

By the Committee on Finance and Tax; and Senator Rodriguez

593-02551-23

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1 A bill to be entitled
2 An act relating to the state estate tax; amending s.
3 198.26, F.S.; providing that provisions relating to a
4 condition for the discharge of a personal
5 representative of an estate do not apply under certain
6 circumstances; amending s. 198.32, F.S.; providing
7 that, under certain circumstances, the personal
8 representative of the estate is not required to file a
9 certain affidavit and the estate is not subject to a
10 certain lien; providing applicability; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 198.26, Florida Statutes, is amended to
16 read:

17 198.26 No discharge of personal representative until tax is
18 paid.—

19 (1) No final account of a personal representative shall be
20 allowed by any court unless and until such account shows, and
21 the judge of said court finds, that the tax imposed by the
22 provisions of this chapter upon the personal representative,
23 which has become payable, has been paid. The certificate of the
24 department of nonliability for the tax or its receipt for the
25 amount of tax therein certified shall be conclusive in such
26 proceedings as to the liability or the payment of the tax to the
27 extent of said certificate. In the case of a nontaxable estate,
28 the court may consider the affidavit prepared pursuant to s.
29 198.32(2) as evidence of the nonliability for tax.

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30 (2) Notwithstanding any other provision of this section and
31 applicable to the estate of a decedent who dies after December
32 31, 2004, if, upon the death of the decedent, a state estate tax
33 credit or a generation-skipping transfer credit is not allowable
34 pursuant to the Internal Revenue Code of 1986, as amended, this
35 section shall not apply.

36 Section 2. Subsection (3) is added to section 198.32,
37 Florida Statutes, to read:

38 198.32 Prima facie liability for tax.—

39 (3) Notwithstanding any other provision of this section and
40 applicable to the estate of a decedent who dies after December
41 31, 2004, if, upon the death of the decedent, a state estate tax
42 credit or a generation-skipping transfer credit is not allowable
43 pursuant to the Internal Revenue Code of 1986, as amended:

44 (a) The personal representative of the estate is not
45 required to file an affidavit under subsection (2) in connection
46 with the estate.

47 (b) The estate shall not be subject to a lien under
48 subsection (1).

49 Section 3. This act shall apply to all probate proceedings
50 commenced on or after July 1, 2023, and to all probate
51 proceedings pending on July 1, 2023, for which an order of final
52 discharge has not been entered.

53 Section 4. This act shall take effect July 1, 2023.