

Memorandum 90-66

Subject: Study L-3043 - Forms for Multiple-Party Accounts Law

When the Commission recommended the enactment of the new Multiple-Party Accounts Law, it was with the understanding that the Commission's staff would assist the California Bankers Association in drafting forms for use under the statute. The State Bar Section was especially concerned that forms be devised that could be understood and used by consumers.

The staff has prepared drafts of forms that might be used under the new statute. After these forms have been reviewed and revised in light of comments from interested persons, they might be added to the new statute in a separate chapter. The statute would indicate that the forms set out in the statute satisfy the requirements of the statute but do not preclude the use of other forms.

The forms are set out in Exhibit 1 attached. The forms are discussed below.

Single-Party or Multiple-Party Account Form (page 1 of Exhibit)

Note that this form is not for use if the parties are married. A separate form is provided for married persons. That form is discussed later.

This form might be split into two forms, one form dealing with single party accounts and the other with multiple-party accounts.

Husband and Wife Account Form (page 2 of Exhibit)

This form is a simple form for use where an account is held by a husband and wife.

This form does not provide for the situation where the husband and wife determine not to have a survivorship account but one or both want to designate a POD beneficiary for their share of the account. Page 3 of the Exhibit sets out a provision covering that situation. The staff recommends against the provision. Including it would add considerable

complexity to the form. Further, the staff believes that the married persons can accomplish their objective by each having his or her own account and designating the POD beneficiary who is to take the funds in the account upon the death. This assumes that the law now is, or will be clarified so that it provides, that a spouse can effectively consent to a POD beneficiary designation by the other spouse in a deposit account that contains community property funds.

Designation of Agent (page 4 of Exhibit)

This form satisfies the statutory requirements for a designation of an agent under the provisions of the Multiple-Party Accounts Law.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

**SINGLE-PARTY OR MULTIPLE-PARTY
ACCOUNT FORM**

[Not For Use For Husband And Wife Account]

PARTIES [Name One or More Parties]:

OWNERSHIP [Select One And Initial]:

- _____ **SINGLE-PARTY ACCOUNT**
- _____ **MULTIPLE-PARTY ACCOUNT OWNED IN EQUAL
SHARES**
- _____ **MULTIPLE-PARTY ACCOUNT OWNED IN PROPORTION
TO NET CONTRIBUTIONS**

RIGHTS AT DEATH [Select One And Initial]:

- _____ **SINGLE-PARTY ACCOUNT**
At death of party, ownership passes as part of party's estate.
 - _____ **SINGLE-PARTY ACCOUNT WITH POD (PAY ON
DEATH) DESIGNATION**
[Name One Or More Beneficiaries]:
- _____

At death of party, ownership passes to POD beneficiaries and is
not part of party's estate.

- _____ **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF
SURVIVORSHIP**
At death of party, ownership passes to surviving parties.
 - _____ **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF
SURVIVORSHIP AND POD (PAY ON DEATH)
DESIGNATION**
[Name One Or More Beneficiaries]:
- _____

At death of a party, ownership passes to surviving parties. At
death of last surviving party, ownership passes to POD
beneficiaries and is not part of last surviving party's estate.

- _____ **MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF
SURVIVORSHIP**
At death of a party, ownership of that party passes as part of that
party's estate.

HUSBAND AND WIFE ACCOUNT FORM

PARTIES [Name of Husband and Wife]:

TYPE OF ACCOUNT [Select One And Initial]:

_____ **ACCOUNT WITH RIGHT OF SURVIVORSHIP**

Upon the death of either party, ownership passes to the survivor. This account is presumed to be community property.

_____ **ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD
(PAY ON DEATH) BENEFICIARY DESIGNATION
[Name One Or More Beneficiaries]:**

_____ Upon the death of either party, ownership passes to the survivor. At death of the survivor, ownership passes to POD beneficiaries and is not part of survivor's estate. This account is presumed to be community property.

_____ **ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP**

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent. At death of a party, ownership of that party passes as part of that party's estate.

_____ **COMMUNITY PROPERTY ACCOUNT**

This account is community property. The ownership during lifetime and after death of a party is determined by the law applicable to community property generally and may be affected by a will.

____ **ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP BUT
WITH POD (PAY ON DEATH) BENEFICIARY
DESIGNATION FOR ONE OR MORE OF PARTIES**

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent. At death of party who does not name a POD beneficiary, deceased party's ownership passes as part of deceased party's estate.

[Each Party May Name One Or More Beneficiaries]:

_____ designates as his or her beneficiaries:

At death of the named party, ownership passes to POD beneficiaries and is not part of that party's estate.

_____ designates as his or her beneficiaries:

At death of the named party, ownership passes to POD beneficiaries and is not part of that party's estate.

**DESIGNATION OF AGENT
(DURABLE POWER OF ATTORNEY)**

NAME OF FINANCIAL INSTITUTION _____

NAME OF ACCOUNT OWNER(S)

Name _____

Name _____

Transactions regarding the account(s) and other depository relationships listed below may be made by the named agent(s).

This agency is governed by Section 5204 of the California Probate Code. Under Section 5204, agents (1) have no ownership or rights at death unless named as POD (pay-on-death) beneficiaries, (2) must keep a record of the transactions and disbursements made under this agency, and (3) may make disbursements from the account(s) only to or for the benefit of the account owner unless the account owner has authorized the disbursement in writing.

This agency designation survives incapacity of the account owner(s).

NAME OF ACCOUNTS AND ACCOUNT NUMBERS

NAME AND ADDRESS OF AGENT(S)

SIGNATURE OF ACCOUNT OWNER(S)

Date _____

Date _____

SIGNATURE OF AGENT(S)

Date _____

Date _____