

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Yarborough offered the following:
3

4 **Amendment**

5 Remove lines 106-277 and insert:

6 4. A financial institution from disclosing the existence
7 of and amounts on deposit in any individual account of a
8 decendent to a petitioner that filed with the court a petition
9 pursuant to s. 734.1025 or s. 735.203, or to an affiant that
10 filed with the court an affidavit for disposition without
11 administration pursuant to s. 735.301 or s. 735.304.

12 Section 2. Section 735.303, Florida Statutes, is created
13 to read:

14 735.303 Payment to successor without court proceedings.-

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

16 (a) "Family member" means:

Amendment No. 1

17 1. The surviving spouse of the decedent;

18 2. An adult child of the decedent if the decedent left no
19 surviving spouse;

20 3. An adult descendant of the decedent if the decedent
21 left no surviving spouse and no surviving adult child; or

22 4. A parent of the decedent if the decedent left no
23 surviving spouse, no surviving adult child, and no surviving
24 adult descendant.

25 (b) "Qualified account" means a depository account or
26 certificate of deposit held by a financial institution in the
27 sole name of the decedent without a pay-on-death or any other
28 survivor designation.

29 (2) A financial institution in this state may pay to the
30 family member of a decedent, without any court proceeding,
31 order, or judgment, the funds on deposit in all qualified
32 accounts of the decedent at the financial institution if the
33 total amount of the combined funds in the qualified accounts at
34 the financial institution do not exceed an aggregate total of
35 \$1,000. The financial institution may not make such payment
36 earlier than 6 months after the date of the decedent's death.

37 (3) In order to receive the funds described in subsection
38 (2), the family member must provide to the financial institution
39 a certified copy of the decedent's death certificate and a sworn
40 affidavit that includes all of the following:

Amendment No. 1

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

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

47 2. If the affiant is an adult descendant of the decedent,
48 the affidavit must attest that the decedent left no surviving
49 spouse and no surviving adult child.

50 3. If the affiant is a parent of the decedent, the
51 affidavit must attest that the decedent left no surviving
52 spouse, no surviving adult child, and no surviving adult
53 descendant.

54 (b) The date of death and the address of the decedent's
55 last residence.

56 (c) A statement attesting that the total amount in all
57 qualified accounts held by the decedent in all financial
58 institutions known to the affiant does not exceed an aggregate
59 total of \$1,000.

60 (d) A statement acknowledging that a personal
61 representative has not been appointed to administer the
62 decedent's estate and attesting that no probate proceeding or
63 summary administration procedure has been commenced with respect
64 to the estate.

Amendment No. 1

65 (e) A statement acknowledging that the affiant has no
66 knowledge of the existence of any last will and testament or
67 other document or agreement relating to the distribution of the
68 decedent's estate.

69 (f) A statement acknowledging that the payment of the
70 funds constitutes a full release and discharge of the financial
71 institution's obligation regarding the amount paid.

72 (g) A statement acknowledging that the affiant understands
73 that he or she is personally liable to the creditors of the
74 decedent and other persons rightfully entitled to the funds
75 under the Florida Probate Code, to the extent the amount paid
76 exceeds the amount properly attributable to the affiant's share.

77 (h) A statement acknowledging that the affiant understands
78 that making a false statement in the affidavit may be punishable
79 as a criminal offense.

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

83
84 AFFIDAVIT UNDER SECTION 735.303, FLORIDA STATUTES, TO OBTAIN
85 BANK PROPERTY OF DECEASED ACCOUNT HOLDER: ... (Name of
86 decedent)...

87 State of

88 County of

89

Amendment No. 1

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

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

95 The surviving spouse of the decedent.

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

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

100 A surviving parent of the decedent, and the decedent
101 left no surviving spouse, no surviving adult child, and no
102 surviving adult descendant.

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

107 (c) The affiant is entitled to payment of the funds in the
108 decedent's depository accounts and certificates of deposit held
109 by the financial institution ... (name of financial
110 institution).... The total amount in all qualified accounts held
111 by the decedent in all financial institutions known to the
112 affiant does not exceed an aggregate total of \$1,000. The
113 affiant requests full payment from the financial institution.

Amendment No. 1

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

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

121 (f) The payment of the funds constitutes a full release
122 and discharge of the financial institution regarding the amount
123 paid.

124 (g) The affiant understands that he or she is personally
125 liable to the creditors of the decedent and other persons
126 rightfully entitled to the funds under the Florida Probate Code,
127 to the extent the amount paid exceeds the amount properly
128 attributable to the affiant's share.

129 (h) The affiant understands that making a false statement
130 in this affidavit may be punishable as a criminal offense.

131
132 By ... (signature of Affiant) ...

133
134 Sworn to and subscribed before me this day of by
135 ... (name of Affiant) ..., who is personally known to me or
136 produced as identification, and did take an oath.

137
138 ... (Signature of Notary Public - State of Florida) ...

Amendment No. 1

139 ...(Print, Type, or Stamp Commissioned Name of Notary
140 Public)...

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

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

151 (6) The family member who withdraws the funds under this
152 section is personally liable to the creditors of the decedent
153 and any other person rightfully entitled to the funds under the
154 Florida Probate Code, to the extent the amount paid exceeds the
155 amount properly attributable to the family member's share.

156 (7) The financial institution shall maintain a copy or an
157 image of the affidavit in accordance with its customary
158 retention policies. If a surviving spouse or descendant of the
159 decedent requests a copy of the affidavit during such time, the
160 financial institution may provide a copy of the affidavit to the
161 requesting surviving spouse or descendant of the decedent.

162 (8) In addition to any other penalty provided by law, a
163 person who knowingly makes a false statement in a sworn

Amendment No. 1

164 affidavit given to a financial institution to receive a
165 decendent's funds under this section commits theft, punishable as
166 provided in s. 812.014.

167 Section 3. Section 735.304, Florida Statutes, is created
168 to read:

169 735.304 Disposition without administration of intestate
170 property in small estates.-

171 (1) No administration shall be required or formal
172 proceedings instituted upon the estate of a decedent who has
173 died intestate leaving only personal property exempt under the
174 provisions of s. 732.402, personal property exempt from the
175 claims of creditors under the Florida Constitution, and
176 nonexempt personal property the value of which does not exceed
177 the sum of \$10,000 and the amount of preferred funeral expenses
178 and reasonable and necessary medical and hospital expenses of
179 the last 60 days of the last illness, provided the decedent has
180 been deceased for more than 1 year and no administration of the
181 decedent's estate is pending in this state.