1-1 By: Murr (Senate Sponsor - Nichols)
1-2 (In the Senate - Received from the House May 1, 2017;
1-3 May 4, 2017, read first time and referred to Committee on Business
1-4 & Commerce; May 19, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 19, 2017, sent to printer.)

1-7 COMMITTEE VOTE

1-8		Yea	Nay	Absent	PNV
1-9	Hancock	X			
1-10	Creighton	X			
1-11	Campbell	Χ			
1-12	Estes	Χ			
1-13	Nichols	Х			
1-14	Schwertner			Χ	
1-15	Taylor of Galveston	Х			
1-16	Whitmire	Χ			
1-17	Zaffirini	Х			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1954

1-21

1-23

1-24

1-25

1-26 1-27 1-28 1-29

1-30 1-31 1-32 1-33

1**-**34 1**-**35

1-36 1-37 1-38

1**-**39

1-41 1-42

1-43

1-44

1-45 1-46 1-47

1**-**48 1**-**49

1-50 1-51 1-52

1-53

1-54

1-55

1-56 1-57 1-58

1**-**59

By: Nichols

1-19 A BILL TO BE ENTITLED AN ACT

relating to certain accounts established at financial institutions, including disclosures related to those accounts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 113.002, Estates Code, is amended to read as follows:

Sec. 113.002. DEFINITION OF PARTY. (a) In this chapter, "party" means a person who, by the terms of a multiple-party account, has a present right, subject to request, to payment from the account. Except as otherwise required by the context, the term includes a guardian, personal representative, or assignee, including an attaching creditor, of a party. [The term also includes a person identified as a trustee of an account for another regardless of whether a beneficiary is named. The term does not include a named beneficiary unless the beneficiary has a present right of withdrawal.]

(b) A P.O.D. payee, including a charitable organization, [or beneficiary of a trust account] is a party only after the account becomes payable to the P.O.D. payee [or beneficiary] by reason of the P.O.D. payee [or beneficiary] surviving the original payee [or trustee].

SECTION 2. Section 113.004, Estates Code, is amended to read as follows:

Sec. 113.004. TYPES OF ACCOUNTS. In this chapter:

(1) ["Convenience account" means an account that:

[(Λ) is established at a financial institution by one or more parties in the names of the parties and one or more convenience signers; and

[(B) has terms that provide that the sums on deposit are paid or delivered to the parties or to the convenience signers "for the convenience" of the parties.

signers "for the convenience" of the parties.

[(2)] "Joint account" means an account payable on request to one or more of two or more parties, regardless of whether there is a right of survivorship.

 $\frac{(2)}{(3)} \ \ "Multiple-party account" means a joint account or [, a convenience account,] a P.O.D. account [, or a trust account]. The term does not include an account established for the deposit of funds of a partnership, joint venture, or other association for business purposes, or an account controlled by one or more persons as the authorized agent or trustee for a corporation, unincorporated association, charitable or civic$

organization, or a regular fiduciary or trust account in which the

2-1

2-2 2-3 2-4 2**-**5

2-6

2-7

2-8 2-9 2**-**10 2**-**11

2-12

2-13 2-14

2**-**15 2**-**16 2-17

2-18

2-19 2**-**20 2**-**21

2-22 2-23 2-24

2**-**25 2**-**26

2-27

2-28

2-29 2-30 2-31

2-32

2-33 2-34 2-35

2-36

2-37

2-38

2-39

2-40 2-41

2-42

2-43 2-44

2-45 2-46

2-47 2-48 2-49

2-50 2-51

2-52 2-53 2-54

2-55

2-56 2-57

2-58 2-59

2-60 2-61

2-62 2-63

2-64 2-65 2-66 2-67

2-68 2-69 account payable on request to:

(A) one person during the person's lifetime and, on the person's death, to one or more P.O.D. payees; or

(B) one or more persons during their lifetimes and, on the death of all of those persons, to one or more P.O.D. payees.

[(5) "Trust account" means an account in the name parties as trustee for one or more beneficiaries one or more which the relationship is established by the form of the account and the deposit agreement with the financial institution and in which there is no subject of the trust other than the sums on deposit in the account. The deposit agreement is not required to address payment to the beneficiary. The term does not include:

[(A) a regular trust account under a testamentary trust or a trust agreement that has significance apart from the account; or

[(B) a fiduciary account arising from a fiduciary

relationship, such as the attorney-client relationship.]
SECTION 3. Section 113.052, Estates Code, is amended to read as follows:

Sec. 113.052. FORM. A financial institution may use the following form to establish the type of account selected by a party: UNIFORM SINGLE-PARTY OR MULTIPLE-PARTY ACCOUNT SELECTION FORM NOTICE: The type of account you select may determine how property passes on your death. Your will may not control the disposition of funds held in some of the following accounts.

You may choose to designate one or more convenience signers on an account $[\tau]$ even if the account is not a convenience account]. A designated convenience signer may make transactions on your behalf during your lifetime, but does not own the account during your lifetime. The designated convenience signer owns the account on your death only if the convenience signer is also designated as a P.O.D. payee [or trust account beneficiary].

Select one of the following accounts by placing your initials

next to the account selected:
____ (1) SINGLE-PARTY ACCOUNT WITHOUT "P.O.D." (PAYABLE ON DEATH) DESIGNATION. The party to the account owns the account. On the death of the party, ownership of the account passes as a part of the party's estate under the party's will or by intestacy.

Enter the name of the party:

Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account:

(2) SINGLE-PARTY ACCOUNT WITH "P.O.D." (PAYABLE ON DEATH) DESIGNATION. The party to the account owns the account. On the death of the party, ownership of the account passes to the P.O.D. beneficiaries of the account. The account is not a part of the party's estate.

Enter the name of the party:

Enter the name or names of the P.O.D. beneficiaries:

Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account:

____(3) MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP. The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time. On the death of a party, the party's ownership of the account passes as a part of the party's estate under the party's

3-1 will or by intestacy. 3-2 Enter the names of the parties: 3-3 3-4 3**-**5 Enter the name(s) of the convenience signer(s), if you want 3-6 one or more convenience signers on this account: 3**-**7 3-8 3-9 ____(4) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP. The parties to the account own the account in 3**-**10 3**-**11 proportion to the parties' net contributions to the account. The 3-12 financial institution may pay any sum in the account to a party at 3-13 any time. On the death of a party, the party's ownership of the account passes to the surviving parties. 3-14 3**-**15 3**-**16 Enter the names of the parties: 3-17 3-18 Enter the name(s) of the convenience signer(s), if you want 3-19 3**-**20 3**-**21 one or more convenience signers on this account: 3-22 (5) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP 3-23 AND P.O.D. (PAYABLE ON DEATH) DESIGNATION. The parties to the 3-24 account own the account in proportion to the parties' net contributions to the account. The financial institution may pay 3-25 contributions to the account. The financial institution may pay any sum in the account to a party at any time. On the death of the last surviving party, the ownership of the account passes to the 3**-**26 3-27 3-28 3-29 P.O.D. beneficiaries. 3-30 Enter the names of the parties: 3-31 3-32 3-33 Enter the name or names of the P.O.D. beneficiaries: 3-34 3-35 3**-**36 Enter the name(s) of the convenience signer(s), if you want 3-37 one or more convenience signers on this account: 3-38 3-39 ACKNOWLEDGMENT: I acknowledge that I have read each paragraph of this form and have received disclosure of the ownership rights to the accounts listed above. I have placed my 3-40 3-41 3-42 3-43 initials next to the type of account I want. 3-44 Signature
[_____(6) CONVENIENCE ACCOUNT. The parties to the account own the account. One or more convenience signers to the account may make account transactions for a party. A convenience signer does not own the account. On the death of the last surviving party, ownership of the account passes as a part of the last surviving party, over the account passes as a part of the last surviving party. 3-45 3-46 3-47 3-48 3-49 3-50 3-51 party's estate under the last surviving party's will or by intestacy. The financial institution may pay funds in the account to a convenience signer before the financial institution receives 3-52 3**-**53 notice of the death of the last surviving party. The payment to a convenience signer does not affect the parties' ownership of the 3-54 3**-**55 3-56 account. 3-57 [Enter the names of the parties: 3-58 3-59 [Enter the name(s) of the convenience signer(s): 3-60 3-61 3-62 [____(7) TRUST ACCOUNT. The parties named as trustees 3-63 the account own the account in proportion to the parties' net contributions to the account. A trustee may withdraw funds from the account. A beneficiary may not withdraw funds from the account 3-64 3**-**65 3-66 before all trustees are deceased. On the death of the last surviving trustee, the ownership of the account passes to the 3-67 3-68

beneficiary. The trust account is not a part of a trustee's estate

3**-**69

and does not pass under the trustee's will or by intestacy, unless the trustee survives all of the beneficiaries and all other trustees.

[Enter the name or names of the trustees:

[Enter the name or names of the beneficiaries:

[Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account:

SECTION 4. Section 113.053, Estates Code, is amended to read as follows:

Sec. 113.053. REQUIRED Sec. 113.053. REQUIRED DISCLOSURE; USE OF FORM. Except as provided by Subsection (d), a [A] financial institution shall disclose the information provided in this subchapter to a customer before [at the time] the customer selects or modifies an account.

(a-1) A financial institution is considered to have disclosed the information provided in this subchapter if:

(1) the financial institution uses the form provided by Section 113.052; and

(2) the customer signs the acknowledgment provided at the end [places the customer's initials to the right of each paragraph] of the form.

(b) If a financial institution varies the format of the form provided by Section 113.052, the financial institution shall disclose [may make disclosures in the account agreement or in any other form that discloses] the information provided by this subscript Pigglesures under this subscript must. Disclosures under this subsection must: subchapter[-

[(1) be given] separately from other account information except that the financial institution may disclose that information as part of other account documentation if the disclosures are the first items of the documentation [+

[(2) be provided before account

4-1 4-2 4-3

4-4

4-5 4-6

4-7 4-8 4-9 4-10 4-11

4-12 4-13 4-14

4**-**15 4**-**16

4-17

4-18

4-19 4-20 4-21

4-22

4-23

4-24

4-25

4-26

4-27

4-28 4-29 4-30 **4-**31

4-32

4-33 4 - 34

4-35 4**-**36 4-37

4-38

4-39 4-40 4-41 4-42

4-43

4-44 4-45 4-46 4-47

4-48 4-49 4-50 4-51 4-52

4**-**53

4-54

4-55

4-56

4-57

4-58

4-59 4-60

4-61

4-62 4-63

4-64

4-65 4-66

4-67

4-68

4-69

[(3) be printed in 14-point boldfaced type; and
[(4) if the discussions that precede the account
opening or modification are conducted primarily in a language other than English, be in that language].

(c) The financial institution shall notify the customer of the type of account the customer selected. This requirement is satisfied by providing the customer with a copy of the account opening or modification documentation, as appropriate, in paper or electronic format.

(d) If a type of multiple-party account is not available from a financial institution, the financial institution is not required to make a disclosure about that type of account.

(e) This section does not apply to:

(1) a credit union; or

an account that is opened or modified by a customer

who:

(A) is a legal entity, including a governmental

entity; or

(B) is acting as a legal representative for

another person.

SECTION 5. Section 113.101, Estates Code, is amended to read as follows:

Sec. 113.101. EFFECT OF CERTAIN PROVISIONS REGARDING OWNERSHIP BETWEEN PARTIES AND OTHERS. The provisions of this subchapter and Subchapters B and D that relate to beneficial ownership between parties $\underline{\text{to multiple-party accounts}}[_{\pmb{\tau}}]$ or between parties and P.O.D. payees [or beneficiaries] of multiple-party accounts:

(1) are relevant only to controversies between those persons and those persons' creditors and other successors; and

(2) do not affect the withdrawal power of those

5-1 persons under the terms of an account contract.

5**-**2 5**-**3

5-4

5-5 5-6 5-7 5-8 5-9

5-10 5-11 5-12

5-13

5-14 5-15 5-16 5-17

5-18

5-19

5-20 5-21 5-22

5**-**23 5**-**24

5-25

5-26 5-27

5-28

5-29

5**-**30 5**-**31

5**-**32 5**-**33

5**-**34 5**-**35

5**-**36

5**-**37 5**-**38

5-39

5-40

5**-**41 5**-**42

5**-**43 5**-**44

5-45

5**-**46 5**-**47

5-48

5-49 5-50 5-51

5**-**52 5**-**53

5-54

5-55 5-56 5-57

5**-**58

5-59 5-60 5-61

5**-**62 5**-**63

5-64

5-65

5-66

5-67 5-68 5-69 SECTION 6. Section 113.106, Estates Code, is amended to read as follows:

Sec. 113.106. OWNERSHIP AND OPERATION OF [OTHER] ACCOUNT WITH CONVENIENCE SIGNER; PAYMENT; LIABILITY. (a) One or more convenience signers may be designated on [An account established by one or more parties at a financial institution that is not designated as a convenience account, but is instead designated as] a single-party account or [another type of] multiple-party account[, may provide that the sums on deposit may be paid or delivered to the parties or to one or more convenience signers] "for the convenience of the party or parties." A convenience signer is not an owner of the account but, on behalf of the party or parties to the account, may make deposits to and be paid or delivered sums on deposit from the account during the lifetime of the party or parties. A convenience signer may be designated as a P.O.D. payee of the account.

(b) Subsections (c)-(i) apply to an account described by Subsection (a) except [Except] as provided by Section 113.1541[+ [(1) the provisions of Sections 113.105, 113.206, and 113.208 apply to an account described by Subsection (a), including provisions relating to the ownership of the account during the lifetimes and on the deaths of the parties and provisions relating to the powers and duties of the financial institution at which the account is established; and

[(2) any other law relating to a convenience signer applies to a convenience signer designated as provided by this section to the extent the law applies to a convenience signer on a convenience account].

(c) The making of a deposit in an account described by Subsection (a) does not affect the title to the deposit.

(d) A party to an account described by Subsection (a) is not considered to have made a gift of the deposit, or of any additions or accruals to the deposit, to a convenience signer.

or accruals to the deposit, to a convenience signer.

(e) An addition made to an account described by Subsection
(a) by anyone other than a party, and accruals to the addition, are considered to have been made by a party.

(f) Deposits to an account described by Subsection (a) and additions and accruals to the deposits may be paid to a party or a convenience signer.

(g) A financial institution is completely released from liability for a payment made from an account described by Subsection (a) before the financial institution receives notice in writing signed by a party not to make the payment in accordance with the terms of the account. After receipt of the notice from a party, the financial institution may require a party to approve any further payments from the account.

(h) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to a convenience signer after the death of the last surviving party, but before the financial institution receives written notice of the last surviving party's death, is completely released from liability for the payment.

(i) A financial institution that makes a payment of the sums on deposit in an account described by Subsection (a) to the personal representative of the deceased last surviving party's estate after the death of the last surviving party, but before a court order prohibiting payment is served on the financial institution, is, to the extent of the payment, released from liability to any person claiming a right to the funds. The personal representative's receipt of the funds is a complete release and discharge of the financial institution.

SECTION 7. Section 113.151(d), Estates Code, is amended to read as follows:

(d) If there are two or more surviving parties to a joint account that is subject to a right of survivorship agreement:

(1) during the parties' lifetimes respective ownerships are in proportion to the parties' previous ownership interests under Sections 113.102 and $[\tau]$ 113.103 $[\tau]$ and 113.104], as

applicable, augmented by an equal share for each survivor of any interest a deceased party owned in the account immediately before that party's death; and

6-1

6-2

6-3

6-4

6**-**5

6-7

6-8

6-9

6-10

6-11

6-12

6-13

6-14 6-15 6-16

6-17

6-18

6-19

6-20 6-21 6-22

6-23

6-24

6-25 6-26 6-27 6-28

6-29 6-30 6-31 6-32 6-33

6-34

6-35

6-36

6-37

6-38

6**-**39 6**-**40

6-41

6-42

6-43

6-44

6-45

6**-**46 6**-**47

6-48

6-49 6-50 6-51

6-52

6-53

6-54 6-55 6-56 6-57 6-58

6**-**59

6-61

6**-**62 6**-**63

6**-**64

6**-**66 6**-**67

6**-**68

(2) the right of survivorship continues between the surviving parties if a written agreement signed by a party who dies provides for that continuation.

SECTION 8. Section 113.1541, Estates Code, is amended to read as follows:

Sec. 113.1541. OWNERSHIP OF [OTHER] ACCOUNT WITH CONVENIENCE SIGNER ON DEATH OF LAST SURVIVING PARTY. On the death of the last surviving party to an account that has a convenience signer designated as provided by Section 113.106, the convenience signer does not have a right of survivorship in the account and the estate of the last surviving party owns the account unless the convenience signer is also designated as a P.O.D. payee [or as a beneficiary].

SECTION 9. Sections 113.155, 113.156, and 113.158, Estates Code, are amended to read as follows:

Sec. 113.155. EFFECT OF DEATH OF PARTY ON CERTAIN ACCOUNTS WITHOUT RIGHTS OF SURVIVORSHIP. The death of a party to a multiple-party account to which Sections 113.151 and $[\tau]$ 113.152 $[\tau]$ and 113.153 do not apply has no effect on the beneficial ownership of the account, other than to transfer the rights of the deceased party as part of the deceased party's estate.

Sec. 113.156. APPLICABILITY OF CERTAIN PROVISIONS ON DEATH OF PARTY. Sections 113.151, 113.152, [113.153,] and 113.155 as to rights of survivorship are determined by the form of the account at the death of a party.

Sec. 113.158. NONTESTAMENTARY NATURE OF CERTAIN TRANSFERS. Transfers resulting from the application of Sections 113.151, 113.152, [113.153,] and 113.155 are effective by reason of the account contracts involved and this chapter and are not to be considered testamentary transfers or subject to the testamentary provisions of this title.

SECTION 10. Section 113.203(b), Estates Code, is amended to read as follows:

- (b) Payment may not be made to the personal representative or heir of a deceased party unless:
- (1) proofs of death are presented to the financial institution showing that the deceased party was the last surviving party; or
- (2) there is no right of survivorship under Sections 113.151, 113.152, [113.153,] and 113.155.

SECTION 11. Section 113.209(a), Estates Code, is amended to read as follows:

(a) Payment made in accordance with Section 113.202, 113.203, 113.204, [113.205,] or 113.207 discharges the financial institution from all claims for those amounts paid regardless of whether the payment is consistent with the beneficial ownership of the account between parties, P.O.D. payees, [or beneficiaries,] or their successors.

SECTION 12. Sections 113.251(a) and (d), Estates Code, are amended to read as follows:

- (a) A party to a multiple-party account may pledge the account or otherwise create a security interest in the account without the joinder of, as applicable, a P.O.D. payee, [abeneficiary,] a convenience signer, or any other party to a joint account, regardless of whether a right of survivorship exists.
- (d) The financial institution is not required to provide the notice described by Subsection (c) to a P.O.D. payee $[\tau]$ beneficiary, or convenience signer.

SECTION 13. Section 113.252(b), Estates Code, is amended to read as follows:

(b) A party $\underline{\text{or}}[\tau]$ P.O.D. payee[τ or beneficiary] who receives payment from a multiple-party account after the death of a deceased party is liable to account to the deceased party's personal representative for amounts the deceased party owned beneficially immediately before the party's death to the extent necessary to discharge the claims and charges described by

Subsection (a) that remain unpaid after application of the deceased party's estate. The party $\underline{\text{or}}[\tau]$ P.O.D. payee[τ or beneficiary] is not liable in an amount greater than the amount the party $\underline{\text{or}}[\tau]$ P.O.D. payee $[\frac{1}{7}$ or beneficiary] received from the multiple-party account.

SECTION 14. Section 153.001(3), Estates Code, is amended to read as follows:

"P.O.D. account" has [and "trust account" have] (3) the meaning [meanings] assigned by Section 113.004.

SECTION 15. Section 153.002, Estates Code, is amended to read as follows:

Sec. 153.002. INAPPLICABILITY OF CHAPTER. This chapter does not apply to:

- (1)an account with a beneficiary designation;
- (2) a P.O.D. account; or

7-1 7-2 7-3 7-4

7**-**5 7**-**6

7-7

7-8

7-9

7-10 , 7**-**11

7-12

7-13 7-14

7**-**15 7**-**16

7-17

7-18

7-19 7**-**20 7**-**21

7-22 7-23 7-24

7**-**25 7**-**26

7-27 7-28 7-29

7**-**30 7**-**31

7-32 7-33

7-34

7-35

7-36

7-37

7-38

7-39 7-40 7-41

7-42 7-43

7-44

7-45 7-46

7-47

7-48

7-49

7-50

7**-**51

7-52 7-53

7-54 7-55 7-56 7-57

7-58 7-59

7-60 7-61

7-62

7-63 7-64

7-65

[a trust account; (3) or

 $\left[\frac{4}{1}\right]$ an account that provides for a right of survivorship.

SECTION 16. Sections 113.001(2), 113.104, 113.105, 113.153, 113.154, 113.205, 113.206, and 113.208, Estates Code, are repealed.

SECTION 17. (a) In this section, "convenience account" and "trust account" have the meanings assigned by Section 113.004,

- Estates Code, as that section existed on January 1, 2017.

 (b) Except as provided by Subsection (e) of this section, the changes in law made by this Act, including the repeal by this Act of certain provisions of Chapter 113, Estates Code, apply only
- (1)a financial institution account opened on or after the effective date of this Act; and
- (2) a convenience account or trust account opened before the effective date of this Act with respect to which a financial institution has notified the party or parties to the account in writing that the financial institution has converted the account to a type of account, other than a convenience account or trust account.
- (c) A convenience account or trust account opened before the effective date of this Act with respect to which a financial institution has not notified the party or parties to the account in writing that the financial institution has converted the account to a type of account, other than a convenience account or trust account, is governed by the law in effect on the date the account was opened or last modified, and the former law is continued in effect until the earliest of the date on which:
- (1) the financial institution notifies the party or parties to the account in writing that it has converted the account to a type of account, other than a convenience account or a trust account;
- the convenience account or (2) trust account is closed; or
- (3) the last surviving party to a convenience account or trust account dies.
- The repeal by this Act of provisions of Chapter 113, (d) Estates Code, relating to trust accounts and convenience accounts does not affect the validity of any account or deposit agreement between a financial institution and a depositor or other person that is entered into before September 1, 2017.
- (e) Section 113.053, Estates Code, as amended by this Act, applies only to a financial institution account opened or modified on or after the effective date of this Act. A financial institution account opened or modified before the effective date of this Act is governed by the law in effect on the date the account was opened or modified, and the former law is continued in effect for that purpose.

SECTION 18. This Act takes effect September 1, 2017.

* * * * * 7-66