

17:9A-216 to 17:9A-218.7

LEGISLATIVE HISTORY CHECKLIST

17:16I to 17:16I-17; 17:12B-82 et al.;
HJSA 17:9A-216 to 17:9A-218.7 ("Multiple-party Deposit Account Act")

LAWS OF 1979 CHAPTER 491

Bill No. A1626

Sponsor(s) Burstein

Date Introduced Sept. 25, 1978

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Labor, Industry and Professions

Amended during passage Yes ~~xs~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 28, 1979

Senate Jan. 3, 1980

Date of approval Feb. 28, 1980

Following statements are attached if available:

Sponsor statement	Yes	xs
Committee Statement:	Assembly	Yes xs
	Senate	Yes xs
Fiscal Note	xs	No
Veto message	xs	No
Message on signing	Yes	xs
Following were printed:		
Reports	xs	No
Hearings	xs	No

Earlier proposed legislation:

- A1696 (1976-77)
- S1014, A3143 (1974-75)
- S2318 (1972-73)

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2/1/78

(over)

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Hearings and reports on earlier (i.e. similar) proposed legislation:

974.90 New Jersey. Legislative Services Agency. Division of
C866 Law Revision.
1973k 1972-73 legislation adapted from the proposed
uniform probate code. Trenton, 1973.

(See pp.94-102 re:S2318.)

974.90 New Jersey. Legislature. Senate. Judiciary Committee.
C866 Public hearing on uniform probate code bills, held
1973h 9-11-73. Hackensack, NJ, 1973.

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ASSEMBLY, No. 1626

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman BURSTEIN

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT revising the law with respect to multiple-party deposit accounts maintained in certain financial institutions; amending sections 82, 89 through 91 of P. L. 1963, c. 144; repealing sections 216 through 218 of P. L. 1948, c. 67; P. L. 1954, c. 208; sections 88, 92 through ****102, 104,**** 105, 107 and 108 of P. L. 1963, c. 144; P. L. 1965, c. 145, and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) This act shall be known and may be cited as
2 the "Multiple-party Deposit Account Act".

1 2. (New section) As used in this act unless the context otherwise
2 requires:

3 a. "Account" means a contract of deposit of funds between a
4 depositor and a financial institution, and includes a checking
5 account, savings account, certificate of deposit, share account and
6 other like arrangement;

7 b. "Beneficiary" means a person named in a trust account as
8 one for whom a party to the account is named as trustee;

9 c. "Financial institution" means any organization authorized
10 to do business under State or Federal laws relating to financial
11 institutions, including, without limitation, banks and trust com-
12 panies, savings banks, building and loan associations, savings and
13 loan associations;

14 d. "Joint account" means an account payable on request to one
15 or more of two or more parties whether or not mention is made of
16 any right of survivorship, and regardless whether the names of the
17 parties are stated in the conjunctive or in the disjunctive;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

18 e. A "multiple-party account" is any of the following types of
19 account: (1) a joint account, (2) a P.O.D. account, or (3) a trust
20 account. It does not include accounts established for deposit of
21 funds of a partnership, joint venture, or other association for
22 business purposes, or accounts controlled by one or more persons
23 as the duly authorized agent or trustee for a corporation, unin-
24 corporated association, charitable or civic organization or a regular
25 fiduciary or trust account where the relationship is established
26 other than by deposit agreement;

27 f. "Net contribution" of a party to a joint account as of any
28 given time is the sum of all deposits thereto made by or for him,
29 less all withdrawals made by or for him which have not been paid
30 to or applied to the use of any other party, plus a pro rata share
31 of any interest or dividends included in the current balance. The
32 term includes, in addition, any proceeds of deposit life insurance
33 added to the account by reason of the death of the party whose net
34 contribution is in question;

35 g. "Party" means a person who, by the terms of the account,
36 has a present right, subject to request, to payment from a multiple-
37 party account. A P.O.D. payee or beneficiary of a trust account is
38 a party only after the account becomes payable to him by reason
39 of his surviving the original payee or trustee. Unless the context
40 otherwise requires, it includes a guardian, conservator, personal
41 representative, or assignee, including an attaching creditor, of a
42 party. It also includes a person identified as a trustee of an account
43 for another whether or not a beneficiary is named, but it does not
44 include any named beneficiary unless he has a present right of
45 withdrawal;

46 h. "Payment" of sums on deposit includes withdrawal, payment
47 on check or other directive of a party, and any pledge of sums on
48 deposit by a party of any setoff, or reduction or other disposition
49 of all or part of an account pursuant to a pledge;

50 i. "Proof of death" includes a certified or authenticated copy of
51 a death certificate purporting to be issued by an official or agency
52 of the place where the death purportedly occurred, and a certified
53 or authenticated copy of any judgment or record or report of a
54 court or a governmental agency, domestic or foreign, that a person
55 is dead;

56 j. "P.O.D. account" means an account payable on request to
57 one person during lifetime and on his death to one or more P.O.D.
58 payees, or to one or more persons during their lifetimes and on
59 the death of all of them to one or more P.O.D. payees;

60 k. "P.O.D. payee" means a person designated on a P.O.D.
61 account as one to whom the account is payable on request after
62 the death of one or more persons;

63 l. "Request" means a proper request for withdrawal, or a
64 check or order for payment, which complies with all conditions
65 of the account, including special requirements concerning
66 necessary signatures and regulations of the financial institution;
67 but if the financial institution conditions withdrawal or payment
68 on advance notice, for purposes of this part the request for with-
69 drawal or payment is treated as immediately effective and a notice
70 of intent to withdraw is treated as a request for withdrawal;

71 m. "Sums on deposit" means the balance payable on a multiple-
72 party account including interest, dividends, and in addition any
73 deposit life insurance proceeds added to the account by reason of
74 the death of a party;

75 n. "Trust account" means an account in the name of one or
76 more parties as trustee for one or more beneficiaries where the
77 relationship is established by the form of the account and the
78 deposit agreement with the financial institution and there is no
79 subject of the trust other than the sums on deposit in the account;
80 it is not essential that payment to the beneficiary be mentioned
81 in the deposit agreement. A trust account does not include a
82 regular trust account under a testamentary trust or a trust agree-
83 ment which has significance apart from the account, or a fiduciary
84 account arising from a fiduciary relation such as attorney-client;

85 o. "Withdrawal" includes payment to a third person pursuant
86 to check or other directive of a party; and

87 p. "Written notice or order" received by a financial institution
88 is effective for a particular transaction from the time it is brought
89 to the attention of the individual conducting that ****[transacation,**
90 and in any event from the time it would have been brought to his
91 attention if the financial institution had exercised due diligence**]****
92 ****transaction**.**

1 3. (New section) The provisions of sections 4 to 6 concerning
2 beneficial ownership as between parties, or as between parties and
3 P.O.D. payees or beneficiaries of multiple-party accounts, are
4 relevant only to controversies between these persons and their
5 creditors and other successors, and have no bearing on the power
6 of withdrawal of these persons as determined by the terms of
7 account contracts. The provisions of sections 8 to 13 govern the
8 liability of financial institutions who make payments pursuant
9 thereto, and their setoff rights.

1 *4.* (New section) Unless a contrary intent is manifested by the
2 terms of the contract, or the deposit agreement, or there is other
3 clear and convincing evidence of a different intent at the time the
4 account is created:

5 a. A joint account belongs, during the lifetime of all parties, to
6 the parties in proportion to the net contributions by each to the
7 sums on deposit. ***In the absence of proof of net contributions,*
7A *the account belongs in equal shares to all parties having present*
7B *right of withdrawal.*** **This subsection shall not be construed to*
7C *affect the right of the court to effectuate an equitable distribution*
7D *of property between the parties in an action for divorce pursuant to*
7E *N. J. S. 2A:34-23.**

8 b. A P.O.D. account belongs to the original payee during his
9 lifetime and not to the P.O.D. payee or payees; if two or more
10 parties are named as original payees, during their lifetimes rights
11 as between them are governed by subsection a. of this section.

12 c. A trust account belongs beneficially to the trustee during his
13 lifetime, and if two or more parties are named as trustee on the
14 account, during their lifetimes beneficial rights as between them
15 are governed by subsection a. of this section. If there is an
16 irrevocable trust, the account belongs beneficially to the beneficiary.

1 5. (New section) a. Sums remaining on deposit at the death of a
2 party to a joint account belong to the surviving party or parties as
3 against the estate of the decedent unless there is clear and convinc-
4 ing evidence of a different intention at the time the account is
5 created. If there are two or more surviving parties, their respective
6 ownerships during lifetime shall be in proportion to their previous
7 ownership interests under section 4 augmented by an equal share
8 for each survivor of any interest the decedent may have owned in
9 the account immediately before his death; and the right of survivor-
10 ship continues between the surviving parties.

11 b. If the account is a P.O.D. account;

12 (1) On death of one of two or more original payees the rights to
13 any sums remaining on deposit are governed by subsection "a";

14 (2) On death of the sole original payee or of the survivor of two
15 or more original payees, any sums remaining on deposit belong to
16 the P.O.D. payee or payees if surviving, or to the survivor of them
17 if one or more die before the original payee; if two or more P.O.D.
18 payees survive, there is no right of survivorship in the event of
19 death of a P.O.D. payee thereafter unless the terms of the account
20 or deposit agreement expressly provide for survivorship between
21 them.

22 c. If the account is a trust account;

23 (1) On death of one of two or more trustees, the rights to any
24 sums remaining on deposit are governed by subsection "a";

25 (2) On death of the sole trustee or the survivor of two or more
26 trustees, any sums remaining on deposit belong to the person or
27 persons named as beneficiaries, if surviving, or to the survivor of
28 them if one or more die before the trustee, unless there is clear
29 evidence of a contrary intent; if two or more beneficiaries survive,
30 there is no right of survivorship in event of death of any beneficiary
31 thereafter unless the terms of the account on deposit agreement
32 expressly provide for survivorship between them.

33 d. In other cases, the death of any party to a multiple-party
34 account has no effect on beneficial ownership of the account other
35 than to transfer the rights of the decedent as part of his estate.

36 e. A right of survivorship arising from the express terms of the
37 account or under this section, a beneficiary designation in a trust
38 account, or a P.O.D. payee designation, cannot be changed by will.

1 6. (New section) The provisions of section 5 as to rights of
2 survivorship are determined by the form of the account at the
3 death of a party. This form may be altered by written notice or
4 order given by a party to the financial institution to change the
5 form of the account or to stop or vary payment under the terms of
6 the account. The order or request must be signed by a party,
7 received by the financial institution during the party's lifetime, and
8 not countermanded by other written order of the same party during
9 his lifetime.

1 7. (New section) No multiple-party account will be effective
2 against an estate of a deceased party to transfer to a survivor sums
3 needed to pay debts, taxes, and expenses of administration, if other
4 assets of the estate are insufficient. A surviving party, P.O.D. payee,
5 or beneficiary who receives payment from a multiple-party account
6 after the death of a deceased party shall be liable to account to his
7 personal representative for amounts the decedent owned bene-
8 ficially immediately before his death to the extent necessary to
9 discharge the claims and charges mentioned above remaining
10 unpaid after application of the decedent's estate. No proceeding
11 to assert this liability shall be commenced unless the personal
12 representative has received a written demand by a creditor, and
13 no proceeding shall be commenced later than 2 years following the
14 death of the decedent. Sums recovered by the personal representa-
15 tive shall be administered as part of the decedent's estate. This
16 section shall not affect the right of a financial institution to make
17 payment on multiple-party accounts according to the terms thereof,

18 or make it liable to the estate of a deceased party unless before
19 payment the institution has been served with an order of court
20 restraining the payment.

1 8. (New section) Financial institutions may enter into multiple-
2 party accounts to the same extent that they may enter into single-
3 party accounts. Any multiple-party account may be paid, on re-
4 quest, to any one or more of the parties. A financial institution
5 shall not be required to inquire as to the source of funds received
6 for deposit to a multiple-party account, or to inquire as to the
7 proposed application of any sum withdrawn from an account, for
8 purposes of establishing net contributions.

1 9. (New section) Any sums in a joint account may be paid, on
2 request, to any party without regard to whether any other party
3 is incapacitated or deceased at the time the payment is demanded;
4 but payment may not be made to the personal representative or
5 heirs of a deceased party unless proofs of death are presented to
6 the financial institution showing that the decedent was the last
7 surviving party or unless there is no right of survivorship under
8 section 5.

1 10. (New section) Any P.O.D. account may be paid, on request,
2 to any original party to the account. Payment may be made, on
3 request, to the P.O.D. payee or to the personal representative or
4 heirs of a deceased P.O.D. payee upon presentation to the financial
5 institution of proof of death showing that the P.O.D. payee sur-
6 vived all persons named as original payees. Payment may be made
7 to the personal representative or heirs of a deceased original payee
8 if proof of death is presented to the financial institution showing
9 that his decedent was the survivor of all other persons named on
10 the account either as an original payee or as P.O.D. payee.

1 11. (New section) Any trust account may be paid, on request,
2 to any trustee. Unless the financial institution has received written
3 notice that the beneficiary has a vested interest not dependent upon
4 his surviving the trustee, payment may be made to the personal
5 representative or heirs of a deceased trustee if proof of death is
6 presented to the financial institution showing that his decedent
7 was the survivor of all other persons named on the account either
8 as trustee or beneficiary. Payment may be made, on request, to
9 the beneficiary upon presentation to the financial institution of
10 proof of death showing that the beneficiary or beneficiaries sur-
11 vived all persons named as trustees.

1 12. (New section) Payment made pursuant to sections 8, 9, 10
2 or 11 ***of this act or sections 89, 90 or 91 of P. L. 1963, c. 144 (C.*
2A *17:12A-89 to C. 17:12A-91)*** discharges the financial institution

3 from all claims for amounts so paid whether or not the payment is
4 consistent with the beneficial ownership of the account as between
5 parties, P.O.D. payees, or beneficiaries, or their successors. The
6 protection here given does not extend to payments made after a
7 financial institution has received written notice from any party able
8 to request present payment to the effect that withdrawals in
9 accordance with the terms of the account should not be permitted.
10 Unless the notice is withdrawn by the person giving it, the successor
11 of any deceased party must concur in any demand for withdrawal
12 if the financial institution is to be protected under this section.
13 No other notice or any other information shown to have been avail-
14 able to a financial institution shall affect its right to the protection
15 provided here. The protection here provided shall have no bearing
16 on the rights of parties in disputes between themselves or their
17 successors concerning the beneficial ownership of funds in, or
18 withdrawn from, multiple-party accounts. ***Financial institutions
19 refusing or altering payment pursuant to written notice or order
20 from any party able to request present payment shall not be liable
21 to any other party to the account, or beneficiary thereof, by reason
22 of such action.***

1 13. (New section) Without qualifying any other ****[statutory]****
2 right to setoff or lien and subject to any contractual provision, if a
3 party to a multiple-party account is indebted to a financial institu-
4 tion, the financial institution has a right to setoff against the account
5 in which the party has or had immediately before his death a pres-
6 ent right of withdrawal. The amount of the account subject to
7 setoff is that proportion to which the debtor is, or was immediately
8 before his death, beneficially entitled, and in the absence of proof
9 of net contributions, to an equal share with all parties having
10 present rights of withdrawal.

1 14. (New section) Any transfers resulting from the application
2 of section 5 are effective by reason of the account contracts in-
3 volved and this act, and are not to be considered as testamentary.
4 The right of any surviving party to a joint account, or of any bene-
5 ficiary, or of any P.O.D. payee, to the sums on deposit on the death
6 of any party to a multi-party account maintained in any financial
7 institution, shall not be denied, abridged or in anywise affected
8 because such right has not been created by a writing executed in
9 accordance with the laws of this State prescribing the requirements
10 to effect a valid testamentary disposition of property.

1 15. (New section) Nothing in this act shall validate any trust
2 created in fraud of creditors of the fiduciary nor affect any law
3 of this State governing transfer inheritance or estate taxes, nor

4 shall anything herein relieve any financial institution of its duty
5 to conform with the provisions of the law imposing transfer in-
6 heritance taxes with respect to decedents' estates.

1 16. (New section) The Commissioner of Banking shall prescribe
2 by rule or regulation the form and content of deposit contracts
3 applicable to deposits of funds which may be subject to this act
4 for the object of assuring to the extent possible that each such
5 contract bears out the intentions of the persons who are named in
6 the account, particularly in respect to the rights of survivorship
7 and whether or not such rights of survivorship are intended to
8 be created.

1 17. (New section) This act shall apply only to accounts opened
2 after its effective date and accounts opened prior thereto shall be
3 governed by the law in effect when such accounts were opened.

1 18. Section 82 of P. L. 1963, c. 144 (C. 17:12B-82) is amended to
2 read as follows:

3 82. [For the purposes of sections 82 through 86 of this act the
4 words "beneficiary" and "fiduciary" shall be intended to mean
5 one or more such persons unless restricted by the context to a single
6 individual.

7 Membership trust accounts.

8 Whenever an account is opened by any person or persons,
9 describing himself or themselves, in opening such account as
10 trustee or fiduciary for any other person or persons, and no other
11 or further evidence of the existence or terms of a legal and valid
12 trust, than such description, shall have been given in writing to the
13 association, the association shall pay any moneys to the credit of
14 such account from time to time to, or pursuant to the order of,
15 such fiduciary during his lifetime. When the fiduciary makes a
16 payment or payments to such account, or causes a payment or
17 payments to be made to such account, the fiduciary shall con-
18 clusively be presumed to intend to declare and create a trust of the
19 moneys at any time to the credit of such account, for the named
20 beneficiary, with the fiduciary as trustee, upon the following terms:

21 (1) The trust shall be revocable at will by the fiduciary, and the
22 withdrawal value of any such account, and dividends thereon, or
23 other rights relating thereto, less all proper set-offs and charges,
24 may be paid, or delivered, in whole or in part, to such fiduciary
25 without regard to any notice to the contrary so long as such
26 fiduciary is living;

27 (2) If the fiduciary survives the named beneficiary, the named
28 beneficiary's death shall terminate the trust and title to the
29 moneys to the credit of the trust, less all proper set-offs and

30 charges, shall vest in the fiduciary, free and clear of the trust;
31 provided, however, where such an account names more than one
32 beneficiary, the death of one of the beneficiaries so named shall not
33 terminate the trust and the trust shall continue as to the surviving
34 beneficiary or beneficiaries subject to the provisions of this section;

35 (3) If the named beneficiary survives the fiduciary, such fidu-
36 ciary, such fiduciary's death shall terminate the trust and any
37 moneys to the credit of the trust, less all proper set-offs and charges,
38 shall vest solely and indefeasibly in the named beneficiary, notwith-
39 standing any action by the fiduciary, or any evidence, contrary to or
40 negating the fiduciary's conclusively presumed intention in
41 declaring, creating and maintaining the trust; provided, however,
42 where such an account is opened or subsequently held by more than
43 one fiduciary, the death of one of such fiduciaries shall not terminate
44 the trust and the trust shall continue as to the surviving fiduciary
45 or fiduciaries and named beneficiary or beneficiaries subject to the
46 provisions of this section;】

47 *When a membership trust account is opened in the manner pro-*
48 *vided in the "Multiple-party Deposit Account Act", and,*

49 【(4)】 a. Where a 【fiduciary's】 trustee's death terminates the
50 trust under the provisions of 【subsection (3) of this section】
51 section 5c(2) of the "Multiple-party Deposit Account Act" and
52 where the named beneficiary or all of the beneficiaries so named are
53 16 years of age or over at the time of termination of such trust, the
54 association shall pay the moneys to the credit of the trust, less all
55 proper set-offs and charges, to the named beneficiary or benefi-
56 ciaries or upon his or their order, and such payment by the associa-
57 tion shall be valid, notwithstanding any lack of legal age of the
58 named beneficiary or beneficiaries;

59 【(5)】 b. If the named beneficiary or all of the beneficiaries so
60 named are under 16 years of age at the time of termination of such
61 trust, the association shall pay the moneys to the credit of the trust,
62 less all proper set-offs and charges,

63 【(a)】(1) When or after the named beneficiary becomes 16 years
64 of age, to the named beneficiary or upon his order, or

65 【(b)】(2) When more than one beneficiary is named, the associa-
66 tion shall pay to the beneficiary so named his proportionate interest
67 in such account as he becomes 16 years of age, or

68 【(c)】(3) 【to】 To the legal guardian of the named beneficiary
69 wherever appointed, or where more than one beneficiary is named,
70 the association shall pay such beneficiary's proportionate interest
71 in such account to his legal guardian wherever and whenever
72 appointed, or

73 **[(d)] (4) [if]** *If* a certificate of appointment of a legal guardian
 74 is not filed with the association to a person authorized to receive
 75 such moneys or proportionate interest thereof pursuant to sections
 76 3A:6-31 and 3A:6-32 of the New Jersey Statutes.

77 **[(6)] c.** Where a **[fiduciary's]** *trustee's* death terminates the
 78 trust under the provisions of **[subsection (3) of this section]**
 79 *section 5c(2) of the "Multiple-party Deposit Account Act"* and
 80 where one or more of the named beneficiaries are under 16 years
 81 of age and the remainder of the named beneficiaries are 16 years of
 82 age or over, the association shall pay the moneys to the credit of
 83 the trust, less all proper set-offs and charges to:

84 **[(a)] (1)** The named beneficiaries 16 years of age or over at the
 85 time of termination of said trust pursuant to subsection **[(4)] a** of
 86 this section, and

87 **[(b)] (2)** The named beneficiaries under 16 years of age at the
 88 time of termination of said trust pursuant to subsection **[(5)] b**
 89 of this section.

90 **[(7)** Where such an account is opened or subsequently held by
 91 more than one fiduciary the association, in the absence of any
 92 written instructions to the contrary, consented to by the associa-
 93 tion, shall accept payments made to such account and may pay any
 94 moneys to the credit of such account from time to time to, or pur-
 95 suant to the order of, either or any of said persons during their
 96 life or lives, in the same manner as if the account were in the sole
 97 name of either or any of such fiduciaries.]

1 19. Section 89 of P. L. 1963, c. 144 (C. 17:12A-89) is amended to
 2 read as follows:

3 89. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act", and the*
 6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **[If]** *if* the named beneficiary or one of the beneficiaries so named
 8 survive the death of the person *or persons* opening such an account
 9 and the beneficiary or all of the beneficiaries so named are 16 years
 10 of age or over at the death of the person *or persons* opening such
 11 an account, the association shall pay the moneys to the credit of
 12 the account, less all proper set-offs and charges, to the named
 13 beneficiary or beneficiaries or upon his or their order, **[as herein-**
 14 **after provided,]** and such payment by the association shall be valid,
 15 notwithstanding any lack of legal age of the named beneficiary or
 16 beneficiaries**;** provided, however, where such an account is opened
 17 or subsequently held by more than one person, the death of one of

18 such persons shall not terminate the account and the account shall
19 continue as to the surviving person or persons and the named
20 beneficiary or beneficiaries subject to the provisions of sections 90
21 through 97 of this act].

1 20. Section 90 of P. L. 1963, c. 144 (C. 17:12A-90) is amended
2 to read as follows:

3 90. *When a membership account is opened by a person or persons*
4 *payable on death to a beneficiary or beneficiaries in the manner*
5 *provided in the "Multiple-party Deposit Account Act," and the*
6 *account is terminated as provided in section 5b(2) of said act, and*
7 **[If]** *if the named beneficiary or all of the beneficiaries so named*
8 *survive the death of the person or persons opening such an account*
9 *and are under 16 years of age at such time, the association shall*
10 *pay the moneys to the credit of the account, less all proper set-*
11 *offs and charges.*

12 **[(a)]** *a. When or after the named beneficiary becomes 16 years*
13 *of age, to the named beneficiary or upon his order, or*

14 **[(b)]** *b. When more than one beneficiary is named, the associa-*
15 *tion shall pay to the beneficiary so named his proportionate interest*
16 *in such account as he becomes 16 years of age, or*

17 **[(c)]** *c. To the legal guardian of the named beneficiary, wher-*
18 *ever appointed, or where more than one beneficiary is named,*
19 *the association shall pay such beneficiary's proportionate interest*
20 *in such account to his legal guardian wherever and whenever*
21 *appointed, or*

22 **[(d)]** *d. If a certificate of appointment of a legal guardian is*
23 *not filed with the association, to a person authorized to receive such*
24 *moneys, or proportionate interest thereof, pursuant to sections*
25 *3A:6-31 and 3A:6-32 of the New Jersey Statutes.*

1 21. Section 91 of P. L. 1963, c. 144 (C. 17:12A-91) is amended
2 to read as follows:

3 91. *When a membership account is opened by a person or persons*
4 *payable on death to a beneficiary or beneficiaries in the manner*
5 *provided in the "Multiple-party Deposit Account Act," and the*
6 *account is terminated as provided in section 5b(2) of said act,*

7 **[Where the death of the person or persons opening such an**
8 **account terminates the account under the provisions of sections 89**
9 **or 90 of this act]** *and where one or more of the named beneficiaries*
10 *are under 16 years of age and the remainder of the named bene-*
11 *ficiaries are 16 years of age or over, the associations shall pay*
12 *the moneys to the credit of the trust, less all proper set-offs and*
13 *charges to:*

14 **[(a)]** *a.* The named beneficiaries 16 years of age or over at
15 the time of termination of said account shall be paid pursuant to
16 section 89 of this act, and

17 **[(b)]** *b.* The named beneficiaries under 16 years of age at the
18 time of termination of said account shall be paid pursuant to
19 section 90 of this act.

1 22. The following acts and parts of acts are hereby repealed:

2 *a.* Sections 216 through 218 of P. L. 1948, c. 67 (C. 17:9A-216
3 to C. 17:9A-218);

4 *b.* P. L. 1965, c. 145 (C. 17:9A-218.1 to C. 17:9A-218.7);

5 *c.* Sections 88, 92 through ****102, 104,**** 105, 107 and 108 of P. L.
6 1963, c. 144 (C. 17:12B-88, C. 17:12B-92 to ****C. 17:12B-102,**
7 **C. 17:12B-104,**** C. 17:12B-105, C. 17:12B-107 and C. 17:12B-108);

8 *d.* P. L. 1954, c. 208 (C. 46:37-1 and C. 46:37-2).

1 23. This act shall take effect 90 days after enactment.

ASSEMBLY, No. 1626

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman BURSTEIN

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT revising the law with respect to multiple-party deposit accounts maintained in certain financial institutions; amending sections 82, 89 through 91 of P. L. 1963, c. 144; repealing sections 216 through 218 of P. L. 1948, c. 67; P. L. 1954, c. 208; sections 88, 92 through 105, 107 and 108 of P. L. 1963, c. 144; P. L. 1965, c. 145, and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) This act shall be known and may be cited as
2 the "Multiple-party Deposit Account Act".

1 2. (New section) As used in this act unless the context otherwise
2 requires:

3 a. "Account" means a contract of deposit of funds between a
4 depositor and a financial institution, and includes a checking
5 account, savings account, certificate of deposit, share account and
6 other like arrangement;

7 b. "Beneficiary" means a person named in a trust account as
8 one for whom a party to the account is named as trustee;

9 c. "Financial institution" means any organization authorized
10 to do business under State or Federal laws relating to financial
11 institutions, including, without limitation, banks and trust com-
12 panies, savings banks, building and loan associations, savings and
13 loan associations;

14 d. "Joint account" means an account payable on request to one
15 or more of two or more parties whether or not mention is made of
16 any right of survivorship, and regardless whether the names of the
17 parties are stated in the conjunctive or in the disjunctive;

18 e. A "multiple-party account" is any of the following types of
19 account: (1) a joint account, (2) a P.O.D. account, or (3) a trust

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

20 account. It does not include accounts established for deposit of
21 funds of a partnership, joint venture, or other association for
22 business purposes, or accounts controlled by one or more persons
23 as the duly authorized agent or trustee for a corporation, unin-
24 corporated association, charitable or civic organization or a regular
25 fiduciary or trust account where the relationship is established
26 other than by deposit agreement;

27 f. "Net contribution" of a party to a joint account as of any
28 given time is the sum of all deposits thereto made by or for him,
29 less all withdrawals made by or for him which have not been paid
30 to or applied to the use of any other party, plus a pro rata share
31 of any interest or dividends included in the current balance. The
32 term includes, in addition, any proceeds of deposit life insurance
33 added to the account by reason of the death of the party whose net
34 contribution is in question;

35 g. "Party" means a person who, by the terms of the account,
36 has a present right, subject to request, to payment from a multiple-
37 party account. A P.O.D. payee or beneficiary of a trust account is
38 a party only after the account becomes payable to him by reason
39 of his surviving the original payee or trustee. Unless the context
40 otherwise requires, it includes a guardian, conservator, personal
41 representative, or assignee, including an attaching creditor, of a
42 party. It also includes a person identified as a trustee of an account
43 for another whether or not a beneficiary is named, but it does not
44 include any named beneficiary unless he has a present right of
45 withdrawal;

46 h. "Payment" of sums on deposit includes withdrawal, payment
47 on check or other directive of a party, and any pledge of sums on
48 deposit by a party of any setoff, or reduction or other disposition
49 of all or part of an account pursuant to a pledge;

50 i. "Proof of death" includes a certified or authenticated copy of
51 a death certificate purporting to be issued by an official or agency
52 of the place where the death purportedly occurred, and a certified
53 or authenticated copy of any judgment or record or report of a
54 court or a governmental agency, domestic or foreign, that a person
55 is dead;

56 j. "P.O.D. account" means an account payable on request to
57 one person during lifetime and on his death to one or more P.O.D.
58 payees, or to one or more persons during their lifetimes and on
59 the death of all of them to one or more P.O.D. payees;

60 k. "P.O.D. payee" means a person designated on a P.O.D.
61 account as one to whom the account is payable on request after
62 the death of one or more persons;

63 l. "Request" means a proper request for withdrawal, or a
64 check or order for payment, which complies with all conditions
65 of the account, including special requirements concerning
66 necessary signatures and regulations of the financial institution;
67 but if the financial institution conditions withdrawal or payment
68 on advance notice, for purposes of this part the request for with-
69 drawal or payment is treated as immediately effective and a notice
70 of intent to withdraw is treated as a request for withdrawal;

71 m. "Sums on deposit" means the balance payable on a multiple-
72 party account including interest, dividends, and in addition any
73 deposit life insurance proceeds added to the account by reason of
74 the death of a party;

75 n. "Trust account" means an account in the name of one or
76 more parties as trustee for one or more beneficiaries where the
77 relationship is established by the form of the account and the
78 deposit agreement with the financial institution and there is no
79 subject of the trust other than the sums on deposit in the account;
80 it is not essential that payment to the beneficiary be mentioned
81 in the deposit agreement. A trust account does not include a
82 regular trust account under a testamentary trust or a trust agree-
83 ment which has significance apart from the account, or a fiduciary
84 account arising from a fiduciary relation such as attorney-client;

85 o. "Withdrawal" includes payment to a third person pursuant
86 to check or other directive of a party; and

87 p. "Written notice or order" received by a financial institution
88 is effective for a particular transaction from the time it is brought
89 to the attention of the individual conducting that transaction, and
90 in any event from the time it would have been brought to his
91 attention if the financial institution had exercised due diligence.

1 3. (New section) The provisions of sections 4 to 6 concerning
2 beneficial ownership as between parties, or as between parties and
3 P.O.D. payees or beneficiaries of multiple-party accounts, are
4 relevant only to controversies between these persons and their
5 creditors and other successors, and have no bearing on the power
6 of withdrawal of these persons as determined by the terms of
7 account contracts. The provisions of sections 8 to 13 govern the
8 liability of financial institutions who make payments pursuant
9 thereto, and their setoff rights.

1 (New section) Unless a contrary intent is manifested by the
2 terms of the contract, or the deposit agreement, or there is other
3 clear and convincing evidence of a different intent at the time the
4 account is created:

5 a. A joint account belongs, during the lifetime of all parties, to
6 the parties in proportion to the net contributions by each to the
7 sums on deposit.

8 b. A P.O.D. account belongs to the original payee during his
9 lifetime and not to the P.O.D. payee or payees; if two or more
10 parties are named as original payees, during their lifetimes rights
11 as between them are governed by subsection a. of this section.

12 c. A trust account belongs beneficially to the trustee during his
13 lifetime, and if two or more parties are named as trustee on the
14 account, during their lifetimes beneficial rights as between them
15 are governed by subsection a. of this section. If there is an
16 irrevocable trust, the account belongs beneficially to the beneficiary.

1 5. (New section) a. Sums remaining on deposit at the death of a
2 party to a joint account belong to the surviving party or parties as
3 against the estate of the decedent unless there is clear and convinc-
4 ing evidence of a different intention at the time the account is
5 created. If there are two or more surviving parties, their respective
6 ownerships during lifetime shall be in proportion to their previous
7 ownership interests under section 4 augmented by an equal share
8 for each survivor of any interest the decedent may have owned in
9 the account immediately before his death; and the right of survivor-
10 ship continues between the surviving parties.

11 b. If the account is a P.O.D. account;

12 (1) On death of one of two or more original payees the rights to
13 any sums remaining on deposit are governed by subsection "a";

14 (2) On death of the sole original payee or of the survivor of two
15 or more original payees, any sums remaining on deposit belong to
16 the P.O.D. payee or payees if surviving, or to the survivor of them
17 if one or more die before the original payee; if two or more P.O.D.
18 payees survive, there is no right of survivorship in the event of
19 death of a P.O.D. payee thereafter unless the terms of the account
20 or deposit agreement expressly provide for survivorship between
21 them.

22 c. If the account is a trust account;

23 (1) On death of one of two or more trustees, the rights to any
24 sums remaining on deposit are governed by subsection "a";

25 (2) On death of the sole trustee or the survivor of two or more
26 trustees, any sums remaining on deposit belong to the person or
27 persons named as beneficiaries, if surviving, or to the survivor of
28 them if one or more die before the trustee, unless there is clear
29 evidence of a contrary intent; if two or more beneficiaries survive,
30 there is no right of survivorship in event of death of any beneficiary

31 thereafter unless the terms of the account on deposit agreement
32 expressly provide for survivorship between them.

33 d. In other cases, the death of any party to a multiple-party
34 account has no effect on beneficial ownership of the account other
35 than to transfer the rights of the decedent as part of his estate.

36 e. A right of survivorship arising from the express terms of the
37 account or under this section, a beneficiary designation in a trust
38 account, or a P.O.D. payee designation, cannot be changed by will.

1 6. (New section) The provisions of section 5 as to rights of
2 survivorship are determined by the form of the account at the
3 death of a party. This form may be altered by written notice or
4 order given by a party to the financial institution to change the
5 form of the account or to stop or vary payment under the terms of
6 the account. The order or request must be signed by a party,
7 received by the financial institution during the party's lifetime, and
8 not countermanded by other written order of the same party during
9 his lifetime.

1 7. (New section) No multiple-party account will be effective
2 against an estate of a deceased party to transfer to a survivor sums
3 needed to pay debts, taxes, and expenses of administration, if other
4 assets of the estate are insufficient. A surviving party, P.O.D. payee,
5 or beneficiary who receives payment from a multiple-party account
6 after the death of a deceased party shall be liable to account to his
7 personal representative for amounts the decedent owned bene-
8 ficially immediately before his death to the extent necessary to
9 discharge the claims and charges mentioned above remaining
10 unpaid after application of the decedent's estate. No proceeding
11 to assert this liability shall be commenced unless the personal
12 representative has received a written demand by a creditor, and
13 no proceeding shall be commenced later than 2 years following the
14 death of the decedent. Sums recovered by the personal representa-
15 tive shall be administered as part of the decedent's estate. This
16 section shall not affect the right of a financial institution to make
17 payment on multiple-party accounts according to the terms thereof,
18 or make it liable to the estate of a deceased party unless before
19 payment the institution has been served with an order of court
20 restraining the payment.

1 8. (New section) Financial institutions may enter into multiple-
2 party accounts to the same extent that they may enter into single-
3 party accounts. Any multiple-party account may be paid, on re-
4 quest, to any one or more of the parties. A financial institution
5 shall not be required to inquire as to the source of funds received

6 for deposit to a multiple-party account, or to inquire as to the
7 proposed application of any sum withdrawn from an account, for
8 purposes of establishing net contributions.

1 9. (New section) Any sums in a joint account may be paid, on
2 request, to any party without regard to whether any other party
3 is incapacitated or deceased at the time the payment is demanded;
4 but payment may not be made to the personal representative or
5 heirs of a deceased party unless proofs of death are presented to
6 the financial institution showing that the decedent was the last
7 surviving party or unless there is no right of survivorship under
8 section 5.

1 10. (New section) Any P.O.D. account may be paid, on request,
2 to any original party to the account. Payment may be made, on
3 request, to the P.O.D. payee or to the personal representative or
4 heirs of a deceased P.O.D. payee upon presentation to the financial
5 institution of proof of death showing that the P.O.D. payee sur-
6 vived all persons named as original payees. Payment may be made
7 to the personal representative or heirs of a deceased original payee
8 if proof of death is presented to the financial institution showing
9 that his decedent was the survivor of all other persons named on
10 the account either as an original payee or as P.O.D. payee.

1 11. (New section) Any trust account may be paid, on request,
2 to any trustee. Unless the financial institution has received written
3 notice that the beneficiary has a vested interest not dependent upon
4 his surviving the trustee, payment may be made to the personal
5 representative or heirs of a deceased trustee if proof of death is
6 presented to the financial institution showing that his decedent
7 was the survivor of all other persons named on the account either
8 as trustee or beneficiary. Payment may be made, on request, to
9 the beneficiary upon presentation to the financial institution of
10 proof of death showing that the beneficiary or beneficiaries sur-
11 vived all persons named as trustees.

1 12. (New section) Payment made pursuant to sections 8, 9, 10
2 or 11 discharges the financial institution from all claims for amounts
3 so paid whether or not the payment is consistent with the beneficial
4 ownership of the account as between parties, P.O.D. payees, or
5 beneficiaries, or their successors. The protection here given does
6 not extend to payments made after a financial institution has re-
7 ceived written notice from any party able to request present pay-
8 ment to the effect that withdrawals in accordance with the terms
9 of the account should not be permitted. Unless the notice is with-
10 drawn by the person giving it, the successor of any deceased party

11 must concur in any demand for withdrawal if the financial institu-
12 tion is to be protected under this section. No other notice or any
13 other information shown to have been available to a financial
14 institution shall affect its right to the protection provided here.
15 The protection here provided shall have no bearing on the rights
16 of parties in disputes between themselves or their successors con-
17 cerning the beneficial ownership of funds in, or withdrawn from,
18 multiple-party accounts.

1 13. (New section) Without qualifying any other statutory right
2 to setoff or lien and subject to any contractual provision, if a party
3 to a multiple-party account is indebted to a financial institution,
4 the financial institution has a right to setoff against the account
5 in which the party has or had immediately before his death a pres-
6 ent right of withdrawal. The amount of the account subject to
7 setoff is that proportion to which the debtor is, or was immediately
8 before his death, beneficially entitled, and in the absence of proof
9 of net contributions, to an equal share with all parties having
10 present rights of withdrawal.

1 14. (New section) Any transfers resulting from the application
2 of section 5 are effective by reason of the account contracts in-
3 volved and this act, and are not to be considered as testamentary.
4 The right of any surviving party to a joint account, or of any bene-
5 ficiary, or of any P.O.D. payee, to the sums on deposit on the death
6 of any party to a multi-party account maintained in any financial
7 institution, shall not be denied, abridged or in anywise affected
8 because such right has not been created by a writing executed in
9 accordance with the laws of this State prescribing the requirements
10 to effect a valid testamentary disposition of property.

1 15. (New section) Nothing in this act shall validate any trust
2 created in fraud of creditors of the fiduciary nor affect any law
3 of this State governing transfer inheritance or estate taxes, nor
4 shall anything herein relieve any financial institution of its duty
5 to conform with the provisions of the law imposing transfer in-
6 heritance taxes with respect to decedents' estates.

1 16. (New section) The Commissioner of Banking shall prescribe
2 by rule or regulation the form and content of deposit contracts
3 applicable to deposits of funds which may be subject to this act
4 for the object of assuring to the extent possible that each such
5 contract bears out the intentions of the persons who are named in
6 the account, particularly in respect to the rights of survivorship
7 and whether or not such rights of survivorship are intended to
8 be created.

1 17. (New section) This act shall apply only to accounts opened
2 after its effective date and accounts opened prior thereto shall be
3 governed by the law in effect when such accounts were opened.

1 18. Section 82 of P. L. 1963, c. 144 (C. 17:12B-82) is amended to
2 read as follows:

3 82. [For the purposes of sections 82 through 86 of this act the
4 words "beneficiary" and "fiduciary" shall be intended to mean
5 one or more such persons unless restricted by the context to a single
6 individual.

7 Membership trust accounts.

8 Whenever an account is opened by any person or persons,
9 describing himself or themselves, in opening such account as
10 trustee or fiduciary for any other person or persons, and no other
11 or further evidence of the existence or terms of a legal and valid
12 trust, than such description, shall have been given in writing to the
13 association, the association shall pay any moneys to the credit of
14 such account from time to time to, or pursuant to the order of,
15 such fiduciary during his lifetime. When the fiduciary makes a
16 payment or payments to such account, or causes a payment or
17 payments to be made to such account, the fiduciary shall con-
18 clusively be presumed to intend to declare and create a trust of the
19 moneys at any time to the credit of such account, for the named
20 beneficiary, with the fiduciary as trustee, upon the following terms:

21 (1) The trust shall be revocable at will by the fiduciary, and the
22 withdrawal value of any such account, and dividends thereon, or
23 other rights relating thereto, less all proper set-offs and charges,
24 may be paid, or delivered, in whole or in part, to such fiduciary
25 without regard to any notice to the contrary so long as such
26 fiduciary is living;

27 (2) If the fiduciary survives the named beneficiary, the named
28 beneficiary's death shall terminate the trust and title to the
29 moneys to the credit of the trust, less all proper set-offs and
30 charges, shall vest in the fiduciary, free and clear of the trust;
31 provided, however, where such an account names more than one
32 beneficiary, the death of one of the beneficiaries so named shall not
33 terminate the trust and the trust shall continue as to the surviving
34 beneficiary or beneficiaries subject to the provisions of this section;

35 (3) If the named beneficiary survives the fiduciary, such fidu-
36 ciary, such fiduciary's death shall terminate the trust and any
37 moneys to the credit of the trust, less all proper set-offs and charges,
38 shall vest solely and indefeasibly in the named beneficiary, notwith-
39 standing any action by the fiduciary, or any evidence, contrary to or

40 negating the fiduciary's conclusively presumed intention in
 41 declaring, creating and maintaining the trust; provided, however,
 42 where such an account is opened or subsequently held by more than
 43 one fiduciary, the death of one of such fiduciaries shall not terminate
 44 the trust and the trust shall continue as to the surviving fiduciary
 45 or fiduciaries and named beneficiary or beneficiaries subject to the
 46 provisions of this section;】

47 *When a membership trust account is opened in the manner pro-*
 48 *vided in the "Multiple-party Deposit Account Act", and,*

49 【(4)】 *a.* Where a 【fiduciary's】 *trustee's* death terminates the
 50 trust under the provisions of 【subsection (3) of this section】
 51 *section 5c(2) of the "Multiple-party Deposit Account Act"* and
 52 where the named beneficiary or all of the beneficiaries so named are
 53 16 years of age or over at the time of termination of such trust, the
 54 association shall pay the moneys to the credit of the trust, less all
 55 proper set-offs and charges, to the named beneficiary or benefi-
 56 ciaries or upon his or their order, and such payment by the associa-
 57 tion shall be valid, notwithstanding any lack of legal age of the
 58 named beneficiary or beneficiaries;

59 【(5)】 *b.* If the named beneficiary or all of the beneficiaries so
 60 named are under 16 years of age at the time of termination of such
 61 trust, the association shall pay the moneys to the credit of the trust,
 62 less all proper set-offs and charges,

63 【(a)】(1) When or after the named beneficiary becomes 16 years
 64 of age, to the named beneficiary or upon his order, or

65 【(b)】(2) When more than one beneficiary is named, the associa-
 66 tion shall pay to the beneficiary so named his proportionate interest
 67 in such account as he becomes 16 years of age, or

68 【(c)】(3) 【to】 *To* the legal guardian of the named beneficiary
 69 wherever appointed, or where more than one beneficiary is named,
 70 the association shall pay such beneficiary's proportionate interest
 71 in such account to his legal guardian wherever and whenever
 72 appointed, or

73 【(d)】(4) 【if】 *If* a certificate of appointment of a legal guardian
 74 is not filed with the association to a person authorized to receive
 75 such moneys or proportionate interest thereof pursuant to sections
 76 3A:6-31 and 3A:6-32 of the New Jersey Statutes.

77 【(6)】 *c.* Where a 【fiduciary's】 *trustee's* death terminates the
 78 trust under the provisions of 【subsection (3) of this section】
 79 *section 5c(2) of the "Multiple-party Deposit Account Act"* and
 80 where one or more of the named beneficiaries are under 16 years
 81 of age and the remainder of the named beneficiaries are 16 years of

82 age or over, the association shall pay the moneys to the credit of
83 the trust, less all proper set-offs and charges to:

84 **[(a)]** (1) The named beneficiaries 16 years of age or over at the
85 time of termination of said trust pursuant to subsection **[(4)]** a of
86 this section, and

87 **[(b)]** (2) The named beneficiaries under 16 years of age at the
88 time of termination of said trust pursuant to subsection **[(5)]** b
89 of this section.

90 **[(7)]** Where such an account is opened or subsequently held by
91 more than one fiduciary the association, in the absence of any
92 written instructions to the contrary, consented to by the associa-
93 tion, shall accept payments made to such account and may pay any
94 moneys to the credit of such account from time to time to, or pur-
95 suant to the order of, either or any of said persons during their
96 life or lives, in the same manner as if the account were in the sole
97 name of either or any of such fiduciaries.]

1 19. Section 89 of P. L. 1963, c. 144 (C. 17:12A-89) is amended to
2 read as follows:

3 89. *When a membership account is opened by a person or persons*
4 *payable on death to a beneficiary or beneficiaries in the manner*
5 *provided in the "Multiple-party Deposit Account Act", and the*
6 *account is terminated as provided in section 5b(2) of said act, and*
7 **[If]** *if the named beneficiary or one of the beneficiaries so named*
8 *survive the death of the person or persons opening such an account*
9 *and the beneficiary or all of the beneficiaries so named are 16 years*
10 *of age or over at the death of the person or persons opening such*
11 *an account, the association shall pay the moneys to the credit of*
12 *the account, less all proper set-offs and charges, to the named*
13 *beneficiary or beneficiaries or upon his or their order, [as herein-*
14 *after provided,]* and such payment by the association shall be valid,
15 notwithstanding any lack of legal age of the named beneficiary or
16 beneficiaries; provided, however, where such an account is opened
17 or subsequently held by more than one person, the death of one of
18 such persons shall not terminate the account and the account shall
19 continue as to the surviving person or persons and the named
20 beneficiary or beneficiaries subject to the provisions of sections 90
21 through 97 of this act].

1 20. Section 90 of P. L. 1963, c. 144 (C. 17:12A-90) is amended
2 to read as follows:

3 90. *When a membership account is opened by a person or persons*
4 *payable on death to a beneficiary or beneficiaries in the manner*
5 *provided in the "Multiple-party Deposit Account Act," and the*

6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **【If】** *if the named beneficiary or all of the beneficiaries so named*
 8 *survive the death of the person or persons opening such an account*
 9 *and are under 16 years of age at such time, the association shall*
 10 *pay the moneys to the credit of the account, less all proper set-*
 11 *offs and charges.*

12 **【(a)】** *a. When or after the named beneficiary becomes 16 years*
 13 *of age, to the named beneficiary or upon his order, or*

14 **【(b)】** *b. When more than one beneficiary is named, the associa-*
 15 *tion shall pay to the beneficiary so named his proportionate interest*
 16 *in such account as he becomes 16 years of age, or*

17 **【(c)】** *c. To the legal guardian of the named beneficiary, wher-*
 18 *ever appointed, or where more than one beneficiary is named,*
 19 *the association shall pay such beneficiary's proportionate interest*
 20 *in such account to his legal guardian wherever and whenever*
 21 *appointed, or*

22 **【(d)】** *d. If a certificate of appointment of a legal guardian is*
 23 *not filed with the association, to a person authorized to receive such*
 24 *moneys, or proportionate interest thereof, pursuant to sections*
 25 *3A:6-31 and 3A:6-32 of the New Jersey Statutes.*

1 21. Section 91 of P. L. 1963, c. 144 (C. 17:12A-91) is amended
 2 to read as follows:

3 91. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act," and the*
 6 *account is terminated as provided in section 5b(2) of said act,*

7 **【Where the death of the person or persons opening such an**
 8 **account terminates the account under the provisions of sections 89**
 9 **or 90 of this act】** *and where one or more of the named beneficiaries*
 10 *are under 16 years of age and the remainder of the named bene-*
 11 *ficiaries are 16 years of age or over, the associations shall pay*
 12 *the moneys to the credit of the trust, less all proper set-offs and*
 13 *charges to:*

14 **【(a)】** *a. The named beneficiaries 16 years of age or over at*
 15 *the time of termination of said account shall be paid pursuant to*
 16 *section 89 of this act, and*

17 **【(b)】** *b. The named beneficiaries under 16 years of age at the*
 18 *time of termination of said account shall be paid pursuant to*
 19 *section 90 of this act.*

1 22. The following acts and parts of acts are hereby repealed:

2 a. Sections 216 through 218 of P. L. 1948, c. 67 (C. 17:9A-216
 3 to C. 17:9A-218);

- 4 b. P. L. 1965, c. 145 (C. 17:9A-218.1 to C. 17:9A-218.7);
5 c. Sections 88, 92 through 105, 107 and 108 of P. L. 1963, c. 144
6 (C. 17:12B-88, C. 17:12B-92 to C. 17:12B-105, C. 17:12B-107 and
7 C. 17:12B-108);
8 d. P. L. 1954, c. 208 (C. 46:37-1 and C. 46:37-2).
1 23. This act shall take effect 90 days after enactment.

STATEMENT

This bill has been prepared by the Division of Law Revision of the Legislative Services Agency, and is one of a series of bills adapted from the Uniform Probate Code which has been approved by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association.

It regulates and fixes the answers to the questions concerning the ownership of multiple-party accounts whether joint accounts, P.O.D. accounts, or trust accounts, questions of ownership during the lifetime of all parties to the account, the right of survivorship in the event of the death of one or more parties, the rights of creditors of an estate in the event that the probate estate is not sufficient to pay debts, taxes and expenses and it establishes provisions for the protection of the financial institution with regard to said account. It insures that multiple-party, P.O.D. and trust beneficiary accounts need not be established in accordance with the requirements for executing a will, and that such accounts cannot be changed by a will.

The bill repeats the obligation of financial institutions to hold the account for responsibility for transfer inheritance taxes and that nothing in the act shall validate any trust created in fraud of creditors of the fiduciary.

The bill further provides that the Commissioner of Banking shall prescribe by rule or regulation the form and content of deposit contracts to the extent possible that such contracts bear out the intentions of the persons named in the account.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1626

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman BURSTEIN

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT revising the law with respect to multiple-party deposit accounts maintained in certain financial institutions; amending sections 82, 89 through 91 of P. L. 1963, c. 144; repealing sections 216 through 218 of P. L. 1948, c. 67; P. L. 1954, c. 208; sections 88, 92 through 105, 107 and 108 of P. L. 1963, c. 144; P. L. 1965, c. 145, and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) This act shall be known and may be cited as
2 the "Multiple-party Deposit Account Act".

1 2. (New section) As used in this act unless the context otherwise
2 requires:

3 a. "Account" means a contract of deposit of funds between a
4 depositor and a financial institution, and includes a checking
5 account, savings account, certificate of deposit, share account and
6 other like arrangement;

7 b. "Beneficiary" means a person named in a trust account as
8 one for whom a party to the account is named as trustee;

9 c. "Financial institution" means any organization authorized
10 to do business under State or Federal laws relating to financial
11 institutions, including, without limitation, banks and trust com-
12 panies, savings banks, building and loan associations, savings and
13 loan associations;

14 d. "Joint account" means an account payable on request to one
15 or more of two or more parties whether or not mention is made of
16 any right of survivorship, and regardless whether the names of the
17 parties are stated in the conjunctive or in the disjunctive;

18 e. A "multiple-party account" is any of the following types of
19 account: (1) a joint account, (2) a P.O.D. account, or (3) a trust

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

20 account. It does not include accounts established for deposit of
21 funds of a partnership, joint venture, or other association for
22 business purposes, or accounts controlled by one or more persons
23 as the duly authorized agent or trustee for a corporation, unin-
24 corporated association, charitable or civic organization or a regular
25 fiduciary or trust account where the relationship is established
26 other than by deposit agreement;

27 f. "Net contribution" of a party to a joint account as of any
28 given time is the sum of all deposits thereto made by or for him,
29 less all withdrawals made by or for him which have not been paid
30 to or applied to the use of any other party, plus a pro rata share
31 of any interest or dividends included in the current balance. The
32 term includes, in addition, any proceeds of deposit life insurance
33 added to the account by reason of the death of the party whose net
34 contribution is in question;

35 g. "Party" means a person who, by the terms of the account,
36 has a present right, subject to request, to payment from a multiple-
37 party account. A P.O.D. payee or beneficiary of a trust account is
38 a party only after the account becomes payable to him by reason
39 of his surviving the original payee or trustee. Unless the context
40 otherwise requires, it includes a guardian, conservator, personal
41 representative, or assignee, including an attaching creditor, of a
42 party. It also includes a person identified as a trustee of an account
43 for another whether or not a beneficiary is named, but it does not
44 include any named beneficiary unless he has a present right of
45 withdrawal;

46 h. "Payment" of sums on deposit includes withdrawal, payment
47 on check or other directive of a party, and any pledge of sums on
48 deposit by a party of any setoff, or reduction or other disposition
49 of all or part of an account pursuant to a pledge;

50 i. "Proof of death" includes a certified or authenticated copy of
51 a death certificate purporting to be issued by an official or agency
52 of the place where the death purportedly occurred, and a certified
53 or authenticated copy of any judgment or record or report of a
54 court or a governmental agency, domestic or foreign, that a person
55 is dead;

56 j. "P.O.D. account" means an account payable on request to
57 one person during lifetime and on his death to one or more P.O.D.
58 payees, or to one or more persons during their lifetimes and on
59 the death of all of them to one or more P.O.D. payees;

60 k. "P.O.D. payee" means a person designated on a P.O.D.
61 account as one to whom the account is payable on request after
62 the death of one or more persons;

63 l. "Request" means a proper request for withdrawal, or a
 64 check or order for payment, which complies with all conditions
 65 of the account, including special requirements concerning
 66 necessary signatures and regulations of the financial institution;
 67 but if the financial institution conditions withdrawal or payment
 68 on advance notice, for purposes of this part the request for with-
 69 drawal or payment is treated as immediately effective and a notice
 70 of intent to withdraw is treated as a request for withdrawal;

71 m. "Sums on deposit" means the balance payable on a multiple-
 72 party account including interest, dividends, and in addition any
 73 deposit life insurance proceeds added to the account by reason of
 74 the death of a party;

75 n. "Trust account" means an account in the name of one or
 76 more parties as trustee for one or more beneficiaries where the
 77 relationship is established by the form of the account and the
 78 deposit agreement with the financial institution and there is no
 79 subject of the trust other than the sums on deposit in the account;
 80 it is not essential that payment to the beneficiary be mentioned
 81 in the deposit agreement. A trust account does not include a
 82 regular trust account under a testamentary trust or a trust agree-
 83 ment which has significance apart from the account, or a fiduciary
 84 account arising from a fiduciary relation such as attorney-client;

85 o. "Withdrawal" includes payment to a third person pursuant
 86 to check or other directive of a party; and

87 p. "Written notice or order" received by a financial institution
 88 is effective for a particular transaction from the time it is brought
 89 to the attention of the individual conducting that transaction, and
 90 in any event from the time it would have been brought to his
 91 attention if the financial institution had exercised due diligence.

1 3. (New section) The provisions of sections 4 to 6 concerning
 2 beneficial ownership as between parties, or as between parties and
 3 P.O.D. payees or beneficiaries of multiple-party accounts, are
 4 relevant only to controversies between these persons and their
 5 creditors and other successors, and have no bearing on the power
 6 of withdrawal of these persons as determined by the terms of
 7 account contracts. The provisions of sections 8 to 13 govern the
 8 liability of financial institutions who make payments pursuant
 9 thereto, and their setoff rights.

1 *4.* (New section) Unless a contrary intent is manifested by the
 2 terms of the contract, or the deposit agreement, or there is other
 3 clear and convincing evidence of a different intent at the time the
 4 account is created:

5 a. A joint account belongs, during the lifetime of all parties, to
6 the parties in proportion to the net contributions by each to the
7 sums on deposit. **This subsection shall not be construed to affect*
7A *the right of the court to effectuate an equitable distribution of*
7B *property between the parties in an action for divorce pursuant to*
7C *N. J. S. 2A:34-23.**

8 b. A P.O.D. account belongs to the original payee during his
9 lifetime and not to the P.O.D. payee or payees; if two or more
10 parties are named as original payees, during their lifetimes rights
11 as between them are governed by subsection a. of this section.

12 c. A trust account belongs beneficially to the trustee during his
13 lifetime, and if two or more parties are named as trustee on the
14 account, during their lifetimes beneficial rights as between them
15 are governed by subsection a. of this section. If there is an
16 irrevocable trust, the account belongs beneficially to the beneficiary.

1 5. (New section) a. Sums remaining on deposit at the death of a
2 party to a joint account belong to the surviving party or parties as
3 against the estate of the decedent unless there is clear and convinc-
4 ing evidence of a different intention at the time the account is
5 created. If there are two or more surviving parties, their respective
6 ownerships during lifetime shall be in proportion to their previous
7 ownership interests under section 4 augmented by an equal share
8 for each survivor of any interest the decedent may have owned in
9 the account immediately before his death; and the right of survivor-
10 ship continues between the surviving parties.

11 b. If the account is a P.O.D. account;

12 (1) On death of one of two or more original payees the rights to
13 any sums remaining on deposit are governed by subsection "a";

14 (2) On death of the sole original payee or of the survivor of two
15 or more original payees, any sums remaining on deposit belong to
16 the P.O.D. payee or payees if surviving, or to the survivor of them
17 if one or more die before the original payee; if two or more P.O.D.
18 payees survive, there is no right of survivorship in the event of
19 death of a P.O.D. payee thereafter unless the terms of the account
20 or deposit agreement expressly provide for survivorship between
21 them.

22 c. If the account is a trust account;

23 (1) On death of one of two or more trustees, the rights to any
24 sums remaining on deposit are governed by subsection "a";

25 (2) On death of the sole trustee or the survivor of two or more
26 trustees, any sums remaining on deposit belong to the person or
27 persons named as beneficiaries, if surviving, or to the survivor of

28 them if one or more die before the trustee, unless there is clear
29 evidence of a contrary intent; if two or more beneficiaries survive,
30 there is no right of survivorship in event of death of any beneficiary
31 thereafter unless the terms of the account on deposit agreement
32 expressly provide for survivorship between them.

33 d. In other cases, the death of any party to a multiple-party
34 account has no effect on beneficial ownership of the account other
35 than to transfer the rights of the decedent as part of his estate.

36 e. A right of survivorship arising from the express terms of the
37 account or under this section, a beneficiary designation in a trust
38 account, or a P.O.D. payee designation, cannot be changed by will.

1 6. (New section) The provisions of section 5 as to rights of
2 survivorship are determined by the form of the account at the
3 death of a party. This form may be altered by written notice or
4 order given by a party to the financial institution to change the
5 form of the account or to stop or vary payment under the terms of
6 the account. The order or request must be signed by a party,
7 received by the financial institution during the party's lifetime, and
8 not countermanded by other written order of the same party during
9 his lifetime.

1 7. (New section) No multiple-party account will be effective
2 against an estate of a deceased party to transfer to a survivor sums
3 needed to pay debts, taxes, and expenses of administration, if other
4 assets of the estate are insufficient. A surviving party, P.O.D. payee,
5 or beneficiary who receives payment from a multiple-party account
6 after the death of a deceased party shall be liable to account to his
7 personal representative for amounts the decedent owned bene-
8 ficially immediately before his death to the extent necessary to
9 discharge the claims and charges mentioned above remaining
10 unpaid after application of the decedent's estate. No proceeding
11 to assert this liability shall be commenced unless the personal
12 representative has received a written demand by a creditor, and
13 no proceeding shall be commenced later than 2 years following the
14 death of the decedent. Sums recovered by the personal representa-
15 tive shall be administered as part of the decedent's estate. This
16 section shall not affect the right of a financial institution to make
17 payment on multiple-party accounts according to the terms thereof,
18 or make it liable to the estate of a deceased party unless before
19 payment the institution has been served with an order of court
20 restraining the payment.

1 8. (New section) Financial institutions may enter into multiple-
2 party accounts to the same extent that they may enter into single-

3 party accounts. Any multiple-party account may be paid, on re-
4 quest, to any one or more of the parties. A financial institution
5 shall not be required to inquire as to the source of funds received
6 for deposit to a multiple-party account, or to inquire as to the
7 proposed application of any sum withdrawn from an account, for
8 purposes of establishing net contributions.

1 9. (New section) Any sums in a joint account may be paid, on
2 request, to any party without regard to whether any other party
3 is incapacitated or deceased at the time the payment is demanded;
4 but payment may not be made to the personal representative or
5 heirs of a deceased party unless proofs of death are presented to
6 the financial institution showing that the decedent was the last
7 surviving party or unless there is no right of survivorship under
8 section 5.

1 10. (New section) Any P.O.D. account may be paid, on request,
2 to any original party to the account. Payment may be made, on
3 request, to the P.O.D. payee or to the personal representative or
4 heirs of a deceased P.O.D. payee upon presentation to the financial
5 institution of proof of death showing that the P.O.D. payee sur-
6 vived all persons named as original payees. Payment may be made
7 to the personal representative or heirs of a deceased original payee
8 if proof of death is presented to the financial institution showing
9 that his decedent was the survivor of all other persons named on
10 the account either as an original payee or as P.O.D. payee.

1 11. (New section) Any trust account may be paid, on request,
2 to any trustee. Unless the financial institution has received written
3 notice that the beneficiary has a vested interest not dependent upon
4 his surviving the trustee, payment may be made to the personal
5 representative or heirs of a deceased trustee if proof of death is
6 presented to the financial institution showing that his decedent
7 was the survivor of all other persons named on the account either
8 as trustee or beneficiary. Payment may be made, on request, to
9 the beneficiary upon presentation to the financial institution of
10 proof of death showing that the beneficiary or beneficiaries sur-
11 vived all persons named as trustees.

1 12. (New section) Payment made pursuant to sections 8, 9, 10
2 or 11 discharges the financial institution from all claims for amounts
3 so paid whether or not the payment is consistent with the beneficial
4 ownership of the account as between parties, P.O.D. payees, or
5 beneficiaries, or their successors. The protection here given does
6 not extend to payments made after a financial institution has re-
7 ceived written notice from any party able to request present pay-

8 ment to the effect that withdrawals in accordance with the terms
9 of the account should not be permitted. Unless the notice is with-
10 drawn by the person giving it, the successor of any deceased party
11 must concur in any demand for withdrawal if the financial institu-
12 tion is to be protected under this section. No other notice or any
13 other information shown to have been available to a financial
14 institution shall affect its right to the protection provided here.
15 The protection here provided shall have no bearing on the rights
16 of parties in disputes between themselves or their successors con-
17 cerning the beneficial ownership of funds in, or withdrawn from,
18 multiple-party accounts.

1 13. (New section) Without qualifying any other statutory right
2 to setoff or lien and subject to any contractual provision, if a party
3 to a multiple-party account is indebted to a financial institution,
4 the financial institution has a right to setoff against the account
5 in which the party has or had immediately before his death a pres-
6 ent right of withdrawal. The amount of the account subject to
7 setoff is that proportion to which the debtor is, or was immediately
8 before his death, beneficially entitled, and in the absence of proof
9 of net contributions, to an equal share with all parties having
10 present rights of withdrawal.

1 14. (New section) Any transfers resulting from the application
2 of section 5 are effective by reason of the account contracts in-
3 volved and this act, and are not to be considered as testamentary.
4 The right of any surviving party to a joint account, or of any bene-
5 ficiary, or of any P.O.D. payee, to the sums on deposit on the death
6 of any party to a multi-party account maintained in any financial
7 institution, shall not be denied, abridged or in anywise affected
8 because such right has not been created by a writing executed in
9 accordance with the laws of this State prescribing the requirements
10 to effect a valid testamentary disposition of property.

1 15. (New section) Nothing in this act shall validate any trust
2 created in fraud of creditors of the fiduciary nor affect any law
3 of this State governing transfer inheritance or estate taxes, nor
4 shall anything herein relieve any financial institution of its duty
5 to conform with the provisions of the law imposing transfer in-
6 heritance taxes with respect to decedents' estates.

1 16. (New section) The Commissioner of Banking shall prescribe
2 by rule or regulation the form and content of deposit contracts
3 applicable to deposits of funds which may be subject to this act
4 for the object of assuring to the extent possible that each such
5 contract bears out the intentions of the persons who are named in

6 the account, particularly in respect to the rights of survivorship
7 and whether or not such rights of survivorship are intended to
8 be created.

1 17. (New section) This act shall apply only to accounts opened
2 after its effective date and accounts opened prior thereto shall be
3 governed by the law in effect when such accounts were opened.

1 18. Section 82 of P. L. 1963, c. 144 (C. 17:12B-82) is amended to
2 read as follows:

3 82. [For the purposes of sections 82 through 86 of this act the
4 words "beneficiary" and "fiduciary" shall be intended to mean
5 one or more such persons unless restricted by the context to a single
6 individual.

7 Membership trust accounts.

8 Whenever an account is opened by any person or persons,
9 describing himself or themselves, in opening such account as
10 trustee or fiduciary for any other person or persons, and no other
11 or further evidence of the existence or terms of a legal and valid
12 trust, than such description, shall have been given in writing to the
13 association, the association shall pay any moneys to the credit of
14 such account from time to time to, or pursuant to the order of,
15 such fiduciary during his lifetime. When the fiduciary makes a
16 payment or payments to such account, or causes a payment or
17 payments to be made to such account, the fiduciary shall con-
18 clusively be presumed to intend to declare and create a trust of the
19 moneys at any time to the credit of such account, for the named
20 beneficiary, with the fiduciary as trustee, upon the following terms:

21 (1) The trust shall be revocable at will by the fiduciary, and the
22 withdrawal value of any such account, and dividends thereon, or
23 other rights relating thereto, less all proper set-offs and charges,
24 may be paid, or delivered, in whole or in part, to such fiduciary
25 without regard to any notice to the contrary so long as such
26 fiduciary is living;

27 (2) If the fiduciary survives the named beneficiary, the named
28 beneficiary's death shall terminate the trust and title to the
29 moneys to the credit of the trust, less all proper set-offs and
30 charges, shall vest in the fiduciary, free and clear of the trust;
31 provided, however, where such an account names more than one
32 beneficiary, the death of one of the beneficiaries so named shall not
33 terminate the trust and the trust shall continue as to the surviving
34 beneficiary or beneficiaries subject to the provisions of this section;

35 (3) If the named beneficiary survives the fiduciary, such fidu-
36 ciary, such fiduciary's death shall terminate the trust and any

37 moneys to the credit of the trust, less all proper set-offs and charges,
 38 shall vest solely and indefeasibly in the named beneficiary, notwith-
 39 standing any action by the fiduciary, or any evidence, contrary to or
 40 negating the fiduciary's conclusively presumed intention in
 41 declaring, creating and maintaining the trust; provided, however,
 42 where such an account is opened or subsequently held by more than
 43 one fiduciary, the death of one of such fiduciaries shall not terminate
 44 the trust and the trust shall continue as to the surviving fiduciary
 45 or fiduciaries and named beneficiary or beneficiaries subject to the
 46 provisions of this section;]

47 *When a membership trust account is opened in the manner pro-*
 48 *vided in the "Multiple-party Deposit Account Act", and,*

49 [(4)] a. Where a [fiduciary's] trustee's death terminates the
 50 trust under the provisions of [subsection (3) of this section]
 51 section 5c(2) of the "Multiple-party Deposit Account Act" and
 52 where the named beneficiary or all of the beneficiaries so named are
 53 16 years of age or over at the time of termination of such trust, the
 54 association shall pay the moneys to the credit of the trust, less all
 55 proper set-offs and charges, to the named beneficiary or benefi-
 56 ciaries or upon his or their order, and such payment by the associa-
 57 tion shall be valid, notwithstanding any lack of legal age of the
 58 named beneficiary or beneficiaries;

59 [(5)] b. If the named beneficiary or all of the beneficiaries so
 60 named are under 16 years of age at the time of termination of such
 61 trust, the association shall pay the moneys to the credit of the trust,
 62 less all proper set-offs and charges,

63 [(a)](1) When or after the named beneficiary becomes 16 years
 64 of age, to the named beneficiary or upon his order, or

65 [(b)] (2) When more than one beneficiary is named, the associa-
 66 tion shall pay to the beneficiary so named his proportionate interest
 67 in such account as he becomes 16 years of age, or

68 [(c)] (3) [to] To the legal guardian of the named beneficiary
 69 wherever appointed, or where more than one beneficiary is named,
 70 the association shall pay such beneficiary's proportionate interest
 71 in such account to his legal guardian wherever and whenever
 72 appointed, or

73 [(d)] (4) [if] If a certificate of appointment of a legal guardian
 74 is not filed with the association to a person authorized to receive
 75 such moneys or proportionate interest thereof pursuant to sections
 76 3A:6-31 and 3A:6-32 of the New Jersey Statutes.

77 [(6)] c. Where a [fiduciary's] trustee's death terminates the
 78 trust under the provisions of [subsection (3) of this section]

79 *section 5c(2) of the "Multiple-party Deposit Account Act"* and
 80 where one or more of the named beneficiaries are under 16 years
 81 of age and the remainder of the named beneficiaries are 16 years of
 82 age or over, the association shall pay the moneys to the credit of
 83 the trust, less all proper set-offs and charges to:

84 **[(a)] (1)** The named beneficiaries 16 years of age or over at the
 85 time of termination of said trust pursuant to subsection **[(4)] a** of
 86 this section, and

87 **[(b)] (2)** The named beneficiaries under 16 years of age at the
 88 time of termination of said trust pursuant to subsection **[(5)] b**
 89 of this section.

90 **[(7)** Where such an account is opened or subsequently held by
 91 more than one fiduciary the association, in the absence of any
 92 written instructions to the contrary, consented to by the associa-
 93 tion, shall accept payments made to such account and may pay any
 94 moneys to the credit of such account from time to time to, or pur-
 95 suant to the order of, either or any of said persons during their
 96 life or lives, in the same manner as if the account were in the sole
 97 name of either or any of such fiduciaries.]

1 19. Section 89 of P. L. 1963, c. 144 (C. 17:12A-89) is amended to
 2 read as follows:

3 89. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act", and the*
 6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **[If** if the named beneficiary or one of the beneficiaries so named
 8 survive the death of the person *or persons* opening such an account
 9 and the beneficiary or all of the beneficiaries so named are 16 years
 10 of age or over at the death of the person *or persons* opening such
 11 an account, the association shall pay the moneys to the credit of
 12 the account, less all proper set-offs and charges, to the named
 13 beneficiary or beneficiaries or upon his or their order, **[as herein-**
 14 **after provided,]** and such payment by the association shall be valid,
 15 notwithstanding any lack of legal age of the named beneficiary or
 16 beneficiaries**];** provided, however, where such an account is opened
 17 or subsequently held by more than one person, the death of one of
 18 such persons shall not terminate the account and the account shall
 19 continue as to the surviving person or persons and the named
 20 beneficiary or beneficiaries subject to the provisions of sections 90
 21 through 97 of this act**].**

1 20. Section 90 of P. L. 1963, c. 144 (C. 17:12A-90) is amended
 2 to read as follows:

3 90. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act," and the*
 6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **【If】** *if the named beneficiary or all of the beneficiaries so named*
 8 *survive the death of the person or persons opening such an account*
 9 *and are under 16 years of age at such time, the association shall*
 10 *pay the moneys to the credit of the account, less all proper set-*
 11 *offs and charges.*

12 **【(a)】** *a. When or after the named beneficiary becomes 16 years*
 13 *of age, to the named beneficiary or upon his order, or*

14 **【(b)】** *b. When more than one beneficiary is named, the associa-*
 15 *tion shall pay to the beneficiary so named his proportionate interest*
 16 *in such account as he becomes 16 years of age, or*

17 **【(c)】** *c. To the legal guardian of the named beneficiary, wher-*
 18 *ever appointed, or where more than one beneficiary is named,*
 19 *the association shall pay such beneficiary's proportionate interest*
 20 *in such account to his legal guardian wherever and whenever*
 21 *appointed, or*

22 **【(d)】** *d. If a certificate of appointment of a legal guardian is*
 23 *not filed with the association, to a person authorized to receive such*
 24 *moneys, or proportionate interest thereof, pursuant to sections*
 25 *3A:6-31 and 3A:6-32 of the New Jersey Statutes.*

1 21. Section 91 of P. L. 1963, c. 144 (C. 17:12A-91) is amended
 2 to read as follows:

3 91. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act," and the*
 6 *account is terminated as provided in section 5b(2) of said act,*

7 **【Where the death of the person or persons opening such an**
 8 **account terminates the account under the provisions of sections 89**
 9 **or 90 of this act】** *and where one or more of the named beneficiaries*
 10 *are under 16 years of age and the remainder of the named bene-*
 11 *ficiaries are 16 years of age or over, the associations shall pay*
 12 *the moneys to the credit of the trust, less all proper set-offs and*
 13 *charges to:*

14 **【(a)】** *a. The named beneficiaries 16 years of age or over at*
 15 *the time of termination of said account shall be paid pursuant to*
 16 *section 89 of this act, and*

17 **【(b)】** *b. The named beneficiaries under 16 years of age at the*
 18 *time of termination of said account shall be paid pursuant to*
 19 *section 90 of this act.*

- 1 22. The following acts and parts of acts are hereby repealed:
2 a. Sections 216 through 218 of P. L. 1948, c. 67 (C. 17:9A-216
3 to C. 17:9A-218);
4 b. P. L. 1965, c. 145 (C. 17:9A-218.1 to C. 17:9A-218.7);
5 c. Sections 88, 92 through 105, 107 and 108 of P. L. 1963, c. 144
6 (C. 17:12B-88, C. 17:12B-92 to C. 17:12B-105, C. 17:12B-107 and
7 C. 17:12B-108);
8 d. P. L. 1954, c. 208 (C. 46:37-1 and C. 46:37-2).
1 23. This act shall take effect 90 days after enactment.
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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1626

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 1979

This bill has been prepared by the Division of Law Revision of the Legislative Services Agency, and is one of a series of bills adapted from the Uniform Probate Code which has been approved by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association.

It regulates and fixes the answers to the questions concerning the ownership of multiple-party accounts whether joint accounts, P.O.D. account for responsibility for transfer inheritance taxes and that nothing of all parties to the account, the right of survivorship in the event of the death of one or more parties, the rights of creditors of an estate in the event that the probate estate is not sufficient to pay debts, taxes and expenses and it establishes provisions for the protection of the financial institution with regard to said account. It insures that multiple-party, P.O.D. and trust beneficiary accounts need not be established in accordance with the requirements for executing a will, and that such accounts cannot be changed by a will.

The bill repeats the obligation of financial institutions to hold the account for responsibility for transfer inheritance taxes and that nothing in the act shall validate any trust created in fraud of creditors of the fiduciary.

The bill further provides that the Commissioner of Banking shall prescribe by rule or regulation the form and content of deposit contracts to the extent possible that such contracts bear out the intentions of the persons named in the account.

The definitions set forth in section 1 of the bill, with the exception of "written notice or order", were taken directly from section 6-101 of the Uniform Probate Code (1977). The definition of "written notice or order" was adapted from the Uniform Commercial Code (N. J. S. 12A:1-201 (27)). The existing statutes relating to "multiple-party accounts" do not contain definitions as set forth in section 1 of the bill. They do, however, describe each type of a "multiple-party account" in general terms. Thus, the definition section follows existing statute

law, where it exists and is pertinent, and fills in gaps where existing statute law does not contain definitions.

Section 4a. of the bill contains a change in the state of the law on rights to joint accounts. The cases of *Bauer v. Crummy*, 56 N. J. 400 (1970) and *Sadofski v. Williams*, 60 N. J. 385 (1972) state that the statute, N. J. S. A. 17:9A-218 (joint account) does not control inter vivos rights of parties nor does it control where the account has been terminated prior to death. The pertinent language of the bill will fill the gap in the existing law and control inter vivos rights of parties to a joint account in the absence of a contrary intent expressed in the deposit agreement or clear and convincing evidence of a different intent at the time the account is created. It eliminates possible first come-first serve, race-to-the-bank situations, and guarantees, for example, upon dissolution of the account during the lifetime of all parties, that each party will get a share proportionate to his net contributions to the account. The committee amendment clarifies, however, that in a divorce and settlement proceeding, the court may still effectuate an equitable distribution, which may give shares to the parties which are not equal to the parties' net contributions.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 1626

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 3, after section 3, line 1, before "(New section)", insert "4."

Amend page 4, section 4, line 7, after ".", insert "This subsection shall not be construed to affect the right of the court to effectuate an equitable distribution of property between the parties in an action for divorce pursuant to N. J. S. 2A:34-23."

[SENATE REPRINT]
ASSEMBLY, No. 1626

[OFFICIAL COPY REPRINT]

with Senate committee amendments adopted December 10, 1979

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman BURSTEIN

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT revising the law with respect to multiple-party deposit accounts maintained in certain financial institutions; amending sections 82, 89 through 91 of P. L. 1963, c. 144; repealing sections 216 through 218 of P. L. 1948, c. 67; P. L. 1954, c. 208; sections 88, 92 through ~~**102, 104,**~~ 105, 107 and 108 of P. L. 1963, c. 144; P. L. 1965, c. 145, and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) This act shall be known and may be cited as
2 the "Multiple-party Deposit Account Act".

1 2. (New section) As used in this act unless the context otherwise
2 requires:

3 a. "Account" means a contract of deposit of funds between a
4 depositor and a financial institution, and includes a checking
5 account, savings account, certificate of deposit, share account and
6 other like arrangement;

7 b. "Beneficiary" means a person named in a trust account as
8 one for whom a party to the account is named as trustee;

9 c. "Financial institution" means any organization authorized
10 to do business under State or Federal laws relating to financial
11 institutions, including, without limitation, banks and trust com-
12 panies, savings banks, building and loan associations, savings and
13 loan associations;

14 d. "Joint account" means an account payable on request to one
15 or more of two or more parties whether or not mention is made of
16 any right of survivorship, and regardless whether the names of the
17 parties are stated in the conjunctive or in the disjunctive;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

18 e. A "multiple-party account" is any of the following types of
19 account: (1) a joint account, (2) a P.O.D. account, or (3) a trust
20 account. It does not include accounts established for deposit of
21 funds of a partnership, joint venture, or other association for
22 business purposes, or accounts controlled by one or more persons
23 as the duly authorized agent or trustee for a corporation, unin-
24 corporated association, charitable or civic organization or a regular
25 fiduciary or trust account where the relationship is established
26 other than by deposit agreement;

27 f. "Net contribution" of a party to a joint account as of any
28 given time is the sum of all deposits thereto made by or for him,
29 less all withdrawals made by or for him which have not been paid
30 to or applied to the use of any other party, plus a pro rata share
31 of any interest or dividends included in the current balance. The
32 term includes, in addition, any proceeds of deposit life insurance
33 added to the account by reason of the death of the party whose net
34 contribution is in question;

35 g. "Party" means a person who, by the terms of the account,
36 has a present right, subject to request, to payment from a multiple-
37 party account. A P.O.D. payee or beneficiary of a trust account is
38 a party only after the account becomes payable to him by reason
39 of his surviving the original payee or trustee. Unless the context
40 otherwise requires, it includes a guardian, conservator, personal
41 representative, or assignee, including an attaching creditor, of a
42 party. It also includes a person identified as a trustee of an account
43 for another whether or not a beneficiary is named, but it does not
44 include any named beneficiary unless he has a present right of
45 withdrawal;

46 h. "Payment" of sums on deposit includes withdrawal, payment
47 on check or other directive of a party, and any pledge of sums on
48 deposit by a party of any setoff, or reduction or other disposition
49 of all or part of an account pursuant to a pledge;

50 i. "Proof of death" includes a certified or authenticated copy of
51 a death certificate purporting to be issued by an official or agency
52 of the place where the death purportedly occurred, and a certified
53 or authenticated copy of any judgment or record or report of a
54 court or a governmental agency, domestic or foreign, that a person
55 is dead;

56 j. "P.O.D. account" means an account payable on request to
57 one person during lifetime and on his death to one or more P.O.D.
58 payees, or to one or more persons during their lifetimes and on
59 the death of all of them to one or more P.O.D. payees;

60 k. "P.O.D. payee" means a person designated on a P.O.D.
61 account as one to whom the account is payable on request after
62 the death of one or more persons;

63 l. "Request" means a proper request for withdrawal, or a
64 check or order for payment, which complies with all conditions
65 of the account, including special requirements concerning
66 necessary signatures and regulations of the financial institution;
67 but if the financial institution conditions withdrawal or payment
68 on advance notice, for purposes of this part the request for with-
69 drawal or payment is treated as immediately effective and a notice
70 of intent to withdraw is treated as a request for withdrawal;

71 m. "Sums on deposit" means the balance payable on a multiple-
72 party account including interest, dividends, and in addition any
73 deposit life insurance proceeds added to the account by reason of
74 the death of a party;

75 n. "Trust account" means an account in the name of one or
76 more parties as trustee for one or more beneficiaries where the
77 relationship is established by the form of the account and the
78 deposit agreement with the financial institution and there is no
79 subject of the trust other than the sums on deposit in the account;
80 it is not essential that payment to the beneficiary be mentioned
81 in the deposit agreement. A trust account does not include a
82 regular trust account under a testamentary trust or a trust agree-
83 ment which has significance apart from the account, or a fiduciary
84 account arising from a fiduciary relation such as attorney-client;

85 o. "Withdrawal" includes payment to a third person pursuant
86 to check or other directive of a party; and

87 p. "Written notice or order" received by a financial institution
88 is effective for a particular transaction from the time it is brought
89 to the attention of the individual conducting that ****[transacation,**
90 and in any event from the time it would have been brought to his
91 attention if the financial institution had exercised due diligence**]****

92 ***transaction***.

1 3. (New section) The provisions of sections 4 to 6 concerning
2 beneficial ownership as between parties, or as between parties and
3 P.O.D. payees or beneficiaries of multiple-party accounts, are
4 relevant only to controversies between these persons and their
5 creditors and other successors, and have no bearing on the power
6 of withdrawal of these persons as determined by the terms of
7 account contracts. The provisions of sections 8 to 13 govern the
8 liability of financial institutions who make payments pursuant
9 thereto, and their setoff rights.

1 *4.* (New section) Unless a contrary intent is manifested by the
 2 terms of the contract, or the deposit agreement, or there is other
 3 clear and convincing evidence of a different intent at the time the
 4 account is created:

5 a. A joint account belongs, during the lifetime of all parties, to
 6 the parties in proportion to the net contributions by each to the
 7 sums on deposit. ***In the absence of proof of net contributions,*
 7A *the account belongs in equal shares to all parties having present*
 7B *right of withdrawal.*** **This subsection shall not be construed to*
 7C *affect the right of the court to effectuate an equitable distribution*
 7D *of property between the parties in an action for divorce pursuant to*
 7E *N. J. S. 2A:34-23.**

8 b. A P.O.D. account belongs to the original payee during his
 9 lifetime and not to the P.O.D. payee or payees; if two or more
 10 parties are named as original payees, during their lifetimes rights
 11 as between them are governed by subsection a. of this section.

12 c. A trust account belongs beneficially to the trustee during his
 13 lifetime, and if two or more parties are named as trustee on the
 14 account, during their lifetimes beneficial rights as between them
 15 are governed by subsection a. of this section. If there is an
 16 irrevocable trust, the account belongs beneficially to the beneficiary.

1 5. (New section) a. Sums remaining on deposit at the death of a
 2 party to a joint account belong to the surviving party or parties as
 3 against the estate of the decedent unless there is clear and convinc-
 4 ing evidence of a different intention at the time the account is
 5 created. If there are two or more surviving parties, their respective
 6 ownerships during lifetime shall be in proportion to their previous
 7 ownership interests under section 4 augmented by an equal share
 8 for each survivor of any interest the decedent may have owned in
 9 the account immediately before his death; and the right of survivor-
 10 ship continues between the surviving parties.

11 b. If the account is a P.O.D. account;

12 (1) On death of one of two or more original payees the rights to
 13 any sums remaining on deposit are governed by subsection "a";

14 (2) On death of the sole original payee or of the survivor of two
 15 or more original payees, any sums remaining on deposit belong to
 16 the P.O.D. payee or payees if surviving, or to the survivor of them
 17 if one or more die before the original payee; if two or more P.O.D.
 18 payees survive, there is no right of survivorship in the event of
 19 death of a P.O.D. payee thereafter unless the terms of the account
 20 or deposit agreement expressly provide for survivorship between
 21 them.

22 c. If the account is a trust account;

23 (1) On death of one of two or more trustees, the rights to any
24 sums remaining on deposit are governed by subsection "a";

25 (2) On death of the sole trustee or the survivor of two or more
26 trustees, any sums remaining on deposit belong to the person or
27 persons named as beneficiaries, if surviving, or to the survivor of
28 them if one or more die before the trustee, unless there is clear
29 evidence of a contrary intent; if two or more beneficiaries survive,
30 there is no right of survivorship in event of death of any beneficiary
31 thereafter unless the terms of the account on deposit agreement
32 expressly provide for survivorship between them.

33 d. In other cases, the death of any party to a multiple-party
34 account has no effect on beneficial ownership of the account other
35 than to transfer the rights of the decedent as part of his estate.

36 e. A right of survivorship arising from the express terms of the
37 account or under this section, a beneficiary designation in a trust
38 account, or a P.O.D. payee designation, cannot be changed by will.

1 6. (New section) The provisions of section 5 as to rights of
2 survivorship are determined by the form of the account at the
3 death of a party. This form may be altered by written notice or
4 order given by a party to the financial institution to change the
5 form of the account or to stop or vary payment under the terms of
6 the account. The order or request must be signed by a party,
7 received by the financial institution during the party's lifetime, and
8 not countermanded by other written order of the same party during
9 his lifetime.

1 7. (New section) No multiple-party account will be effective
2 against an estate of a deceased party to transfer to a survivor sums
3 needed to pay debts, taxes, and expenses of administration, if other
4 assets of the estate are insufficient. A surviving party, P.O.D. payee,
5 or beneficiary who receives payment from a multiple-party account
6 after the death of a deceased party shall be liable to account to his
7 personal representative for amounts the decedent owned bene-
8 ficially immediately before his death to the extent necessary to
9 discharge the claims and charges mentioned above remaining
10 unpaid after application of the decedent's estate. No proceeding
11 to assert this liability shall be commenced unless the personal
12 representative has received a written demand by a creditor, and
13 no proceeding shall be commenced later than 2 years following the
14 death of the decedent. Sums recovered by the personal representa-
15 tive shall be administered as part of the decedent's estate. This
16 section shall not affect the right of a financial institution to make
17 payment on multiple-party accounts according to the terms thereof,

18 or make it liable to the estate of a deceased party unless before
19 payment the institution has been served with an order of court
20 restraining the payment.

1 8. (New section) Financial institutions may enter into multiple-
2 party accounts to the same extent that they may enter into single-
3 party accounts. Any multiple-party account may be paid, on re-
4 quest, to any one or more of the parties. A financial institution
5 shall not be required to inquire as to the source of funds received
6 for deposit to a multiple-party account, or to inquire as to the
7 proposed application of any sum withdrawn from an account, for
8 purposes of establishing net contributions.

1 9. (New section) Any sums in a joint account may be paid, on
2 request, to any party without regard to whether any other party
3 is incapacitated or deceased at the time the payment is demanded;
4 but payment may not be made to the personal representative or
5 heirs of a deceased party unless proofs of death are presented to
6 the financial institution showing that the decedent was the last
7 surviving party or unless there is no right of survivorship under
8 section 5.

1 10. (New section) Any P.O.D. account may be paid, on request,
2 to any original party to the account. Payment may be made, on
3 request, to the P.O.D. payee or to the personal representative or
4 heirs of a deceased P.O.D. payee upon presentation to the financial
5 institution of proof of death showing that the P.O.D. payee sur-
6 vived all persons named as original payees. Payment may be made
7 to the personal representative or heirs of a deceased original payee
8 if proof of death is presented to the financial institution showing
9 that his decedent was the survivor of all other persons named on
10 the account either as an original payee or as P.O.D. payee.

1 11. (New section) Any trust account may be paid, on request,
2 to any trustee. Unless the financial institution has received written
3 notice that the beneficiary has a vested interest not dependent upon
4 his surviving the trustee, payment may be made to the personal
5 representative or heirs of a deceased trustee if proof of death is
6 presented to the financial institution showing that his decedent
7 was the survivor of all other persons named on the account either
8 as trustee or beneficiary. Payment may be made, on request, to
9 the beneficiary upon presentation to the financial institution of
10 proof of death showing that the beneficiary or beneficiaries sur-
11 vived all persons named as trustees.

1 12. (New section) Payment made pursuant to sections 8, 9, 10
2 or 11 ***of this act or sections 89, 90 or 91 of P. L. 1963, c. 144 (C.*
2A *17:12A-89 to C. 17:12A-91)*** discharges the financial institution

3 from all claims for amounts so paid whether or not the payment is
 4 consistent with the beneficial ownership of the account as between
 5 parties, P.O.D. payees, or beneficiaries, or their successors. The
 6 protection here given does not extend to payments made after a
 7 financial institution has received written notice from any party able
 8 to request present payment to the effect that withdrawals in
 9 accordance with the terms of the account should not be permitted.
 10 Unless the notice is withdrawn by the person giving it, the successor
 11 of any deceased party must concur in any demand for withdrawal
 12 if the financial institution is to be protected under this section.
 13 No other notice or any other information shown to have been avail-
 14 able to a financial institution shall affect its right to the protection
 15 provided here. The protection here provided shall have no bearing
 16 on the rights of parties in disputes between themselves or their
 17 successors concerning the beneficial ownership of funds in, or
 18 withdrawn from, multiple-party accounts. ***Financial institutions*
 19 *refusing or altering payment pursuant to written notice or order*
 20 *from any party able to request present payment shall not be liable*
 21 *to any other party to the account, or beneficiary thereof, by reason*
 22 *of such action.***

1 13. (New section) Without qualifying any other ****[statutory]****
 2 right to setoff or lien and subject to any contractual provision, if a
 3 party to a multiple-party account is indebted to a financial institu-
 4 tion, the financial institution has a right to setoff against the account
 5 in which the party has or had immediately before his death a pres-
 6 ent right of withdrawal. The amount of the account subject to
 7 setoff is that proportion to which the debtor is, or was immediately
 8 before his death, beneficially entitled, and in the absence of proof
 9 of net contributions, to an equal share with all parties having
 10 present rights of withdrawal.

1 14. (New section) Any transfers resulting from the applicatiou
 2 of section 5 are effective by reason of the account contracts in-
 3 volved and this act, and are not to be considered as testamentary.
 4 The right of any surviving party to a joint account, or of any bene-
 5 ficiary, or of any P.O.D. payee, to the sums on deposit on the death
 6 of any party to a multi-party account maintained in any financial
 7 institution, shall not be denied, abridged or in anywise affected
 8 because such right has not been created by a writing executed in
 9 accordance with the laws of this State prescribing the requirements
 10 to effect a valid testamentary disposition of property.

1 15. (New section) Nothing in this act shall validate any trust
 2 created in fraud of creditors of the fiduciary nor affect any law
 3 of this State governing transfer inheritance or estate taxes, nor

4 shall anything herein relieve any financial institution of its duty
5 to conform with the provisions of the law imposing transfer in-
6 heritance taxes with respect to decedents' estates.

1 16. (New section) The Commissioner of Banking shall prescribe
2 by rule or regulation the form and content of deposit contracts
3 applicable to deposits of funds which may be subject to this act
4 for the object of assuring to the extent possible that each such
5 contract bears out the intentions of the persons who are named in
6 the account, particularly in respect to the rights of survivorship
7 and whether or not such rights of survivorship are intended to
8 be created.

1 17. (New section) This act shall apply only to accounts opened
2 after its effective date and accounts opened prior thereto shall be
3 governed by the law in effect when such accounts were opened.

1 18. Section 82 of P. L. 1963, c. 144 (C. 17:12B-82) is amended to
2 read as follows:

3 82. [For the purposes of sections 82 through 86 of this act the
4 words "beneficiary" and "fiduciary" shall be intended to mean
5 one or more such persons unless restricted by the context to a single
6 individual.

7 Membership trust accounts.

8 Whenever an account is opened by any person or persons,
9 describing himself or themselves, in opening such account as
10 trustee or fiduciary for any other person or persons, and no other
11 or further evidence of the existence or terms of a legal and valid
12 trust, than such description, shall have been given in writing to the
13 association, the association shall pay any moneys to the credit of
14 such account from time to time to, or pursuant to the order of,
15 such fiduciary during his lifetime. When the fiduciary makes a
16 payment or payments to such account, or causes a payment or
17 payments to be made to such account, the fiduciary shall con-
18 clusively be presumed to intend to declare and create a trust of the
19 moneys at any time to the credit of such account, for the named
20 beneficiary, with the fiduciary as trustee, upon the following terms:

21 (1) The trust shall be revocable at will by the fiduciary, and the
22 withdrawal value of any such account, and dividends thereon, or
23 other rights relating thereto, less all proper set-offs and charges,
24 may be paid, or delivered, in whole or in part, to such fiduciary
25 without regard to any notice to the contrary so long as such
26 fiduciary is living;

27 (2) If the fiduciary survives the named beneficiary, the named
28 beneficiary's death shall terminate the trust and title to the
29 moneys to the credit of the trust, less all proper set-offs and

30 charges, shall vest in the fiduciary, free and clear of the trust;
 31 provided, however, where such an account names more than one
 32 beneficiary, the death of one of the beneficiaries so named shall not
 33 terminate the trust and the trust shall continue as to the surviving
 34 beneficiary or beneficiaries subject to the provisions of this section;

35 (3) If the named beneficiary survives the fiduciary, such fidu-
 36 ciary, such fiduciary's death shall terminate the trust and any
 37 moneys to the credit of the trust, less all proper set-offs and charges,
 38 shall vest solely and indefeasibly in the named beneficiary, notwith-
 39 standing any action by the fiduciary, or any evidence, contrary to or
 40 negating the fiduciary's conclusively presumed intention in
 41 declaring, creating and maintaining the trust; provided, however,
 42 where such an account is opened or subsequently held by more than
 43 one fiduciary, the death of one of such fiduciaries shall not terminate
 44 the trust and the trust shall continue as to the surviving fiduciary
 45 or fiduciaries and named beneficiary or beneficiaries subject to the
 46 provisions of this section;]

47 *When a membership trust account is opened in the manner pro-*
 48 *vided in the "Multiple-party Deposit Account Act", and,*

49 [(4)] a. Where a [fiduciary's] trustee's death terminates the
 50 trust under the provisions of [subsection (3) of this section]
 51 section 5c(2) of the "Multiple-party Deposit Account Act" and
 52 where the named beneficiary or all of the beneficiaries so named are
 53 16 years of age or over at the time of termination of such trust, the
 54 association shall pay the moneys to the credit of the trust, less all
 55 proper set-offs and charges, to the named beneficiary or benefi-
 56 ciaries or upon his or their order, and such payment by the associa-
 57 tion shall be valid, notwithstanding any lack of legal age of the
 58 named beneficiary or beneficiaries;

59 [(5)] b. If the named beneficiary or all of the beneficiaries so
 60 named are under 16 years of age at the time of termination of such
 61 trust, the association shall pay the moneys to the credit of the trust,
 62 less all proper set-offs and charges,

63 [(a)](1) When or after the named beneficiary becomes 16 years
 64 of age, to the named beneficiary or upon his order, or

65 [(b)](2) When more than one beneficiary is named, the associa-
 66 tion shall pay to the beneficiary so named his proportionate interest
 67 in such account as he becomes 16 years of age, or

68 [(c)](3) [to] To the legal guardian of the named beneficiary
 69 wherever appointed, or where more than one beneficiary is named,
 70 the association shall pay such beneficiary's proportionate interest
 71 in such account to his legal guardian wherever and whenever
 72 appointed, or

73 **[(d)] (4) [if]** *If* a certificate of appointment of a legal guardian
 74 is not filed with the association to a person authorized to receive
 75 such moneys or proportionate interest thereof pursuant to sections
 76 3A:6-31 and 3A:6-32 of the New Jersey Statutes.

77 **[(6)] c.** Where a **[fiduciary's]** *trustee's* death terminates the
 78 trust under the provisions of **[subsection (3) of this section]**
 79 *section 5c(2) of the "Multiple-party Deposit Account Act"* and
 80 where one or more of the named beneficiaries are under 16 years
 81 of age and the remainder of the named beneficiaries are 16 years of
 82 age or over, the association shall pay the moneys to the credit of
 83 the trust, less all proper set-offs and charges to:

84 **[(a)] (1)** The named beneficiaries 16 years of age or over at the
 85 time of termination of said trust pursuant to subsection **[(4)] a** of
 86 this section, and

87 **[(b)] (2)** The named beneficiaries under 16 years of age at the
 88 time of termination of said trust pursuant to subsection **[(5)] b**
 89 of this section.

90 **[(7)** Where such an account is opened or subsequently held by
 91 more than one fiduciary the association, in the absence of any
 92 written instructions to the contrary, consented to by the associa-
 93 tion, shall accept payments made to such account and may pay any
 94 moneys to the credit of such account from time to time to, or pur-
 95 suant to the order of, either or any of said persons during their
 96 life or lives, in the same manner as if the account were in the sole
 97 name of either or any of such fiduciaries.]

1 19. Section 89 of P. L. 1963, c. 144 (C. 17:12A-89) is amended to
 2 read as follows:

3 89. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act", and the*
 6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **[If]** *if* the named beneficiary or one of the beneficiaries so named
 8 survive the death of the person *or persons* opening such an account
 9 and the beneficiary or all of the beneficiaries so named are 16 years
 10 of age or over at the death of the person *or persons* opening such
 11 an account, the association shall pay the moneys to the credit of
 12 the account, less all proper set-offs and charges, to the named
 13 beneficiary or beneficiaries or upon his or their order, **[as herein-**
 14 **after provided,]** and such payment by the association shall be valid,
 15 notwithstanding any lack of legal age of the named beneficiary or
 16 beneficiaries**;** provided, however, where such an account is opened
 17 or subsequently held by more than one person, the death of one of

18 such persons shall not terminate the account and the account shall
 19 continue as to the surviving person or persons and the named
 20 beneficiary or beneficiaries subject to the provisions of sections 90
 21 through 97 of this act].

1 20. Section 90 of P. L. 1963, c. 144 (C. 17:12A-90) is amended
 2 to read as follows:

3 90. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act," and the*
 6 *account is terminated as provided in section 5b(2) of said act, and*
 7 **[If]** *if the named beneficiary or all of the beneficiaries so named*
 8 *survive the death of the person or persons opening such an account*
 9 *and are under 16 years of age at such time, the association shall*
 10 *pay the moneys to the credit of the account, less all proper set-*
 11 *offs and charges.*

12 **[(a)]** *a. When or after the named beneficiary becomes 16 years*
 13 *of age, to the named beneficiary or upon his order, or*

14 **[(b)]** *b. When more than one beneficiary is named, the associa-*
 15 *tion shall pay to the beneficiary so named his proportionate interest*
 16 *in such account as he becomes 16 years of age, or*

17 **[(c)]** *c. To the legal guardian of the named beneficiary, wher-*
 18 *ever appointed, or where more than one beneficiary is named,*
 19 *the association shall pay such beneficiary's proportionate interest*
 20 *in such account to his legal guardian wherever and whenever*
 21 *appointed, or*

22 **[(d)]** *d. If a certificate of appointment of a legal guardian is*
 23 *not filed with the association, to a person authorized to receive such*
 24 *moneys, or proportionate interest thereof, pursuant to sections*
 25 *3A:6-31 and 3A:6-32 of the New Jersey Statutes.*

1 21. Section 91 of P. L. 1963, c. 144 (C. 17:12A-91) is amended
 2 to read as follows:

3 91. *When a membership account is opened by a person or persons*
 4 *payable on death to a beneficiary or beneficiaries in the manner*
 5 *provided in the "Multiple-party Deposit Account Act," and the*
 6 *account is terminated as provided in section 5b(2) of said act,*

7 **[Where the death of the person or persons opening such an**
 8 **account terminates the account under the provisions of sections 89**
 9 **or 90 of this act]** *and where one or more of the named beneficiaries*
 10 *are under 16 years of age and the remainder of the named bene-*
 11 *ficiaries are 16 years of age or over, the associations shall pay*
 12 *the moneys to the credit of the trust, less all proper set-offs and*
 13 *charges to:*

14 **[(a)]** *a.* The named beneficiaries 16 years of age or over at
15 the time of termination of said account shall be paid pursuant to
16 section 89 of this act, and

17 **[(b)]** *b.* The named beneficiaries under 16 years of age at the
18 time of termination of said account shall be paid pursuant to
19 section 90 of this act.

1 22. The following acts and parts of acts are hereby repealed:

2 *a.* Sections 216 through 218 of P. L. 1948, c. 67 (C. 17:9A-216
3 to C. 17:9A-218);

4 *b.* P. L. 1965, c. 145 (C. 17:9A-218.1 to C. 17:9A-218.7);

5 *c.* Sections 88, 92 through ****102, 104,**** 105, 107 and 108 of P. L.
6 1963, c. 144 (C. 17:12B-88, C. 17:12B-92 to ****C. 17:12B-102,**
7 **C. 17:12B-104,**** C. 17:12B-105, C. 17:12B-107 and C. 17:12B-108);

8 *d.* P. L. 1954, c. 208 (C. 46:37-1 and C. 46:37-2).

1 23. This act shall take effect 90 days after enactment.

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 1626

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 10, 1979

Amend page 1, title, line 5, after "through", insert "102, 104,".

Amend page 3, section 2, lines 89-91, after "that", omit remainder of line 89, and all of lines 90 and 91, insert "transaction".

Amend page 4, section 4, line 7, after "deposit.", insert "In the absence of proof of net contributions, the account belongs in equal shares to all parties having present rights of withdrawal.".

Amend page 6, section 12, line 2, after "11", insert "of this act or sections 89, 90 or 91 of P. L. 1963, c. 144 (C. 17:12A-89 to C. 17:12A-91)".

Amend page 7, section 12, line 18, after "accounts.", insert "Financial institutions refusing or altering payment pursuant to written notice or order from any party able to request present payment shall not be liable to any other party to the account, or beneficiary thereof, by reason of such action.".

Amend page 7, section 13, line 1, omit "statutory".

Amend page 12, section 22, line 5, after "through", insert "102, 104,".

Amend page 12, section 22, line 6, after "to", insert "C. 17:12B-102, C. 17:12B-104,".

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 28, 1980

A 1626 - PAGE 3

KATHERIN FORSYTH

Governor Brendan Byrne today signed eleven bills, all sponsored by Assemblyman Albert Burstein (D-Bergen), which constitute the final portion of New Jersey's probate reform package.

"The signing of these last eleven bills marks the culmination of a seven year effort to update New Jersey's probate law, making it one of the most modern and enlightened codes in the nation," said Byrne.

The first part of the probate reform program, also sponsored by Assemblyman Burstein, was enacted in 1977. The final step will be the reorganization of Title 3A, which contains the probate law, to make any necessary technical and minor substantive changes. This process should be completed by the end of the year.

Byrne said that in preparing the probate reform package, his staff and the legislature worked closely with the Committee of Real Property, Probate and Trust Law of the New Jersey State Bar Association.

He commended the efforts of Assemblyman Burstein, attorneys Alfred C. Clapp, Richard F. Lert and Harrison Durand of the New Jersey State Bar Association, and Maurice Gold of Legislative Services, "as well as the many other people whose talents contributed to this major revision of the New Jersey probate law."

These are the bills the Governor signed today:

A-18, which helps prevent the disinheritance of a husband or wife by allowing the surviving spouse to elect to take one-third of the deceased person's augmented estate.

Under prior law, New Jersey was one of the few states that allowed husbands and wives to disinherit each other.

An augmented estate is defined in the bill as being the deceased person's estate, minus administration and funeral costs, plus various kinds of property transfers made by the decedent and other types of interests.

The independent wealth of the surviving husband or wife is credited against the elective share, as is any property the surviving spouse received from the deceased person. Only the balance, if any, may be collected from the elective share.

A-8, which revises the New Jersey law governing the appointments, duties, rights and obligations of guardians for minors or mental incompetents.

The bill modernizes the definition of a mental incompetent to mean a person impaired by mental illness or mental deficiency or by a physical illness or disability, chronic use of drugs, chronic alcoholism or other cause "to the extent that he lacks sufficient capacity to govern himself or manage his affairs."

The bill sets forth rules and guidelines governing the powers and duties of the guardian of a minor or of a minor's estate and the powers of the courts in such cases.

A-6, which permits a sum of up to \$5,000 per year from an estate to be paid to or on behalf of a minor beneficiary without the necessity of formally appointing a guardian of the estate in certain cases.

The money, which can be paid to the parent, legal guardian of the minor, adult who has custody of the child and with whom he resides, or a financial institution, must be applied to the "support and educational needs of the minor."

Any excess in a given year must be preserved for the future support of the child and any balance remaining must be delivered to the minor when he reaches the age of 18.

A-19, which clarifies the law governing disclaimers of testamentary and interstate transfers.

Clarification of the law was particularly important because of the federal gift tax consequences a beneficiary may face if he makes a disclaimer deemed untimely under the law.

A-20, which abolishes the ancient rights of dower and curtesy. Dower is the right of a surviving wife to possession for the rest of her life of one half the real estate owned in her husband's name. Curtesy is the corresponding right for surviving husbands.

A-21, which permits the court to authorize, direct or ratify transactions regarding the estate of a minor or mental incompetent in situations where the continuing services of a legal guardian are unnecessary.

A-22, which modernizes the present law governing absent persons.

The bill broadens the definition of an absent person to include "any person who has disappeared or been confined or detained by a foreign power" and eliminates special treatment of war absentees.

A trustee for the absentees property cannot be appointed unless the property is endangered or if it is needed to provide support, care or welfare to the absent person or his dependents.

A-1624, which broadens the powers of fiduciaries to permit them to acquire, dispose of, manage develop, improve, exchange, partition or abandon an estate asset.

A-1625, which makes two technical amendments to the "Prudent Investment Law." This law governs the investment powers of fiduciaries in New Jersey.

A-1626, which is a comprehensive revision of the law governing multiple-party bank accounts.

A-3144, which clarifies and revises the law governing the disclaimer of nontestamentary transfers.

A-3335, which significantly changes the calculation of corpus commissions for trustees and guardians and generally increases the amount of corpus commissions which fiduciaries may take annually without a court order.

A corpus commission is the remuneration a fiduciary receives for his services rendered in administering the principal under his control.

This bill changes the formulation calculating a trustee's corpus commission by providing for increased commissions where the length of service is long.

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