Session Law 77-160
Florida Senate & House of Representatives

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<td>18/662</td>
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<td>5/3/77</td>
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A bill to be entitled

An act relating to banking, creating § 659.292, Florida Statutes, authorizing

convenience accounts, whereby a party may create a demand deposit account designating one or more other persons as agents with the right to withdraw funds from or draw checks on the account; providing for the payment of funds upon the death of the party creating the account; discharging a bank from liability for payments made under certain circumstances; providing the bank a right to set-off against the account; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 659.292, Florida Statutes, is created to read:

659.292 Convenience accounts.—

(1) "Convenience account" means a demand deposit account in the name of one individual (principal) in which one or more other individuals have been designated as agents with the right only to withdraw funds from or draw checks on such account. The designation of agents, the substitution or removal of agents, or any other change in the contractual terms or provisions governing a convenience account may be made only by the principal. Except as otherwise provided in this section, the agency relationship created under this account shall not be affected by the subsequent death or incompetence of the principal.

(2) All rights, interest and claims in, to, and in respect of said deposits and convenience account, and the additions thereto shall be that of the principal only.

(3) Any balance standing to the credit of a convenience account shall be paid to the guardian of the property of the principal, to any person designated in a court order entered pursuant to s. 735.206, to any person designated by letter or other writing as authorized by s. 735.301, or to the personal representative of the deceased principal's estate upon presentation of effective written notice and proof of judicial appointment of such guardian or personal representative by a court of competent jurisdiction. No such court order, letter, written notice, or proof of judicial appointment shall be effective until it is served upon and received by an officer of the bank at the banking house during regular banking hours and in such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to the happening of any of the events described in s. 674.303.

No other notice, knowledge, or information shown to have been available to a bank shall affect its right to the protection provided in this section.

(4) Payment by a bank pursuant to this section shall be a valid and sufficient release and discharge to the bank from all claims for payments so paid.

(5) Without qualifying any other right to set-off or lien and subject to any contractual provision, if the principal is indebted to the bank, the bank has a right to set-off against the account.

Section 2. This act shall take effect July 1, 1977.
HOUSE SUMMARY

Provides for a convenience account which is defined as a demand deposit account in the name of one individual, the principal, in which an agent or agents are designated to withdraw funds or draw checks on such account. Provides that all other rights, claims, and transactions shall belong to the principal only.

Provides for payment by a bank of any balance to certain guardians or personal representatives appointed by the court upon the death of the principal. Protects the bank for liability with respect to such payment.

Authorizes the bank to set-off against a convenience account if the principal is indebted to the bank.
**SUBCOMMITTEE REPORT**

**To Chairman, Committee on Commerce**

Subcommittee on Banking & Finance

Date of meeting May 3, 1977

Time 8:30 A.M.

Place Room 24 H.O.B.

**FINAL ACTION:**

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<tr>
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<td>x</td>
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<td>Favorable with Amendments</td>
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**Bill No. PCB #62**

**VOTE:**

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<tr>
<th>Yea</th>
<th>Member</th>
<th>Nay</th>
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<tr>
<td>X</td>
<td>REP. DAVIS</td>
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<tr>
<td>X</td>
<td>REP. GALLAGHER</td>
<td></td>
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<tr>
<td>A</td>
<td>REP. HILL</td>
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<tr>
<td>X</td>
<td>REP. PATTERSON</td>
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<tr>
<td>X</td>
<td>REP. LEWIS</td>
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Total Yea: 4

Total Nay: 0

**SUBCOMMITTEE APPEARANCE RECORD**

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
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(If additional persons, enter on reverse side and check here _ )

**NOTE:** Please indicate by an "X" any State employee appearing at the request of Subcommittee Chairman

Received by Parent Committee:
Date _

Received by _

H-74(1976)
<table>
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<tr>
<th>NAME</th>
<th>YES</th>
<th>NO</th>
<th>YES</th>
<th>NO</th>
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<tr>
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This bill provides for a convenience bank account which is defined as a demand deposit account in the name of one individual, the principal, in which an agent(s) is designated to withdraw funds or draw checks on the account. All rights, interests and claims with respect to such account shall belong to the principal only and not the agent(s).

In addition, a bank shall pay any balance to certain guardians or personal representatives appointed by the court when the principal dies. Banks are shielded from liability when making payments pursuant to the provisions of this bill.

Also, the bank is given a right of set-off against the account if the principal is indebted to the bank.

Present Situation

In major population centers, particularly where there are condominium and mobile home dwellers, the elderly want and need an arrangement at their banks where a friend can write checks in the event of an emergency.

Currently accounts opened in the name of two or more persons are presumed by statute (695.291) to be joint accounts with the right of survivorship unless expressly provided otherwise in the signature card or the presumption is overcome by clear and convincing proof of contrary intent. It is possible at this time to open a "convenience" type of account but it requires initiative on the part of the bank customer and a knowledge of the legal effects of certain types of accounts.
Many individuals mistakenly open joint accounts (where when the account holder dies the remains of the joint account go to the co-signor) when they really meant to open a "convenience" type of an account which this bill sets out.

Probable Effect and Legislative Intent

With a convenience account as created by this bill, the account holder can give a friend the authority to sign in an emergency. However, in the event of death the balance of the account remains the property of the holder's estate.
AGENDA

HB 1422 (Lewis, J.)--Operations of Drivein and Walkup Banking Facilities

HB 1421 (Lewis, J.)--Banking; Defining Contiguous Property

HB 1387 (Lewis, J.)--Banking; Defining Status of Branch or Separate Office

HB 1172 (Mixson)--Installment Sales

HB 1780 (Mixson)--Restricting Use of Musical Compositions

PCB #62--Convenience Accounts
COMMERCE COMMITTEE
May 3, 1977
Room 314 H.O.B.
10:30 A.M.

AGENDA

TAB 1  CS/HB 876 (Cherry) -- child labor
       CS/HB 423 (Healey) -- pharmacies
       HB 1660 (Hazelton) -- insurance investigators
       PCB #61 -- acupuncture
       HB 1257 (Richmond and Thompson) -- title insurance
       HB 94 (Hutto) -- unemployment compensation
       PCB #46 -- LP Gas
       HB 157 (Neal) -- workmen's compensation; occupational
diseases

TAB 2  PCB #50 -- life care facilities
       HB 1285 (Richard) -- insurance; products liability
       HB 1286 (Richard) -- professional liability insurance
       HB 1602 (Richard) -- insurance; premiums, income and
expenses

TAB 3  PCB #63 -- tax increment financing
       PCB #23 -- Banking-in-the-Sunshine

TAB 4  HB 1422 (Lewis, J.) -- operation of drive-in and
       walk-up banking facilities
       HB 1421 (Lewis, J.) -- banking; defining contiguous
property

Gerri Raines Dolan, Staff Director
310 House Office Building, Tallahassee, Florida 32304 (904) 488-2123
AGENDA CONTINUED.......

HB 1387 (Lewis, J.) -- banking; defining status of branch or separate office
HB 1172 (Mixson) -- installment sales
HB 1780 (Mixson) -- restricting use of musical compositions
PCB #62 -- convenience accounts
PCB #32 -- spreading of charges in the nature of interest

TAB 5
HB 1874 (Forbes) -- underground gas pipelines and related facilities
HB 1659 (Hazelton) -- creating a Florida State Group Insurance Commission

TAB 6
HB 448 (Mixson) -- insurance; public conveyances
HB 84 (Pajcic) -- policyholder security accounts

TAB 7
FOR REFERRAL TO SUBCOMMITTEES:
HB 318 (Bell) -- small business
HB 482 (Poole) -- insurance; annuity contracts
HB 1783 (Mixson) -- labor; unauthorized aliens
HB 1981 (Mixson) -- unauthorized aliens
HB 146 (Adams) -- state group health insurance; chiropractic benefits
HB 1162 (Mann) -- insurance; fraud
SB 37 (Holloway) -- insurance; traffic violations
HB 762 (Warner) -- consumer protection; retail sales
HB 1439 (Warner) -- sale of meat
HB 861 (Easley) -- unemployment compensation
HB 414 (Malloy) -- unemployment compensation
HB 945 (Haben) -- unemployment compensation
PCC #23 -

4 technical amend.

5th amendment - stockholder list public

Controller Lewis spoke against and #5

Chim. #6 - on creditors the bank or trust co.

Hayley moved to reconsider and vote

on And #5 again

on And #5 - failed adoption

Lewis and #7

pg 112

after registered "and every registered

failed bank holding company"

Bill adopted as amended
2. OS/1HB 876
Sucommitee amended
Ewing amend - adopted
Hide Amend (for Dr. Chery)
P4 L-16-25
Adopted as amended

3. HB 1285 - Richards - product liability
Rep. Richards 8-2

All 3

4. PCB 50
Adopted
HB 157 — passed as adopted amended
Pub 63 — tax increment — favor as amended

HB 1257 — Redmond — title in.

James Robinson - Am: Title Inv Co. - opponent
Wayne Lewis - "
Doug Harden - "
Mike Conway - "

O'Malley and #1 P3 12-13
favor / A
HB 1172 - favor 105

HB 1780 - as amended

HB 1458 - favor

PCB 62 - favor

HB 1422 - Lewis
Bob Marley

HB 1421
Bob Marley

HB 1387
Bob Marley

HB 1874 - under for favor

PCB 32
Passage and adopted
HB 84 - Pajic, Lewis and TP

PCB 32 reconsidered & left pending
Bill Warder - prop.

Motion to refer all under Tab 7 to appropriate sub.
Scotty Fraser

John French

Gary Conover - IL Chiropractic Assoc.

Amd # 9 9-10 < 30, 1-5

Jan/A

PCB 46 supplement
HB 1660 -

PCB 50 - Pattern - recaid -

+ Learn period
A bill to be entitled
An act relating to bank and trust companies;
creating s. 659.292, Florida Statutes;
authorizing convenience accounts, whereby a
party may create an account designating one or
more other persons as agent during his lifetime
with the right to withdraw or make payments
from the account; providing for the payment of
funds upon the death or disability of the party
creating the account; discharging a bank or
trust company from liability for payments made
under certain circumstances; providing the bank
or trust company a right to set-off against the
account; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 659.292, Florida Statutes, is
created to read:

659.292 Convenience accounts.--
(1) For purposes of this section, a "convenience
account" means an account in the name of one party in which
one or more other persons have been designated as agent during
the lifetime of the party and have or may have the right,
subject to authority of the party, to withdraw or make
payments from such account.

(2) A convenience account is, at all times, the
property of the party creating the account, and such an
account may be amended or terminated only by the party. The
agency created under such an account is not affected by the
subsequent disability of the party.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
(3) Any sums in a convenience account at the death or disability of the party shall be paid by the bank or trust company, on request, to the personal representative or guardian of the property of the party upon presentation of proof of judicial appointment.

(4) Payment by a bank or trust company pursuant to the terms of the account discharges the bank or trust company from all claims for amounts so paid. Such protection, however, does not extend to payments made after the bank or trust company has received written notice from the personal representative of the deceased party or the guardian of the property of the party that withdrawals in accordance with the terms of the account should not be permitted. No other notice or any other information shown to have been available to the bank or trust company shall affect its right to the protection provided under this subsection.

(5) Without qualifying any other statutory right to set-off or lien, and subject to any contractual provision, if the party to a convenience account is indebted to the bank or trust company, the bank or trust company has a right to set-off against the account.

Section 2. This act shall take effect October 1, 1977.

**************************************************

SENATE SUMMARY

Authorizes the use of convenience accounts by banks and trust companies, whereby a person designated as agent of the party whose name the account is in has authority to withdraw or make payments from the account during the party's lifetime. Ownership and control of the convenience account rest in the party; however, subsequent disability of the party does not affect the agency created. Additionally, upon death or disability of the party, any sums remaining in the account must be paid, on request, to the party's personal representative or guardian of the property upon presentation of proof of
judicial appointment. Discharges the bank or trust company for payments made in accordance with the terms of the account from all claims in the amount thereof, unless the bank or trust company received written notice from the personal representative or guardian of the property not to permit withdrawals in accordance with the terms of the account. Entitles the bank or trust company, to which a party to the convenience account is indebted, the right to set-off against the account.
DATE: April 18, 1977

BILL SUMMARY:

Provides statutory definition of convenience accounts, in which a depositor's agent may make payments or withdrawals from the depositor's bank account. Allows the depositor to terminate the agency. Provides for account money to be paid to the depositor's personal representative or guardian upon the depositor's death or incompetence.

II. PURPOSE:

A. Present Situation:

Currently, a person can authorize another person to make deposits or withdrawals from his account in three ways.

The first method involves a power of attorney given by the depositor to a designated person. The second method involves establishing a bank account in the names of the depositor and a designated person. The often unanticipated and unwanted result of this method is that upon death of the depositor, the survivor named on the account is the presumed owner of the account (s. 659.291, F.S.) The account money fails to go into the depositor's estate. Only proof of fraud, undue influence, or contrary intent of the deceased depositor can overcome the presumption.

"Totten" trusts involve a limited third method. One person may deposit money as trustee for another. Upon his death, the money goes to the estate of the person for whom deposits were made.

None of these methods adequately serves the depositor who wants his estate to control the deposited money upon his death, who does not understand a power of attorney, or who needs greater flexibility than the Totten trust.

Although sources indicate no statutory prohibition, banks have not offered convenience accounts. In addition, bank personnel usually are too unfamiliar with survivorship accounts or a power of attorney to explain their implications.

B. Effect on Present Situation:

This bill would provide a statutory definition of convenience accounts, in which a person may designate agents to make payments or withdrawals from his bank account without incurring the risk that the account money will be paid to an agent rather than the depositor's estate upon his death.

III. ECONOMIC CONSIDERATIONS:

Economic Impact: X Yes No
A. Economic Impact on the Public:

Deceased depositors' estates would control money that would have been paid to surviving persons named in the depositors' bank accounts if a survivorship account had been established. Estates would have to pay fewer legal fees to construe certain multiple-name bank accounts.

Banks would incur gear-up costs to offer convenience accounts. The exact amounts involved are unquantifiable.

B. Fiscal Impact on Implementing or Enforcing Agency:

None.

IV. COMMENTS:

Technical errors - none noted.
A bill to be entitled
An act relating to banks; creating s. 659.292, Florida Statutes; authorizing convenience accounts, whereby a party may create a demand deposit account designating one or more other persons as agent during his lifetime with the right to withdraw funds from or draw checks on the account; providing for the payment of funds upon the death or disability of the party creating the account; discharging a bank from liability for payments made under certain circumstances; providing the bank a right to set-off against the account; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 659.292, Florida Statutes, is created to read:

659.292 Convenience accounts.--

(1) Convenience account means a demand deposit account in the name of one individual (principal) in which one or more other individuals have been designated as agent with the right only to withdraw funds from or draw checks on such account. The designation of agents, the substitution or removal of agents or any other change in the contractual terms or provisions governing a convenience account may be made only by the principal. Except as otherwise provided in this section, the agency relationship created under this account shall not be affected by the subsequent death or incompetence of the principal.
(2) All rights, interest and claims in, to and in respect of, said deposits and convenience account and the additions thereto shall be that of the principal only.

(3) Any balance standing to the credit of a convenience account shall be paid to the guardian of the property of the principal, to any person designated in a court order entered pursuant to s. 735.206, to any person designated by letter or other writing as authorized by s. 735.301 or to the personal representative of the deceased principal's estate upon presentation of effective written notice and proof of judicial appointment of such guardian or personal representative by a court of competent jurisdiction. No such court order or letter, written notice or proof of judicial appointment shall be effective until it is served upon and received by an officer of the bank at the banking house during regular banking hours and in such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to the happening of any of the events described in s. 674.303. No other notice, knowledge or any other information shown to have been available to a bank shall affect its right to the protection provided in this section.

(4) Payment by a bank pursuant to this section shall be a valid and sufficient release and discharge to the bank from all claims for payments so paid.

(5) Without qualifying any other right to set-off or lien and subject to any contractual provision, if the principal is indebted to the bank, the bank has a right to set-off against the account.

Section 2. This act shall take effect July 1, 1977.
Specifies that the bill applies only to demand deposit bank accounts.
## BILL ACTION REPORT

(S) RM BILL NO. 593

COMMITTEE ON COMMERCE

DATE April 19, 1977

TIME 2:00 p.m. - 5:00 p.m.

PLACE Committee Room "A"

DATE REPORTED 4/20/77

FINAL ACTION:

___ Favorably with amendments

XX Favorably with Committee Substitute

___ Unfavorably

OTHER: ___ Temporarily Passed

Reconsidered

Not Considered

THE VOTE WAS:

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<td>SENATOR GALEN</td>
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<td>SENATOR WARE</td>
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<td>SENATOR WINN</td>
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<td>SENATOR CHILDERS (C)</td>
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7 0 TOTAL

Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared (XX)

A Senator appeared ( )

Sponsor's aide appeared ( )

Other appearance ( )

C3-75: File with Secretary of Senate
Bill No. and Sponsor: CS/SB 593 Senator Ware
Subject: Bank and trust companies

REFERENCES: Commerce

I. BILL SUMMARY:

Provides statutory definition of convenience accounts, in which a depositor's agent may withdraw funds from the depositor's demand deposit account. Allows the depositor to terminate the agency. Provides for account money to be paid to the depositor's personal representative or guardian upon the depositor's death or incompetence.

II. PURPOSE:

A. Present Situation:

Currently, a person can authorize another person to make deposits or withdrawals from his account in three ways.

The first method involves a power of attorney given by the depositor to a designated person. A power of attorney terminates upon a grantor's death. The second method involves establishing a bank account in the names of the depositor and a designated person. The often unanticipated and unwanted result of this method is that upon death of the depositor, the survivor named on the account is the presumed owner of the account (s. 659.291, F.S.). The account money fails to go into the depositor's estate. Only proof of fraud, undue influence, or contrary intent of the deceased depositor can overcome the presumption.

"Totten" trusts involve a limited third method. One person may deposit money as trustee for another. Upon his death, the money goes to the estate of the person for whom deposits were made.

None of these methods adequately serves the depositor who wants his estate to control the deposited money upon his death, who does not understand a power of attorney, or who needs greater flexibility than the Totten trust.

Although sources indicate no statutory prohibition, banks have not offered convenience accounts. In addition, bank personnel usually are too unfamiliar with survivorship accounts or a power of attorney to explain their implications.

B. Effect on Present Situation:

This bill would provide a statutory definition of convenience accounts, in which a person may designate agents to withdraw funds from his demand deposit account without incurring the risk that the account money will be paid to an agent rather than the depositor's estate upon his death. Unlike a power of attorney, the agency would not end upon the principal's death or incompetence. The principal's personal representative or guardian would have to notify the bank of his status before the bank would be liable for paying money at the agent's direction.

III. ECONOMIC CONSIDERATIONS:

Economic Impact: YES X NO
A. Economic Impact on the Public:

Deceased depositors' estates would control money that would have been paid to surviving persons named in the depositors' checking accounts if a survivorship account had been established. Estates would have to pay fewer legal fees to construe certain multiple-name bank accounts.

Banks would incur gear-up costs to offer convenience accounts. The exact amounts involved are unquantifiable.

B. Fiscal Impact on Implementing or Enforcing Agency:

None.

IV. COMMENTS:

Technical errors - none noted.
This bill provides for a convenience bank account which is defined as a demand deposit account in the name of one individual, the principal, in which an agent(s) is designated to withdraw funds or draw checks on the account. All rights, interests and claims with respect to such account shall belong to the principal only and not the agent(s).

In addition, a bank shall pay any balance to certain guardians or personal representatives appointed by the court when the principal dies. Banks are shielded from liability when making payments pursuant to the provisions of this bill.

Also, the bank is given a right of set-off against the account if the principal is indebted to the bank.

Present Situation

In major population centers, particularly where there are condominium and mobile home dwellers, the elderly want and need an arrangement at their banks where a friend can write checks in the event of an emergency.

Currently accounts opened in the name of two or more persons are presumed by statute (695.291) to be joint accounts with the right of survivorship unless expressly provided otherwise in the signature card or the presumption is overcome by clear and convincing proof of contrary intent. It is possible at this time to open a "convenience" type of account but it requires initiative on the part of the bank customer and a knowledge of the legal effects of certain types of accounts.
Many individuals mistakenly open joint accounts (where when the account holder dies the remains of the joint account go to the co-signor) when they really meant to open a "convenience" type of an account which this bill sets out.

Probable Effect and Legislative Intent

With a convenience account as created by this bill, the account holder can give a friend the authority to sign in an emergency. However, in the event of death the balance of the account remains the property of the holder's estate.