STATE OF NEW YORK

9230

IN ASSEMBLY

February 20, 2024

Introduced by M. of A. WALLACE -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to establishing multiple-person accounts; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 675 of the banking law is amended by adding a new subdivision (d) to read as follows:

(d) This section shall only apply to accounts established for a business purpose.

§ 2. Section 678 of the banking law is REPEALED and a new section 678 is added to read as follows:

§ 678. Multiple-person accounts; personal account ownership and payment. 1. Definitions. Notwithstanding any other provisions of law, for the purposes of this section:

(a) "Account" means a contract of deposit between one or more account owners and a bank.

(b) "Account owner" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than a beneficiary or authorized signer.

(c) "Account selection forms" means, together, the Single-Owner Account Selection Form and the Multiple-Owner Account Selection Form.

(d) "Authorized signer" means a person authorized to make account transactions for the convenience of an account owner but who does not own the account and has no beneficial right to sums on deposit.

(e) "Authorized signer designation" means the designation of an authorized signer in an account payable on request to one or more account owners.

(f) "Beneficiary" means a person named as one to whom sums on deposit in an account are payable on request after the death of all account owners.

(g) "Contract of deposit" means a written document establishing the terms of an account between a bank and one or more account owners.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14475-02-4

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

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

(j) "Multiple-owner account" means an account payable on request to two or more account owners.

(k) "Multiple-Owner Account Selection Form" means the following contract of deposit establishing the terms of a multiple-owner account in the following form, or a substantially equivalent form in the account owners' primary language, in fourteen-point type, published by the department, whether in physical or electronic written form:

MULTIPLE-OWNER ACCOUNT SELECTION FORM

THIS IS AN IMPORTANT LEGAL DOCUMENT. THE SELECTIONS BELOW WILL DETERMINE WHO OWNS THE FUNDS IN THIS ACCOUNT AND HOW SUCH FUNDS WILL PASS UPON THE DEATH OF AN ACCOUNT OWNER. YOU MAY WISH TO CONSULT AN ATTORNEY.

MULTIPLE-OWNER ACCOUNT: This section must be completed upon creating or changing the terms of an account that is owned by more than one person.

I. ACCOUNT OWNERS. List the names of the persons who own the funds in the account. Account owners own a share of the funds equal to the sum of their deposits minus their withdrawals. The bank is not responsible for determining each owner's share and may pay funds to anyone listed as an account owner.

1.

2.

3.

II. AUTHORIZED SIGNER(S). Any account owner may (but need not) designate one or more persons as an "authorized signer." Authorized signers do not own the account funds but may make transactions for the convenience of an account owner. Authorized signers have no right to take possession of or personally use account funds. The bank may pay funds to anyone listed as an authorized signer while any account owner lives.

1.

2.

III. DISPOSITION OF FUNDS UPON DEATH. Account owners must specify how account funds should pass upon the death of an account owner:

A. Upon the death of an account owner, should such owner's funds pass to the other surviving account owner(s)?

NO. Upon my death, my funds should pass according to my estate.

YES. Upon my death, my funds should pass to the surviving account owner(s).

B. If you answered "YES," choose one of the following options:

Upon the death of the last surviving account owner, the funds should pass to such owner's estate.

Upon the death of the last surviving account owner, the funds should pass (equally) to the following person(s):

1.

2.

SIGNATURE BLOCK AND NOTARIZATION

ACCOUNT OWNERS AND AUTHORIZED SIGNER(S) MUST SIGN AND DATE BELOW. PLEASE NOTARIZE THIS DOCUMENT TO ENSURE ITS VALIDITY IF IT HAS NOT BEEN COMPLETED AT A BANK.

By signing below, I acknowledge that I have reviewed each section of this form and understand the ownership rights associated with the account selections above. I have marked the type of account I want.

Account Owner Signature(s) Date

_____

_____

_____

By signing below, I acknowledge that I have read each paragraph of this form and have received disclosure of the ownership rights to the account selections listed above. I understand that as an authorized signer, I do not own the funds in the account and have no right to such funds after the death of an account owner.

Authorized Signer Signature(s) Date

_____

_____

_____

(l) "Multiple-person account" means (1) any multiple-owner account or (2) a single-owner account with an authorized signer designation, beneficiary designation, or both.

(m) "Net contribution" means the sum of deposits made by or on behalf of an account owner less withdrawals made by or on behalf of such account owner which have not been paid to or applied to the use of another account owner 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 deposit life insurance proceeds added to the account by reason of death of the account owner whose net contribution is in question.

(n) "Payment on death (POD) designation" means the designation of a beneficiary in an account payable on request to one or more account owners during their lifetimes and, on the death of the account owner or owners, to one or more beneficiaries.

(o) "Payment of sums on deposit" or "payment" means withdrawal or payment to an account owner, authorized signer or third person authorized by the account owner to make transactions pursuant to check or other request.

(p) "Person" means an individual, a corporation, organization, or other legal entity.

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

(r) "Receive", as it relates to notice to a bank, means receipt in the office or branch office of the bank in which the account is established.

(s) "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulation of the bank.

(t) "Single-owner account" means an account payable on request to one account owner.

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

(v) "Single-Owner Account Selection Form" means the following contract of deposit establishing the terms of a single-owner account in the following form, or a substantially equivalent form in the account owner's primary language, in fourteen-point type, published by the department, whether in physical or electronic written form:

SINGLE-OWNER ACCOUNT SELECTION FORM

THIS IS AN IMPORTANT LEGAL DOCUMENT. THE SELECTIONS BELOW WILL DETERMINE WHO OWNS THE FUNDS IN THIS ACCOUNT AND HOW SUCH FUNDS WILL PASS UPON THE DEATH OF THE ACCOUNT OWNER. YOU MAY WISH TO CONSULT AN ATTORNEY.

SINGLE-OWNER ACCOUNT: This form must be completed upon creating or changing the terms of an account that is owned by only one person.

I. ACCOUNT OWNER. List the name of the person who owns the funds in this account.

1.

II. AUTHORIZED SIGNER(S). The account owner may (but need not) designate one or more persons as an "authorized signer." Authorized signers do not own the account funds but may make transactions for the convenience of the account owner. Authorized signers have no right to take possession of or personally use account funds. The bank may pay funds to anyone listed as an authorized signer while the account owner lives.

1.

2.

III. DISPOSITION OF FUNDS UPON DEATH. The account owner must choose how the account funds should pass upon their death:

Upon my death, the funds should pass according to my estate.

Upon my death, the funds should pass (equally) to the following person(s):

1.

2.

SIGNATURE BLOCK AND NOTARIZATION

ACCOUNT OWNERS AND AUTHORIZED SIGNERS MUST SIGN AND DATE BELOW. PLEASE NOTARIZE THIS DOCUMENT TO ENSURE ITS VALIDITY IF IT HAS NOT BEEN COMPLETED AT A BANK.

By signing below, I acknowledge that I have reviewed each section of this form and understand the ownership rights associated with the account selections above. I have marked the type of account I want.

Account Owner Signature Date

_____

By signing below, I acknowledge that I have reviewed each section of this form and understand the ownership rights associated with the account selections above. I understand that as an authorized signer, I do not own the funds in the account and have no right to such funds after the death of an account owner.

Authorized Signer(s) Signature Date

_____

(w) "Terms of the account" includes the deposit agreement, including the Account Selection Forms, and other terms and conditions of the contract of deposit.

2. Scope of section. This section shall:

(a) Apply to multiple-person and single-owner accounts in New York state established for personal use.

(b) Not affect the law governing tenancy by the entireties.

(c) Not apply to:

(i) An account established for a partnership, joint venture, or other organization for a business purpose;

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

(iii) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

3. Types of accounts. (a) A bank may enter a contract of deposit to establish a single-owner account or a multiple-owner account, and may provide for one or more POD designations, one or more authorized signer designations, or both in each type of account. A multiple-owner account may be with or without a right of survivorship between the other account owners.

(b) An account established after the effective date of this section shall be considered either a single-owner account or a multiple-owner account, with or without the right of survivorship, with or without one or more POD designations, and with or without one or more authorized signer designations.

4. Administration of account selection forms. (a) Account selection forms shall establish the type of account provided, and such accounts shall be governed by the provisions of this act applicable to such account type.

(b) The Single-Owner Account Selection Form shall be administered by the bank upon the establishment of a single-owner account with a POD designation, authorized signer designation, or both, and thereafter if

the account owner or owners change the terms of such single-owner account.

(c) The Multiple-Owner Account Selection Form shall be administered by the bank upon the establishment of a multiple-owner account and thereafter if the account owners change the terms of such multiple-owner account.

(d) All account owners on a multiple-owner account must agree in writing to any change in the terms of an account relating to account ownership, survivorship rights, authorized signers, and beneficiaries using the applicable account selection form.

(e) The account selection forms shall be notarized by a notary public unless completed at a bank or filed electronically pursuant to article three of the state technology law and shall comply with other state laws and regulations.

(f) Each bank subject to this section shall maintain the appropriate account selection form or forms for each single or multiple-owner account so long as the account is open and for a period of six years after it is closed.

5. Designation of authorized signer or beneficiary. (a) In a single-owner account, the account owner may use the Single-Owner Account Selection Form to designate a person or persons other than an account owner as an authorized signer or beneficiary.

(b) In a multiple-owner account, account owners may use the Multiple-Owner Account Selection Form to designate a person or persons other than an account owner as an authorized signer or beneficiary for all account owners on an account. All account owners must consent to any authorized signer or POD designation in writing using the Multiple-Owner Account Selection Form.

(c) Unless there is clear and convincing evidence of a different intent, the authorized signer's authority shall survive disability and incapacity. The authorized signer may act for a disabled or incapacitated account owner until the authority of the authorized signer is terminated.

(d) Death of the sole account owner or last surviving account owner shall terminate the authority of an authorized signer.

6. Account ownership during lifetime. (a) In a multiple-owner account, during the lifetimes of all account owners, an account belongs to the account owners in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. In the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.

(b) A beneficiary in an account having a POD designation shall have no beneficial right to sums on deposit during the lifetime of any account owner.

(c) An authorized signer shall have no beneficial right to sums on deposit.

7. Rights at death. (a) Rights at death of an account owner are determined by the terms of the account at the time of such account owner's death.

(b) A transfer resulting from the application of this section shall be effective by reason of the terms of the account involved and this section and is not testamentary or subject to estate administration.

(c) Unless all the account owners have indicated a preference for the right of survivorship on the Multiple-Owner Account Selection Form, or there is clear and convincing evidence of a different intent, upon the

death of an account owner, sums on deposit in a multiple-owner account shall pass to the estate of such deceased account owner.

(d) If two or more account owners survive, and all account owners have indicated a preference for the right of survivorship on the Multiple-Owner Account Selection Form, unless there is clear and convincing evidence of a different intent, the amount to which the decedent, immediately before death, was beneficially entitled, pursuant to subdivision six of this section, shall belong to the surviving account owners in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled to pursuant to such subdivision, and the right of survivorship continues between the surviving account owners.

(e) In an account with a POD designation:

(i) On death of one of two or more account owners, the rights to sums on deposit are governed by paragraph (c) or (d) of this subdivision.

(ii) On death of the sole account owner or the last survivor of two or more account owners, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares, and there shall be no right of survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving account owner.

(iii) Sums on deposit in a single-owner account without a POD designation, or in a multiple-owner account that, by the terms of the account, is without right of survivorship, are not affected by the death of an account owner, but the amount to which the decedent, immediately before death, was beneficially entitled, pursuant to subdivision six of this section, is transferred as part of the decedent's estate. A POD designation in a multiple-owner account without the right of survivorship shall be ineffective.

(iv) The ownership rights of a surviving account owner or beneficiary, or of the decedent's estate, in sums on deposit is subject to request for payment made by an account owner before the account owner's death, whether paid by the bank before or after death, or unpaid, the surviving account owner or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

8. Alteration of rights. (a) An account owner may alter the terms of the account by completing a new account selection form for such account and submitting it to the bank. To be effective, all account owners must consent to the alteration in writing using the appropriate account selection form, and the notice must be received by the bank during an account owner's lifetime.

(b) A right of survivorship arising from the express terms of the account, established pursuant to subdivision seven of this section, or a POD designation, may not be altered by will.

9. Payment on multiple-owner accounts. A bank, on request, may pay sums on deposit in a multiple-owner account to:

(a) one or more of the account owners, whether or not another account owner is disabled, incapacitated, or deceased when payment is requested and whether or not the account owner making the request survives another account owner; or

(b) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased account owner if proof of death is presented to the bank showing that the deceased account owner was the

survivor of all other persons named on the account either as an account owner or beneficiary, unless the account is without right of survivorship pursuant to subdivision seven of this section.

10. Payment to authorized signer. A bank, on request, may pay sums on deposit in an account with an authorized signer designation to such authorized signer whether or not an account owner is disabled, incapacitated, or deceased when the request is made or received, and whether or not the authority of the authorized signer terminates on the disability or incapacity of an account owner.

11. Payment on POD designation. A bank, on request, may pay sums on deposit in an account with a POD designation to:

(a) one or more of the account owners, whether or not another account owner is disabled, incapacitated, or deceased when the payment is requested and whether or not an account owner survives another account owner;

(b) the beneficiary or beneficiaries, if proof of death is presented to the bank showing that the beneficiary or beneficiaries survived all account owners; or

(c) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased account owner, if proof of death is presented to the bank showing that the deceased account owner was the survivor of all other persons named on the account either as account owner or beneficiary.

12. Discharge of bank from liability. (a) Payment made pursuant to this section in accordance with the terms of the account or the Account Selection Forms discharges the bank from all claims for amounts so paid, whether or not the payment is consistent with the beneficial account ownership of the account as between account owners, beneficiaries, or their successors. Payment may be made whether or not an account owner, beneficiary, or authorized signer is disabled, incapacitated, or deceased when payment is requested, received, or made.

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

(c) A bank that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the account owners may refuse, without liability, to make payments in accordance with the terms of the account. A bank need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

(d) Protection of a bank under this section does not affect the rights of account owners in disputes between themselves or their successors concerning the ownership of sums on deposit in accounts or payments made from accounts.

(e) Beneficial account ownership as between account owners or as between account owners and beneficiaries apply only to controversies

between those persons and their creditors and other successors, and do not apply the right of those persons to payment as determined by the terms of the account.

13. Existing accounts. Each bank shall, for each multiple-person account established before the effective date of this section, notify the account owners of such accounts about the requirement to submit an Account Selection Form within one year from the effective date of this act. Such bank shall provide each account owner with the appropriate Account Selection Form as part of such notice. Such notice may be executed by mail or, if authorized by account owner or owners, electronically. If the bank has not received an Account Selection Form from an account owner within six months of the effective date of this act, the bank shall provide a second notice.

14. Regulations of the superintendent. The superintendent shall promulgate and may from time to time amend rules and regulations which require that the account owner or owners of a multiple-person account under this section be informed of the terms and conditions of the account, including the relationship and consequences between the persons associated with the account, the differences between account types, and the responsibilities of the institution with which the account is established.

15. Severability clause. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

§ 3. Section 679 of the banking law, as added by chapter 432 of the laws of 2018, is amended to read as follows:

§ 679. Public awareness; banking services. The superintendent shall conduct a public awareness campaign to educate consumers on different banking services available in the state, particularly those that can assist vulnerable adults in financial planning, including, but not limited to, citizens of an advanced age, individuals with cognitive or developmental disabilities, or those who have health or physical issues that impair their financial independence. The public awareness campaign shall include information regarding the differences between types of accounts, including joint and [~~convenience~~] multiple-person accounts, as well as the rights and responsibilities generally recognized for each. The public awareness campaign shall also include, but not be limited to, answers to general concerns and questions that individuals may have with respect to the establishment of certain types of accounts and services, as well as information and recommendations for obtaining more information.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.