

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 686
PROPOSED COMMITTEE SUBSTITUTE H686-PCS80234-TM-7

Short Title: Payable on Death Accounts.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A PAYABLE ON DEATH
ACCOUNT NAMING AN ENTITY OTHER THAN A NATURAL PERSON AS
BENEFICIARY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-146.2 is repealed, and a new G.S. 53-146.2A is enacted to
read:

"§ 53-146.2A. Payable on Death (POD) accounts.

(a) If any natural person or natural persons establishing a deposit account shall execute a written agreement with the bank containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the natural person or natural persons as owner or owners for one or more beneficiaries, the account and any balance thereof shall be held as a Payable on Death account. The account shall have the following incidents:

(1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the bank.

(2) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 53-146.1.

(3) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.

(4) If the beneficiary or beneficiaries are natural persons, there may be one or more beneficiaries and the following shall apply:

a. If only one beneficiary is living and of legal age at the death of the last surviving owner, the beneficiary shall be the owner of the account, and payment by the bank to such owner shall be a total discharge of the bank's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 53-146.1, and payment by the bank to the owners or any of the owners shall be a total discharge of the bank's obligation as to the amount paid.



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b. If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the bank shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the bank shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.

(5) If the beneficiary is an entity other than a natural person, there shall be only one beneficiary.

(6) If one or more owners survive the last surviving beneficiary who was a natural person, or if a beneficiary who is an entity other than a natural person should cease to exist before the death of the owner, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account in a case of a single owner or a joint account with right of survivorship, as provided in G.S. 53-146.1, in the case of multiple owners.

(7) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the bank of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the bank for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The natural person or natural persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the language set out below; the language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account:

'BANK (or name of institution)
PAYABLE ON DEATH ACCOUNT
G.S. 53-146.2A

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 53-146.2A that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.
2. By written direction to the bank (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

1 (c) No addition to such accounts, nor any withdrawal, payment, or change of
2 beneficiary, shall affect the nature of such accounts as Payable on Death accounts or affect the
3 right of any owner to terminate the account.

4 (d) This section does not repeal or modify any provisions of laws relating to estate
5 taxes."

6 **SECTION 2.** G.S. 54B-130 is repealed and a new G.S. 54B-130A is enacted to
7 read:

8 **"§ 54B-130A. Payable on Death (POD) accounts.**

9 (a) If any natural person or natural persons establishing a deposit account shall execute
10 a written agreement with the association containing a statement that it is executed pursuant to
11 the provisions of this section and providing for the account to be held in the name of the natural
12 person or natural persons as owner or owners for one or more beneficiaries, the account and
13 any balance thereof shall be held as a Payable on Death account. The account shall have the
14 following incidents:

15 (1) Any owner during the owner's lifetime may change any designated
16 beneficiary by a written direction to the association.

17 (2) If there are two or more owners of a Payable on Death account, the owners
18 shall own the account as joint tenants with right of survivorship and, except
19 as otherwise provided in this section, the account shall have the incidents set
20 forth in G.S. 54B-129.

21 (3) Any owner may withdraw funds by writing checks or otherwise, as set forth
22 in the account contract, and receive payment in cash or check payable to the
23 owner's personal order.

24 (4) If the beneficiary or beneficiaries are natural persons, there may be one or
25 more beneficiaries and the following shall apply:

26 a. If only one beneficiary is living and of legal age at the death of the
27 last surviving owner, the beneficiary shall be the owner of the
28 account, and payment by the association to such owner shall be a
29 total discharge of the association's obligation as to the amount paid.
30 If two or more beneficiaries are living at the death of the last
31 surviving owner, they shall be owners of the account as joint tenants
32 with right of survivorship as provided in G.S. 54B-129, and payment
33 by the association to the owners or any of the owners shall be a total
34 discharge of the association's obligation as to the amount paid.

35 b. If only one beneficiary is living and that beneficiary is not of legal
36 age at the death of the last surviving owner, the association shall
37 transfer the funds in the account to the general guardian or guardian
38 of the estate, if any, of the minor beneficiary. If no guardian of the
39 minor beneficiary has been appointed, the association shall hold the
40 funds in a similar interest bearing account in the name of the minor
41 until the minor reaches the age of majority or until a duly appointed
42 guardian withdraws the funds.

43 (5) If the beneficiary is an entity other than a natural person, there shall be only
44 one beneficiary.

45 (6) If one or more owners survive the last surviving beneficiary who was a
46 natural person, or if a beneficiary who is an entity other than a natural person
47 should cease to exist before the death of the owner, the account shall become
48 an individual account of the owner, or a joint account with right of
49 survivorship of the owners, and shall have the legal incidents of an
50 individual account in a case of a single owner or a joint account with right of
51 survivorship, as provided in G.S. 54B-129, in the case of multiple owners.

(7) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the association of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the association for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The natural person or natural persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the language set out below; the language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account:

'SAVINGS AND LOAN (or name of institution)
PAYABLE ON DEATH ACCOUNT
G.S. 54B-130A

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 54B-130A that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.
2. By written direction to the association (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary, shall affect the nature of such accounts as Payable on Death accounts or affect the right of any owner to terminate the account.

(d) This section does not repeal or modify any provisions of laws relating to estate taxes."

SECTION 3. G.S. 54C-166 is repealed and a new G.S. 54C-166A is enacted to read:

"§ 54C-130A. Payable on Death (POD) accounts.

(a) If any natural person or natural persons establishing a deposit account shall execute a written agreement with the savings bank containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the natural person or natural persons as owner or owners for one or more beneficiaries, the account and any balance thereof shall be held as a Payable on Death account. The account shall have the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the savings bank.
- (2) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except

1 as otherwise provided in this section, the account shall have the incidents set
2 forth in G.S. 54C-165.

3 (3) Any owner may withdraw funds by writing checks or otherwise, as set forth
4 in the account contract, and receive payment in cash or check payable to the
5 owner's personal order.

6 (4) If the beneficiary or beneficiaries are natural persons, there may be one or
7 more beneficiaries and the following shall apply:

8 a. If only one beneficiary is living and of legal age at the death of the
9 last surviving owner, the beneficiary shall be the owner of the
10 account, and payment by the savings bank to such owner shall be a
11 total discharge of the savings bank's obligation as to the amount paid.
12 If two or more beneficiaries are living at the death of the last
13 surviving owner, they shall be owners of the account as joint tenants
14 with right of survivorship as provided in G.S. 54C-165, and payment
15 by the savings bank to the owners or any of the owners shall be a
16 total discharge of the savings bank's obligation as to the amount paid.

17 b. If only one beneficiary is living and that beneficiary is not of legal
18 age at the death of the last surviving owner, the savings bank shall
19 transfer the funds in the account to the general guardian or guardian
20 of the estate, if any, of the minor beneficiary. If no guardian of the
21 minor beneficiary has been appointed, the savings bank shall hold the
22 funds in a similar interest bearing account in the name of the minor
23 until the minor reaches the age of majority or until a duly appointed
24 guardian withdraws the funds.

25 (5) If the beneficiary is an entity other than a natural person, there shall be only
26 one beneficiary.

27 (6) If one or more owners survive the last surviving beneficiary who was a
28 natural person, or if a beneficiary who is an entity other than a natural person
29 should cease to exist before the death of the owner, the account shall become
30 an individual account of the owner, or a joint account with right of
31 survivorship of the owners, and shall have the legal incidents of an
32 individual account in a case of a single owner or a joint account with right of
33 survivorship, as provided in G.S. 54C-165, in the case of multiple owners.

34 (7) Prior to the death of the last surviving owner, no beneficiary shall have any
35 ownership interest in a Payable on Death account. Funds in a Payable on
36 Death account established pursuant to this subsection shall belong to the
37 beneficiary or beneficiaries upon the death of the last surviving owner, and
38 the funds shall be subject only to the personal representative's right of
39 collection as set forth in G.S. 28A-15-10(a)(1). Payment by the savings bank
40 of funds in the Payable on Death account to the beneficiary or beneficiaries
41 shall terminate the personal representative's authority under
42 G.S. 28A-15-10(a)(1) to collect against the savings bank for the funds so
43 paid, but the personal representative's authority to collect such funds from
44 the beneficiary or beneficiaries is not terminated.

45 The natural person or natural persons establishing an account under this subsection shall
46 sign a statement containing language set forth in a conspicuous manner and substantially
47 similar to the language set out below; the language may be on a signature card or in an
48 explanation of the account that is set out in a separate document whose receipt is acknowledged
49 by the person or persons establishing the account:

50 'SAVINGS BANK (or name of institution)
51 PAYABLE ON DEATH ACCOUNT

G.S. 54C-166A

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 54C-166A that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.
2. By written direction to the savings bank (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary, shall affect the nature of such accounts as Payable on Death accounts or affect the right of any owner to terminate the account.

(d) This section does not repeal or modify any provisions of laws relating to estate taxes."

SECTION 4. G.S. 54-109.57 is repealed and a new G.S. 54-109.57A is enacted to read:

"§ 54-109.57A. Payable on Death (POD) accounts.

(a) Shares may be issued to and deposits received from any natural person or natural persons establishing an account who shall execute a written agreement with the credit union containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the natural person or natural persons as owner or owners for one or more beneficiaries. Such account and any balance thereof shall be held as a Payable on Death account. The account shall have the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the credit union.
- (2) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54-109.58.
- (3) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.
- (4) If the beneficiary or beneficiaries are natural persons, there may be one or more beneficiaries and the following shall apply:
 - a. If only one beneficiary is living and of legal age at the death of the last surviving owner, the beneficiary shall be the owner of the account, and payment by the credit union to such owner shall be a total discharge of the credit union's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54-109.58, and payment by the credit union to the owners or any of the owners shall be a total discharge of the credit union's obligation as to the amount paid.

b. If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the credit union shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the credit union shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.

(5) If the beneficiary is an entity other than a natural person, there shall be only one beneficiary.

(6) If one or more owners survive the last surviving beneficiary who was a natural person, or if a beneficiary who is an entity other than a natural person should cease to exist before the death of the owner, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account in a case of a single owner or a joint account with right of survivorship, as provided in G.S. 54-109.58, in the case of multiple owners.

(7) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the credit union of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the credit union for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The natural person or natural persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the language set out below; the language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account:

'CREDIT UNION (or name of institution)

PAYABLE ON DEATH ACCOUNT

G.S. 54-109.57A

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 54-109.57A that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.
2. By written direction to the credit union (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

1 (c) No addition to such accounts, nor any withdrawal, payment, or change of
2 beneficiary, shall affect the nature of such accounts as Payable on Death accounts or affect the
3 right of any owner to terminate the account.

4 (d) This section does not repeal or modify any provisions of laws relating to estate
5 taxes."

6 **SECTION 5.** This act becomes effective October 1, 2011, and applies to
7 agreements executed on or after that date. Agreements executed prior to October 1, 2011,
8 remain subject to the laws in effect at the time the parties executed the agreement.