

By Senator Garcia

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1 A bill to be entitled
2 An act relating to financial institution payments to
3 surviving successors; creating s. 655.795, F.S.;
4 authorizing a financial institution to pay to the
5 surviving successor of a decedent depositor, without
6 any court proceedings, order, or judgment authorizing
7 the payment, the funds in the decedent's deposit
8 accounts and certificates of deposit if the sum does
9 not exceed a specified amount; providing that the
10 financial institution has no duty to make certain
11 determinations; defining the term "surviving
12 successor"; requiring the surviving successor to
13 provide a certified copy of the decedent's death
14 certificate and a specified affidavit to the financial
15 institution; providing construction relating to
16 liability and indemnification; providing an affidavit
17 form that the surviving successor may use; providing
18 construction relating to any conflict with the Florida
19 Probate Code; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 655.795, Florida Statutes, is created to
24 read:

25 655.795 Payment to successor without court proceedings.—
26 (1)(a) A financial institution in this state may pay to a
27 surviving successor of a decedent, without any court
28 proceedings, order, or judgment authorizing the payment, the
29 funds on deposit in all deposit accounts and certificates of

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30 deposit if the total amount standing to the credit of the
31 decedent in the financial institution does not exceed \$10,000.
32 The financial institution has no duty to determine whether the
33 funds belong to the separate estate of the decedent or to the
34 community that existed between the decedent and any surviving
35 spouse.

36 (b) For purposes of this section, the term "surviving
37 successor" means:

- 38 1. The surviving spouse of the decedent;
39 2. If the decedent did not leave a surviving spouse, any
40 adult child of the decedent; or
41 3. If the decedent did not leave a surviving spouse or any
42 adult children, the mother or father of the decedent.

43 (c) The surviving successor shall provide the financial
44 institution a certified copy of the decedent's death certificate
45 and an affidavit that includes all of the following:

46 1. A statement attesting that the surviving successor is
47 the surviving spouse, adult child, or parent of the decedent. In
48 the case of an adult child, the affidavit must attest that the
49 decedent left no surviving spouse. In the case of a parent, the
50 affidavit must attest that the decedent left no surviving spouse
51 or adult children.

52 2. The date of death and the address of the last residence
53 of the decedent.

54 3. A statement attesting that the total amount on deposit
55 with the financial institution does not exceed \$10,000.

56 4. A statement acknowledging that the payment of the funds
57 constitutes a full release and discharge of the financial
58 institution for the amount paid and that the surviving successor

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59 indemnifies the financial institution against claims; demands;
 60 expenses, including attorney fees and court costs; losses; or
 61 damages incurred by the financial institution for taking any
 62 action, or failing to take an action, in connection with the
 63 disbursement of the funds.

64 (d) The payment of funds by the financial institution to
 65 the surviving successor constitutes a full release and discharge
 66 of the financial institution for the amount paid. A person,
 67 natural or juridical, does not have any right or cause of action
 68 against a financial institution because of the payment, and the
 69 surviving successor shall indemnify and hold harmless the
 70 financial institution against claims; demands; expenses,
 71 including attorney fees and court costs; losses; or damages
 72 incurred by the financial institution for taking any action, or
 73 failing to take an action, in connection with the affidavit and
 74 the disbursement of the funds.

75 (e) The surviving successor is answerable to any person
 76 prejudiced by an improper distribution, including any personal
 77 representative or other fiduciary acting on behalf of the
 78 decedent or the estate of the decedent, or any beneficiary of
 79 the decedent.

80 (2) The surviving successor may use the following affidavit
 81 form to fulfill the requirements of paragraph (1)(c):

82
 83 AFFIDAVIT UNDER SECTION 655.795, FLORIDA STATUTES, TO OBTAIN
 84 BANK PROPERTY OF DECEASED ACCOUNTHOLDER: ... (Name of
 85 deceased) ...
 86 State of
 87 County of

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I, ...(affiant's printed full name)... of ...(affiant's residential address)..., being first duly sworn, on oath deposes and states (initial one response):

1. I am the surviving spouse of the deceased. I am a surviving adult child of the deceased, and the deceased left no surviving spouse.

.... I am a surviving parent of the deceased, and the deceased left no surviving spouse or adult children.

2. As shown in the certified death certificate, the date of death was

3. The last address of the deceased was

4. I certify that I am entitled to payment of the deceased's deposit accounts (the "Funds") held by the following financial institution: ...(the "Financial Institution")..., which amount does not cumulatively exceed \$10,000. I hereby request full payment from the Financial Institution.

5. The payment of the Funds constitutes a full release and discharge of the Financial Institution for the amount paid.

6. I, individually and as the affiant, agree to indemnify the Financial Institution and hold it free and harmless from any and all claims; demands; expenses, including attorney fees and court costs; losses; or damages incurred by the Financial Institution for any action taken, or failure to take an action, in connection with this Affidavit and disbursing the Funds to me or as instructed by me.

By ...(signature of affiant)...

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

121
 122 ...(name of notary public)...

123 Notary Public

124 My Commission Expires:

125 ...(date of expiration of commission)...

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 127 (3) In the event of a conflict between this section and the
 128 Florida Probate Code, this section supersedes the conflicting
 129 provision of the Florida Probate Code.

130 Section 2. This act shall take effect July 1, 2018.