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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO FINANCIAL INSTITUTIONS

Introduced By: Representatives Lewiss, Jackson, and Scott

Date Introduced: February 26, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 19-9 of the General Laws entitled "Community Obligations and
2 Banking Offenses" is hereby amended by adding thereto the following section:

3 **19-9-14.1. Uniform multiple-person accounts. –**

4 Part I. Definitions and General Provisions

5 (a) Definitions. For purposes of this section the following words and phrases shall have
6 the following meanings, unless the context indicates another meaning:

7 (1) "Account" means a contract of deposit between a depositor and a depository
8 institution, and includes a checking account, savings account, certificate of deposit, and share
9 account.

10 (2) "Agent" means a person authorized to make account transactions for a party.

11 (3) "Beneficiary" means a person named as one to whom sums on deposit in an account
12 are payable on request after death of all parties or for whom a party is named as trustee.

13 (4) "Devisee" means any person designated in a will to receive a testamentary disposition
14 of real or personal property.

15 (5) "Depository institution" means an organization authorized to receive deposits and to
16 do business under state or federal laws relating to financial institutions, and credit unions, and
17 includes a bank, trust company, savings bank, building and loan association, savings and loan
18 company or association.

19 (6) "Heirs" means those persons, including a surviving spouse, who are entitled under the

1 statutes of intestate succession to the property of a decedent.

2 (7) "Multiple-person" or "Multiple-party account" means an account payable on request
3 to one or more parties, whether or not a right of survivorship is mentioned.

4 (8) "Party" means a person who, by the terms of an account, has a present right, subject to
5 request, to payment from the account other than as a beneficiary or agent.

6 (9) "Payment" means payment of sums on deposit and includes withdrawal, payment to a
7 party or third person pursuant to check or other request, and a pledge of sums on deposit by a
8 party, or a set-off, reduction, or other disposition of all or part of an account pursuant to a pledge.

9 (10) "Personal representative" includes executor, administrator, successor or other court
10 appointed fiduciary, and persons who perform substantially the same function under the law
11 governing decedent's estates.

12 (11) "POD designation" means the designation of: (i) a beneficiary in an account payable
13 on request to one party during his or her lifetime and on his or her death to one or more
14 beneficiaries; or to one or more parties during their lifetimes and on death of all of them to one or
15 more beneficiaries; or (ii) a beneficiary in an account in the name of one or more parties as trustee
16 for one or more beneficiaries if the relationship is established by the terms of the account and
17 there is no trust property other than the sums on deposit in the account, whether or not payment to
18 the beneficiary is mentioned.

19 (12) "Receive" as it relates to notice to a depository institution, means receipt in the
20 principal office or branch office of the depository institution in which the account is established,
21 but if the terms of the account require notice at a particular place, in the place required.

22 (13) "Request" means a request for payment complying with all terms of the account,
23 including special requirements concerning necessary signatures and regulations of the depository
24 institution; but, for purposes of this section if terms of the account condition payment on advance
25 notice, a request for payment is treated as immediately effective and a notice of intent to
26 withdraw is treated as a request for payment.

27 (14) "State" includes any state of the United States, the District of Columbia, the
28 Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority
29 of the United States.

30 (15) "Successors" means those persons, other than creditors, who are entitled to property
31 of a decedent under the decedent's will, by intestacy or otherwise.

32 (16) "Sums on deposit" means the balance payable on an account, including interest and
33 dividends earned, whether or not included in the current balance, and any deposit life insurance
34 proceeds added to the account by reason of death of a party.

1 (17) "Terms of the account" includes the deposit agreement and other terms and
2 conditions, including the form, of the contract of deposit.

3 (b) Scope. This section applies to accounts in this state. This section does not apply to:

4 (1) an account established for a partnership, joint venture, or other organization for a
5 business purpose;

6 (2) an account controlled by one or more persons as an agent or trustee for a corporation,
7 unincorporated association, or charitable or civic organization; or

8 (3) a fiduciary or trust account in which the relationship is established other than by the
9 terms of the account.

10 (c) Types of accounts – Existing accounts.

11 (1) An account may be for a single party or multiple parties. A multiple-party account
12 may be with or without a right of survivorship between the parties. Subject to subsection (h)(3),
13 either a single-party account or a multiple-party account may have a POD designation.

14 (2) An account established before, on, or after the effective date of this section, whether
15 in the form prescribed in subsection (d) or in any other form, is either a single-party account or a
16 multiple-party account, with or without right of survivorship, and with or without a POD
17 designation, within the meaning of this section is governed by this subsection.

18 (d) Forms.

19 (1) A contract of deposit that contains provisions in substantially the following form
20 establishes the type of account provided; and the account is governed by the provisions of this
21 section applicable to an account of that type:

22 UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

23 PARTIES [Name One or More Parties]: _____

24 OWNERSHIP [Select One And Initial]:

25 _____ SINGLE-PARTY ACCOUNT – Party's own account

26 _____ MULTIPLE-PARTY ACCOUNT – Parties' own account in proportion to net
27 contributions unless there is clear and convincing evidence of a different intent.

28 RIGHTS AT DEATH [Select One And Initial]:

29 _____ SINGLE-PARTY ACCOUNT – At death of party, ownership passes as part of
30 party's estate.

31 _____ SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION
32 - At death of party, ownership passes to POD beneficiary or beneficiaries,

33 equally, and is not part of party's estate.

34 [Name One Or More Beneficiaries]:

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_____ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP - At death of party, ownership passes to surviving party or parties.

_____ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH) DESIGNATION - At death of last surviving party, ownership passes to POD beneficiary or beneficiaries, equally, and is not part of last surviving party's estate.

[Name One Or More Beneficiaries]:

_____ MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP - At death of party, deceased party's ownership passes as part of deceased party's estate.

(2) A contract of deposit that does not contain provisions in substantially the form provided in subsection (d)(1) is governed by the provisions of this section applicable to the type of account that most nearly conforms to the depositor's intent.

(e) Designation of agent.

(1) By a writing signed by all parties, the parties may designate another person as agent of all parties on an account.

(2) Unless the terms of an agency designation provide that the agent's authority terminates on disability or incapacity of a party, the agent's authority survives such disability or incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

(3) Death of the sole party or last surviving party terminates the authority of an agent.

(f) Applicability of Parts. The provisions of Part II concerning beneficial ownership as between parties or as between parties and beneficiaries apply only to controversies between those persons and their creditors and other successors, and do not apply to the right of those persons to payment as determined by the terms of the account. Part III governs the liability and set-off rights of depository institutions that make payments pursuant to it.

Part II. Ownership as Between Parties and Others

(g) Ownership during lifetime.

(1) In this subsection, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes any deposit life

1 insurance proceeds added to the account by reason of death of the party whose net contribution is
2 in question.

3 (2) During the lifetime of all parties, an account belongs to the parties in proportion to the
4 net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a
5 different intent. As between parties married to each other, in the absence of proof otherwise, the
6 net contribution of each is presumed to be an equal amount.

7 (3) A beneficiary in an account having a POD designation has no right to sums on deposit
8 during the lifetime of any party.

9 (h) Rights at death.

10 (1) Except as otherwise provided in this section, on death of a party sums on deposit in a
11 multiple-party account belong to the surviving party or parties. If two (2) or more parties survive
12 and one is the surviving spouse of the decedent, the amount to which the decedent, immediately
13 before death, was beneficially entitled under subsection (g) belongs to the surviving spouse. If
14 two (2) or more parties survive and none is the surviving spouse of the decedent, the amount to
15 which the decedent, immediately before death, was beneficially entitled under subsection (g)
16 belongs to the surviving parties in equal shares, and augments the proportion to which each
17 survivor, immediately before the decedent's death, was beneficially entitled under subsection (g),
18 and the right of survivorship continues between the surviving parties.

19 (2) In an account with a POD designation:

20 (i) On death of one of two (2) or more parties, the rights in sums on deposit are governed
21 by subsection (h)(1).

22 (ii) On death of the sole party or the last survivor of two (2) or more parties, sums on
23 deposit belong to the surviving beneficiary or beneficiaries. If two (2) or more beneficiaries
24 survive, sums on deposit belong to them in equal and undivided shares, and there is no right of
25 survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on
26 deposit belong to the estate of the last surviving party.

27 (3) Sums on deposit in a single-party account without a POD designation, or in a
28 multiple-party account that, by the terms of the account, is without right of survivorship, are not
29 affected by death of a party, but the amount of which the decedent, immediately before death,
30 was beneficially entitled under subsection (g) herein is transferred as part of the decedent's estate.
31 A POD designation in a multiple-party account without right of survivorship is ineffective. For
32 purposes of this section, designation of an account as a tenancy in common establishes that the
33 account is without right of survivorship.

34 (4) The ownership right of a surviving party or beneficiary, or of the decedent's estate, in

1 sums on deposit is subject to requests for payment made by a party before the party's death,
2 whether paid by the depository institution before or after death, or unpaid. The surviving party or
3 beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The
4 liability is limited to a proportionate share of the amount transferred under this section, to the
5 extent necessary to discharge the request for payment.

6 (i) Alteration of rights. Rights at death of a party under subsection (h) are determined by
7 the terms of the account at the death of the party. A party may alter the terms of the account by a
8 notice signed by the party and given to the depository institution to change the terms of the
9 account or to stop or vary payment under the terms of the account. To be effective, the notice
10 must be received by the financial institution during the party's lifetime. A right of survivorship,
11 arising from the express terms of the account, subsection (h), or a POD designation, may not be
12 altered by will.

13 (j) Accounts and transfers nontestamentary. A transfer resulting from the application of
14 subsection (h) is effective by reason of the terms of the account involved and this section and is
15 not testamentary or subject to estate administration.

16 Part III. Protection of Depository Institutions

17 (k) Authority of depository institution. A depository institution may enter into a contract
18 of deposit for a multiple-party account to the same extent it may enter into a contract of deposit
19 for a single-party account, and may provide for a POD designation in either a single-party
20 account or a multiple-party account. A depository institution need not inquire as to the source of a
21 deposit to an account or as to the proposed application of a payment from an account.

22 (l) Payment on multiple-party account. A depository institution, on request, may pay
23 sums on deposit in a multiple-party account to:

24 (1) one or more of the parties, whether or not another party is disabled, incapacitated, or
25 deceased when payment is requested and whether or not the party making the request survives
26 another party; or

27 (2) the personal representative, if any, or, if there is none, the heirs or devisees of a
28 deceased party if proof of death is presented to the depository institution showing that the
29 deceased party was the survivor of all other persons named on the account either as a party or
30 beneficiary, unless the account is without right of survivorship under subsection (h).

31 (m) Payment on POD designation. A depository institution, on request, may pay sums on
32 deposit in an account with a POD designation to:

33 (1) one or more of the parties, whether or not another party is disabled, incapacitated, or
34 deceased when the payment is requested and whether or not a party survives another party;

1 (2) the beneficiary or beneficiaries, if proof of death is presented to the depository
2 institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

3 (3) the personal representative, if any, or, if there is none, the heirs or devisees of a
4 deceased party, if proof of death is presented to the depository institution showing that the
5 deceased party was the survivor of all other persons named on the account either as a party or
6 beneficiary.

7 (n) Payment to designated agent. A depository institution, on request of an agent under a
8 power of attorney or other agency designation for an account, may pay to the agent sums on
9 deposit in the account, whether or not a party is disabled, incapacitated, or deceased when the
10 request is made or received, and whether or not the authority of the agent terminates on the
11 disability or incapacity of a party.

12 (o) Payment to minor. If a depository institution is required or permitted to make
13 payment pursuant to this chapter to a minor designated as a beneficiary, payment may be made
14 pursuant to the Uniform Transfers to Minors Act.

15 (p) Discharge

16 (1) Payment made pursuant to this section in accordance with the terms of the account
17 discharges the depository institution from all claims for amounts so paid, whether or not the
18 payment is consistent with the beneficial ownership of the account as between parties,
19 beneficiaries, or their successors. Payment may be made whether or not a party, beneficiary, or
20 agent is disabled, incapacitated, or deceased when payment is requested, received, or made.

21 (2) Protection under this section does not extend to payments made after a depository
22 institution has received written notice from a party, or from the personal representative, surviving
23 spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the
24 terms of the account, including one having an agency designation, should not be permitted, and
25 the depository institution has had a reasonable opportunity to act on it when the payment is made.
26 Unless the notice is withdrawn by the person giving it, the successor of any deceased party must
27 concur in request for payment if the depository institution is to be protected under this section.
28 Unless a depository institution has been served with process in an action or proceeding, no other
29 notice or other information shown to have been available to the depository institution affects its
30 right to protection under this section.

31 (3) A depository institution that receives written notice pursuant to this section or
32 otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse,
33 without liability, to make payments in accordance with the terms of the account.

34 (4) Protection of a depository institution under this section does not affect the rights of

1 parties in disputes between themselves or their successors concerning the beneficial ownership of
2 sums on deposit in accounts or payments made from accounts.

3 (q) Set-off. Without qualifying any other statutory right to set-off or lien and subject to
4 any contractual provision, if a party is indebted to a depository institution, the institution has a
5 right to set-off against the account. The amount of the account subject to set-off is the proportion
6 to which the party is, or immediately before death was, beneficially entitled under subsection (g)
7 or, in the absence of proof of that proportion, an equal share with all parties.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FINANCIAL INSTITUTIONS

1 This act would adopt the Uniform Nonprobate Transfers on Death Act of 1991 relating to
2 payment on death accounts.

3 This act would take effect upon passage.

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