



176592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2019	.	
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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



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

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



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

44 3. A financial institution from disclosing, pursuant to s.
45 655.795, the existence of and amounts on deposit in any
46 qualified accounts of a decedent, and providing a copy of any
47 affidavit delivered to the financial institution pursuant
48 thereto, to persons authorized to receive such information under
49 s. 655.795.

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

52 655.795 Payment to successor without court proceedings.—

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

54 (a) "Authorized family member" means:

55 1. The surviving spouse of the decedent;

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

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

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

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

63 1. The surviving spouse of the decedent;

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

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



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69 the decedent, the living parents of the decedent.

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

73 (2) A financial institution in this state may pay to the
74 authorized family member of a decedent, without any court
75 proceeding, order, or judgment, the funds on deposit in all
76 qualified accounts of the decedent at the financial institution
77 if the total amount of the combined funds in the qualified
78 accounts at that financial institution do not exceed \$10,000.
79 The financial institution may not make such payment earlier than
80 2 years after the date of the decedent's death.

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

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

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

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

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

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



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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.



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

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

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

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

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

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

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

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

184 (i) The affiant understands that making a false statement



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185 in this affidavit may be punishable as a criminal offense.

186

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

188

189 Sworn to and subscribed before me this day of

190 by ...(name of Affiant)..., who is personally

191 known to me or produced as identification, and

192 did take an oath.

193

194 ...(Signature of Notary Public - State of Florida)...

195 ...(Print, Type, or Stamp Commissioned Name of Notary

196 Public)...

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

198 commission)...

199 (5) The financial institution is not required to determine

200 whether the contents of the sworn affidavit are truthful. The

201 payment of the funds by the financial institution to the affiant

202 constitutes the financial institution's full release and

203 discharge for the amount paid. A person does not have a right or

204 cause of action against the financial institution for taking any

205 action, or for failing to take an action, in connection with the

206 affidavit or the payment of the funds.

207 (6) The authorized family member who withdraws the funds

208 under this section is personally liable to any persons

209 rightfully entitled to the funds under the Florida Probate Code,

210 to the extent that the amount paid exceeds the amount properly

211 attributable to the authorized family member's share.

212 (7) The financial institution shall maintain a copy or an

213 image of the affidavit for a period of 7 years after releasing



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

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

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

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

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

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

235
236 ===== T I T L E A M E N D M E N T =====

237 And the title is amended as follows:

238 Delete everything before the enacting clause
239 and insert:

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



243 that a financial institution is not prohibited from
244 disclosing specified information to certain persons
245 relating to deceased account holders; creating s.
246 655.795, F.S.; defining terms; authorizing a financial
247 institution to pay to the authorized family member of
248 a decedent depositor, without any court proceeding,
249 order, or judgment authorizing the payment and not
250 earlier than a specified time, the funds in the
251 decedent's qualified accounts if the sum does not
252 exceed a specified amount; requiring the authorized
253 family member to provide the financial institution a
254 certified copy of the decedent's death certificate and
255 a specified affidavit in order to receive the funds;
256 providing an affidavit form the authorized family
257 member may use; providing that the financial
258 institution has no duty to make certain
259 determinations; specifying a person does not have a
260 right or cause of action against a financial
261 institution for certain actions or for failing to take
262 certain actions; providing liability for authorized
263 family members; requiring a financial institution to
264 maintain a copy or image of the affidavit for a
265 specified time; authorizing the financial institution
266 to provide copies of the affidavit to certain persons;
267 authorizing a financial institution to release certain
268 information bank accounts under certain circumstances;
269 providing a criminal penalty; providing an effective
270 date.