HB3128 FULLPCS1 Garry Mize-JBH
2/21/2020 11:46:39 am

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3128 ______________________________

Of the printed Bill

Page ____________ Section ____________ Lines ______________________

Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Garry Mize

Adopted: ______________________________

____
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3128 By: Mize

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to banking; providing certain powers and authorities for authorized signers on deposit accounts; allowing for certain additional powers; providing for additional authorization document; stating content requirements for certain document; providing for granting of certain additional powers; providing certain form for additional powers; amending 6 O.S. 2011, Section 901, which relates to deposits in the name of two or more persons; modifying requirements for certain beneficiaries for Payable on Death deposit accounts; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 908 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. Unless the deposit account agreement states otherwise, an authorized signer on a deposit account shall have the following powers, regardless of whether the account is a consumer or commercial account:

1. Sign checks;

2. Make deposits of checks payable to the account owner into the account;

3. Make cash deposits into the account;

4. Obtain an account balance;

5. View copies of checks he or she has signed; and

6. Obtain deposit slips when making a deposit.

B. If additional authority is not expressly granted in the deposit account agreement, additional powers may be granted in writing by the owner of the account. If the account is an individual account, the owner may execute an additional authorization document. It must be dated and in writing and may be revoked or amended at any time by the account owner. If there are multiple owners, all must execute the additional authorization document. If the account is owned by an entity, the entity must approve the grant of additional powers in the same manner as it appoints authorized signers.

C. A customer may initial next to the additional powers to be granted and line through those that are not being granted, pursuant to subsection D of this section.

D. Form for Additional Powers for Authorized Signer:

I, the undersigned account owner or duly empowered representative of the account owner, hereby grant and approve the following additional powers for authorized signer(s) on account

________________________. Bank name _______________________.

_____________ Obtain and use a debit card or automated teller machine card

_____________ Obtain copies of statements on the account from the bank

_____________ Order checks

_____________ Obtain copies of checks or other transactions on the account

_____________ Authorize or terminate automated clearing house debits to the account

_____________ Complete affidavits of forgery

_____________ Initiate a change of address for the account

_____________ Withdraw cash up to $___________

_____________ Dispute a card transaction on the account

_____________ Report a lost or stolen card on the account

_____________ Use online banking to view transactions on the account

_____________ Set up online bill payments

_____________ Use the mobile app to access information about the account.

SECTION 2. AMENDATORY 6 O.S. 2011, 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 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. 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

beneficiaries if living. If ~~any named~~ a primary beneficiary ~~is not living~~ predeceases the account owner, the share of that primary 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~~ be distributed pursuant to either paragraph 4 or 5 of this subsection, whichever is applicable.

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~~ sole 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 who are alive at the time of the account owner’s death 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~~ neither the primary beneficiary nor any contingent beneficiary is living at the time of the account owner's death, the funds shall be paid to the account owner's estate.

6. In order to designate multiple primary 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."

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 that beneficiary shall go to the estate of that beneficiary. 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. In the event of the death of a beneficiary prior to the death of the account owner, the share of that beneficiary shall be divided among any surviving beneficiaries or distributed to contingent beneficiaries pursuant to paragraphs 4 and 5 of this subsection, if applicable. If no beneficiaries are alive at the time of the account owner's death, the funds should be held for, or paid to, the estate of the deceased account owner.

9. A bank may require the owner of an account to provide an address for any primary or contingent P.O.D. beneficiary. If the P.O.D. account is an interest-bearing account and the funds are not claimed by the 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.

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.

11. The receipt or acquittance of the named beneficiary so paid, or of the legal representative of ~~such named beneficiary's~~ the account owner’s estate, ~~if the beneficiary is deceased and there is no contingent beneficiary designated to take the place of that beneficiary~~ in the event the beneficiaries predeceased the account owner, 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.

12. Subsequent to the effective date of this act, a bank shall provide a customer creating a P.O.D. account with a written notice that the distribution of the proceeds in the P.O.D. account shall be consistent with the provisions of Section 901 of Title 6 of the Oklahoma Statutes.

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 3. This act shall become effective November 1, 2020.

57-2-10861 JBH 02/03/20