



Sen. Terry Link

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LRB096 09917 MJR 25416 a

1 AMENDMENT TO HOUSE BILL 3776

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3776 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Trust and Payable on Death  
5 Accounts Act is amended by changing Sections 2, 3, and 4 and by  
6 adding Sections 10 and 15 as follows:

7 (205 ILCS 625/2) (from Ch. 17, par. 2132)

8 Sec. 2. Definitions. As used in this Act, the following  
9 words have the meanings ascribed to them as set forth herein:

10 (a) "Institution" includes any bank as defined in Section 2  
11 of the Illinois Banking Act, any association as defined in  
12 Section 1-10.03 of the Illinois Savings and Loan Act, any  
13 insured savings bank as defined in Section 1007.75 of the  
14 Savings Bank Act, or any credit union as defined in Section 1.1  
15 of the Illinois Credit Union Act, and similar federal  
16 institutions.

1 (b) "Account" includes any account, deposit, certificate  
2 of deposit, withdrawable capital account or credit union share  
3 in any institution.

4 (c) "Beneficiary" includes a natural person who is living,  
5 a trust, a corporation, a charitable organization, or any other  
6 entity that maintains a lawful existence under the state or  
7 federal authority pursuant to which it was organized.

8 (Source: P.A. 92-285, eff. 1-1-02.)

9 (205 ILCS 625/3) (from Ch. 17, par. 2133)

10 Sec. 3. Trust Account Incidents. If one or more persons  
11 opening or holding an account sign an agreement with the  
12 institution providing that the account shall be held in the  
13 name of a person or persons designated as trustee or trustees  
14 for one or more ~~persons~~ designated as ~~a beneficiary or~~  
15 beneficiaries, the account and any balance therein which exists  
16 from time to time shall be held as a trust account and unless  
17 otherwise agreed in writing between the person or persons  
18 opening or holding the account and the institution:

19 (a) If two or more persons are designated trustees of the  
20 account, as between them they shall hold the account and all  
21 balances therein which exist from time to time as joint tenants  
22 with right of survivorship and not as tenants in common;

23 (b) Any trustee during his or her lifetime may change any  
24 of the designated beneficiaries without the knowledge or  
25 consent of the other trustees or the beneficiaries by a written

1 instrument accepted by the institution;

2 (c) Any trustee may make additional deposits to and  
3 withdraw any part or all of the account at any time without the  
4 knowledge or consent of the other trustees or the  
5 beneficiaries, subject to the bylaws and regulations of the  
6 institution, and all withdrawals shall constitute a revocation  
7 of the agreement as to the amount withdrawn; and

8 (d) Upon the death of the last surviving trustee the ~~person~~  
9 designated ~~as the~~ beneficiary (i) who is then living, if the  
10 beneficiary is a natural person, or (ii) that maintains a  
11 lawful existence under the state or federal authority pursuant  
12 to which it was organized, if the beneficiary is not a natural  
13 person, shall be the sole holder of the account, unless more  
14 than one beneficiary is named and then living or in existence,  
15 in which case said beneficiaries shall hold the account in  
16 equal shares as tenants in common. If no beneficiary is then  
17 living or in existence, the proceeds shall vest in the estate  
18 of the last surviving trustee.

19 (Source: P.A. 84-461.)

20 (205 ILCS 625/4) (from Ch. 17, par. 2134)

21 Sec. 4. Payable on Death Account Incidents. If one or more  
22 persons opening or holding an account sign an agreement with  
23 the institution providing that on the death of the last  
24 surviving person designated as holder the account shall be paid  
25 to or held by one or more designated beneficiaries ~~another~~

1 ~~person or persons~~, the account, and any balance therein which  
2 exists from time to time, shall be held as a payment on death  
3 account and unless otherwise agreed in writing between the  
4 person or persons opening or holding the account and the  
5 institution:

6 (a) Any holder during his or her lifetime may change any of  
7 the designated beneficiaries ~~persons~~ to own the account at the  
8 death of the last surviving holder without the knowledge or  
9 consent of any other holder or the designated beneficiaries  
10 ~~persons~~ by a written instrument accepted by the institution;

11 (b) Any holder may make additional deposits to and withdraw  
12 any part or all of the account at any time without the  
13 knowledge or consent of any other holder or the designated  
14 beneficiaries ~~person or persons~~ to own the account at the death  
15 of the last surviving holder, subject to the bylaws and  
16 regulations of the institution, and all withdrawals shall  
17 constitute a revocation of the agreement as to the amount  
18 withdrawn; and

19 (c) Upon the death of the last surviving holder of the  
20 account, the beneficiary ~~person so~~ designated to be the owner  
21 of the account (i) who is then living, if the beneficiary is a  
22 natural person, or (ii) that maintains a lawful existence under  
23 the state or federal authority pursuant to which it was  
24 organized, if the beneficiary is not a natural person, shall be  
25 the sole owner of the account, unless more than one beneficiary  
26 ~~person~~ is so designated and then living or in existence, in

1 which case those beneficiaries ~~persons~~ shall hold the account  
2 in equal shares as tenants in common with no right of  
3 survivorship as between those beneficiaries ~~persons~~. If no  
4 beneficiary ~~person~~ designated as the owner of the account on  
5 the death of the last surviving holder is then living or in  
6 existence, the proceeds shall vest in the estate of the last  
7 surviving holder of the account.

8 (Source: P.A. 92-285, eff. 1-1-02.)

9 (205 ILCS 625/10 new)

10 Sec. 10. Distribution by institution. Upon the death of the  
11 last surviving trustee or holder of the account, the  
12 institution that maintains the account shall distribute the  
13 proceeds to the beneficiary or beneficiaries designated in the  
14 agreement controlling the account without further liability.  
15 No institution, however, shall be required to distribute the  
16 account proceeds until the institution receives (i) legal  
17 evidence of death of all trustees or holders of the account,  
18 (ii) identification from each beneficiary then living, or  
19 business records evidencing the lawful existence and parties  
20 authorized to collect on behalf of each beneficiary not a  
21 natural person, and (iii) written direction from each  
22 beneficiary to close the account and distribute the proceeds in  
23 a form acceptable to the institution. If the institution, in  
24 its discretion, is unable to identify one or more  
25 beneficiaries, or cannot determine the lawful existence of any

1 beneficiary, or cannot determine a party authorized to collect  
2 on behalf of any beneficiary, or if conflicting claims to the  
3 account are made by the beneficiaries or other interested  
4 parties, then the institution may refuse to distribute the  
5 proceeds, without liability to any beneficiary or other party,  
6 until the institution receives a determination of ownership by  
7 a court of appropriate jurisdiction.

8 (205 ILCS 625/15 new)

9 Sec. 15. Application of amendments. Section 10 and the  
10 other changes to this Act made by this amendatory Act of the  
11 96th General Assembly apply to all accounts subject to this Act  
12 regardless of the date of execution of the agreement  
13 controlling the account.

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.".