

Section 5-424. (Distributive Duties and Powers of Conservator.)

(a) A conservator may expend or distribute income or principal of the estate without Court authorization or confirmation for the support, education, care, or benefit of the protected person and dependents in accordance with the following principles:

(1) The conservator shall consider recommendations relating to the appropriate standard of support, education, and benefit for the protected person or dependent made by a parent or guardian, if any. The conservator may not be surcharged for sums paid to persons or organizations furnishing support, education, or care to the protected person or a dependent pursuant to the recommendations of a parent or guardian of the protected person unless the conservator knows that the parent or guardian derives personal financial benefit therefrom, including relief from any personal duty of support or the recommendations are clearly not in the best interest of the protected person.

(2) The conservator shall expend or distribute sums reasonably necessary for the support, education, care, or benefit of the protected person and dependents with due regard to (i) the size of the estate, the probable duration of the conservatorship, and the likelihood that the protected person, at some future time, may be fully able to be wholly self-sufficient and able to manage business affairs and the estate; (ii) the accustomed standard of living of the protected person and dependents; and (iii) other funds or sources used for the support of the protected person.

(3) The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves, and who are in need of support.

(4) Funds expended under this subsection may be paid by the conservator to any person, including the protected person, to reimburse for expenditures that the conservator might have made, or in advance for services to be rendered to the protected person if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.

(5) A conservator, in discharging the responsibilities conferred by Court order and this Part, shall implement the

principles described in Section 5407(a), to the extent possible.

(b) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make, in amounts that do not exceed in total for any year 20 percent of the income from the estate.

(c) When a minor who has not been adjudged disabled under Section 5401(c) attains majority, the conservator, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the formerly protected person as soon as possible.

(d) If satisfied that a protected person's disability, other than minority, has ceased, the conservator, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the formerly protected person as soon as possible.

(e) If a protected person dies, the conservator shall deliver to the Court for safekeeping any will of the deceased protected person which may have come into the conservator's possession, inform the executor or beneficiary named therein of the delivery, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto. If, 40 days after the death of the protected person, no other person has been appointed personal representative and no application or petition for appointment is before the Court, the conservator may apply to exercise the powers and duties of a personal representative in order to be able to proceed to administer and distribute the decedent's estate. Upon application for an order granting the powers of a personal representative to a conservator, after notice to any person nominated personal representative by any will of which the applicant is aware, the Court may grant the application upon determining that there is no objection and endorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section has the effect of an order of appointment of a personal representative [as provided in Section 3-308 and Parts 6 through 10 of Article III], but the estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior re-transfer to the conservator as personal representative.

Section 5-425. [Enlargement or Limitation of Powers of Conservator.]

Subject to the restrictions in Section 5407(c), the Court may confer on a conservator at the time of appointment or later, in addition to the powers conferred by Sections 5423 and 5424, any power that the Court itself could exercise under Sections 5-407(b) (2) and 5407(b) (3). The Court, at the time of appointment or later, may limit the powers of a conservator otherwise conferred by Sections 5423 and 5424 or previously conferred by the Court and may at any time remove or modify any limitation. If the Court limits any power conferred on the conservator by Section 5423 or Section 5424, or specifies, as provided in Section 5419(a), that title to some but not all assets of the protected person vest in the conservator, the limitation or specification of assets subject to the conservatorship must be endorsed upon the letters of appointment.

Section 5-426. [Preservation of Estate Plan; Right to Examine.]

In (i) investing the estate, (ii) selecting assets of the estate for distribution under subsections (a) and (b) of Section 5424, and (iii) utilizing powers of revocation or withdrawal available for the support of the protected person and exercisable by the conservator or the Court, the conservator and the Court shall take into account any estate plan of the protected person known to them, including a will, any revocable trust of which the person is settlor, and any contract, transfer, or joint ownership arrangement originated by the protected person with provisions for payment or transfer of benefits or interests at the person's death to another or others. The conservator may examine the will of the protected person.

Section 5-427. (Claims Against Protected Person; Enforcement.)

(a) A conservator may pay or secure from the estate claims against the estate or against the protected person arising before or after the conservatorship upon their presentation and allowance in accordance with the priorities stated in subsection (c). A claim may be presented by either of the following methods:

(1) The claimant may deliver or mail to the conservator a written statement of the claim indicating its basis, the name and mailing address of the claimant, and the amount claimed; or

(2) The claimant may file a written statement of the claim, in the form prescribed by rule, with the clerk of Court and

deliver or mail a copy of the statement to the conservator.

(b) A claim is deemed presented on the first to occur of receipt of the written statement of claim by the conservator or the filing of the claim with the Court. A presented claim is allowed if it is not disallowed by written statement mailed by the conservator to the claimant within 60 days after its presentation. The presentation of a claim tolls any statute of limitation relating to the claim until 30 days after its disallowance.

(c) A claimant whose claim has not been paid may petition the [appropriate] Court for determination of the claim at any time before it is barred by the applicable statute of limitation and, upon due proof, procure an order for its allowance, payment, or security from the estate. If a proceeding is pending against a protected person at the time of appointment of a conservator or is initiated against the protected person thereafter, the moving party shall give notice of the proceeding to the conservator if the proceeding could result in creating a claim against the estate.

(d) If it appears that the estate in conservatorship is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

- (1) costs and expenses of administration;
- (2) claims of the federal or state government having priority under other laws;
- (3) claims incurred by the conservator for care, maintenance, and education, previously provided to the protected person or the protected person's dependents;
- (4) claims arising prior to the conservatorship;
- (5) all other claims.

(e) No preference may be given in the payment of any claim over any other claim of the same class, and a claim due and payable is not entitled to a preference over claims not due; but if it appears that the assets of the conservatorship are adequate to meet all existing claims, the Court, acting in the best interest of the protected person, may order the conservator to give a mortgage or other security on the conservatorship estate to secure payment at some future date of any or all claims in class 5.

Section 5-428. [Personal Liability of Conservator.]

(a) Unless otherwise provided in the contract, a conservator is not personally liable on a contract properly entered into in fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal the representative capacity and identify the estate in the contract.

(b) The conservator is personally liable for obligations arising from ownership or control of property of the estate or for torts committed in the course of administration of the estate only if personally at fault.

(c) Claims based on (i) contracts entered into by a conservator in fiduciary capacity, (ii) obligations arising from ownership or control of the estate, or (iii) torts committed in the course of administration of the estate, may be asserted against the estate by proceeding against the conservator in fiduciary capacity, whether or not the conservator is personally liable therefor.

(d) Any question of liability between the estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification, or other appropriate proceeding or action.

Section 5-429. [Termination of Proceedings.]

The protected person, conservator, or any other interested person, may petition the Court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order. The Court, upon determining after notice and hearing that the minority or disability of the protected person has ceased, shall terminate the conservatorship. Upon termination, title to assets of the estate passes to the formerly protected person or to successors. The order of termination must provide for expenses of administration and direct the conservator to execute appropriate instruments to evidence the transfer.

Section 5-430. (Payment of Debt and Delivery of Property to Foreign Conservator without Local Proceedings.)

(a) Any person indebted to a protected person or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to a protected person may pay or deliver it to a conservator, guardian of the estate, or

other like fiduciary appointed by a court of the state of residence of the protected person upon being presented with proof of appointment and an affidavit made by or on behalf of the fiduciary stating:

(1) that no protective proceeding relating to the protected person is pending in this State; and

(2) that the foreign fiduciary is entitled to payment or to receive delivery.

(b) If the person to whom the affidavit is presented is not aware of any protective proceeding pending in this State, payment or delivery in response to the demand and affidavit discharges the debtor or possessor.

Section 5-431. (Foreign Conservator; Proof of Authority; Bond; Powers.)

If a conservator has not been appointed in this State and no petition in a protective proceeding is pending in this State, a conservator appointed in the state in which the protected person resides may file in a Court of this State in a [county] in which property belonging to the protected person is located, authenticated copies of letters of appointment and of any bond. Thereafter, the domiciliary foreign conservator may exercise as to assets in this State all powers of a conservator appointed in this State and may maintain actions and proceedings in this State subject to any conditions imposed upon nonresident parties generally.

Section 5-501. [Definition.]

A durable power of attorney is a power of attorney by which a principal designates another his attorney in fact in writing and the writing contains the words "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time," or "This power of attorney shall become effective upon the disability or incapacity of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

Section 5-502. [Durable Power of Attorney Not Affected By Lapse of Time, Disability or Incapacity.]

All acts done by an attorney in fact pursuant to a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and his successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.

Section 5-503. (Relation of Attorney in Fact to Court-appointed Fiduciary.)

(a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of his property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if he were not disabled or incapacitated.

(b) A principal may nominate, by a durable power of attorney, the conservator, guardian of his estate, or guardian of his person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

Section 5-504. [Power of Attorney Not Revoked Until Notice.]

(a) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(b) The disability or incapacity of a principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his successors

in interest.

Section 5-505. [Proof of Continuance of Durable and Other Powers of Attorney by Affidavit.]

As to acts undertaken in good faith reliance thereon, an affidavit executed by the attorney in fact under a power of attorney, durable or otherwise, stating that he did not have at the time of exercise of the power actual knowledge of the termination of the power by revocation or of the principal's death, disability, or incapacity is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power of attorney requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is likewise recordable. This section does not affect any provision in a power of attorney for its termination by expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity.

PART 1

PROVISIONS RELATING TO EFFECT OF DEATH

Section 6-101. Nonprobate Transfers on Death.

(a) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, or other written instrument of a similar nature is nontestamentary. This subsection includes a written provision that:

(1) money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later;

(2) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(3) any property controlled by or owned by the decedent before death which is the subject of the instrument passes to a person the decedent designates either in the instrument or in a

separate writing, including a will, executed either before or at the same time as the instrument, or later.

(b) This section does not limit rights of creditors under other laws of this State.

PART 2

MULTIPLE-PERSON ACCOUNTS

SUBPART I

DEFINITIONS AND GENERAL PROVISIONS

Section 6-201. Definitions.

In this part:

(1) "Account" means a contract of deposit between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, and share account.

(2) "Agent" means a person authorized to make account transactions for a party.

(3) "Beneficiary" means a person named as one to whom sums on deposit in an account are payable on request after death of all parties or for whom a party is named as trustee.

(4) "Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(5) "Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.

(6) "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

(7) "Payment" of sums on deposit includes withdrawal, payment to a party or third person pursuant to check or other request, and a pledge of sums on deposit by a party, or a set-off, reduction, or other disposition of all or part of an

account pursuant to a pledge.

(8) "POD designation" means the designation of (i) a beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries, or (ii) a beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

(9) "Receive," as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a particular place, in the place required.

(10) "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but, for purposes of this part, if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

(11) "Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of death of a party.

(12) "Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.

Section 6-202. Limitation on Scope of Part.

This part does not apply to (i) an account established for a partnership, joint venture, or other organization for a business purpose, (ii) an account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association, or charitable or civic organization, or (iii) a fiduciary or trust account in which the relationship is established other than by the terms of the account.

Section 6-203. Types of Account; Existing Accounts.

(a) An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to Section 6-212(c), either a single-party account or a multiple-party account may have a POD designation, an agency designation, or both.

(b) An account established before, on, or after the effective date of this part, whether in the form prescribed in Section 6204 or in any other form, is either a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, within the meaning of this part, and is governed by this part.

Section 6-204. Forms.

(a) A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this part applicable to an account of that type:

UNIFORM SINGLE--OR MULTIPLE-PARTY ACCOUNT FORM

PARTIES [Name One or More Parties]:

OWNERSHIP [Select One And Initial]:

SINGLE-PARTY ACCOUNT

MULTIPLE-PARTY ACCOUNT

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.

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

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[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 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 party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To Add Agency Designation To Account, Name One Or More Agents]:

[Select One And Initial]:

_____ AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

_____ AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

(b) A contract of deposit that does not contain provisions in substantially the form provided in subsection (a) is governed by the provisions of this part applicable to the type of account that most nearly conforms to the depositor's intent.

Section 6-205. Designation of Agent.

(a) By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party.

(b) Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

(c) Death of the sole party or last surviving party terminates the authority of an agent.

Section 6-206. Applicability of Part.

The provisions of Subpart 2 concerning beneficial ownership as between parties or as between parties and beneficiaries apply only to controversies between those persons and their creditors and other successors, and do not apply to the right of those persons to payment as determined by the terms of the account. Subpart 3 governs the liability and set-off rights of financial institutions that make payments pursuant to it.

SUBPART 2

OWNERSHIP AS BETWEEN PARTIES AND OTHERS Section 6-211. Ownership During Lifetime.

(a) In this section, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

(b) During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.

(c) A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.

(d) An agent in an account with an agency designation has no beneficial right to sums on deposit.

Section 6-212. Rights at Death.

1(a) Except as otherwise provided in this part, on death of a party sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under Section 6-211 belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under Section 6-211 belongs to the surviving parties in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under Section 6-211, and the right of survivorship continues between the surviving parties.

(b) In an account with a POD designation:

(1) On death of one of two or more parties, the rights in sums on deposit are governed by subsection (a).

(2) On death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares, and there is no right of survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

(c) Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under Section 6-211 is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For purposes of this section, designation of an account as a tenancy in common establishes that the account is without right of survivorship.

(d) The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

Section 6-213. Alteration of Rights.

(a) Rights at death under Section 6-212 are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

(b) A right of survivorship arising from the express terms of the account, Section 6-212, or a POD designation, may not be altered by will.

Section 6-214. Accounts and Transfers Nontestamentary.

Except as provided in Part 2 of Article II (elective share of surviving spouse) or as a consequence of, and to the extent directed by, Section 6215, a transfer resulting from the application of Section 6212 is effective by reason of the terms of the account involved and this part and is not testamentary or subject to Articles I through IV (estate administration).

Section 6-215. Rights of Creditors and Others.

(a) If other assets of the estate are insufficient, a transfer resulting from a right of survivorship or POD designation under this part is not effective against the estate of a deceased party to the extent needed to pay claims against the estate and statutory allowances to the surviving spouse and children.

(b) A surviving party or beneficiary who receives payment from an account after death of a party is liable to account to the personal representative of the decedent for a proportionate share of the amount received to which the decedent, immediately before death, was beneficially entitled under Section 6-211, to the extent necessary to discharge the claims and allowances described in subsection (a) remaining unpaid after application of the decedent's estate. A proceeding to assert the liability may not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a child of the decedent. The proceeding must be commenced within one year after death of the decedent.

(c) A surviving party or beneficiary against whom a proceeding to account is brought may join as a party to the proceeding a surviving party or beneficiary of any other account of the decedent.

(d) Sums recovered by the personal representative must be administered as part of the decedent's estate. This section does not affect the protection from claims of the personal representative or estate of a deceased party provided in Section 6226 for a financial institution that makes payment in accordance with the terms of the account.

Section 6-216. Community Property and Tenancy by the Entireties.

(a) A deposit of community property in an account does not alter the community character of the property or community

rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or Section 6212 may not be altered by will.

(b) This part does not affect the law governing tenancy by the entireties.

SUBPART 3

PROTECTION OF FINANCIAL INSTITUTIONS

Section 6-221. Authority of Financial Institution.

A financial institution may enter into a contract of deposit for a multiple party account to the same extent it may enter into a contract of deposit for a single-party account, and may provide for a POD designation and an agency designation in either a single- party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

Section 6-222. Payment on Multiple-Party Account.

A financial institution, on request, may pay sums on deposit in a multiple-party account to:

(1) one or more of the parties, whether or not another party is disabled, incapacitated, or deceased when payment is requested and whether or not the party making the request survives another party; or

(2) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary, unless the account is without right of survivorship under Section &212.

Section 6-223. Payment on POD Designation.

A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

(1) one or more of the parties, whether or not another party is disabled, incapacitated, or deceased when the payment is requested and whether or not a party survives another party;

(2) the beneficiary or beneficiaries, if proof of death is

presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

(3) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary.

Section 6-224. Payment to Designated Agent.

A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated, or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Section 6-225. Payment to Minor.

If a financial institution is required or permitted to make payment pursuant to this part to a minor designated as a beneficiary, payment may be made pursuant to the Uniform Transfers to Minors Act.

Section 6-226. Discharge.

(a) Payment made pursuant to this part in accordance with the type of account discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries, or their successors. Payment may be made whether or not a party, beneficiary, or agent is disabled, incapacitated, or deceased when payment is requested, received, or made.

(b) Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be permitted, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section.

Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

(c) A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

(d) Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

Section 6-227. Set-Off.

Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, if a party is indebted to a financial institution, the financial institution has a right to set-off against the account. The amount of the account subject to set-off is the proportion to which the party is, or immediately before death was, beneficially entitled under Section 6211 or, in the absence of proof of that proportion, an equal share with all parties.

PART 3

UNIFORM TO SECURITY REGISTRATION ACT

Section 6-301. Definitions.

In this part:

(1) "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.

(2) "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.

(3) "Registering entity" means a person who originates or transfers a security title by registration, and includes a

broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(4) "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.

(5) "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, or (ii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

Section 6-302. Registration in Beneficiary Form; Sole or Joint Tenancy Ownership.

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 entirety, or as owners of community property held in survivorship form, and not as tenants in common.

Section 6-303. Registration in Beneficiary Form; Applicable Law.

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.

Section 6-304. Origination of Registration in Beneficiary Form.

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.

Section 6-305. Form of Registration in Beneficiary Form.
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.

Section 6-306. Effect of Registration in Beneficiary Form.

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.

Section 6-307. Ownership on Death of Owner.

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 survive 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.

Section 6-308. Protection of Registering Entity.

(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 part.

(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 part.

(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 Section 6-307 and does so in good faith reliance (i) on the registration, (ii) on this part, 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 part 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 part.

(d) The protection provided by this part 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.

Section 6-309. Nontestamentary Transfer on Death.

(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 part and is not testamentary.

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

Section 6-310. Terms, Conditions, and Forms for Registration.

(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 so established 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 stripes." 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.

(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.

[Section 6-311. Application of Part.

This part applies to registrations of securities in beneficiary form made before or after [effective date], by decedents dying on or after [effective date].]

PART 1

TRUST REGISTRATION

Section 7-101. [Duty to Register Trusts.]

The trustee of a trust having its principal place of administration in this state shall register the trust in the Court of this state at the principal place of administration. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business. In the case of co-trustees, the principal

place of administration, if not otherwise designated in the trust instrument, is (1) the usual place of business of the corporate trustee if there is but one corporate co-trustee, or (2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate co-trustee, and otherwise (3) the usual place of business or residence of any of the co-trustees as agreed upon by them. The duty to register under this Part does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release.

Section 7-102. [Registration Procedures.]

Registration shall be accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. The statement shall indicate whether the trust has been registered elsewhere. The statement shall identify the trust:

(1) in the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate; (2) in the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument; or (3) in the case of an oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries and time of performance. If a trust has been registered elsewhere, registration in this state is ineffective until the earlier registration is released by order of the Court where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this state.

Section 7-103. [Effect of Registration.]

(a) By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the Court in any proceeding under Section 7-201 of this Code relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding shall be delivered to the trustee, or mailed to him by ordinary first class mail at his address as listed in the registration or as thereafter reported to the Court and to his address as then known to the petitioner.

(b) To the extent of their interests in the trust, all

beneficiaries of a trust properly registered in this state are subject to the jurisdiction of the court of registration for the purposes of proceedings under Section 7-201, provided notice is given pursuant to Section 7-201.

Section 7-104. [Effect of Failure to Register.]

A trustee who fails to register a trust in a proper place as required by this Part, for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, is subject to the personal jurisdiction of any Court in which the trust could have been registered. In addition, any trustee who, within 30 days after receipt of a written demand by a settlor or beneficiary of the trust, fails to register a trust as required by this Part is subject to removal and denial of compensation or to surcharge as the Court may direct. A provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee shall not be subject to the jurisdiction of the Court, is ineffective.

Section 7-105. [Registration, Qualification of Foreign Trustee.]

A foreign corporate trustee is required to qualify as a foreign corporation doing business in this state if it maintains the principal place of administration of any trust within the state. A foreign co-trustee is not required to qualify in this state solely because its co-trustee maintains the principal place of administration in this state. Unless otherwise doing business in this state, local qualification by a foreign trustee, corporate or individual, is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage or acquire property located in this state, or maintain litigation. Nothing in this section affects a determination of what other acts require qualification as doing business in this state.

PART 2

JURISDICTION OF COURT CONCERNING TRUSTS

Section 7-201. [Court; Exclusive Jurisdiction of Trusts.]

(a) The Court has exclusive jurisdiction of proceedings initiated by interested parties concerning the internal affairs of trusts. Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts.

These include, but are not limited to, proceedings to:

(1) appoint or remove a trustee;

(2) review trustees fees and to review and settle interim or final accounts;

(3) ascertain beneficiaries, determine any question arising in the administration or distribution of any trust including questions of construction of trust instruments, to instruct trustees, and determine the existence or nonexistence of any immunity, power, privilege, duty or right; and

(4) release registration of a trust.

(b) Neither registration of a trust nor a proceeding under this section result in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the Court as invoked by interested parties or as otherwise exercised as provided by law.

Section 7-202. [Trust Proceedings; Venue.]

Venue for proceedings under Section 7-201 involving registered trusts is in the place of registration. Venue for proceedings under Section 7-201 involving trusts not registered in this state is in any place where the trust properly could have been registered, and otherwise by the rules of civil procedure.

Section 7-203. [Trust Proceedings; Dismissal of Matters Relating to Foreign Trusts.]

The Court will not, over the objection of a party, entertain proceedings under Section 7-201 involving a trust registered or having its principal place of administration in another state, unless (1) when all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration or (2) when the interests of justice otherwise would seriously be impaired. The Court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust is registered or

has its principal place of business, or the Court may grant a continuance or enter any other appropriate order.

Section 7-204. [Court; Concurrent Jurisdiction of Litigation Involving Trusts and Third Parties.]

The Court of the place in which the trust is registered has concurrent jurisdiction with other courts of this state of actions and proceedings to determine the existence or nonexistence of trusts created other than by will, of actions by or against creditors or debtors of trusts, and of other actions and proceedings involving trustees and third parties. Venue is determined by the rules generally applicable to civil actions.

Section 7-205. [Proceedings for Review of Employment of Agents and Review of Compensation of Trustee and Employees of Trust.]

On petition of an interested person, after notice to all interested persons, the Court may review the propriety of employment of any person by a trustee including any attorney, auditor, investment advisor or other specialized agent or assistant, and the reasonableness of the compensation of any person so employed, and the reasonableness of the compensation determined by the trustee for his own services. Any person who has received excessive compensation from a trust may be ordered to make appropriate refunds.

Section 7-206. [Trust Proceedings; Initiation by Notice; Necessary Parties.]

Proceedings under Section 7-201 are initiated by filing a petition in the Court and giving notice pursuant to Section 7-201 to interested parties. The Court may order notification of additional persons. A decree is valid as to all who are given notice of the proceeding though fewer than all interested parties are notified.

PART 3

DUTIES AND LIABILITIES OF TRUSTEES

Section 7-301. [General Duties Not Limited.]

Except as specifically provided, the general duty of the trustee to administer a trust expeditiously for the benefit of the beneficiaries is not altered by this Code.

Section 7-302. [Trustee's Standard of Care and Performance.]

Except as otherwise provided by the terms of the trust, the trustee shall observe the standards in dealing with the trust assets that would be observed by a prudent man dealing with the property of another, and if the trustee has special skills or is named trustee on the basis of representations of special skills or expertise, he is under a duty to use those skills.