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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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The Committee on Judiciary (Baxley) recommended the following:

Senate Amendment

Delete lines 97 - 268
and insert:

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

Section 2. Section 735.303, Florida Statutes, is created to



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12 read:

13 735.303 Payment to successor without court proceedings.—

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

15 (a) "Family member" means:

16 1. The surviving spouse of the decedent;

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

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

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

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

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

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

40 (a) A statement attesting that the affiant is the surviving



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41 spouse, adult child, adult descendant, or parent of the
42 decedent.

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

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

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

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

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

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

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

68 (f) A statement acknowledging that the payment of the funds
69 constitutes a full release and discharge of the financial



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70 institution's obligation regarding the amount paid.

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

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

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

82
83 AFFIDAVIT UNDER SECTION 735.303, FLORIDA STATUTES, TO OBTAIN
84 BANK PROPERTY OF DECEASED ACCOUNT HOLDER: ... (Name of
85 decedent)...

86 State of

87 County of

88
89 Before the undersigned authority personally appeared ... (name of
90 affiant) ..., of ... (residential address of affiant) ..., who has
91 been sworn and says the following statements are true:

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

94 The surviving spouse of the decedent.

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

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



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

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

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

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

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

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

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



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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
164 affidavit given to a financial institution to receive a
165 decedent'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 to
168 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 State Constitution, and nonexempt
176 personal property the value of which does not exceed the sum of
177 \$10,000 and the amount of preferred funeral expenses and
178 reasonable and necessary medical and hospital expenses of the
179 last 60 days of the last illness, provided the decedent has been
180 deceased for more than 1 year and no administration of the
181 decedent's estate is pending in this state.