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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

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A N A C T

RELATING TO FINANCIAL INSTITUTIONS

Introduced By: Senator John F. McBurney

Date Introduced: February 07, 2008

Referred To: Senate Judiciary

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

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

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

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

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

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

18 (6) "Heirs" means those persons, including a surviving spouse, who are entitled under the
19 statutes of intestate succession to the property of a decedent.

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

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

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

8 (10) "Personal representative" includes executor, administrator, successor personal
9 representative, special administrator, and persons who perform substantially the same function
10 under the law governing their status.

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

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

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

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

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

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

34 (17) "Terms of the account" includes the deposit agreement and other terms and

1 conditions, including the form, of the contract of deposit.

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

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

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

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

9 (c) An account may be for a single party or multiple parties. A multiple-party account
10 may be with or without a right of survivorship between the parties. Subject to subsection (h)(1),
11 either a single-party account or a multiple-party account may have a POD designation. An
12 account established before, on, or after the effective date of this chapter, whether in the form
13 prescribed in subsection (d) or in any other form, is either a single-party account or a multiple-
14 party account, with or without right of survivorship, and with or without a POD designation,
15 within the meaning of this chapter is governed by this chapter.

16 (d)(1) A contract of deposit that contains provisions in substantially the following form
17 establishes the type of account provided; and the account is governed by the provisions of this
18 chapter applicable to an account of that type:

19 UNIFORM SINGLE-OR MULTIPLE-PARTY ACCOUNT FORM

20 PARTIES [Name One or More Parties]:

21 _____

22 OWNERSHIP [Select One And Initial]:

23 _____ SINGLE-PARTY ACCOUNT - Parties = own account

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

26 RIGHTS AT DEATH [Select One And Initial]:

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

29 _____ SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

30 - At death of party, ownership passes to POD beneficiary or beneficiaries,
31 equally, and is not part of party's estate.

32 [Name One Or More Beneficiaries]:

33 _____

34 _____ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP - At death

1 of party, ownership passes to surviving party or parties.

2 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND

3 POD (PAY ON DEATH) DESIGNATION - At death of last surviving party,
4 ownership passes to POD beneficiary or beneficiaries, equally, and is not part of last surviving
5 party's estate.

6 [Name One Or More Beneficiaries]:

7 _____

8 MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP - At

9 death of party, deceased party's ownership passes as part of deceased party's estate.

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

13 (e)(1) By a writing signed by all parties, the parties may designate as agent of all parties
14 on an account a person other than a party.

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

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

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

25 Part II. Ownership as Between Parties and Others

26 (g)(1) In this subsection, "net contribution" of a party means the sum of all deposits to an
27 account made by or for the party, less all payments from the account made to or for the party
28 which have not been paid to or applied to the use of another party and a proportionate share of
29 any charges deducted from the account, plus a proportionate share of any interest or dividends
30 earned, whether or not included in the current balance. The term includes any deposit life
31 insurance proceeds added to the account by reason of death of the party whose net contribution is
32 in question.

33 (2) During the lifetime of all parties, an account belongs to the parties in proportion to the
34 net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a

1 different intent. As between parties married to each other, in the absence of proof otherwise, the
2 net contribution of each is presumed to be an equal amount.

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

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

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

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

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

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

29 (4) The ownership right of a surviving party or beneficiary, or of the decedent's estate, in
30 sums on deposit is subject to requests for payment made by a party before the party's death,
31 whether paid by the depository institution before or after death, or unpaid. The surviving party or
32 beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The
33 liability is limited to a proportionate share of the amount transferred under this section, to the
34 extent necessary to discharge the request for payment.

1 (i) Rights at death of a party under subsection (h) are determined by the terms of the
2 account at the death of the party. A party may alter the terms of the account by a notice signed by
3 the party and given to the depository institution to change the terms of the account or to stop or
4 vary payment under the terms of the account. To be effective, the notice must be received by the
5 financial institution during the party's lifetime.

6 (2) A right of survivorship, arising from the express terms of the account, subsection (h),
7 or a POD designation, may not be altered by will.

8 (j) A transfer resulting from the application of subsection (h) is effective by reason of the
9 terms of the account involved and this chapter and is not testamentary or subject to estate
10 administration.

11 Part III. Protection of Depository Institutions

12 (k) A depository institution may enter into a contract of deposit for a multiple-party
13 account to the same extent it may enter into a contract of deposit for a single-party account, and
14 may provide for a POD designation in either a single-party account or a multiple-party account. A
15 depository institution need not inquire as to the source of a deposit to an account or as to the
16 proposed application of a payment from an account.

17 (l) A depository institution, on request, may pay sums on deposit in a multiple-party
18 account to:

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

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

26 (m) A depository institution, on request, may pay sums on deposit in an account with a
27 POD designation to:

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

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

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

1 beneficiary.

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

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

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

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

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

27 (4) Protection of a depository institution under this section does not affect the rights of
28 parties in disputes between themselves or their successors concerning the beneficial ownership of
29 sums on deposit in accounts or payments made from accounts.

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

1 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 create provisions with respect to the designation of person who are to
- 2 inherit a bank account.
- 3 This act would take effect upon passage.

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