

THE LEGAL ASSISTANCE OFFICES OF
III CORPS, 1ST CAVALRY DIVISION, 4TH INFANTRY DIVISION (MECHANIZED)
FORT HOOD, TEXAS 76544

JOINT BANKING ACCOUNTS

I. WHAT IS A JOINT BANK ACCOUNT?

A joint banking account may be either a checking, savings, money market, or individual retirement account (IRA) held by more than one person, which allows all account holders to access the account. An account may use either the word “and” or “or” between the names of the joint account holders. When “and” is used, both account holders must sign a check to be valid. If “or” is used, any joint account holder may individually sign a valid check.

II. SHOULD I OPEN A JOINT ACCOUNT?

A. Advantages.

1. **Access to funds** - A joint account holder has access to the account and may pay bills, withdraw or deposit funds, even when you are unable because of deployment or illness.
2. **Probate not necessary** - If a “right of survivorship” is expressed, joint account holders will also have access to the account upon the death of one of the joint account holders, instead of waiting until a probate court resolves ownership issues.
3. **Power of attorney not necessary** - A joint account holder on an account which allows either holder to sign checks, may withdraw from the account or deposit funds into the account without a power of attorney.

B. Disadvantages.

1. **Creditors’ access to funds** - A business or individual with a court ordered judgment against any joint account holder may be able to seize money held in the account, even if other joint account holders are not a party to the law suit.
2. **Divorce/Separation issues** - Under an account were either holder may withdraw funds, one joint account holder may withdraw all funds without the knowledge or consent of other account holders. This often occurs when joint account holders are divorcing or when the holders disagree on how the money is being used. The bank will not be responsible for this withdraw because a joint account authorizes either holder to withdraw all funds with the implicit authority of the other holder.

3. **May be inconsistent with provisions of will** - If a “right of survivorship” is expressed for the joint account, the ownership of the account, with all funds, will pass immediately upon death to the remaining account holders. This occurs even if the deceased had a provision in his/her will requiring the money to be used for other purposes.

III. WHAT ARE “JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP”?

The language “joint tenants with rights of survivorship” must be included on the account under Texas law. What this means is that if one of the joint account holders dies, the remaining account holders automatically have interest and possession of the account as if the deceased account holder never existed. The funds in the account belong to the joint account holders even if the deceased had a contrary intention in his will.

FOR ADDITIONAL INFORMATION CONTACT THE LEGAL ASSISTANCE OFFICES ON FORT HOOD: III Corps, Building 1001, Room C224, 287-7901/3199; 1st Cavalry Division, Building 28000, Room 1155, 287-6060; 4th Infantry Division (Mech), Building 410, Room 175, 287-1850.