon receipt of an affidavit as provided in subsection C of
5 this section, the financial institution shall comply with provisions
6 of Section 812 of Title 68 of the Oklahoma Statutes before granting
7 access to the affiant. Under no circumstances shall access be
8 granted until all lessees of a safe deposit box are deceased.

9 E. Any person who knowingly signs and submits a false affidavit
10 as provided by subsection C of this section shall be guilty of a
11 misdemeanor and shall be liable in damages to any person harmed
12 thereby.

13 F. Any financial institution that provides access to a safe
14 deposit box under provisions of this section shall be discharged
15 from all criminal or civil liability for doing so.

16 SECTION 3. This act shall become effective November 1, 2006.

17 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-28-06 - DO PASS,
18 As Amended.