

IC 32-17-11

Chapter 11. Multiple Party Accounts

IC 32-17-11-1

"Account" defined

Sec. 1. (a) As used in this chapter, "account" means a contract of deposit of funds between a depositor and a financial institution.

(b) The term includes a checking account, savings account, certificate of deposit, share account, and other like arrangement.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-2

"Beneficiary" defined

Sec. 2. As used in this chapter, "beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-3

"Financial institution" defined

Sec. 3. (a) As used in this chapter, "financial institution" means any organization authorized to do business in Indiana under IC 28 or federal law relating to financial institutions.

(b) The term includes the following:

- (1) Banks and trust companies.
- (2) Building and loan associations.
- (3) Industrial loan and investment companies.
- (4) Savings banks.
- (5) Credit unions.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-4

"Joint account" defined

Sec. 4. As used in this chapter, "joint account" means an account payable on request to one (1) or more of two (2) or more parties whether or not mention is made of any right of survivorship.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-5

"Multiple party account" defined

Sec. 5. (a) As used in this chapter, "multiple party account" means any of the following types of accounts:

- (1) A joint account.
- (2) A trust account.

(b) The term does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one (1) or more persons as the duly authorized agent or trustee for a corporation, unincorporated

association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.33.

IC 32-17-11-6

"Net contribution" defined

Sec. 6. As used in this chapter, "net contribution" of a party to a joint account as of any given time means the sum of:

- (1) all deposits made by or for the party; minus
- (2) all withdrawals made by or for the party that have not been paid to or applied to the use of any other party; plus
- (3) a pro rata share of any interest or dividends included in the current balance.

The term includes any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-7

"Party" defined

Sec. 7. (a) As used in this chapter, "party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple party account. A beneficiary of a trust account is a party only after the account becomes payable to the payee or beneficiary by reason of the payee's or beneficiary's surviving the original payee or trustee.

(b) Unless the context otherwise requires, the term includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. The term also includes a person identified as a trustee of an account for another whether or not a beneficiary is named.

(c) The term does not include:

- (1) any named beneficiary unless the beneficiary has a present right of withdrawal; or
- (2) a person who is merely authorized to make a request as the agent of another.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.34.

IC 32-17-11-8

"Payment" defined

Sec. 8. As used in this chapter, "payment" of sums on deposit includes the following:

- (1) Withdrawal.
- (2) Payment on check or other directive of a party.
- (3) Any pledge of sums on deposit by a party.
- (4) Any set-off, reduction, or other disposition of all or part of any account pursuant to a pledge.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-9**"Proof of death" defined**

Sec. 9. As used in this chapter, "proof of death" includes a death certificate, an affidavit of death, or a record or report that is prima facie proof of death under IC 29-2-6, IC 29-2-7 (before its repeal), or IC 29-2-14.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-10**Repealed**

(As added by P.L.2-2002, SEC.2. Repealed by P.L.143-2009, SEC.52.)

IC 32-17-11-11**Repealed**

(As added by P.L.2-2002, SEC.2. Repealed by P.L.143-2009, SEC.52.)

IC 32-17-11-12**"Request" defined**

Sec. 12. As used in this chapter, "request" means:

- (1) a proper request for withdrawal; or
- (2) a check or order for payment;

that complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution. If the financial institution conditions withdrawal or payment on advance notice, for purposes of this section, the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-13**"Sums on deposit" defined**

Sec. 13. As used in this chapter, "sums on deposit" means the balance payable on a multiple party account, including interest, dividends, and any deposit life insurance proceeds added to the account by reason of the death of a party.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-14**"Trust account" defined**

Sec. 14. (a) As used in this chapter, "trust account" means an account in the name of at least one (1) party as trustee for at least one (1) beneficiary if:

- (1) the relationship is established by the form of the account and the deposit agreement with the financial institution; and
- (2) there is no subject of the trust other than the sums on deposit in the account.

It is not essential that payment to the beneficiary be mentioned in the deposit agreement.

- (b) The term does not include the following:
- (1) A regular trust account under a testamentary trust.
 - (2) A trust agreement that has significance apart from the account.
 - (3) A fiduciary account arising from a fiduciary relation such as attorney-client.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-15

"Withdrawal" defined

Sec. 15. As used in this chapter, "withdrawal" includes payment to a third person pursuant to a check or other directive of a party.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-16

Application of certain sections

Sec. 16. (a) The provisions of sections 17, 18, and 19 of this chapter concerning beneficial ownership as between parties, or as between parties and beneficiaries of multiple party accounts:

- (1) apply only to controversies between:
 - (A) the parties or the beneficiaries of multiple party accounts; and
 - (B) creditors and other successors of:
 - (i) the parties; or
 - (ii) the beneficiaries of multiple party accounts; and
- (2) do not affect the power of withdrawal of the parties or the beneficiaries of multiple party accounts as determined by the terms of account contracts.

(b) The provisions of sections 22 through 27 of this chapter govern the liability and set-off rights of financial institutions that make payments under sections 22 through 27 of this chapter.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.35.

IC 32-17-11-17

Ownership of accounts

Sec. 17. (a) Unless there is clear and convincing evidence of a different intent, during the lifetime of all parties, a joint account belongs to the parties in proportion to the net contributions by each party to the sums on deposit.

- (b) Unless:
- (1) a contrary intent is manifested by the terms of the account or the deposit agreement; or
 - (2) there is other clear and convincing evidence of an irrevocable trust;

a trust account belongs beneficially to the trustee during the trustee's lifetime. If at least two (2) parties are named as trustee on the account, subsection (a) governs the beneficial rights of the trustees

during their lifetimes. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.36.

IC 32-17-11-18

Ownership of accounts at death of party, original payee, or trustee

Sec. 18. (a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are at least two (2) surviving parties, their respective ownerships during lifetime are:

- (1) in proportion to their previous ownership interests under section 17 of this chapter; and
- (2) augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before the person's death.

The right of survivorship continues between the surviving parties.

(b) If the account is a trust account, on death of the trustee or the survivor of at least two (2) trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries who survive the trustee, unless there is clear and convincing evidence of a contrary intent. If at least two (2) beneficiaries survive, there is no right of survivorship between the beneficiaries unless the terms of the account or deposit agreement expressly provide for survivorship.

(c) Except as provided in subsections (a) and (b), the death of any party to a multiple party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of the decedent's estate.

- (d) A right of survivorship arising:
- (1) from the express terms of the account; or
 - (2) under:
 - (A) this section; or
 - (B) a beneficiary designation in a trust account;

cannot be changed by will.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.37.

IC 32-17-11-19

Rights of survivorship

Sec. 19. (a) The provisions of section 18 of this chapter as to rights of survivorship are determined by the form of the account at the death of a party.

(b) The form of an account may be altered by written order given by a party to the financial institution to:

- (1) change the form of the account; or
- (2) stop or vary payment under the terms of the account.

(c) An order or request described in subsection (b) must be:

- (1) signed by a party;
- (2) received by the financial institution during the party's

lifetime; and

(3) not countermanded by another written order of the same party during the party's lifetime.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-20

Certain transfers not testamentary

Sec. 20. Any transfers resulting from the application of section 18 of this chapter are:

(1) effective by reason of:

(A) the account contracts involved; and

(B) this chapter; and

(2) not to be considered as:

(A) testamentary; or

(B) subject to IC 29.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-21

Repealed

(As added by P.L.2-2002, SEC.2. Repealed by P.L.165-2002, SEC.15.)

IC 32-17-11-21.1

Liability for creditor claims and statutory allowances; applicable law

Sec. 21.1. The liability of a surviving party or beneficiary for creditor claims and statutory allowances is determined under IC 32-17-13.

As added by P.L.165-2002, SEC.12. Amended by P.L.143-2009, SEC.38.

IC 32-17-11-22

Payments; multiple party accounts

Sec. 22. (a) Financial institutions may enter into multiple party accounts to the same extent that they may enter into single party accounts.

(b) Any multiple party account may be paid, on request, to any one (1) or more of the parties.

(c) For purposes of establishing net contributions, a financial institution is not required to inquire as to:

(1) the source of funds received for deposit to a multiple party account; or

(2) the proposed application of any sum withdrawn from an account.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-23

Payments; joint accounts

Sec. 23. (a) Except as provided in subsection (b), any sums in a

joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded.

(b) Payment may not be made to the personal representative or heirs of a deceased party unless:

- (1) proofs of death are presented to the financial institution showing that the decedent was the last surviving party; or
- (2) there is no right of survivorship under section 18 of this chapter.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-24

Repealed

(As added by P.L.2-2002, SEC.2. Repealed by P.L.143-2009, SEC.52.)

IC 32-17-11-25

Payments; trust accounts

Sec. 25. A trust account may be paid, on request:

- (1) to any trustee;
- (2) unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon the beneficiary surviving the trustee, if proof of death is presented to the financial institution showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary, to the personal representative or heirs of a deceased trustee; and
- (3) upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustee, to the beneficiary or beneficiaries.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-26

Payments; discharge of financial institutions from all claims

Sec. 26. (a) Payment made under section 22, 23, or 25 of this chapter discharges the financial institution from all claims for amounts paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries, or their successors.

(b) The protection provided under this section does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted.

(c) Unless a notice described in subsection (b) is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section.

(d) No other notice or any other information shown to have been

available to a financial institution affects the institution's right to the protection provided under this section.

(e) The protection provided under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in or withdrawn from multiple party accounts.

As added by P.L.2-2002, SEC.2. Amended by P.L.143-2009, SEC.39.

IC 32-17-11-27

Right of financial institutions to set off against accounts

Sec. 27. (a) Without qualifying any other statutory right to set off or lien and subject to any contractual provision, if a party to a multiple party account is indebted to a financial institution, the financial institution has a right to set off against the account in which the party has, or had immediately before the party's death, a present right of withdrawal.

(b) The amount of the account subject to set off as described in subsection (a) is that proportion to which the debtor is, or was immediately before the debtor's death, beneficially entitled.

(c) In the absence of proof of net contributions, the amount of the account subject to set off as described in subsection (a) is an equal share with all parties having present rights of withdrawal.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-28

Provisions in certain agreements nontestamentary; creditors' rights

Sec. 28. (a) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, pension plan, trust agreement, conveyance, or any other written instrument effective as a contract, gift, conveyance, or trust is considered to be nontestamentary, and this title and IC 29 do not invalidate the instrument or any provision:

(1) That money or other benefits due to, controlled, or owned by a decedent before the person's death shall be paid after the person's death to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(2) That any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promisor before payment or demand.

(3) That any property that is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(b) This section does not limit the rights of creditors under other Indiana laws.

As added by P.L.2-2002, SEC.2.

IC 32-17-11-29

Personal property owned as tenants in common; exceptions

Sec. 29. (a) This section does not apply to an account.

(b) Except as provided in subsection (c), personal property that is owned by two (2) or more persons is owned by them as tenants in common unless expressed otherwise in a written instrument.

(c) Upon the death of either husband or wife:

(1) household goods:

(A) acquired during marriage; and

(B) in possession of both husband and wife; and

(2) any:

(A) promissory note;

(B) bond;

(C) certificate of title to a motor vehicle; or

(D) other written or printed instrument;

evidencing an interest in tangible or intangible personal property in the name of both husband and wife;

becomes the sole property of the surviving spouse unless a clear contrary intention is expressed in a written instrument.

As added by P.L.2-2002, SEC.2.