

1 Senate BILL NO. 263
2 INTRODUCED BY Bishop

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ESTATES,
5 TRUSTS, AND FIDUCIARIES; CLARIFYING THE RECORDING FOR UNIT OWNERSHIP; CLARIFYING THAT
6 A COURT MAY LIMIT THE POWERS AND DUTIES OF THE GUARDIAN OF A MINOR; CLARIFYING
7 PROVISIONS RELATING TO MULTIPLE-PERSON ACCOUNTS; CLARIFYING PROTECTION FOR A FINANCIAL
8 INSTITUTION FOR HONORING A REQUEST FOR THE ALTERATION OF RIGHTS TO A MULTIPLE-PERSON
9 ACCOUNT; ALLOWING DEVIATIONS FROM THE STATUTORY DEATH TAX APPORTIONMENT RULE;
10 PERMITTING A REGULATED FINANCIAL INSTITUTION TO HIRE AN AFFILIATE FOR THE PURCHASE OR
11 SALE OF INVESTMENT SECURITIES; AND AMENDING SECTIONS 70-23-304, 72-5-231, 72-6-204,
12 72-6-213, 72-6-226, 72-16-603, AND 72-34-117, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 70-23-304, MCA, is amended to read:

17 **"70-23-304. Declaration to be approved by department of revenue before recording.** Before a
18 declaration may be recorded in the county in which the property is located, it must be approved by the
19 department of revenue. A declaration must be approved unless:

- 20 (1) the name ~~is proper so as to~~ does not comply with 70-23-303; and
21 (2) all taxes and assessments due and payable have not been paid."

22
23 **Section 2.** Section 72-5-231, MCA, is amended to read:

24 **"72-5-231. Powers and duties of guardian of minor.** A Unless otherwise limited by the court, a
25 guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody
26 of ~~his~~ the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide
27 from ~~his~~ the guardian's own funds for the ward and is not liable to third persons by reason of the parental
28 relationship for acts of the ward. In particular and without qualifying the foregoing, a guardian has the
29 following powers and duties:

- 30 (1) ~~He~~ The guardian ~~must~~ shall take reasonable care of ~~his~~ the ward's personal effects and

1 commence protective proceedings if necessary to protect other property of the ward.

2 (2) ~~He~~ The guardian may receive money payable for the support of the ward to the ward's parent,
3 guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract,
4 devise, trust, conservatorship, or custodianship. ~~He~~ The guardian also may receive money or property of
5 the ward paid or delivered by virtue of 72-5-104. Any sums ~~so~~ received ~~shall~~ must be applied to the ward's
6 current needs for support, care, and education. ~~He~~ The guardian ~~must~~ shall exercise due care to conserve
7 any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward,
8 in which case the excess ~~shall~~ must be paid ~~over~~ at least annually to the conservator. Sums ~~so~~ received
9 by the guardian ~~are~~ may not ~~to~~ be used for compensation for ~~his~~ the guardian's services except as approved
10 by an order of the court or as determined by a duly appointed conservator other than the guardian. A
11 guardian may institute proceedings to compel the performance by any person of a duty to support the ward
12 or to pay sums for the welfare of the ward.

13 (3) The guardian is empowered to facilitate the ward's education, social, or other activities and to
14 authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this
15 consent for injury to the ward resulting from the negligence or acts of third persons unless it would have
16 been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of ~~his~~ the
17 ward.

18 (4) A guardian ~~must~~ shall report the condition of ~~his~~ the ward and of the ward's estate ~~which~~ that
19 has been subject to ~~his~~ the guardian's possession or control, as ordered by the court on petition of any
20 person interested in the minor's welfare or as required by court rule."
21

22 **Section 3.** Section 72-6-204, MCA, is amended to read:

23 **"72-6-204. Forms.** (1) A contract of deposit that contains provisions in substantially the following
24 form establishes the type of account provided, and the account is governed by the provisions of this part
25 applicable to an account of that type:

26 UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

27 PARTIES [Name One or More Parties]:

28 OWNERSHIP [Select One and Initial]:

29 SINGLE-PARTY ACCOUNT

30 MULTIPLE-PARTY ACCOUNT

1 Parties own account in proportion to net contributions unless there is clear and convincing evidence
 2 of a different intent. However, any one party may withdraw the entire amount on deposit in the
 3 account. Further, any one party may change the ~~type~~ terms of account.

4 RIGHTS AT DEATH [Select One and Initial]:

5 SINGLE-PARTY ACCOUNT

6 At death of party, ownership passes as part of party's estate.

7 SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

8 [Name One or More Beneficiaries]:

9

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

11 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

12 At death of party, ownership passes to surviving parties.

13 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH)

14 DESIGNATION

15 [Name One or More Beneficiaries]:

16

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

19 MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

20 At death of party, deceased party's ownership passes as part of deceased party's estate.

21 AGENCY (POWER OF ATTORNEY) DESIGNATION

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

24 [To Add Agency Designation to Account, Name One or More Agents]:

25

26 [Select One And Initial]:

27 AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

28 AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

29 (2) A contract of deposit that does not contain provisions in substantially the form provided in
 30 subsection (1) is governed by the provisions of this part applicable to the type of account that most nearly

1 conforms to the depositor's intent."

2

3 **Section 4.** Section 72-6-213, MCA, is amended to read:

4 **"72-6-213. Alteration of rights.** (1) Rights at death under 72-6-212 are determined by the terms
5 of the account at the death of a party.

6 (2) Except as provided in subsection (3) and unless otherwise agreed in writing between the parties
7 to the account, The the terms of an account may be altered by written notice given by a party to the
8 financial institution to change the terms of account or to stop or vary payment under the terms of the
9 account. The notice must be signed by a party and received by the financial institution during the party's
10 lifetime.

11 (3) A financial institution may, in its discretion, refuse to honor a request for alteration of rights
12 that would change:

13 (a) the financial institution's obligations or rights under the contract of deposit; or

14 (b) the parties to a multiple-party account if the request is not signed by all of the parties to the
15 account.

16 ~~(2)(4)~~ A right of survivorship arising from the express terms of the account, from 72-6-212, or from
17 a POD designation may not be altered by will."

18

19 **Section 5.** Section 72-6-226, MCA, is amended to read:

20 **"72-6-226. Discharge.** (1) Payment made pursuant to this part in accordance with the terms of
21 an account, or honoring a request for alteration of rights made in accordance with 72-6-213, discharges
22 the financial institution from all claims for amounts so paid or alterations so made, whether or not the
23 payment or alteration is consistent with the beneficial ownership of the account as between parties,
24 beneficiaries, or their successors. Payment or alteration may be made whether or not a party, beneficiary,
25 or agent is disabled, incapacitated, or deceased when payment or alteration is requested, received, or made.

26 (2) Protection under this section does not extend to payments or alterations made after a financial
27 institution has received written notice from a party, or from the personal representative, surviving spouse,
28 or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the
29 account or alteration of rights, including ~~one~~ payments or alterations relating to an account having an
30 agency designation, should not be permitted and after the financial institution has had a reasonable

1 opportunity to act on the notice when the payment is made or the alteration is requested. Unless the notice
 2 is withdrawn by the person giving it, the successor of any deceased party shall concur in a request for
 3 payment or alteration if the financial institution is to be protected under this section. Unless a financial
 4 institution has been served with process in an action or proceeding, no other notice or other information
 5 shown to have been available to the financial institution affects its right to protection under this section.

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

9 (4) Protection of a financial institution under this section does not affect the rights of parties in
 10 disputes between themselves or their successors concerning the beneficial ownership of sums on deposit
 11 in accounts or payments made from accounts or regarding whether a request for an alteration of rights to
 12 an account was improper between the parties."

13
 14 **Section 6.** Section 72-16-603, MCA, is amended to read:

15 "**72-16-603. Tax -- how apportioned.** (1) Except as provided in subsection (3) and unless the will
 16 or governing instrument otherwise provides, the tax ~~shall~~ must be apportioned among all persons interested
 17 in the estate. The apportionment is to be made in the proportion that the value of the interest of each
 18 person interested in the estate bears to the total value of the interests of all persons interested in the
 19 estate. The values used in determining the tax are to be used for that purpose.

20 (2) If the decedent's will or governing instrument directs a method of apportionment of tax different
 21 from the method described in this part, the method described in the will or governing instrument controls.

22 (3) If the liabilities of persons interested in the estate as described in this part differ from those
 23 ~~which~~ that result under the federal estate tax law, the liabilities imposed by the federal law control and the
 24 balance of this part applies as if the resulting liabilities had been prescribed in this part."

25
 26 **Section 7.** Section 72-34-117, MCA, is amended to read:

27 "**72-34-117. Certain actions and transactions not violations of duties.** (1) The following actions
 28 or transactions do not violate the duties provided in 72-34-103 or 72-34-105:

29 (a) ~~The~~ the provision of services for reasonable compensation by a regulated financial institution
 30 or its affiliates in the ordinary course of business either to a trust ~~of~~ for which it or an affiliate also acts as

1 trustee or to a person dealing with the trust ~~is not a violation of the duty provided in 72-34-103 or~~
2 ~~72-34-105;~~

3 (b) the purchase or sale of investment securities between a regulated financial institution or its
4 affiliates in the ordinary course of business or to a trust for which it or an affiliate also acts as trustee.

5 (2) Subsection (1) does not affect the duty to use ordinary skill and prudence as provided in
6 72-34-114.

7 (3) For the purposes of this section, "affiliate" means a corporation that directly or indirectly
8 through one or more intermediaries controls, is controlled by, or is under common control with another
9 domestic or foreign corporation."

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-END-

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INTRODUCED BY *Bishop* *Senate* BILL NO. *263*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ESTATES, TRUSTS, AND FIDUCIARIES; CLARIFYING THE RECORDING FOR UNIT OWNERSHIP; CLARIFYING THAT A COURT MAY LIMIT THE POWERS AND DUTIES OF THE GUARDIAN OF A MINOR; CLARIFYING PROVISIONS RELATING TO MULTIPLE-PERSON ACCOUNTS; CLARIFYING PROTECTION FOR A FINANCIAL INSTITUTION FOR HONORING A REQUEST FOR THE ALTERATION OF RIGHTS TO A MULTIPLE-PERSON ACCOUNT; ALLOWING DEVIATIONS FROM THE STATUTORY DEATH TAX APPORTIONMENT RULE; PERMITTING A REGULATED FINANCIAL INSTITUTION TO HIRE AN AFFILIATE FOR THE PURCHASE OR SALE OF INVESTMENT SECURITIES; AND AMENDING SECTIONS 70-23-304, 72-5-231, 72-6-204, 72-6-213, 72-6-226, 72-16-603, AND 72-34-117, MCA."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

SENATE BILL NO. 263

INTRODUCED BY BISHOP

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ESTATES, TRUSTS, AND FIDUCIARIES; CLARIFYING THE RECORDING FOR UNIT OWNERSHIP; CLARIFYING THAT A COURT MAY LIMIT THE POWERS AND DUTIES OF THE GUARDIAN OF A MINOR; CLARIFYING PROVISIONS RELATING TO MULTIPLE-PERSON ACCOUNTS; CLARIFYING PROTECTION FOR A FINANCIAL INSTITUTION FOR HONORING A REQUEST FOR THE ALTERATION OF RIGHTS TO A MULTIPLE-PERSON ACCOUNT; ALLOWING DEVIATIONS FROM THE STATUTORY DEATH TAX APPORTIONMENT RULE; PERMITTING A REGULATED FINANCIAL INSTITUTION TO HIRE AN AFFILIATE FOR THE PURCHASE OR SALE OF INVESTMENT SECURITIES; AND AMENDING SECTIONS 70-23-304, 72-5-231, 72-6-204, 72-6-213, 72-6-226, 72-16-603, AND 72-34-117, MCA."

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

Section 1. Section 70-23-304, MCA, is amended to read:

"70-23-304. Declaration to be approved by department of revenue before recording. Before a declaration may be recorded in the county in which the property is located, it must be approved by the department of revenue. A declaration must be approved unless:

- (1) the name is ~~proper so as to~~ does not comply with 70-23-303; and
- (2) all taxes and assessments due and payable have not been paid."

Section 2. Section 72-5-231, MCA, is amended to read:

"72-5-231. Powers and duties of guardian of minor. A ~~Unless otherwise limited by the court,~~ a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of ~~his~~ the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide from ~~his~~ the guardian's own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular and without qualifying the foregoing, a guardian has the following powers and duties:

- (1) ~~He~~ The guardian must shall take reasonable care of ~~his~~ the ward's personal effects and

1 commence protective proceedings if necessary to protect other property of the ward.

2 (2) ~~He~~ The guardian may receive money payable for the support of the ward to the ward's parent,
3 guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract,
4 devise, trust, conservatorship, or custodianship. ~~He~~ The guardian also may receive money or property of
5 the ward paid or delivered by virtue of 72-5-104. Any sums ~~so~~ received ~~shall~~ must be applied to the ward's
6 current needs for support, care, and education. ~~He~~ The guardian ~~must~~ shall exercise due care to conserve
7 any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward,
8 in which case the excess ~~shall~~ must be paid ~~over~~ at least annually to the conservator. Sums ~~so~~ received
9 by the guardian ~~are~~ may not ~~to~~ be used for compensation for ~~his~~ the guardian's services except as approved
10 by an order of the court or as determined by a duly appointed conservator other than the guardian. A
11 guardian may institute proceedings to compel the performance by any person of a duty to support the ward
12 or to pay sums for the welfare of the ward.

13 (3) The guardian is empowered to facilitate the ward's education, social, or other activities and to
14 authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this
15 consent for injury to the ward resulting from the negligence or acts of third persons unless it would have
16 been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of ~~his~~ the
17 ward.

18 (4) A guardian ~~must~~ shall report the condition of ~~his~~ the ward and of the ward's estate ~~which~~ that
19 has been subject to ~~his~~ the guardian's possession or control, as ordered by the court on petition of any
20 person interested in the minor's welfare or as required by court rule."
21

22 **Section 3.** Section 72-6-204, MCA, is amended to read:

23 **"72-6-204. Forms.** (1) A contract of deposit that contains provisions in substantially the following
24 form establishes the type of account provided, and the account is governed by the provisions of this part
25 applicable to an account of that type:

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

27 **PARTIES** [Name One or More Parties]:

28 **OWNERSHIP** [Select One and Initial]:

29 SINGLE-PARTY ACCOUNT

30 MULTIPLE-PARTY ACCOUNT

1 Parties own account in proportion to net contributions unless there is clear and convincing evidence
2 of a different intent. However, any one party may withdraw the entire amount on deposit in the
3 account. ~~Further, any one party may change the type terms of account.~~

4 CHANGING TERMS OF ACCOUNT [SELECT ONE AND EACH PARTY INITIAL]:

5 MULTIPLE-PARTY ACCOUNT'S TERMS MAY BE CHANGED BY A SINGLE PARTY

6 MULTIPLE-PARTY ACCOUNT'S TERMS MAY BE CHANGED ONLY BY AGREEMENT OF ALL PARTIES

7 RIGHTS AT DEATH [Select One and Initial]:

8 SINGLE-PARTY ACCOUNT

9 At death of party, ownership passes as part of party's estate.

10 SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

11 [Name One or More Beneficiaries]:

12

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

14 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

15 At death of party, ownership passes to surviving parties.

16 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH)

17 DESIGNATION

18 [Name One or More Beneficiaries]:

19

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

22 MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

23 At death of party, deceased party's ownership passes as part of deceased party's estate.

24 AGENCY (POWER OF ATTORNEY) DESIGNATION

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

27 [To Add Agency Designation to Account, Name One or More Agents]:

28

29 [Select One And Initial]:

30 AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

1 AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

2 (2) A contract of deposit that does not contain provisions in substantially the form provided in
3 subsection (1) is governed by the provisions of this part applicable to the type of account that most nearly
4 conforms to the depositor's intent."

5

6 **Section 4.** Section 72-6-213, MCA, is amended to read:

7 "**72-6-213. Alteration of rights.** (1) Rights at death under 72-6-212 are determined by the terms
8 of the account at the death of a party.

9 (2) Except as provided in subsection (3) and unless otherwise agreed in writing between the parties
10 to the account, The the terms of an account may be altered by written notice given by a party to the
11 financial institution to change the terms of account or to stop or vary payment under the terms of the
12 account. The notice must be signed by a party and received by the financial institution during the party's
13 lifetime.

14 (3) A financial institution may, in its discretion, refuse to honor a request for alteration of rights
15 that would change:

16 (a) the financial institution's obligations or rights under the contract of deposit; or

17 (b) the parties to a multiple-party account if the request is not signed by all of the parties to the
18 account.

19 ~~(2)(4)~~ (4) A right of survivorship arising from the express terms of the account, from 72-6-212, or from
20 a POD designation may not be altered by will."

21

22 **Section 5.** Section 72-6-226, MCA, is amended to read:

23 "**72-6-226. Discharge.** (1) Payment made pursuant to this part in accordance with the terms of
24 an account, or honoring a request for alteration of rights made in accordance with 72-6-213, discharges
25 the financial institution from all claims for amounts so paid or alterations so made, whether or not the
26 payment or alteration is consistent with the beneficial ownership of the account as between parties,
27 beneficiaries, or their successors. Payment or alteration may be made whether or not a party, beneficiary,
28 or agent is disabled, incapacitated, or deceased when payment or alteration is requested, received, or made.

29 (2) Protection under this section does not extend to payments or alterations made after a financial
30 institution has received written notice from a party, or from the personal representative, surviving spouse,

1 or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the
 2 account or alteration of rights, including ~~one~~ payments or alterations relating to an account having an
 3 agency designation, should not be permitted and after the financial institution has had a reasonable
 4 opportunity to act on the notice when the payment is made or the alteration is requested. Unless the notice
 5 is withdrawn by the person giving it, the successor of any deceased party shall concur in a request for
 6 payment or alteration if the financial institution is to be protected under this section. Unless a financial
 7 institution has been served with process in an action or proceeding, no other notice or other information
 8 shown to have been available to the financial institution affects its right to protection under this section.

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

12 (4) Protection of a financial institution under this section does not affect the rights of parties in
 13 disputes between themselves or their successors concerning the beneficial ownership of sums on deposit
 14 in accounts or payments made from accounts or regarding whether a request for an alteration of rights to
 15 an account was improper between the parties."

16

17 **Section 6.** Section 72-16-603, MCA, is amended to read:

18 **"72-16-603. Tax -- how apportioned.** (1) Except as provided in subsection (3) and unless the will
 19 or governing instrument otherwise provides, the tax ~~shall~~ must be apportioned among all persons interested
 20 in the estate. The apportionment is to be made in the proportion that the value of the interest of each
 21 person interested in the estate bears to the total value of the interests of all persons interested in the
 22 estate. The values used in determining the tax are to be used for that purpose.

23 (2) If the decedent's will or governing instrument directs a method of apportionment of tax different
 24 from the method described in this part, the method described in the will or governing instrument controls.

25 (3) If the liabilities of persons interested in the estate as described in this part differ from those
 26 ~~which~~ that result under the federal estate tax law, the liabilities imposed by the federal law control and the
 27 balance of this part applies as if the resulting liabilities had been prescribed in this part."

28

29 **Section 7.** Section 72-34-117, MCA, is amended to read:

30 **"72-34-117. Certain actions and transactions not violations of duties.** (1) The following actions

1 or transactions do not violate the duties provided in 72-34-103 or 72-34-105:

2 (a) The the provision of services for reasonable compensation by a regulated financial institution
3 or its affiliates in the ordinary course of business either to a trust of for which it or an affiliate also acts as
4 trustee or to a person dealing with the trust is not a violation of the duty provided in 72-34-103 or
5 72-34-105;

6 (b) the purchase or sale of investment securities between a regulated financial institution or its
7 affiliates in the ordinary course of business or to a trust for which it or an affiliate also acts as trustee.

8 (2) Subsection (1) does not affect the duty to use ordinary skill and prudence as provided in
9 72-34-114.

10 (3) For the purposes of this section, "affiliate" means a corporation that directly or indirectly
11 through one or more intermediaries controls, is controlled by, or is under common control with another
12 domestic or foreign corporation."

13 -END-

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 26 of ~~his~~ the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide
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3 guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract,
4 devise, trust, conservatorship, or custodianship. ~~He~~ The guardian also may receive money or property of
5 the ward paid or delivered by virtue of 72-5-104. Any sums ~~se~~ received ~~shall~~ must be applied to the ward's
6 current needs for support, care, and education. ~~He~~ The guardian ~~must~~ shall exercise due care to conserve
7 any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward,
8 in which case the excess ~~shall~~ must be paid ~~over~~ at least annually to the conservator. Sums ~~se~~ received
9 by the guardian ~~are~~ may not ~~to~~ be used for compensation for ~~his~~ the guardian's services except as approved
10 by an order of the court or as determined by a duly appointed conservator other than the guardian. A
11 guardian may institute proceedings to compel the performance by any person of a duty to support the ward
12 or to pay sums for the welfare of the ward.

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14 authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this
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16 been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of ~~his~~ the
17 ward.

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27 **PARTIES** [Name One or More Parties]:

28 **OWNERSHIP** [Select One and Initial]:

29 SINGLE-PARTY ACCOUNT

30 MULTIPLE-PARTY ACCOUNT

1 Parties own account in proportion to net contributions unless there is clear and convincing evidence
2 of a different intent. However, any one party may withdraw the entire amount on deposit in the
3 account. ~~Further, any one party may change the type terms of account.~~

4 CHANGING TERMS OF ACCOUNT [SELECT ONE AND EACH PARTY INITIAL]:

5 MULTIPLE-PARTY ACCOUNT'S TERMS MAY BE CHANGED BY A SINGLE PARTY

6 MULTIPLE-PARTY ACCOUNT'S TERMS MAY BE CHANGED ONLY BY AGREEMENT OF ALL PARTIES

7 RIGHTS AT DEATH [Select One and Initial]:

8 SINGLE-PARTY ACCOUNT

9 At death of party, ownership passes as part of party's estate.

10 SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

11 [Name One or More Beneficiaries]:

12
.....

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

14 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

15 At death of party, ownership passes to surviving parties.

16 MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH)
17 DESIGNATION

18 [Name One or More Beneficiaries]:

19
.....

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

22 MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

23 At death of party, deceased party's ownership passes as part of deceased party's estate.

24 AGENCY (POWER OF ATTORNEY) DESIGNATION

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

27 [To Add Agency Designation to Account, Name One or More Agents]:

28
.....

29 [Select One And Initial]:

30 AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

1 AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

2 (2) A contract of deposit that does not contain provisions in substantially the form provided in
3 subsection (1) is governed by the provisions of this part applicable to the type of account that most nearly
4 conforms to the depositor's intent."

5

6 **Section 4.** Section 72-6-213, MCA, is amended to read:

7 **"72-6-213. Alteration of rights.** (1) Rights at death under 72-6-212 are determined by the terms
8 of the account at the death of a party.

9 (2) Except as provided in subsection (3) and unless otherwise agreed in writing between the parties
10 to the account, The the terms of an account may be altered by written notice given by a party to the
11 financial institution to change the terms of account or to stop or vary payment under the terms of the
12 account. The notice must be signed by a party and received by the financial institution during the party's
13 lifetime.

14 (3) A financial institution may, in its discretion, refuse to honor a request for alteration of rights
15 that would change:

16 (a) the financial institution's obligations or rights under the contract of deposit; or

17 (b) the parties to a multiple-party account if the request is not signed by all of the parties to the
18 account.

19 ~~(2)(4)~~ A right of survivorship arising from the express terms of the account, from 72-6-212, or from
20 a POD designation may not be altered by will."

21

22 **Section 5.** Section 72-6-226, MCA, is amended to read:

23 **"72-6-226. Discharge.** (1) Payment made pursuant to this part in accordance with the terms of
24 an account, or honoring a request for alteration of rights made in accordance with 72-6-213, discharges
25 the financial institution from all claims for amounts so paid or alterations so made, whether or not the
26 payment or alteration is consistent with the beneficial ownership of the account as between parties,
27 beneficiaries, or their successors. Payment or alteration may be made whether or not a party, beneficiary,
28 or agent is disabled, incapacitated, or deceased when payment or alteration is requested, received, or made.

29 (2) Protection under this section does not extend to payments or alterations made after a financial
30 institution has received written notice from a party, or from the personal representative, surviving spouse,

1 or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the
 2 account or alteration of rights, including ~~one~~ payments or alterations relating to an account having an
 3 agency designation, should not be permitted and after the financial institution has had a reasonable
 4 opportunity to act on the notice when the payment is made or the alteration is requested. Unless the notice
 5 is withdrawn by the person giving it, the successor of any deceased party shall concur in a request for
 6 payment or alteration if the financial institution is to be protected under this section. Unless a financial
 7 institution has been served with process in an action or proceeding, no other notice or other information
 8 shown to have been available to the financial institution affects its right to protection under this section.

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

12 (4) Protection of a financial institution under this section does not affect the rights of parties in
 13 disputes between themselves or their successors concerning the beneficial ownership of sums on deposit
 14 in accounts or payments made from accounts or regarding whether a request for an alteration of rights to
 15 an account was improper between the parties."

16

17 **Section 6.** Section 72-16-603, MCA, is amended to read:

18 **"72-16-603. Tax -- how apportioned.** (1) Except as provided in subsection (3) and unless the will
 19 or governing instrument otherwise provides, the tax ~~shall~~ must be apportioned among all persons interested
 20 in the estate. The apportionment is to be made in the proportion that the value of the interest of each
 21 person interested in the estate bears to the total value of the interests of all persons interested in the
 22 estate. The values used in determining the tax are to be used for that purpose.

23 (2) If the decedent's will or governing instrument directs a method of apportionment of tax different
 24 from the method described in this part, the method described in the will or governing instrument controls.

25 (3) If the liabilities of persons interested in the estate as described in this part differ from those
 26 ~~which~~ that result under the federal estate tax law, the liabilities imposed by the federal law control and the
 27 balance of this part applies as if the resulting liabilities had been prescribed in this part."

28

29 **Section 7.** Section 72-34-117, MCA, is amended to read:

30 **"72-34-117. Certain actions and transactions not violations of duties.** (1) The following actions

1 or transactions do not violate the duties provided in 72-34-103 or 72-34-105:

2 (a) ~~The~~ the provision of services for reasonable compensation by a regulated financial institution
3 or its affiliates in the ordinary course of business either to a trust ~~of~~ for which it or an affiliate also acts as
4 trustee or to a person dealing with the trust ~~is not a violation of the duty provided in 72-34-103 or~~
5 ~~72-34-105;~~

6 (b) the purchase or sale of investment securities between a regulated financial institution or its
7 affiliates in the ordinary course of business or to a trust for which it or an affiliate also acts as trustee.

8 (2) Subsection (1) does not affect the duty to use ordinary skill and prudence as provided in
9 72-34-114.

10 (3) For the purposes of this section, "affiliate" means a corporation that directly or indirectly
11 through one or more intermediaries controls, is controlled by, or is under common control with another
12 domestic or foreign corporation."

13

-END-