

SENATE BILL NO. 100

BY SENATOR REESE

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

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

E. A small succession affidavit authorized by Title V of Book IV of the Louisiana Code of Civil Procedure 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

1 community, if any, in the percentages listed therein, by the bank having such
 2 money or property in its possession or under its control. The transfer of the
 3 money or delivery of property identified in the affidavit to the persons named
 4 in the affidavit constitutes a full release and discharge for the payment of money
 5 or delivery of property and any creditor, heir, legatee, succession
 6 representative, or other person whatsoever shall have no right or cause of action
 7 against the bank paying the money or delivering the property pursuant to the
 8 provisions of this Subsection on account of the payment, delivery, or transfer.

9 * * *

10 §767. Death of member or depositor and access and transfer of money and property
 11 by association to succession representatives, legatees, or heirs;
 12 authority

13 * * *

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

28 G. Any association may pay to the surviving spouse the value of any savings
 29 or demand account or shares standing in the name of the decedent in such association
 30 without authorization by any court proceeding, order, or judgment, whether the

1 savings account or shares belong to the separate estate of the decedent or to the
2 community property regime which existed between the decedent and the surviving
3 spouse, subject to the provisions of R.S. 9:1513.

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

6 * * *

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

21 **E.** Upon proper authority, an association may transfer the contents of a safety
22 deposit box belonging to an interdict or a minor to the legal representative of such
23 interdict or minor. The letters issued to the legal representative by a court of
24 competent jurisdiction shall constitute proper authority for making the transfer,
25 which when so made and receipted for, shall be full protection to the association.

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

30 Section 2. Code of Civil Procedure Art. 3434 is hereby amended and reenacted to

1 read as follows:

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

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

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

23 C.(1) A multiple original of the affidavit, to which has been attached a
24 certified copy of the deceased's death certificate, shall be recorded in the conveyance
25 records in the office of the clerk of court in the parish where any immovable property
26 described therein is situated, after at least ninety days have elapsed from the date of
27 the deceased's death.

28 (2) An affidavit so recorded, or a certified copy thereof, shall be admissible
29 as evidence in any action involving immovable property to which it relates or is
30 affected by the instrument, and shall be prima facie evidence of the facts stated

1 therein, including the relationship to the deceased of the parties recognized as heir,
2 legatee, surviving spouse in community, or usufructuary as the case may be, and of
3 their rights in the immovable property of the deceased.

4 (3) An action by a person, who claims to be a successor of a deceased
5 person, but who has not been recognized as such in an affidavit authorized by Article
6 3432 or 3432.1, to assert an interest in property formerly owned by the deceased,
7 against a third person who has acquired an interest in the property, or against his
8 successors by onerous title, is prescribed two years from the date of the recording of
9 the affidavit in accordance with this Paragraph.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____