STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2626 By: Pruett

AS INTRODUCED

An Act relating to banks and trust companies; amending 6 O.S. 2001, Section 901, which relates to payable on death (P.O.D.) accounts; modifying and adding procedures regarding beneficiaries on P.O.D. accounts; providing procedure for granting access to a safe deposit box upon death of the lessee of the box; providing for termination of authorization under certain circumstances; providing penalty; clarifying liability; providing for codification; and providing an 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 trust designated in the deposit account agreement as the "P.O.D." beneficiary~~ one or more designated P.O.D. beneficiaries, or to an individual or individuals named beneficiary if living and if not living, to the named estate of the beneficiary, notwithstanding any

provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. ~~Such~~ Each designated P.O.D. beneficiary shall be a trust, an individual, or a nonprofit organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

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

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

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

5. If the only primary P.O.D. beneficiary is not living and one or more contingent beneficiaries have been designated as allowed by paragraph 4 of this subsection, the funds shall be held for or paid to the contingent beneficiaries in equal shares, and shall not

belong to the estate of the deceased primary beneficiary. If the only primary beneficiary is not living, and a contingent beneficiary or contingent beneficiaries have been designated as allowed by paragraph 4 of this subsection, but one or more designated contingent beneficiaries are also not living, the share that otherwise would belong to any deceased contingent beneficiary shall instead be held for or paid to the estate of that deceased contingent beneficiary.

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

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

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

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

~~3.~~ 8. Adjustments may be made in the styling, depending upon the number of owners of the account, to allow for survivorship rights, and the number of beneficiaries. It is to be understood that each beneficiary is entitled to a proportionate share of the account proceeds only after the death of the last surviving account owner, and after payment of account proceeds to any secured party with a valid security interest in the account. In the event of the death of a beneficiary prior to the death of the account owner, the share of ~~the~~ that beneficiary shall go to the estate of ~~the~~ that beneficiary. ~~It is not permissible for an account to designate~~

~~unequal shares for different payable-on-death beneficiaries~~ Unless one or more contingent beneficiaries have been designated to take the place of that beneficiary as provided in paragraph 4 of this subsection. All designated primary P.O.D. beneficiaries shall have equal shares. All designated contingent P.O.D. beneficiaries shall have equal shares as if the sole primary beneficiary is deceased.

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

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

~~6.~~ 11. The receipt or acquittance of the named beneficiary so paid, or of the legal representative of such named beneficiary's estate, if the beneficiary is deceased and there is no contingent beneficiary designated to take the place of that beneficiary, ~~if deceased,~~ shall be valid and sufficient release and discharge to the bank for any payment so made, unless, prior to such payment, the bank receives notice in the form and manner required in Section 905 of this title.

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

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

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

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

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

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

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

3. That the authorization has not been revoked; and

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

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

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

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

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

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