

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1590  
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Jurisprudence  
5/19/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Under current law, each party to a multiple-party account may use the funds in that account. For instance, one party could withdraw the entire balance and deposit the funds in his or her own personal account. In addition, a party to a multiple-party account cannot prevent the estate of a deceased party to the account from transferring to a survivor the sums needed to pay debts, taxes and the expenses of administration if other estate assets are insufficient.

A court decision in Kansas reported in a widely read banking trade publication raised the issue of whether a secured creditor of one party to a multiple-party account can seize the funds in that account to satisfy a lien against that party. It is generally understood in Texas that a secured creditor has this right. Any party to a multiple party account is authorized to pledge that account. C.S.H.B. 1590 provides that no multiple-party account will be effective against the claim of a secured creditor who has a lien on the account. This bill authorizes any party to a multiple-party account to pledge the account or otherwise create a security interest in the account. C.S.H.B. 1590 prohibits a convenience signer from pledging or otherwise creating a security interest in an account.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 442, Texas Probate Code, as follows:

Sec. 442. New heading: RIGHTS OF CREDITORS; PLEDGE OF ACCOUNT.  
Provides that no multiple-party account will be effective against the claim of a secured creditor who has a lien on the account. Authorizes a party to a multiple-party account to pledge the account or otherwise create a security interest in the account without the joinder of, as appropriate, a P.O.D. payee, a beneficiary, a convenience signer, or any other party to a joint account, regardless of whether there is a right of survivorship. Prohibits a convenience signer from pledging or otherwise creating a security interest in an account. Requires a secured creditor that is a financial institution the accounts of which are insured by the Federal Deposit Insurance Corporation to provide written notice of the pledge of the account to any other party to the account who did not create the security interest, not later than the 30th day after the date on which a security interest on a multiple-party account is perfected. Requires the notice to be sent by certified mail to any other party at the last address the party provided to the depository bank and provides that it is not required to be provided to a P.O.D. payee, a beneficiary, or a convenience signer.

SECTION 2. Effective date: September 1, 2003.  
Makes application of this Act prospective.