
IN THE
COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 2019
Appeal No. CSA-REG-0671-2018

DENISE POTTER, et al.

Appellant

v.

RUBY POTTER

Appellee

Appeal from the Circuit Court for Anne Arundel County
(The Honorable Mark W. Crooks)

REPLY BRIEF OF APPELLANT DENISE POTTER,
Individually and as
Personal Representative of the Estate of James R. Potter

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(Text of cited statutes and rules follows brief.)

Introduction

Ruby's brief failed to provide relevant authority to support the argument that the Membership Agreement effectively passed the LLC Interest upon James Potter's death.¹ Ruby relies on three arguments to support her position: (i) that the definition of "property" in Estates & Trusts § 1-101(r) allows the Membership Agreement to perform a non-probate transfer, (ii) that contracts can perform non-probate transfers, and (iii) that Corporations & Associations § 4A-606 allows a limited liability company's operating documents to be used as an inheritance device.

Contracts, outside of a recognized statutory or common law exception, are not probate avoidance devices. This includes the Membership Agreement. Further, because the Membership Agreement merely attempts to create a gift at death, it cannot be enforced unless it complies with the execution requirements of Estates & Trusts § 4-102. Ruby's attempts to evade this conclusion with the definition of "property" found in Estates & Trusts § 1-101(r) and the conditions for a member's cessation from a limited liability company found in Corporations & Associations § 4A-606 are unfounded.

¹ Unless otherwise specified herein, the definitions from Appellant's Brief are used identically herein. The following common defined terms are provided here for the sake of the Court's convenience: (i) LLC – TR Steak Pasadena, LLC; (ii) LLC Interest – the membership interest in the LLC that was owned by James Potter at the time of his death; (iii) Membership Agreement – the Third Amended Members' Agreement of TR Steak Pasadena, LLC (see E. 13 for full document).

Argument

I. The definition of “property” in Estates & Trusts § 1-101(r) does not exempt the LLC Interest from probate.

The definition of “property” under Estates & Trusts § 1-101(r) does nothing to show that the Membership Agreement can pass the LLC Interest to Ruby outside of probate.

The definition of “property” for purposes of Maryland probate law is as follows:

“Property” includes both real and personal property, and any right or interest therein. “Property” refers to (1) all real and personal property of a decedent and (2) any right or interest therein which does not pass, at the time of the decedent's death, to another person by the terms of the instrument under which it is held, or by operation of law.

Md. Code Ann., Est. & Trusts § 1-101(r) (2019). Ruby argues that the second part of this definition exempts a large amount of property from probate.² It is a large legal and intellectual leap to accept that a definition that acknowledges the existence of non-probate transfers somehow *creates* the exemption. Rather, there are statutes and common law authority that flesh out what transfers are permitted to occur outside probate. *See, e.g.*, Md. Code Ann., Est. & Trusts § 16-101, *et seq.* (pay-on-death and transfer-on-death for securities); Ins. § 16-212, *et seq.* (life insurance); Fin. Inst. § 1-204(a) (transfer-on-death and multi-party bank accounts, including retirement accounts).³ Maryland law has not

² Ruby spends considerable space in her brief establishing that non-probate transfers are permitted under Maryland law. That fact is not disputed. Denise merely disputes that the Membership Agreement in this case is a permissive device for avoiding probate. The existence of non-probate transfers, without more, does not support Ruby's position.

³ Ruby's interpretation of Estates & Trusts § 1-101(r) would seem to render the probate exemption language in the specific statutory provisions superfluous. *See* Md. Code Ann., Est. & Trusts § 16-109 (stating that transfers-on-death for securities registered in beneficiary form are non-testamentary transfers).

acknowledged that a limited liability company's operating documents are included in this group.

More significantly, Estates & Trusts 1-101(r) does not exempt the LLC Interest from James Potter's probate estate, because the LLC Interest does not pass "by the terms of the instrument under which it is held, or by operation of law." After a limited liability company has been formed, a person can obtain a membership interest in the company in one of two ways: (1) directly from the limited liability company, or (2) by an assignment from an existing member. Md. Code Ann., Corps. & Ass'ns § 4A-601(b).⁴ Here, the LLC does not own the interest that once belonged to James Potter and does not have the authority to assign it to Ruby. The only person with the authority to complete an assignment of the LLC Interest—to anyone—is the Personal Representative of James Potter's Estate. Md. Code Ann., Est. & Trusts § 1-301(a) ("All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.").

That the Membership Agreement is not the instrument under which the LLC Interest is held for purposes of Estates & Trusts § 1-101(r) is emphasized by its terms. The Membership Agreement does not purport to pass title to the LLC Interest. It merely states that "upon the death" of the respective members, their interests in the LLC "shall be

⁴ Corporations & Associations § 4A-601(b)(3) also contains a procedure for admitting a new member after the last member ceases to serve, which is not relevant to the circumstances in this case.

transferred....” (E. 15) The Membership Agreement does nothing to actually effectuate that transfer. Rather, someone would have to perform the assignment; because the LLC itself does not own the LLC Interest, the Personal Representative is the only person with the necessary authority. In this manner, the LLC Interest is part of James Potter’s probate estate, and does not pass outside of probate to Ruby.

II. The Membership Agreement is not a contract that could pass property outside of probate.

Ruby also argues throughout her brief that the Membership Agreement is a contract that can pass property outside of probate. This argument blurs the distinction between contracts that can pass property outside of a decedent’s *will*, and transfers that can occur outside of *probate*. Maryland law has held that contracts can be an effective way to pass property outside of a decedent’s will, but that does not mean that a contract can exempt property from the decedent’s probate estate without a statutory or common law exemption.⁵

This proposition was illustrated in the Court of Appeals case *Ledingham v. Bayless*. 218 Md. 108, 145 A.2d 434 (1958). In that case, a son entered into a contract with his parents. The contract provided that the son was to become a one-half owner of the parents’ farm if he worked on the farm until his parents died.⁶ *Id.* at 112, 145 A.2d at 437. The son

⁵ The *Milholland II* case, cited by Ruby, involved the creation of a trust in an account agreement. *Milholland v. Whalen*, 89 Md. 212, 43 A. 43, 45 (1899). Trusts have long been used as probate avoidance tools. *See id.* There is no allegation that the LLC Interest is held in a trust for the benefit of Ruby, such that it would pass outside of James Potter’s probate estate.

⁶ There were other terms of the contract (e.g., how profits were to be divided during the lifetime of the contracting parties), but the grant of the real estate at death is the relevant provision for purposes of this case. *See Ledingham*, 218 Md. at 112, 145 A.2d at 437.

worked on the farm until the deaths of both parents and then attempted to claim a one-half interest based on the terms of the contract. His siblings argued that the contract failed as a testamentary instrument, and that the property should be distributed pursuant to their mother's will. *Id.* at 113-114, 145 A.2d at 438-39.

The Court of Appeals found that the contract was enforceable, stating that there was “no reason to treat a contract to make a will as governed by principles different in any way from those applied to contracts in general....” *Id.* at 115, 145 A.2d at 439. Because the contract was supported by consideration of the parties, and was not merely gratuitous (as is the case with testamentary instruments), it was enforceable by the son who performed under its terms. *Id.* While the contract could pass property outside the control of the decedent's will, the Court did not find that the farm would pass outside of probate. Rather, the contract vested equitable title to the farm in the son, but legal title had to pass “by those holding in trust” for the son. *Id.* at 116, 145 A.2d at 440. This included the personal representative of the decedent's estate. *Id.* at 117, 145 A.2d at 440 (“Equity grants relief in the nature of specific performance, holding the heirs, devisees, next of kin and personal representatives of the promisor to be trustees holding legal title to the property for the benefit of the promisee.”).

As indicated above, the only person who has authority to transfer the LLC Interest is the Personal Representative of James Potter's Estate. His interest did not somehow revert to the LLC, and the LLC has never made this contention. Like other property held in the name of a decedent, title to the LLC Interest passed to his Personal Representative,

to be transferred to those who are entitled to it as part of the probate proceeding. Est. & Trusts § 1-301(a).

III. The Membership Agreement is not an enforceable contract against James Potter's Estate.

While certain contracts can be enforceable against a decedent's estate, the Membership Agreement is not one of them. Maryland law holds that contracts which create an enforceable interest during the lifetime of the contracting parties can pass property outside of the decedent's will. A writing that merely attempts to make a gift of the decedent's property upon his death, however, is unenforceable unless it complies with the execution requirements of a will.

This principle was discussed in the case of *Cover v. Stem*—a case that Ruby has unsuccessfully tried to distinguish. In that case, the decedent executed a document prior to his death that stated:

At my death, my estate or my executor pay to July Ann Cover the sum of three thousand dollars.

67 Md. 449, 10 A. 231, 232. The document was signed, but was only supported by one witness. *Id.* Ms. Cover attempted to enforce the document as a contract against the decedent's estate. *Id.* The estate argued that it was unenforceable as an improper testamentary instrument. *Id.*

The Court ultimately decided that the document could not be enforced as a contract that could accomplish the transfer. *Id.* It stated:

It would seem clear that the relation of debtor and creditor must be created, and subsists in the life-time of the parties to the instrument, though the time of payment may be deferred until after the death of one of the parties.

...

Here, in the instrument before us, there are no words that create a *debitum in praesenti* [debt in the present]; there are no words that create the relation of debtor and creditor in the life-time of the parties to the instrument; but the words employed simply import a posthumous disposition of a part of the estate of the maker of the instrument, and nothing more.

Id.; see also *Hearn v. Purnell*, 110 Md. 458, 72 A. 906, 909 (1909) (“where an instrument does not operate inter vivos, but is made to depend for its operation upon the event of the death of the maker to consummate it, it can only take effect as a testamentary paper.” (citing *Carey v. Dennis*, 13 Md. 1 (1859))); *American University v. Collings*, 190 Md. 688, 693-94, 59 A.2d 333, 335 (1948) (finding that a pledge to give money to American University at death was a testamentary instrument and not a contract.).

Based on these principles, the Membership Agreement cannot be treated as a contract that would be enforceable against James Potter’s estate. Section 3.1 of the document states:

Upon the death of a Member, all of the Membership Interests of the Company owned by him ***shall be transferred*** as shown below for each Member with the voting rights attached to their Membership Interests being assigned to the Member shown.

(E. 15 (emphasis added)) This did not create a present transfer of the LLC Interest to Ruby.

Indeed, Section 3.1 does not say that the LLC Interest was transferred; it states that it “shall be” transferred at some future time. It specifies that time as “[u]pon the death” of James Potter. Like the instrument in *Cover*, there was no present transfer of a property interest made by Section 3.1 of the Membership Agreement. Rather, it was testamentary in nature. It is, thus, only enforceable under the testamentary laws of Maryland and must

comply with the execution requirements of Estates & Trusts § 4-102. *Cover*, 10 A. at 232; *American University*, 190 Md. at 694, 59 A.2d at 335. Because it does not, it is unenforceable.

IV. Corporations & Associations § 4A-606 does not permit the LLC Interest to pass outside of probate pursuant to the Membership Agreement.

Ruby finally points to the Corporations & Associations Article in an effort to show that the LLC Interest should be awarded to her. Specifically, she relies on § 4A-606, which deals with the conditions under which a person ceases to be a member of a limited liability company. That statute states, in pertinent part:

Unless otherwise agreed, a person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

...

(5) In the case of a member who is an individual, the individual's:

- (i) Death; or
- (ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property

Md. Code Ann., Corps. & Ass'ns § 4A-606(5). Other conditions for cessation of membership include voluntary withdrawal, a person's removal in accordance with the operating agreement, and instituting a bankruptcy proceeding. *See id* § 4A-606.

Ruby uses this statute to paint with a very broad brush. She argues that the phrase “[u]nless otherwise agreed” permits the members of a limited liability company to decide “what should happen upon a member's death,” including how the deceased members' interests will pass at death. Appellee's Brief at 13-14. The plain language of § 4A-606 does nothing of the sort.

Corporations & Associations § 4A-606 merely states *how* a person ceases to be a member of a limited liability company. The phrase “[u]nless otherwise agreed” necessarily allows the members to change from the default rules. But, the statute does not offer a default rule for what happens with a member’s interest after he or she ceases to be a member. There is no default rule to modify by agreement in the context of this case.

Ruby also points to no authority establishing that the three words “[u]nless otherwise agreed” were intended to avoid the execution requirements of a will or to accomplish probate avoidance. Most of the other probate avoidance mechanisms have statutes in place that show how those transfers are to be structured. *See* Md. Code Ann., Est. & Trusts § 16-101, *et seq.* (pay-on-death and transfer-on-death for securities); Ins. § 16-212, *et seq.* (life insurance); Fin. Inst. § 1-204(a) (transfer-on-death and multi-party bank accounts, including retirement accounts). Others, like trusts, also have common law traditions. *See Milholland*, 89 Md. 212, 43 A. at 45; Md. Code Ann., Est. & Trusts § 14.5-101, *et seq.* (the Maryland Trust Act). Ruby is advocating that this Court create a new inheritance device, outside of probate, based on three words. This should not be permitted.

Conclusion

The LLC Interest is rightfully part of James Potter’s probate estate. Ruby’s efforts to exempt it by virtue of the Membership Agreement are unconvincing. The Membership Agreement is not a contract that can effectively pass property at death. The definition of “property” in Estates & Trusts § 1-101(r) and the words “[u]nless otherwise agreed” in Corporations & Associations § 4A-606 similarly do not lend credibility to her argument.

Section 3.1 of the Membership Agreement represents a failed attempt to create a testamentary instrument, because it does not comply with the execution requirements found in Estates & Trusts § 4-102.⁷ This Court should declare that the LLC Interest is part of James Potter’s probate estate and overturn the ruling of the trial court.

Respectfully submitted,

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Statement as to Typeface: The font used in this Brief is Times New Roman and the type size is 13 point.

CERTIFICATION OF WORD COUNT IN COMPLIANCE WITH RULE 8-112

1. This brief contains **2,858** words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Carl A. Howard

Carl A. Howard (CPF ID # 1012150060)

⁷ Ruby argues that if the case is remanded, she should be permitted to argue that the Membership Agreement complies with the provisions of Estates & Trusts § 4-102. Remand for such purpose should not be allowed, as Ruby’s counsel has admitted throughout the trial of this matter that the Membership Agreement does not comply with Estates & Trusts § 4-102. (E. 194-95 (stating that the Membership Agreement was “not designed to be a testamentary document and it does not comply with Md. Code Ann., Est. & Trusts (“ET”) § 4-102.”))

RULE 20-201 (f) CERTIFICATION

I hereby certify that the foregoing Brief does not contain any restricted information.

/s/ Carl A. Howard

Carl A. Howard (CPF ID # 1012150060)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2019, I caused the foregoing Brief and all attachments thereto to be sent via first class mail, postage prepaid, to the following:

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I HEREBY FUTHER CERTIFY that on this 22nd day of March, 2019, I caused service of the foregoing to be made electronically via the MDEC system on all those persons registered to receive service therethrough in this case, including:

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West's Annotated Code of Maryland
Corporations and Associations
Title 4a. Limited Liability Company Act (Refs & Annos)
Subtitle 6. Membership

MD Code, Corporations and Associations, § 4A-601

§ 4A-601. Conditions for admission as member

Effective: April 9, 2013
Currentness

(a) A person becomes a member of a limited liability company at:

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in § 4A-902(b)(1) of this title relating to continuation of the limited liability company after there are no remaining members.

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of the economic interest of a member, only as provided in § 4A-604 of this subtitle; or

(3) In the case of a personal representative or successor to the last remaining member who is not an assignee of the last remaining member, as provided in § 4A-902(b)(1) of this title.

(c) Unless otherwise agreed, a person may be admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

(1) Making a capital contribution to the limited liability company;

(2) Being obligated to make a capital contribution to the limited liability company; or

(3) Acquiring an economic interest in the limited liability company.

Credits

Acts 1992, c. 536. Amended by Acts 2002, c. 514, § 1, eff. Oct. 1, 2002; Acts 2011, c. 597, § 1, eff. June 1, 2011; Acts 2012, c. 599, § 1, eff. Oct. 1, 2012; Acts 2012, c. 600, § 1, eff. Oct. 1, 2012; Acts 2013, c. 42, § 1, eff. April 9, 2013.

MD Code, Corporations and Associations, § 4A-601, MD CORP & ASSNS § 4A-601
Current through all legislation from the 2018 Regular Session of the General Assembly

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West's Annotated Code of Maryland
Corporations and Associations
Title 4a. Limited Liability Company Act (Refs & Annos)
Subtitle 6. Membership

MD Code, Corporations and Associations, § 4A-606

§ 4A-606. Conditions of cessation

Effective: April 9, 2013

Currentness

Unless otherwise agreed, a person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

- (1) The person withdraws from the limited liability company as authorized by § 4A-605 of this subtitle;
- (2) The person is removed as a member in accordance with the operating agreement;
- (3) The person:
 - (i) Makes an assignment for the benefit of creditors;
 - (ii) Institutes a voluntary proceeding with respect to the person under the federal bankruptcy code;
 - (iii) Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding;
 - (iv) Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
 - (v) Seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the member or of all or any substantial part of the person's properties; or
 - (vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this item;
- (4) The continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for 120 days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the members or all or any

substantial part of the person's properties without the person's agreement or acquiescence, which appointment is not vacated or stayed for 120 days or, if the appointment is stayed, for 120 days after the expiration of the stay during which period the appointment is not vacated;

(5) In the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

(6) In the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust;

(7) In the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(8) In the case of a member that is a corporation, the dissolution of the corporation or the revocation of its charter;

(9) In the case of a member that is an estate, the distribution by the fiduciary of the estate's entire economic interest in the limited liability company; or

(10) On assignment of all of a person's economic interest in the limited liability company as provided in § 4A-603(d) of this subtitle.

Credits

Acts 1992, c. 536; Acts 1997, c. 659, § 1, eff. Oct. 1, 1997. Amended by Acts 2012, c. 599, § 1, eff. Oct. 1, 2012; Acts 2012, c. 600, § 1, eff. Oct. 1, 2012; Acts 2013, c. 42, § 1, eff. April 9, 2013; Acts 2013, c. 43, § 1, eff. April 9, 2013.

MD Code, Corporations and Associations, § 4A-606, MD CORP & ASSNS § 4A-606
Current through all legislation from the 2018 Regular Session of the General Assembly

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 1. Estates of Decedents--General Provisions (Refs & Annos)
Subtitle 1. Definitions and Use of Terms; Purposes of Titles 1-12 (Refs & Annos)

MD Code, Estates and Trusts, § 1-101

§ 1-101. Definitions

Effective: October 1, 2011

Currentness

In general

(a) In the estates of decedents law the following words have the meanings indicated.

Administrative probate

(b) “Administrative probate” is defined in § 5-301 of this article.

Book

(c) “Book” includes a form of electronic recordation.

Child

(d) “Child” is defined in §§ 1-205 through 1-208 of this title.

County

(e) “County” includes Baltimore City.

Court

(f) “Court” is defined in § 2-101 of this article.

Environmental law

(g)(1) “Environmental law” means a federal, State, or local law, rule, regulation, or ordinance that relates to the protection of the environment.

(2) “Environmental law” includes Title 16 of the Environment Article.

Heir

(h) “Heir” is a person entitled to property of an intestate decedent pursuant to §§ 3-101 through 3-110 of this article.

Interested person

(i) “Interested person” is:

(1) A person named as executor in a will;

(2) A person serving as personal representative after judicial or administrative probate;

(3) A legatee in being, not fully paid, whether his interest is vested or contingent;

(4) An heir even if the decedent dies testate, except that an heir of a testate decedent ceases to be an “interested person” when the register has given notice pursuant to § 2-210 or § 5-403(a) of this article.

Interested person includes a person as above defined who is (a) a minor or other person under a disability, or (b) the judicially appointed guardian, committee, conservator or trustee for such person, if any, and if none, then the parent or other person having assumed responsibility for such person.

An heir or legatee whose interest is contingent solely on whether some other heir or legatee survives the decedent by a stated period is an interested person but only after the other heir or legatee has died within that period.

Issue

(j) “Issue” is defined in § 1-209 of this title.

Judicial probate

(k) “Judicial probate” is defined in § 5-401 of this article.

Legacy

(l) “Legacy” means any property disposed of by will, including property disposed of in a residuary clause and assets passing by the exercise by the decedent of a testamentary power of appointment.

Legatee

(m) “Legatee” means a person who under the terms of a will would receive a legacy. It includes a trustee but not a beneficiary of an interest under the trust.

Letters

(n) “Letters” include letters testamentary and letters of administration.

Maryland Rules

(o) “Maryland Rules” means the rules promulgated by the Court of Appeals of Maryland under the authority of the Constitution and laws of Maryland.

Net estate

(p) “Net estate” means the property of the decedent exclusive of the family allowance and enforceable claims against the estate, except as used in §§ 3-102 and 3-203 of this article.

Personal representative

(q) “Personal representative” includes an executor or administrator but not a special administrator.

Property

(r) “Property” includes both real and personal property, and any right or interest therein. “Property” refers to (1) all real and personal property of a decedent and (2) any right or interest therein which does not pass, at the time of the decedent's death, to another person by the terms of the instrument under which it is held, or by operation of law.

Register

(s) “Register” is defined in § 2-201 of this article.

Representation

(t) “Representation” is defined in § 1-210 of this title.

Special administrator

(u) “Special administrator” means an administrator appointed as provided in § 6-401 of this article.

Trust company

(v) “Trust company” means an institution that is authorized to exercise trust or fiduciary powers and that:

(1) Is organized under the laws of this State as a State bank, trust company, or savings bank; or

(2) Is organized under the laws of the United States and:

- (i) Has its principal office in this State; or
 - (ii) 1. Has an office in this State that is not its principal office; and
 - 2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); or
 - (iii) 1. Has an office in this State that is not its principal office; and
 - 2. Accepts deposits at its office in this State; or
- (3) Is organized under the laws of another state as a bank, trust company, or savings bank and:
- (i) 1. Has an office in this State that is not its principal office;
 - 2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); and
 - 3. Is a direct or indirect subsidiary of a bank holding company that has a direct or indirect bank, trust company, or savings bank subsidiary that has an office in this State at which deposits are accepted; or
 - (ii) 1. Has an office in this State that is not its principal office; and
 - 2. Accepts deposits at its office in this State.

Will

(w)(1) “Will” means a written instrument which is executed in the form prescribed by §§ 4-102 through 4-104 of this article, and has not been revoked in a manner provided by § 4-105 of this article.

(2) “Will” includes a codicil.

Credits

Added by Acts 1974, c. 11, § 2, eff. July 1, 1974. Amended by Acts 1987, c. 11, § 1; Acts 1990, c. 674; Acts 1991, c. 207, §§ 1, 2; Acts 1992, c. 22, § 1; Acts 1992, c. 352; Acts 1994, c. 480, §§ 1, 2, eff. Oct. 1, 1994; Acts 1995, c. 213, § 2, eff. Sept. 29, 1995; Acts 1998, c. 21, § 1, eff. April 14, 1998; Acts 1998, c. 700, §§ 1, 2, eff. Oct. 1, 1998; Acts 2000, c. 61, § 7, eff. April 25, 2000.

Formerly Art. 93, § 1-101.

MD Code, Estates and Trusts, § 1-101, MD EST & TRST § 1-101

Current through all legislation from the 2018 Regular Session of the General Assembly

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 1. Estates of Decedents--General Provisions (Refs & Annos)
Subtitle 3. Property Subject to Article (Refs & Annos)

MD Code, Estates and Trusts, § 1-301

§ 1-301. Property of decedent subject to estates law

Effective: October 1, 2009

Currentness

In general

(a) All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

Title to personal property under \$50,000 in value

(b) The court may determine questions of title to personal property not exceeding \$50,000 in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

Credits

Added by Acts 1974, c. 11, § 2, eff. July 1, 1974. Amended by Acts 1994, c. 706, § 1, eff. Oct. 1, 1994; Acts 2009, c. 514, § 1, eff. Oct. 1, 2009; Acts 2009, c. 515, § 1, eff. Oct. 1, 2009.

Formerly Art. 93, § 1-301.

MD Code, Estates and Trusts, § 1-301, MD EST & TRST § 1-301

Current through all legislation from the 2018 Regular Session of the General Assembly

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 4. Wills (Refs & Annos)
Subtitle 1. Execution, Revocation, and Revival (Refs & Annos)

MD Code, Estates and Trusts, § 4-102

§ 4-102. Will requirements

Effective: October 1, 2011

Currentness

Except as provided in §§ 4-103 and 4-104 of this subtitle, every will shall be (1) in writing, (2) signed by the testator, or by some other person for him, in his presence and by his express direction, and (3) attested and signed by two or more credible witnesses in the presence of the testator.

Credits

Added by Acts 1974, c. 11, § 2, eff. July 1, 1974.

Formerly Art. 93, § 4-102.

MD Code, Estates and Trusts, § 4-102, MD EST & TRST § 4-102

Current through all legislation from the 2018 Regular Session of the General Assembly

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 14.5. Maryland Trust Act (Refs & Annos)
Subtitle 1. In General (Refs & Annos)

MD Code, Estates and Trusts, § 14.5-101

§ 14.5-101. Maryland Trust Act

Effective: January 1, 2015

Currentness

This title may be cited as the Maryland Trust Act.

Credits

Added by Acts 2014, c. 585, § 1, eff. Jan. 1, 2015.

MD Code, Estates and Trusts, § 14.5-101, MD EST & TRST § 14.5-101

Current through all legislation from the 2018 Regular Session of the General Assembly

West's Annotated Code of Maryland
Estates and Trusts
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act

MD Code, Estates and Trusts, T. 16, Refs & Annos
Currentness

Footnotes

* Date of approval.

* Date of approval.

1 Adopted only Parts 1 and 3 of the Act.

2 Adopted only Part 3 of the Act.

3 Adopted only Parts 2 and 3 of the Act.

MD Code, Estates and Trusts, T. 16, Refs & Annos, MD EST & TRST T. 16, Refs & Annos

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-101

§ 16-101. Definitions

Currentness

In general

(a) In this title the following terms have the meanings indicated unless the context otherwise requires.

Beneficiary form

(b) “Beneficiary form” means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

Devisee

(c) “Devisee” means any person designated in a will to receive a disposition of real or personal property.

Heirs

(d) “Heirs” means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

Personal representative

(e) “Personal representative” includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

Property

(f) “Property” includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

Register

(g) “Register”, including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

Registering entity

(h) “Registering entity” means a person who originates or transfers a security title by registration, and includes a broker or trust company maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

Security

(i) “Security” means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

Security account

(j)(1) “Security account” means (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, (ii) a cash balance or other property held for or due to the owner of security as a replacement for or product of an account security, whether or not credited to the account before the owner's death, or (iii) a securities account maintained by a trust company for one or more customers.

(2) “Security account” does not include (i) an account as defined in § 1-204(b)(2) of the Financial Institutions Article, or (ii) a securities account held by a trust company as a fiduciary as defined in § 15-101 of this article.

Trust company

(k) “Trust company” has the meaning stated in § 1-101 of this article.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994. Amended by Acts 2001, c. 379, § 1, eff. Oct. 1, 2001.

MD Code, Estates and Trusts, § 16-101, MD EST & TRST § 16-101

Current through all legislation from the 2018 Regular Session of the General Assembly



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Proposed Legislation

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-102

§ 16-102. Eligibility for registration in beneficiary form

Currentness

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-102, MD EST & TRST § 16-102

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-103

§ 16-103. Beneficiary forms authorized by this title or other law

Currentness

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-103, MD EST & TRST § 16-103

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-104

§ 16-104. Securities registered in beneficiary form

Currentness

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-104, MD EST & TRST § 16-104

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-105

§ 16-105. Words indicating registration in beneficiary form

Currentness

Registration in beneficiary form may be shown by the words “transfer-on-death” or the abbreviation “TOD”, or by the words “pay on death” or the abbreviation “POD”, after the name of the registered owner and before the name of a beneficiary.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-105, MD EST & TRST § 16-105

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-106

§ 16-106. Effect of registration in beneficiary form

Currentness

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-106, MD EST & TRST § 16-106

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-107

§ 16-107. Ownership of securities upon death of owner

Currentness

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-107, MD EST & TRST § 16-107

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-108

§ 16-108. Protections given to registering entity

Currentness

In general

(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this title.

Registration implemented on death of deceased owner

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this title.

Discharge from all claims if transfer of security registered in good faith

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with § 16-107 of this title and does so in good faith reliance (i) on the registration, (ii) on this title, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this title do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this title.

Disputes between beneficiaries or other claimants

(d) The protection provided by this title to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-108, MD EST & TRST § 16-108

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-109

§ 16-109. Nontestamentary transfer of securities on death

Currentness

In general

(a) A transfer-on-death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this title and is not testamentary.

Rights of creditors of security owners

(b) This title does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-109, MD EST & TRST § 16-109

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-110

§ 16-110. Terms, conditions, and forms for registration

Currentness

In general

(a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions established under this subsection may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for “lineal descendants per stirpes”. This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

Examples of registrations in beneficiary form

(b) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown, Jr.

(2) Multiple owners-sole beneficiary: John S. Brown, Mary B. Brown Jt. Ten. TOD John S. Brown, Jr.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown, Mary B. Brown Jt. Ten. TOD, John S. Brown, Jr. Sub Bene Peter Q. Brown or John S. Brown, Mary B. Brown Jt. Ten. TOD, John S. Brown, Jr. LDPS.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994. Amended by Acts 1995, c. 3, § 1, eff. March 7, 1995.

MD Code, Estates and Trusts, § 16-110, MD EST & TRST § 16-110
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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-111

§ 16-111. Short title and construction of title

Currentness

Short title

(a) This title may be cited as the Maryland Uniform TOD Security Registration Act.

Liberal construction of title

(b) This title shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this title among states enacting it.

Principles of law and equity

(c) Unless displaced by the particular provisions of this title, the principles of law and equity supplement its provisions.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994. Amended by Acts 1995, c. 3, § 1, eff. March 7, 1995.

MD Code, Estates and Trusts, § 16-111, MD EST & TRST § 16-111

Current through all legislation from the 2018 Regular Session of the General Assembly

West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)
Title 16. Maryland Uniform Transfer-on-Death (Tod) Security Registration Act (Refs & Annos)

MD Code, Estates and Trusts, § 16-112

§ 16-112. Application of title

Currentness

This title applies to registrations of securities in beneficiary form made before or after October 1, 1994, by decedents dying on or after October 1, 1994.

Credits

Added by Acts 1994, c. 644, § 1, eff. Oct. 1, 1994.

MD Code, Estates and Trusts, § 16-112, MD EST & TRST § 16-112

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West's Annotated Code of Maryland
Financial Institutions
Title 1. Definitions; General Provisions
Subtitle 2. General Provisions (Refs & Annos)

MD Code, Financial Institutions, § 1-204

§ 1-204. Transfer of account on death and multiple-party accounts

Currentness

In general

(a) A provision in an account agreement for a transfer on death in compliance with this section is nontestamentary and shall be effective according to the provisions of this section. Transfers pursuant to this section are effective in the form and manner prescribed by this section and are not to be considered testamentary.

Definitions

(b)(1) In this section the following words have the meanings indicated.

(2)(i) “Account” means any type of deposit or share account at a depository institution.

(ii) “Account” includes:

1. Checking and other demand deposit accounts;
2. Negotiable order of withdrawal and other savings accounts;
3. Share draft accounts; and
4. Certificated and uncertificated time deposit accounts.

(3) “Account agreement” means a written agreement, whether in 1 or more instruments, that establishes the type of account, the terms of account, and the relationship between the depository institution and the party or parties to the account.

(4) “Beneficiary” means any person designated on a trust account as a person:

- (i) To whom the account belongs after the death of all trustees for the account; and

(ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any trustee for the account.

(5) “Convenience person” means any person who is authorized to draw upon funds in an account:

(i) Under a power of attorney given by 1 or more parties to the account; or

(ii) By virtue of a designation in the account agreement appointing that person as agent of a party or the parties to the account for the convenience of the party or parties.

(6) “Depository institution” means any State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain accounts.

(7) “Joint account” means any account other than a P.O.D. account or a trust account established in the name of 2 or more parties.

(8)(i) “Multiple-party account” means any of the following types of accounts at a depository institution:

1. Joint account;

2. P.O.D. account; or

3. Trust account.

(ii) “Multiple-party account” does not include any:

1. Account established and designated for the deposit of funds of a corporation, partnership, joint venture, limited liability company, or other association of persons for business purposes;

2. Account established and designated for the deposit of funds of a charitable or civic organization;

3. Fiduciary account where the relationship is established other than by the account agreement;

4. Account established and designated as governed under the Maryland Uniform Transfers to Minors Act;¹
5. Account established and designated as governed under Title 13, Subtitle 4 of the Estates and Trusts Article; or
6. Account that would not be a multiple-party account except for the fact that 1 or more convenience persons are authorized to draw upon funds in the account.

(9)(i) “Party” means any person who, by the terms of the account agreement, possesses a present right to draw upon funds in a multiple-party account.

(ii) “Party” includes a trustee of a trust account.

(iii) “Party” does not include a:

1. Beneficiary of a trust account;
2. P.O.D. payee of a P.O.D. account; or
3. Convenience person.

(10) “P.O.D. account” means any account established in the name of 1 or more parties where funds in the account may be drawn upon:

- (i) By 1 party during the party's lifetime and by 1 or more P.O.D. payees on the party's death; or
- (ii) By 1 or more parties during their respective lifetimes and, upon the death of all the parties, by 1 or more P.O.D. payees.

(11) “P.O.D. payee” means any person designated on a P.O.D. account as a person:

- (i) To whom the account belongs after the death of all parties to the account; and
- (ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any party to the account.

(12)(i) “Power of attorney” means any writing signed by 1 or more parties to an account that authorizes 1 or more persons to draw upon funds in the account as agent or agents for the signing party or parties.

(ii) The designation of a person as a convenience person on an account shall be deemed to be a durable power of attorney appointing that person as agent for the party or parties to the account regardless of any disability of the party or parties subsequent to the designation.

(13)(i) "Trust account" means any account established in the name of 1 or more parties as trustees for 1 or more beneficiaries where:

1. None of the beneficiaries is also a trustee;
2. The trust relationship is established by the account agreement; and
3. There is no corpus of the trust other than the funds in the account.

(ii) "Trust account" does not include a:

1. Trust account under a testamentary trust, declaration of trust, or a trust agreement that has significance apart from the account; or
2. Fiduciary account arising from a fiduciary relationship.

Multiple-party accounts

(c)(1) A depository institution is authorized to establish multiple-party accounts subject to the terms of this section.

(2) Multiple-party accounts established on or after October 1, 1993, shall be subject to and comply with the terms of this section.

(3) A multiple-party account established before October 1, 1993, shall be subject to and comply with the terms of this section if:

(i) The parties expressly state in an account agreement that complies with subsection (e) of this section that the account shall be subject to the terms of this section; or

(ii) 1. The depository institution gives a written notice that:

A. States that the law applicable to the account has changed;

B. States that the party's rights under the account may change because of the change in law; and

- C. Repeats the provisions of subsection (d) of this section; and
2. After that notice is given, any party to the account:
- A. Increases or decreases the amount of the deposit in the account;
 - B. Presents evidence of the account for crediting of interest;
 - C. Corresponds or responds in writing with the depository institution concerning the account without rejecting in writing the provisions of this section; or
 - D. Otherwise indicates approval of the account being governed by this section as evidenced by a writing on file with the depository institution.

Death of party to multiple-party account

(d)(1) Upon the death of a party to a multiple-party account, the right to any funds in the account shall be determined in accordance with the express terms of the account agreement.

(2) If the account agreement does not expressly establish the right to funds in the account upon the death of a party, or if there is no account agreement, any funds in the account upon the death of a party shall belong to the surviving party or parties.

(3) Unless the account agreement expressly provides otherwise, upon the death of the last party to a multiple-party account, any funds remaining in the account shall belong to:

- (i) The beneficiaries of a trust account who are then living;
- (ii) The P.O.D. payees of a P.O.D. account who are then living; or
- (iii) Subject to paragraph (4) of this subsection, the personal representative of:
 - 1. The last surviving party of a trust account if no beneficiary is then living;
 - 2. The last surviving party of a P.O.D. account if no P.O.D. payee is then living; or
 - 3. The last surviving party of a joint account.

(4) No payment from a multiple-party account may be made to the personal representative of a deceased party unless:

- (i) Proof is presented to the depository institution showing that the deceased party was the last surviving party; or
- (ii) There is no right of survivorship under this section.

(5) If there is no right of survivorship under this section, the depository institution may make payment from a multiple-party account to the personal representative of a deceased party without liability to:

- (i) Any other party; or
- (ii) Any party's heirs, personal representatives, or assigns.

(6) No funds in an account shall belong to any convenience person by reason of that capacity.

Agreements for multiple-party accounts opened on or after October 1, 1993

(e)(1) Each account agreement for a multiple-party account opened on or after October 1, 1993, shall contain a clear and conspicuous written statement specifying that unless contrary direction is given in the account agreement, upon the death of a party, the funds in the multiple-party account shall belong to the surviving party or parties.

(2) For multiple-party accounts opened on or after October 1, 1993, the depository institution shall give to the account party or parties:

- (i) A copy of the account agreement; or
- (ii) A written notice identifying the type of account, the survivorship rights of the parties to the account, and the method by which the account party or parties can obtain a copy of the account agreement.

Withdrawal of funds from multiple-party account

(f) Unless the account agreement expressly provides otherwise, the funds in a multiple-party account may be withdrawn by any party or by a convenience person for any party or parties, whether or not any other party to the account is incapacitated or deceased.

Compliance with trust account requirements

(g) A depository institution may presume that an account established by the parties as a trust account complies with the definitional requirements of a trust account as set forth in subsection (b) of this section unless, prior to the establishment of the account, the depository institution is provided with written notice to the contrary.

Written materials given to account parties

(h) Any written materials required by this section to be given to account parties:

(1) Shall be deemed given if:

(i) Delivered in person to any one of the account parties; or

(ii) Mailed to the account party or parties by first-class mail, postage prepaid, to the address for the account shown on the records of the depository institution; and

(2) May be provided along with or as part of other materials given to account parties.

Designation of convenience person

(i)(1) A person who has an ownership interest in an account that is not a multiple-party account may designate another person as a convenience person on that account.

(2) No funds in the account shall belong to any convenience person by reason of that capacity.

Credits

Added by Acts 1992, c. 578, § 1, eff. Oct. 1, 1992. Amended by Acts 1993, c. 584; Acts 1995, c. 213, § 2, eff. Sept. 29, 1995.

Footnotes

1 Estates and Trusts, § 13-301 et seq.

MD Code, Financial Institutions, § 1-204, MD FIN INST § 1-204

Current through all legislation from the 2018 Regular Session of the General Assembly

West's Annotated Code of Maryland
Insurance (Refs & Annos)
Title 16. Life Insurance and Annuities
Subtitle 2. Life Insurance Policy Provisions (Refs & Annos)

MD Code, Insurance, § 16-212

§ 16-212. Name of beneficiary designated on the policy

Currentness

In general

(a)(1) Each policy of life insurance shall have the name of the beneficiary designated on the policy, or in the application or another form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the policy is issued, unless the beneficiary is irrevocably designated.

(2) An insurer may include in the policy a provision that a designation or change of beneficiary is not binding on the insurer until endorsed on the policy or otherwise accepted by the insurer.

Designation of payment under the policy

(b)(1) Subject to paragraph (2) of this subsection, a policy of life insurance may provide that the insurer may make a payment under the policy to:

(i) the estate of the insured;

(ii) any relative of the insured by blood, legal adoption, or connection by marriage; or

(iii) a person that appears to the insurer to be equitably entitled to the benefits because the person is a named beneficiary or has incurred expenses for the maintenance, medical attention, or burial of the insured.

(2) The insurer may make a payment under paragraph (1) of this subsection only if:

(i) within the period stated in the policy, which may not be less than 30 days after the death of the insured, the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with proof of death;

(ii) the beneficiary is the estate of the insured;

(iii) the beneficiary is a minor;

(iv) the beneficiary dies before the insured; or

(v) the beneficiary is not legally competent to give a valid release.

(3) A policy of life insurance may include a provision that is similar to that described in paragraphs (1) and (2) of this subsection and is applicable to any other payment due under the policy.

(4) A policy of industrial life insurance also may provide that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

Credits

Added by Acts 1996, c. 11, § 1, eff. Oct. 1, 1997.

Formerly Art. 48A, § 398.

MD Code, Insurance, § 16-212, MD INSURANCE § 16-212

Current through all legislation from the 2018 Regular Session of the General Assembly