

2021 Regular Session

SENATE BILL NO. 100

BY SENATOR REESE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BANKS/BANKING. Provides liability protection for federally insured depository institutions and mutual associations that transfer money or property by relying on small succession affidavits. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 6:767(F) and 768(D) and (E) and Code of Civil Procedure Art.  
3 3434(A) and (B), and to enact R.S. 6:325(E), 767(G), and 768(F), relative to banks,  
4 mutual associations and savings banks; to provide relative to an affidavit for small  
5 successions; to provide for access and transfer of the contents of a safety deposit box  
6 by a bank, mutual association, or a savings bank to a succession representative heir  
7 or legatee; to provide for access and transfer of money and property by a bank,  
8 mutual association, or a savings bank to a succession representative heir or legatee;  
9 to provide liability protection for certain entities; to provide certain terms,  
10 conditions, and procedures; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 6:767(F) and 768(D) and (E) are hereby amended and reenacted, and  
13 R.S. 6:325(E), 767(G), and 768(F) are hereby enacted to read as follows:

14 §325. Death of a customer and access and transfer of contents of safety deposit  
15 boxes, money, and other property by bank to succession  
16 representatives, legatees, or heirs; authority

17 \* \* \*

1           E. A small succession affidavit authorized by Title V of Book IV of the  
2           Louisiana Code of Civil Procedure shall constitute full and sufficient authority  
3           for the payment or delivery of any money or property, including property held  
4           in a safety deposit box, of the deceased customer described in the affidavit to the  
5           heirs or legatees of the deceased customer and the surviving spouse in  
6           community, if any, in the percentages listed therein, by the bank having such  
7           money or property in its possession or under its control. The transfer of the  
8           money or delivery of property identified in the affidavit to the persons named  
9           in the affidavit constitutes a full release and discharge for the payment of money  
10           or delivery of property and any creditor, heir, legatee, succession  
11           representative, or other person whatsoever shall have no right or cause of action  
12           against the bank paying the money or delivering the property pursuant to the  
13           provisions of this Subsection on account of the payment, delivery, or transfer.

\* \* \*

15 §767. Death of member or depositor and access and transfer of money and property  
16           by association to succession representatives, legatees, or heirs;  
17           authority

\* \* \*

19           F. A small succession affidavit authorized by Title V of Book IV of the  
20           Louisiana Code of Civil Procedure shall constitute full and sufficient authority  
21           for the payment or delivery of any money or property, including property held  
22           in a safety deposit box, of the deceased customer described in the affidavit to the  
23           heirs or legatees of the deceased customer and the surviving spouse in  
24           community, if any, in the percentages listed therein, by the association having  
25           such money or property in its possession or under its control. The transfer of  
26           the money or delivery of property identified in the affidavit to the persons  
27           named in the affidavit constitutes a full release and discharge for the payment  
28           of money or delivery of property and any creditor, heir, legatee, succession  
29           representative, or other person whatsoever shall have no right or cause of action

1 against the association paying the money or delivering the property pursuant  
2 to the provisions of this Subsection on account of the payment, delivery, or  
3 transfer.

4 G. Any association may pay to the surviving spouse the value of any savings  
5 or demand account or shares standing in the name of the decedent in such association  
6 without authorization by any court proceeding, order, or judgment, whether the  
7 savings account or shares belong to the separate estate of the decedent or to the  
8 community property regime which existed between the decedent and the surviving  
9 spouse, subject to the provisions of R.S. 9:1513.

10 §768. Transfer of contents of safety deposit boxes by an association to succession  
11 representatives, legatees, heirs, minors, or interdicts; authority

12 \* \* \*

13 D. A small succession affidavit authorized by Title V of Book IV of the  
14 Louisiana Code of Civil Procedure shall constitute full and sufficient authority  
15 for the payment or delivery of any money or property, including property held  
16 in a safety deposit box, of the deceased customer described in the affidavit to the  
17 heirs or legatees of the deceased customer and the surviving spouse in  
18 community, if any, in the percentages listed therein, by the association having  
19 such money or property in its possession or under its control. The transfer of  
20 the money or delivery of property identified in the affidavit to the persons  
21 named in the affidavit constitutes a full release and discharge for the payment  
22 of money or delivery of property and any creditor, heir, legatee, succession  
23 representative, or other person whatsoever shall have no right or cause of action  
24 against the association paying the money or delivering the property pursuant  
25 to the provisions of this Subsection on account of the payment, delivery, or  
26 transfer.

27 E. Upon proper authority, an association may transfer the contents of a safety  
28 deposit box belonging to an interdict or a minor to the legal representative of such  
29 interdict or minor. The letters issued to the legal representative by a court of

1 competent jurisdiction shall constitute proper authority for making the transfer,  
2 which when so made and receipted for, shall be full protection to the association.

3 ~~E.F.~~ Conclusive proof to the association of the letters testamentary, letters of  
4 administration, or letters of independent administration of the succession  
5 representative, or of the judgment of possession, and of the jurisdiction of the court  
6 rendering them, shall be as provided in R.S. 6:325(D).

7 Section 2. Code of Civil Procedure Art. 3434(A) and (B) are hereby amended and  
8 reenacted to read as follows:

9 Art. 3434. Endorsed copy of affidavit authority for delivery of property

10 A. A multiple original of the affidavit authorized by Article 3432 **or 3432.1**,  
11 shall be full and sufficient authority for the payment or delivery of any money or  
12 property of the deceased described in the affidavit to the heirs **or legatees** of the  
13 deceased and the surviving spouse in community, if any, in the percentages listed  
14 therein, by any ~~bank~~, **federally insured depository institution**, financial institution,  
15 trust company, warehouseman, or other depository, or by any person having such  
16 property in his possession or under his control. Similarly, a multiple original of an  
17 affidavit satisfying the requirements of this Article shall be full and sufficient  
18 authority for the transfer to the heirs **or legatees** of the deceased, and surviving  
19 spouse in community, if any, or to their assigns, of any stock or registered bonds in  
20 the name of the deceased and described in the affidavit, by any domestic or foreign  
21 corporation.

22 B. The receipt of the persons named in the affidavit as heirs **or legatees** of  
23 the deceased, or surviving spouse in community thereof, constitutes a full release and  
24 discharge for the payment of money or delivery of property made under the  
25 provisions of this Article. Any creditor, heir, **legatee**, succession representative, or  
26 other person whatsoever shall have no right or cause of action against the person  
27 paying the money, or delivering the property, or transferring the stock or bonds,  
28 under the provisions of this Article, on account of such payment, delivery, or  
29 transfer.

1 \* \* \*

2 Section 3. This Act shall become effective upon signature by the governor or, if not  
3 signed by the governor, upon expiration of the time for bills to become law without signature  
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
6 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Elizabeth O'Quin.

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DIGEST

SB 100 Engrossed                      2021 Regular Session                      Reese

Present law provides that for all purposes, a bank may deal with a safety deposit box or money, on deposit or otherwise, and any other property in a bank's possession titled in the name of a deceased customer in accordance with its contract with its deceased customer until the bank receives notice in writing, specifically addressed to it, of the death of its customer.

Proposed law provides that a small succession affidavit authorized by law, shall constitute full and sufficient authority for the payment or delivery of any money or property, including property held in a safety deposit box, of the deceased customer described in the affidavit to the heirs or legatees of the deceased customer and the surviving spouse in community, if any, in the percentages listed therein, by the bank having such money or property in its possession or under its control.

Proposed law provides that the transfer of the money or delivery of property identified in the affidavit to the persons named in the affidavit constitutes a full release and discharge for the payment of money or delivery of property and any creditor, heir, legatee, succession representative, or other person whatsoever shall have no right or cause of action against the bank paying the money or delivering the property in accordance with law on account of such payment, delivery, or transfer.

Present law provides that for all purposes, a mutual association may deal with money, on deposit or otherwise, held by an association in a savings account, demand account, deposit account, share account, and with any other property titled in the name of its deceased member or depositor in accordance with its contract with the deceased member or depositor until the association receives notice in writing, specifically addressed to it, of the death of the member or depositor.

Proposed law provides that a small succession affidavit authorized by law shall constitute full and sufficient authority for the payment or delivery of any money or property, including property held in a safety deposit box, of the deceased customer described in the affidavit to the heirs or legatees of the deceased customer and the surviving spouse in community, if any, in the percentages listed therein, by the mutual association having such money or property in its possession or under its control on account of such payment, delivery, or transfer.

Proposed law provides that the transfer of the money or delivery of property identified in the affidavit to the persons named in the affidavit constitutes a full release and discharge for the payment of money or delivery of property and any creditor, heir, legatee, succession representative, or other person whatsoever shall have no right or cause of action against the association paying the money or delivering the property in accordance with law on account

of such payment, delivery, or transfer.

Present law provides that for all purposes, a mutual association may deal with safety deposit boxes and the contents therein titled in the name of a deceased customer, in accordance with its contract with its customer, until the association receives notice in writing specifically addressed to it of the death of its customer.

Proposed law provides that a small succession affidavit authorized by law, shall constitute full and sufficient authority for the payment or delivery of any money or property, including property held in a safety deposit box, of the deceased customer described in the affidavit to the heirs or legatees of the deceased customer and the surviving spouse in community, if any, in the percentages listed therein, by the mutual association having such money or property in its possession or under its control.

Proposed law provides that the transfer of the money or delivery of property identified in the affidavit to the persons named in the affidavit constitutes a full release and discharge for the payment of money or delivery of property and any creditor, heir, legatee, succession representative, or other person whatsoever shall have no right or cause of action against the association paying the money or delivering the property in accordance with law account of such payment, delivery, or transfer.

Present law provides that a multiple original of an affidavit for small successions shall be full and sufficient authority for the payment or delivery of any money or property of the deceased in the affidavit to the heirs of the deceased and the surviving spouse in community, if any, in the percentages listed therein, by any bank, financial institution, trust company, warehouseman, or other depository, or by any person having such property in his possession or under his control. Provides a multiple original of the affidavit shall be full and sufficient authority for the transfer to the heirs of the deceased, and surviving spouse in community, if any, or to their assigns, of any stock or registered bonds in the name of the deceased and described in the affidavit, by any domestic or foreign corporation.

Proposed law provides a multiple original of an affidavit for small successions for a person who died testate as sufficient authority for the payment or delivery of any money or property of the deceased to the heirs or legatees of the deceased and the surviving spouse in community by certain persons as provided by present law.

Proposed law changes the term "bank" to "federally insured depository institution" and provides that, in addition to the heirs and surviving spouse, money or property may be delivered to a legatee in accordance with present law.

Present law provides that the receipt of the persons named in the affidavit as heirs of the deceased, or surviving spouse in community, constitutes a full release and discharge for the payment of money or delivery of property as provided by present law. Provides that any creditor, heir, succession representative, or other person whatsoever shall have no right or cause of action against the person paying the money, or delivering the property, or transferring the stock or bonds, on account of such payment, delivery, or transfer.

Proposed law includes a legatee is subject to the full release and discharge for the payment of money or delivery of property as provided by present law. Provides that a legatee shall have no right or cause of action against the person paying the money, or delivering the property, or transferring the stock or bonds, on account of such payment, delivery, or transfer.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 6:767(F) and 768(D) and (E) and C.C.P. Art. 3434(A) and (B); adds R.S. 6:325(E), 767(G), and 768(F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.