

1                   A bill to be entitled  
2           An act relating to bank property of deceased account  
3           holders; amending s. 655.059, F.S.; specifying that a  
4           financial institution is not prohibited from  
5           disclosing specified information and providing copies  
6           of specified affidavits to certain persons relating to  
7           deceased account holders; creating s. 655.795, F.S.;  
8           providing definitions; authorizing a financial  
9           institution to pay funds on deposit in certain  
10          accounts to the authorized family member of a decedent  
11          without any court proceeding, order, or judgment under  
12          certain circumstances; requiring the authorized family  
13          member to provide the financial institution a  
14          certified copy of the decedent's death certificate and  
15          a specified affidavit in order to receive the funds;  
16          providing an affidavit form that the authorized family  
17          member may use; providing that the financial  
18          institution has no duty to make certain  
19          determinations; specifying that a person does not have  
20          a right or cause of action against a financial  
21          institution for certain actions or for failing to take  
22          certain actions; providing liability for authorized  
23          family members; requiring a financial institution to  
24          maintain a copy or image of the affidavit for a  
25          specified time; authorizing the financial institution

26 | to provide copies of the affidavit to certain persons;  
27 | authorizing a financial institution to release certain  
28 | information on specified accounts under certain  
29 | circumstances; providing a criminal penalty; providing  
30 | an effective date.

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32 | Be It Enacted by the Legislature of the State of Florida:  
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34 | Section 1. Paragraph (b) of subsection (2) of section  
35 | 655.059, Florida Statutes, is amended to read:

36 | 655.059 Access to books and records; confidentiality;  
37 | penalty for disclosure.—

38 | (2)

39 | (b) The books and records pertaining to trust accounts and  
40 | the deposit accounts and loans of depositors, borrowers,  
41 | members, and stockholders of any financial institution shall be  
42 | kept confidential by the financial institution and its  
43 | directors, officers, and employees and may not be released  
44 | except upon express authorization of the account holder as to  
45 | her or his own accounts, loans, or voting rights. However,  
46 | information relating to any loan made by a financial institution  
47 | may be released without the borrower's authorization in a manner  
48 | prescribed by the board of directors for the purpose of meeting  
49 | the needs of commerce and for fair and accurate credit  
50 | information. Information may also be released, without the

51 authorization of a member or depositor but in a manner  
52 prescribed by the board of directors, to verify or corroborate  
53 the existence or amount of a customer's or member's account when  
54 such information is reasonably provided to meet the needs of  
55 commerce and to ensure accurate credit information. In addition,  
56 a financial institution, affiliate, and its subsidiaries, and  
57 any holding company of the financial institution or subsidiary  
58 of such holding company, may furnish to one another information  
59 relating to their customers or members, subject to the  
60 requirement that each corporation receiving information that is  
61 confidential maintain the confidentiality of such information  
62 and not provide or disclose such information to any unaffiliated  
63 person or entity. Notwithstanding this paragraph, this  
64 subsection does not prohibit:

65 1. A financial institution from disclosing financial  
66 information as referenced in this subsection as authorized ~~by~~  
67 ~~Pub. L. No. 106-102 (1999), as set forth in 15 U.S.C. s. 6802~~  
68 (2010) U.S.C.A. s. 6802, as amended.

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

73 3. A financial institution from disclosing the existence  
74 of and amounts on deposit in any qualified account of a decedent  
75 pursuant to s. 655.795, and providing a copy of any affidavit

76 delivered to the financial institution pursuant thereto, to a  
 77 person authorized to receive such information under s. 655.795.

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

80 655.795 Payment to successor without court proceedings.-

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

82 (a) "Authorized family member" means:

83 1. The surviving spouse of the decedent;

84 2. An adult child of the decedent if the decedent left no  
 85 surviving spouse;

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

88 4. A parent of the decedent if the decedent left no  
 89 surviving spouse, no surviving adult child, and no surviving  
 90 adult descendant.

91 (b) "Child" includes a minor and an adult child of a  
 92 person, unless the context clearly indicates otherwise.

93 (c) "Descendant" includes a minor and an adult descendant  
 94 of a person, unless the context clearly indicates otherwise.

95 (d) "Eligible child" means a child of the decedent who is  
 96 not also the child of the surviving spouse of the decedent.

97 (e) "Family members of the decedent" means:

98 1. The surviving spouse of the decedent;

99 2. If the decedent left one or more eligible children: the  
 100 surviving spouse of the decedent, the surviving eligible

101 children, and the surviving descendants of any deceased eligible  
102 child;

103 3. If the decedent left no surviving spouse: the surviving  
104 children of the decedent and the surviving descendants of any  
105 deceased child of the decedent; or

106 4. If the decedent left no surviving spouse, no surviving  
107 child, and no surviving descendant: the surviving parents of the  
108 decedent.

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

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

121 (3) In order to receive the funds described in subsection  
122 (2), the authorized family member must provide the financial  
123 institution with a certified copy of the decedent's death  
124 certificate and a sworn affidavit that includes all of the  
125 following:

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

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

132        2. If the affiant is an adult descendant of the decedent,  
133 the affidavit must attest that the decedent left no surviving  
134 spouse and no surviving adult child.

135        3. If the affiant is a parent of the decedent, the  
136 affidavit must attest that the decedent left no surviving  
137 spouse, no surviving adult child, and no surviving adult  
138 descendant.

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

141        (c) A statement attesting that the total amount in all  
142 qualified accounts held by the decedent in all financial  
143 institutions known to the affiant does not exceed an aggregate  
144 total of \$10,000.

145        (d) A statement acknowledging that a personal  
146 representative has not been appointed to administer the  
147 decedent's estate and attesting that no probate proceeding or  
148 summary administration procedure has been commenced with respect  
149 to the estate.

150        (e) A statement attesting that the affiant has been

151 provided with and has read the provisions of this section which  
152 identify each of the family members of the decedent and  
153 attesting that notarized letters of all of the family members of  
154 the decedent other than the affiant consenting to the affiant's  
155 funds withdrawal are attached. The natural parent or guardian of  
156 any person who is a minor may give consent on behalf of such  
157 person.

158 (f) A statement acknowledging that the affiant has no  
159 knowledge of the existence of any last will and testament or  
160 other document or agreement relating to the distribution of the  
161 decedent's estate.

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

165 (h) A statement acknowledging that the affiant understands  
166 that he or she is personally liable to the persons rightfully  
167 entitled to the funds under the Florida Probate Code, to the  
168 extent the amount paid exceeds the amount properly attributable  
169 to the affiant's share.

170 (i) A statement acknowledging that the affiant understands  
171 that making a false statement in the affidavit may be punishable  
172 as a criminal offense.

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

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AFFIDAVIT UNDER SECTION 655.795, FLORIDA STATUTES, TO OBTAIN  
BANK PROPERTY OF DECEASED ACCOUNT HOLDER: ... (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 child.

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



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

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

211 (e) The affiant has been provided with and has read the  
212 provisions of s. 655.795, Florida Statutes, which identify each  
213 of the family members of the decedent, and (initial one of the  
214 following responses):

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

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

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

224 (g) The payment of the funds constitutes a full release  
225 and discharge of the financial institution regarding the amount

226 paid.

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

231 (i) The affiant understands that making a false statement  
 232 in this affidavit may be punishable as a criminal offense.

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

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

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

242 ... (Print, Type, or Stamp Commissioned Name of Notary  
 243 Public) ...

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

246 (5) The financial institution is not required to determine  
 247 whether the contents of the sworn affidavit are truthful. The  
 248 payment of the funds by the financial institution to the affiant  
 249 constitutes the financial institution's full release and  
 250 discharge regarding the amount paid. A person does not have a

251 right or cause of action against the financial institution for  
252 taking an action, or for failing to take an action, in  
253 connection with the affidavit or the payment of the funds.

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

259 (7) The financial institution shall maintain a copy or an  
260 image of the affidavit for 7 years after releasing the funds. If  
261 a family member of the decedent requests a copy of the affidavit  
262 during such time, the financial institution may provide a copy  
263 of the affidavit to the requesting family member of the  
264 decedent.

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

271 (a) A surviving spouse who presents a copy of a marriage  
272 certificate evidencing the spouse's marriage to the decedent; or

273 (b) An adult child of the decedent who presents a copy of  
274 a birth certificate evidencing that the decedent is the parent  
275 of the adult child.

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

281        Section 3. This act shall take effect July 1, 2020.