

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1034

By: Mize and **Fugate** of the  
House

and

**Pugh** of the Senate

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11                                   COMMITTEE SUBSTITUTE

12                   An Act relating to banking; providing certain powers  
13                   and authorities for authorized signers on deposit  
14                   accounts; allowing for certain additional powers;  
15                   providing for additional authorization document;  
16                   stating content requirements for certain document;  
17                   providing for granting of certain additional powers;  
18                   providing certain form for additional powers;  
19                   amending 6 O.S. 2011, Section 901, which relates to  
20                   deposits in the name of two or more persons;  
21                   modifying requirements for certain beneficiaries for  
22                   Payable on Death deposit accounts; amending 6 O.S.  
23                   2011, Section 906, as last amended by Section 1,  
24                   Chapter 73, O.S.L. 2017 (6 O.S. Supp. 2020, Section  
                  906), which relates to transfer of funds to known  
                  heirs of deceased without designated beneficiary;  
                  requiring certain transfers if no probate proceedings  
                  are pending; authorizing inclusion of indemnity  
                  clause in certain affidavits; providing for court  
                  determination to release certain deposits; providing  
                  for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 908 of Title 6, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. Unless the deposit account agreement states otherwise, an  
5 authorized signer on a deposit account shall have the following  
6 powers, regardless of whether the account is a consumer or  
7 commercial account:

- 8 1. Sign checks;
- 9 2. Make deposits of checks payable to the account owner into  
10 the account;
- 11 3. Make cash deposits into the account;
- 12 4. Obtain an account balance;
- 13 5. View copies of checks he or she has signed; and
- 14 6. Obtain deposit slips when making a deposit.

15 B. If additional authority is not expressly granted in the  
16 deposit account agreement, additional powers may be granted in  
17 writing by the owner of the account. If the account is an  
18 individual account, the owner may execute an additional  
19 authorization document. It must be dated and in writing and may be  
20 revoked or amended at any time by the account owner. If there are  
21 multiple owners, all must execute the additional authorization  
22 document. If the account is owned by an entity, the entity must  
23 approve the grant of additional powers in the same manner as it  
24 appoints authorized signers.

1 C. A customer may initial next to the additional powers to be  
2 granted and line through those that are not being granted, pursuant  
3 to subsection D of this section.

4 D. Form for Additional Powers for Authorized Signer:

5 I, the undersigned account owner or duly empowered  
6 representative of the account owner, hereby grant and approve the  
7 following additional powers for authorized signer(s) on account

8 # \_\_\_\_\_ . Bank name \_\_\_\_\_ .

9 \_\_\_\_\_ Obtain and use a debit card or automated teller  
10 machine card

11 \_\_\_\_\_ Obtain copies of statements on the account from the  
12 bank

13 \_\_\_\_\_ Order checks

14 \_\_\_\_\_ Obtain copies of checks or other transactions on  
15 the account

16 \_\_\_\_\_ Authorize or terminate automated clearing house  
17 debits to the account

18 \_\_\_\_\_ Complete affidavits of forgery

19 \_\_\_\_\_ Initiate a change of address for the account

20 \_\_\_\_\_ Withdraw cash up to \$ \_\_\_\_\_

21 \_\_\_\_\_ Dispute a card transaction on the account

22 \_\_\_\_\_ Report a lost or stolen card on the account

23 \_\_\_\_\_ Use online banking to view transactions on the  
24 account

1           \_\_\_\_\_ Set up online bill payments

2           \_\_\_\_\_ Use the mobile app to access information about the  
3           account.

4           SECTION 2.        AMENDATORY        6 O.S. 2011, Section 901, is  
5 amended to read as follows:

6           Section 901. A. When a deposit has been made or shall  
7 hereafter be made in any bank in the names of two or more persons,  
8 payable to any of them or payable to any of them or the survivor,  
9 such deposit, or any part thereof, or any interest thereon, may be  
10 paid to either of the persons, whether one of such persons shall be  
11 a minor or not, and whether the other be living or not; and the  
12 receipt or acquittance of the person so paid shall be valid and  
13 sufficient release and discharge to the bank for any payment so  
14 made.

15           B. 1. When a deposit has been made or shall hereafter be made  
16 in any bank using the terms "Payable on Death" or "P.O.D.", such  
17 deposits shall be payable on the death of the account owner to one  
18 or more designated P.O.D. beneficiaries, or to an individual or  
19 individuals named beneficiary if living, and if not living, to the  
20 named estate of the beneficiary, notwithstanding any provision to  
21 the contrary contained in Sections 41 through 57 of Title 84 of the  
22 Oklahoma Statutes. Each designated P.O.D. beneficiary shall be a  
23 trust, an individual, or a nonprofit organization exempt from  
24

1 taxation pursuant to the provisions of the Internal Revenue Code, 26  
2 U.S.C., Section 501(c)(3).

3 2. A deposit account with a P.O.D. designation shall constitute  
4 a contract between the account owner, (or owners, if more than one)  
5 and the bank that upon the death of the last surviving owner of the  
6 account, and after payment of account proceeds to any secured party  
7 with a valid security interest in the account, the bank will hold  
8 the funds for or pay them to the named primary beneficiary or  
9 beneficiaries if living. If ~~any named~~ a primary beneficiary is not  
10 ~~living~~ predeceases the account owner, the share of that primary  
11 ~~beneficiary shall instead be held for or paid to the estate of that~~  
12 ~~deceased beneficiary unless contingent beneficiaries have been~~  
13 ~~designated by the account owner as allowed by~~ be distributed  
14 pursuant to either paragraph 4 or 5 of this subsection, whichever is  
15 applicable.

16 3. Each P.O.D. beneficiary designated on a deposit account  
17 shall be a primary beneficiary unless specifically designated as a  
18 contingent beneficiary.

19 4. If there is only one primary P.O.D. beneficiary on a deposit  
20 account and that beneficiary is an individual, the account owner may  
21 designate one or more contingent beneficiaries for whom the funds  
22 shall be held or to whom the funds shall be paid if the primary  
23 beneficiary is not living when the last surviving owner of the  
24 account dies. If there is more than one primary P.O.D. beneficiary

1 on a deposit account, contingent beneficiaries shall not be allowed  
2 on that account.

3 5. If the ~~only~~ sole primary P.O.D. beneficiary is not living  
4 and one or more contingent beneficiaries have been designated as  
5 allowed by paragraph 4 of this subsection, the funds shall be held  
6 for or paid to the contingent beneficiaries who are alive at the  
7 time of the account owner's death in equal shares, and shall not  
8 belong to the estate of the deceased primary beneficiary. If  
9 neither the ~~only~~ primary beneficiary ~~is not living, and a~~ nor any  
10 contingent beneficiary ~~or contingent beneficiaries have been~~  
11 ~~designated as allowed by paragraph 4 of this subsection, but one or~~  
12 ~~more designated contingent beneficiaries are also not~~ is living, ~~the~~  
13 ~~share that otherwise would belong to any deceased contingent~~  
14 ~~beneficiary~~ at the time of the account owner's death, the funds  
15 shall ~~instead be held for or paid to the~~ account owner's estate ~~of~~  
16 ~~that deceased contingent beneficiary.~~

17 6. In order to designate multiple primary P.O.D. beneficiaries  
18 for a deposit account, the account should be styled as follows:

19 "(Name of Account Owner), payable on death (or P.O.D.) to (Name  
20 of Beneficiary), (Name of Beneficiary), and (Name of Beneficiary, in  
21 equal shares.)"

22 7. If only one primary P.O.D. beneficiary has been designated  
23 on a deposit account, the account owner may add the following, or  
24

1 words of similar meaning, in the style of the account or in the  
2 account agreement:

3 "If the designated P.O.D. beneficiary is deceased, then payable  
4 on the death of the account owner to (Name of Beneficiary), (Name of  
5 Beneficiary), and (Name of Beneficiary), as contingent  
6 beneficiaries, in equal share."

7 8. Adjustments may be made in the styling, depending upon the  
8 number of owners of the account, to allow for survivorship rights,  
9 and the number of beneficiaries. It is to be understood that each  
10 beneficiary is entitled to a proportionate share of the account  
11 proceeds only after the death of the last surviving account owner,  
12 and after payment of account proceeds to any secured party with a  
13 valid security interest in the account. ~~In the event of the death  
14 of a beneficiary prior to the death of the account owner, the share  
15 of that beneficiary shall go to the estate of that beneficiary.  
16 Unless one or more contingent beneficiaries have been designated to  
17 take the place of that beneficiary as provided in paragraph 4 of  
18 this subsection.~~ All designated primary P.O.D. beneficiaries shall  
19 have equal shares. All designated contingent P.O.D. beneficiaries  
20 shall have equal shares as if the sole primary beneficiary is  
21 deceased. In the event of the death of a beneficiary prior to the  
22 death of the account owner, the share of that beneficiary shall be  
23 divided among any surviving beneficiaries or distributed to  
24 contingent beneficiaries pursuant to paragraphs 4 and 5 of this

1 subsection, if applicable. If no beneficiaries are alive at the  
2 time of the account owner's death, the funds should be held for, or  
3 paid to, the estate of the deceased account owner.

4 9. A bank may require the owner of an account to provide an  
5 address for any primary or contingent P.O.D. beneficiary. If the  
6 P.O.D. account is an interest-bearing account and the funds are not  
7 claimed by the P.O.D. beneficiary or beneficiaries within sixty (60)  
8 days after the death of the last surviving account holder, or after  
9 the bank has notice of the death of the last surviving account  
10 holder, whichever is later, the bank has the right to convert the  
11 account to a non-interest-bearing account.

12 10. No change in the designation of a named beneficiary shall  
13 be valid unless executed by the owner of the fund and in the form  
14 and manner prescribed by the bank; however, this section shall be  
15 subject to the provisions of Section 178 of Title 15 of the Oklahoma  
16 Statutes.

17 11. The receipt or acquittance of the named beneficiary so  
18 paid, or of the legal representative of ~~such named beneficiary's~~ the  
19 account owner's estate, ~~if the beneficiary is deceased and there is~~  
20 ~~no contingent beneficiary designated to take the place of that~~  
21 ~~beneficiary~~ in the event the beneficiary predeceased the account  
22 owner, shall be valid and sufficient release and discharge to the  
23 bank for any payment so made, unless, prior to such payment, the  
24



1 bank receives notice in the form and manner required in Section 905  
2 of this title.

3 12. Subsequent to the effective date of this act, a bank shall  
4 provide a customer creating a P.O.D. account with a written notice  
5 that the distribution of the proceeds in the P.O.D. account shall be  
6 consistent with the provisions of ~~Section 901 of Title 6 of the~~  
7 ~~Oklahoma Statutes~~ this section.

8 C. The provisions of this section shall apply to all forms of  
9 deposit accounts, including, but not limited to, transaction  
10 accounts, savings accounts, certificates of deposits, negotiable  
11 order of withdrawal (N.O.W.) accounts, and M.M.D.A. accounts.

12 SECTION 3. AMENDATORY 6 O.S. 2011, Section 906, as last  
13 amended by Section 1, Chapter 73, O.S.L. 2017 (6 O.S. Supp. 2020,  
14 Section 906), is amended to read as follows:

15 Section 906. A. 1. When a deposit has been made in a bank or  
16 credit union in the name of a sole individual without designation of  
17 a payable-on-death beneficiary, upon the death of the sole owner of  
18 the account if the amount of the aggregate deposits held in single  
19 ownership accounts in the name of the deceased individual is Fifty  
20 Thousand Dollars (\$50,000.00) or less, the bank or credit union may,  
21 without a requirement that heirs open an additional account,  
22 transfer the funds to the known heirs of the deceased upon receipt  
23 of an affidavit sworn to by the known heirs of the deceased which  
24 establishes jurisdiction and relationship and states that the owner

1 of the account left no will; provided, however, that no probate  
2 proceedings are pending. The affidavit shall be sworn to and signed  
3 by the known heirs of the deceased and the same shall swear that the  
4 facts set forth in the affidavit establishing jurisdiction, heirship  
5 and intestacy are true and correct. The affidavit may contain a  
6 clause indemnifying the bank from any damages related to the release  
7 of funds. In the event the account is subject to pending probate  
8 proceedings, the release of the deposits in the account shall be  
9 determined by the court.

10 2. Upon the death of an individual who is the sole renter of a  
11 safe deposit box in a bank or credit union, the bank or credit union  
12 may open the box in the presence of all known heirs and transfer or  
13 release the contents to such heirs upon receipt of an affidavit  
14 which establishes jurisdiction and relationship to the deceased and  
15 states that the renter of the safe deposit box left no will or that  
16 the contents of the safe deposit box are the only known assets of  
17 the deceased renter. The affidavit shall be sworn to and signed by  
18 the known heirs of the deceased and the same shall swear that the  
19 facts set forth in the affidavit establishing jurisdiction, heirship  
20 and intestacy or that the contents of the safe deposit box are the  
21 only asset of the deceased are true and correct. Every known heir  
22 shall either be present in person or by a duly authorized agent. If  
23 any known heir is unable to be physically present for the opening of  
24 the box and transfer of the contents, such heir may appoint an agent

1 by executing authorization in writing in the following form: "I  
2 hereby authorize (name of person) to act as my agent at the opening  
3 and transfer of contents of safe deposit box (number or other  
4 identification) at (name of financial institution)." The  
5 authorization form shall be signed and dated by the heir and  
6 notarized. The bank or credit union may impose its standard fee for  
7 drilling the box if the heirs cannot provide the key for opening.

8 B. Receipt by the bank or credit union of the affidavit  
9 described in subsection A of this section shall be a valid and  
10 sufficient release and discharge to the bank or credit union for any  
11 transfer of deposits or contents made in good-faith reliance on the  
12 affidavit and shall serve to discharge the bank or credit union from  
13 liability as to any other party, including any heir, legatee,  
14 devisee, creditor or other person having rights or claims to funds  
15 or property of the decedent, and include a discharge of the bank or  
16 credit union from liability for any estate, inheritance or other  
17 taxes which may be due the state from the estate or as a result of  
18 the transfer.

19 C. Any person who knowingly submits and signs a false affidavit  
20 as provided in this section shall be fined not more than Three  
21 Thousand Dollars (\$3,000.00) or imprisoned for not more than six (6)  
22 months, or both. Restitution of the amount fraudulently attained  
23 shall be made to the rightful beneficiary by the guilty person.

24

1 SECTION 4. This act shall become effective November 1, 2021.

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3 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND  
4 PENSIONS, dated 02/23/2021 - DO PASS, As Amended and Coauthored.  
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