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LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (2) of section
655.059, Florida Statutes, is amended to read:

655.059 Access to books and records; confidentiality;
penalty for disclosure.—

(2)

(b) The books and records pertaining to trust accounts and



176592

the deposit accounts and loans of depositors, borrowers, members, and stockholders of any financial institution shall be kept confidential by the financial institution and its directors, officers, and employees and may not be released except upon express authorization of the account holder as to her or his own accounts, loans, or voting rights. However, information relating to any loan made by a financial institution may be released without the borrower's authorization in a manner prescribed by the board of directors for the purpose of meeting the needs of commerce and for fair and accurate credit information. Information may also be released, without the authorization of a member or depositor but in a manner prescribed by the board of directors, to verify or corroborate the existence or amount of a customer's or member's account when such information is reasonably provided to meet the needs of commerce and to ensure accurate credit information. In addition, a financial institution, affiliate, and its subsidiaries, and any holding company of the financial institution or subsidiary of such holding company, may furnish to one another information relating to their customers or members, subject to the requirement that each corporation receiving information that is confidential maintain the confidentiality of such information and not provide or disclose such information to any unaffiliated person or entity. Notwithstanding this paragraph, this subsection does not prohibit:

1. A financial institution from disclosing financial information as referenced in this subsection as authorized by Pub. L. No. 106-102 (1999), as set forth in 15 U.S.C.A. s. 6802, as amended.



176592

2. The Florida office of the international banking corporation or international trust entity from sharing books and records under this subsection with the home-country supervisor in accordance with subsection (1).

3. A financial institution from disclosing, pursuant to s. 655.795, the existence of and amounts on deposit in any qualified accounts of a decedent, and providing a copy of any affidavit delivered to the financial institution pursuant thereto, to persons authorized to receive such information under s. 655.795.

Section 2. Section 655.795, Florida Statutes, is created to read:

655.795 Payment to successor without court proceedings.—

(1) As used in this section, the term:

(a) "Authorized family member" means:

1. The surviving spouse of the decedent;

2. If the decedent did not leave a surviving spouse, an adult child of the decedent;

3. If the decedent did not leave a surviving spouse or a surviving adult child, an adult descendant of the decedent; or

4. If the decedent did not leave a surviving spouse, an adult child, or an adult descendant, the parent of the decedent.

(b) "Family members of the decedent" means:

1. The surviving spouse of the decedent;

2. If there is no surviving spouse, or if any of the children of the decedent are not also children of the surviving spouse, the living children of the decedent, and the living descendants of any deceased child of the decedent; or

3. If there is no surviving spouse or living descendants of



176592

the decedent, the living parents of the decedent.

(c) "Qualified account" means a depository account or certificate of deposit held in the sole name of the decedent without a pay-on-death or any other survivor designation.

(2) A financial institution in this state may pay to the authorized family member of a decedent, without any court proceeding, order, or judgment, the funds on deposit in all qualified accounts of the decedent at the financial institution if the total amount of the combined funds in the qualified accounts at that financial institution do not exceed \$10,000. The financial institution may not make such payment earlier than 2 years after the date of the decedent's death.

(3) In order to receive the funds, the authorized family member must provide the financial institution with a certified copy of the decedent's death certificate and a sworn affidavit that includes all of the following:

(a) A statement attesting that the affiant is the surviving spouse, adult child, adult descendant, or parent of the decedent.

1. If the affiant is an adult child of the decedent, the affidavit must attest that the decedent left no surviving spouse.

2. If the affiant is an adult descendant of the decedent, the affidavit must attest that the decedent left no surviving spouse or adult children.

3. If the affiant is a parent of the decedent, the affidavit must attest that the decedent left no surviving spouse, adult children, or adult descendants.

(b) The date of death and the address of the last residence



176592

98 of the decedent.

99 (c) A statement attesting that the total amount in all
100 qualified accounts held by the decedent with any financial
101 institution known to the affiant does not exceed \$10,000.

102 (d) A statement acknowledging that a personal
103 representative has not been appointed to administer the
104 decedent's estate and stating that no probate proceeding or
105 summary administration procedure has been commenced with respect
106 to the estate.

107 (e) A statement identifying the name of each of the family
108 members of the decedent and that the notarized written consent
109 of each other family member of the decedent is attached. The
110 natural parent or guardian of any person who is a minor may give
111 consent on behalf of such person.

112 (f) A statement acknowledging that the affiant has no
113 knowledge of the existence of any last will and testament or
114 other document or agreement relating to the distribution of the
115 estate of the decedent.

116 (g) A statement acknowledging that the payment of the funds
117 constitutes a full release and discharge of the financial
118 institution's obligation regarding the amount paid.

119 (h) A statement acknowledging that the affiant understands
120 that he or she is personally liable to the persons rightfully
121 entitled to the funds under the Florida Probate Code, to the
122 extent that the amount paid exceeds the amount properly
123 attributable to the affiant's share.

124 (i) A statement acknowledging that the affiant understands
125 that making a false statement in the affidavit may be punishable
126 as a criminal offense.



176592

(4) The authorized family member may use an affidavit in substantially the following form to fulfill the requirements of subsection (3):

AFFIDAVIT UNDER SECTION 655.795, FLORIDA STATUTES, TO OBTAIN BANK PROPERTY OF DECEASED ACCOUNTHOLDER: ... (Name of decedent)...

State of

County of

Before the undersigned authority personally appeared ... (name of affiant) ..., of ... (residential address of affiant) ..., who has been sworn and says the following statements are true:

(a) The affiant is (initial one of the following responses):

.... The surviving spouse of the decedent.

.... A surviving adult child of the decedent, and the decedent left no surviving spouse.

.... A surviving adult descendant of the decedent, and the decedent left no surviving spouse and no surviving adult children.

.... A surviving parent of the decedent, and the decedent left no surviving spouse, no surviving adult children, and no surviving adult descendant.

(b) As shown in the certified death certificate, the date of death of the decedent was ... (date of death) ..., and the address of the decedent's last residence was ... (address of last residence)

(c) The affiant is entitled to payment of the funds in the



176592

decedent's depository accounts and certificates of deposit held
by the financial institution ...(name of financial
institution).... The total of qualified accounts held by the
decedent in all financial institutions known to the affiant does
not exceed an aggregate total of \$10,000. The affiant requests
full payment from the financial institution.

(d) A personal representative has not been appointed to
administer the decedent's estate and no probate proceeding or
summary administration procedure has been commenced with respect
to the estate.

(e) The affiant has been provided with and has read the
provisions s. 655.795, Florida Statutes, and (initial one of the
following responses):

.... There are no family members of the decedent other than
affiant.

.... The family members of the decedent are ...(identify by
name).... Notarized letters from all of the family members of
the decedent other than the affiant consenting to the affiant's
funds withdrawal are attached.

(f) The affiant has no knowledge of any last will and
testament or other document or agreement relating to the
distribution of decedent's estate.

(g) The payment of the funds constitutes a full release and
discharge of the financial institution for the amount paid.

(h) The affiant understands that he or she is personally
liable to the persons rightfully entitled to the funds under the
Florida Probate Code, to the extent that the amount paid exceeds
the amount properly attributable to the affiant's share.

(i) The affiant understands that making a false statement



176592

in this affidavit may be punishable as a criminal offense.

By ...(signature of Affiant)...

Sworn to and subscribed before me this day of
.... by ...(name of Affiant)..., who is personally
known to me or produced as identification, and
did take an oath.

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary
Public)...

My commission expires: ...(date of expiration of
commission)...

(5) The financial institution is not required to determine
whether the contents of the sworn affidavit are truthful. The
payment of the funds by the financial institution to the affiant
constitutes the financial institution's full release and
discharge for the amount paid. A person does not have a right or
cause of action against the financial institution for taking any
action, or for failing to take an action, in connection with the
affidavit or the payment of the funds.

(6) The authorized family member who withdraws the funds
under this section is personally liable to any persons
rightfully entitled to the funds under the Florida Probate Code,
to the extent that the amount paid exceeds the amount properly
attributable to the authorized family member's share.

(7) The financial institution shall maintain a copy or an
image of the affidavit for a period of 7 years after releasing



176592

the funds. If a family member of the decedent requests a copy of the affidavit during such time, the financial institution may provide a copy of the affidavit to the requesting family member of the decedent.

(8) Upon presentation of a decedent's death certificate to a financial institution not less than 2 years after the date of death of the decedent, the financial institution may release the existence of and amounts contained in any qualified account of the decedent at the financial institution to the following persons:

1. A surviving spouse who presents a copy of a marriage certificate evidencing the spouse's marriage to the decedent; or

2. An adult child of the decedent who presents a copy of a birth certificate evidencing that the decedent is the parent of the adult child.

(9) In addition to any other penalty provided by law, a person who knowingly makes a false statement in a sworn affidavit given to a financial institution to receive a decedent's funds under this section commits theft, punishable as provided in s. 812.014.

Section 3. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to bank property of deceased
accountholders; amending s. 655.059, F.S.; specifying



176592

that a financial institution is not prohibited from disclosing specified information to certain persons relating to deceased account holders; creating s. 655.795, F.S.; defining terms; authorizing a financial institution to pay to the authorized family member of a decedent depositor, without any court proceeding, order, or judgment authorizing the payment and not earlier than a specified time, the funds in the decedent's qualified accounts if the sum does not exceed a specified amount; requiring the authorized family member to provide the financial institution a certified copy of the decedent's death certificate and a specified affidavit in order to receive the funds; providing an affidavit form the authorized family member may use; providing that the financial institution has no duty to make certain determinations; specifying a person does not have a right or cause of action against a financial institution for certain actions or for failing to take certain actions; providing liability for authorized family members; requiring a financial institution to maintain a copy or image of the affidavit for a specified time; authorizing the financial institution to provide copies of the affidavit to certain persons; authorizing a financial institution to release certain information bank accounts under certain circumstances; providing a criminal penalty; providing an effective date.