

By Senator Bradley

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30 specified sum; reenacting s. 655.937(1) (b), F.S.,
31 relating to access to safe-deposit boxes leased in two
32 or more names, to incorporate the amendment made to s.
33 655.933, F.S., in a reference thereto; reenacting s.
34 734.101(4), F.S., relating to foreign personal
35 representatives, to incorporate the amendment made to
36 s. 655.936, F.S., in a reference thereto; reenacting
37 s. 733.106(4), F.S., relating to costs and attorney
38 fees, to incorporate the amendment made to s.
39 733.6171, F.S., in a reference thereto; providing an
40 effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 655.933, Florida Statutes, is amended to
45 read:

46 655.933 Access by fiduciaries.—If a safe-deposit box is
47 made available by a lessor to one or more persons acting as
48 fiduciaries, the lessor ~~may~~, except as otherwise expressly
49 provided in the lease or the writings pursuant to which such
50 fiduciaries are acting, ~~allow access thereto as follows:~~

51 (1) Must allow access to the safe-deposit box by any ~~one or~~
52 ~~more~~ of the persons acting as personal representatives; and.

53 (2) May allow access to the safe-deposit box by:

54 (a) Any ~~one or more~~ of the persons otherwise acting as
55 fiduciaries if authorized in writing, which writing is signed by
56 all other persons so acting; or.

57 (b) ~~(3)~~ By Any agent authorized in writing, which writing is
58 signed by all persons acting as fiduciaries.

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59 Section 2. Subsection (1) of section 655.936, Florida
60 Statutes, is amended to read:

61 655.936 Delivery of safe-deposit box contents or property
62 held in safekeeping to personal representative.—

63 (1) Subject to ~~the provisions of~~ subsection (3), the lessor
64 shall:

65 (a) Immediately deliver to a personal representative
66 appointed by a court in this state, upon presentation of a
67 certified copy of his or her letters of authority, all property
68 deposited with it by the decedent for safekeeping; ~~and shall~~

69 (b) Grant the personal representative access to any safe-
70 deposit box in the decedent's name and allow ~~permit~~ him or her
71 to remove from such box any part or all of the contents thereof; ~~and~~
72 and

73 (c) Allow the personal representative or the personal
74 representative's attorney to pay the accumulated charges and
75 terminate the lease.

76 Section 3. Section 733.603, Florida Statutes, is amended to
77 read:

78 733.603 Personal representative to proceed without court
79 order.—A personal representative shall proceed expeditiously
80 with the settlement and distribution of a decedent's estate and,
81 except as otherwise specified by this code or ordered by the
82 court, shall do so without adjudication, order, or direction of
83 the court. A personal representative may invoke the jurisdiction
84 of the court to resolve questions concerning the estate or its
85 administration or to enforce the authority of a personal
86 representative conferred by this code.

87 Section 4. Subsection (28) is added to section 733.612,

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88 Florida Statutes, to read:

89 733.612 Transactions authorized for the personal
90 representative; exceptions.—Except as otherwise provided by the
91 will or court order, and subject to the priorities stated in s.
92 733.805, without court order, a personal representative, acting
93 reasonably for the benefit of the interested persons, may
94 properly:

95 (28) Institute a proceeding to enforce his or her authority
96 as personal representative as conferred by this code.

97 Section 5. Section 733.6125, Florida Statutes, is created
98 to read:

99 733.6125 Proceedings to enforce authority.—In any
100 proceeding to enforce the authority of a personal representative
101 as conferred by this code, the court shall award to a prevailing
102 personal representative taxable costs as in chancery actions,
103 including attorney fees. When awarding taxable costs and
104 attorney fees under this section, the court may direct payment
105 from any person whose action or inaction necessitated the
106 enforcement proceeding or from any person having an interest in
107 the estate and may enter a judgment that may be satisfied from
108 other property.

109 Section 6. Paragraph (b) of subsection (2) and subsection
110 (6) of section 733.6171, Florida Statutes, are amended, and
111 paragraph (1) is added to subsection (4) of that section, to
112 read:

113 733.6171 Compensation of attorney for the personal
114 representative.—

115 (2)

116 (b) An attorney representing a personal representative in

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117 an estate administration who intends to charge a fee based upon
118 the schedule set forth in subsection (3) shall make the
119 following disclosures in writing to the personal representative:

120 1. There is not a mandatory statutory attorney fee for
121 estate administration.

122 2. The attorney fee is not required to be based on the size
123 of the estate, and the presumed reasonable fee provided in
124 subsection (3) may not be appropriate in all estate
125 administrations.

126 3. The fee is subject to negotiation between the personal
127 representative and the attorney.

128 4. The selection of the attorney is made at the discretion
129 of the personal representative, who is not required to select
130 the attorney who prepared the will.

131 5. The personal representative is ~~shall~~ be entitled to a
132 summary of ordinary and extraordinary services rendered for the
133 fees agreed upon at the conclusion of the representation. The
134 summary must ~~shall~~ be provided by counsel and must ~~shall~~ consist
135 of the total hours devoted to the representation or a detailed
136 summary of the services performed during the representation.

137 (4) Subject to subsection (2), in addition to fees for
138 ordinary services, the attorney for the personal representative
139 shall be allowed further reasonable compensation for any
140 extraordinary service. What is an extraordinary service may vary
141 depending on many factors, including the size and complexity of
142 the estate. Extraordinary services may include, but are not
143 limited to:

144 (1) Involvement in any proceeding to enforce the authority
145 of a personal representative as conferred by this code.

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146 (6) If a separate written agreement regarding compensation
147 exists between the attorney and the decedent, the attorney must
148 shall furnish a copy to the personal representative before prior
149 to commencement of employment, and, if employed, must shall
150 promptly file and serve a copy on all interested persons. A
151 separate agreement or a provision in the will suggesting or
152 directing that the personal representative retain a specific
153 attorney does not obligate the personal representative to employ
154 the attorney or obligate the attorney to accept the
155 representation, but if the attorney who is a party to the
156 agreement or who drafted the will is employed, the compensation
157 paid may shall not exceed the compensation provided in the
158 agreement or in the will.

159 Section 7. Subsection (2) of section 735.201, Florida
160 Statutes, is amended to read:

161 735.201 Summary administration; nature of proceedings.—
162 Summary administration may be had in the administration of
163 either a resident or nonresident decedent's estate, when it
164 appears:

165 (2) That the value of the entire estate subject to
166 administration in this state, less the value of property exempt
167 from the claims of creditors, does not exceed \$150,000 ~~\$75,000~~
168 or that the decedent has been dead for more than 2 years.

169 Section 8. Subsection (1) of section 735.302, Florida
170 Statutes, is amended to read:

171 735.302 Income tax refunds in certain cases.—

172 (1) In any case when the United States Treasury Department
173 determines that an overpayment of federal income tax exists and
174 the person in whose favor the overpayment is determined is dead

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175 at the time the overpayment of tax is to be refunded, and
176 notwithstanding ~~irrespective~~ of whether the decedent had filed a
177 joint and several or separate income tax return, the amount of
178 the overpayment, if not in excess of \$5,000 ~~\$2,500~~, may be
179 refunded as follows:

180 (a) Directly to the surviving spouse on his or her verified
181 application; or

182 (b) If there is no surviving spouse, to one of the
183 decedent's children who is designated in a verified application
184 purporting to be executed by all of the decedent's children over
185 the age of 14 years.

186
187 In either event, the application must show that the decedent was
188 not indebted, that provision has been made for the payment of
189 the decedent's debts, or that the entire estate is exempt from
190 the claims of creditors under the constitution and statutes of
191 the state, and that no administration of the estate, including
192 summary administration, has been initiated and that none is
193 planned, to the knowledge of the applicant.

194 Section 9. Subsection (2), paragraph (c) of subsection (3),
195 and subsection (4) of section 735.303, Florida Statutes, are
196 amended to read:

197 735.303 Payment to successor without court proceedings.—

198 (2) A financial institution in this state may pay to the
199 family member of a decedent, without any court proceeding,
200 order, or judgment, the funds on deposit in all qualified
201 accounts of the decedent at the financial institution if the
202 total amount of the combined funds in the qualified accounts at
203 the financial institution do not exceed an aggregate total of

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204 \$2,000 ~~\$1,000~~. The financial institution may not make such
205 payment earlier than 6 months after the date of the decedent's
206 death.

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

211 (c) A statement attesting that the total amount in all
212 qualified accounts held by the decedent in all financial
213 institutions known to the affiant does not exceed an aggregate
214 total of \$2,000 ~~\$1,000~~.

215 (4) The family member may use an affidavit in substantially
216 the following form to fulfill the requirements of subsection
217 (3):

223 State of
224 County of

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

229 (a) The affiant is (initial one of the following
230 responses):

231 The surviving spouse of the decedent.

232 A surviving adult child of the decedent, and the

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233 decedent left no surviving spouse.

234 A surviving adult descendant of the decedent, and the
235 decedent left no surviving spouse and no surviving adult child.

236 A surviving parent of the decedent, and the decedent
237 left no surviving spouse, no surviving adult child, and no
238 surviving adult descendant.

239 (b) As shown in the certified death certificate, the date
240 of death of the decedent was ... (date of death) ..., and the
241 address of the decedent's last residence was ... (address of last
242 residence)

243 (c) The affiant is entitled to payment of the funds in the
244 decedent's depository accounts and certificates of deposit held
245 by the financial institution ... (name of financial
246 institution) The total amount in all qualified accounts held
247 by the decedent in all financial institutions known to the
248 affiant does not exceed an aggregate total of \$2,000 ~~\$1,000~~. The
249 affiant requests full payment from the financial institution.

250 (d) A personal representative has not been appointed to
251 administer the decedent's estate, and no probate proceeding or
252 summary administration procedure has been commenced with respect
253 to the estate.

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

257 (f) The payment of the funds constitutes a full release and
258 discharge of the financial institution regarding the amount
259 paid.

260 (g) The affiant understands that he or she is personally
261 liable to the creditors of the decedent and other persons

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262 rightfully entitled to the funds under the Florida Probate Code,
263 to the extent the amount paid exceeds the amount properly
264 attributable to the affiant's share.

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

268 By ... (signature of affiant) ...

270 Sworn to and subscribed before me this day of
271 by ... (name of affiant) ..., who is personally
272 known to me or produced as identification, and
273 did take an oath.

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

276 ... (Print, Type, or Stamp Commissioned Name of Notary
277 Public) ...

278 My commission expires: ... (date of expiration of
279 commission) ...

280
281 Section 10. Subsection (1) of section 735.304, Florida
282 Statutes, is amended to read:

283 735.304 Disposition without administration of intestate
284 property in small estates.—

285 (1) ~~No~~ Administration is not shall be required and or
286 formal proceedings may not be instituted upon the estate of a
287 decedent who has died intestate leaving only personal property
288 exempt under ~~the provisions of~~ s. 732.402, personal property
289 exempt from the claims of creditors under the State
290 Constitution, and nonexempt personal property the value of which

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291 does not exceed the sum of \$20,000 ~~\$10,000~~ and the amount of
292 preferred funeral expenses and reasonable and necessary medical
293 and hospital expenses of the last 60 days of the last illness,
294 provided the decedent has been deceased for more than 1 year and
295 no administration of the decedent's estate is pending in this
296 state.

297 Section 11. For the purpose of incorporating the amendment
298 made by this act to section 655.933, Florida Statutes, in a
299 reference thereto, paragraph (b) of subsection (1) of section
300 655.937, Florida Statutes, is reenacted to read:

301 655.937 Access to safe-deposit boxes leased in two or more
302 names.—

303 (1) Unless specifically provided in the lease or rental
304 agreement to the contrary, if a safe-deposit box is rented or
305 leased in the names of two or more lessees, access to the safe-
306 deposit box will be granted to:

307 (b) Subject to s. 655.933, those persons named in s.
308 655.933.

309 Section 12. For the purpose of incorporating the amendment
310 made by this act to section 655.936, Florida Statutes, in a
311 reference thereto, subsection (4) of section 734.101, Florida
312 Statutes, is reenacted to read:

313 734.101 Foreign personal representative.—

314 (4) Except as provided in s. 655.936, all persons indebted
315 to the estate of a decedent, or having possession of personal
316 property belonging to the estate, who have received no written
317 demand from a personal representative or curator appointed in
318 this state for payment of the debt or the delivery of the
319 property are authorized to pay the debt or to deliver the

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320 personal property to the foreign personal representative after
321 the expiration of 90 days from the date of appointment of the
322 foreign personal representative.

323 Section 13. For the purpose of incorporating the amendment
324 made by this act to section 733.6171, Florida Statutes, in a
325 reference thereto, subsection (4) of section 733.106, Florida
326 Statutes, is reenacted to read:

327 733.106 Costs and attorney fees.—

328 (4) If costs and attorney fees are to be paid from the
329 estate under this section, s. 733.6171(4), s. 736.1005, or s.
330 736.1006, the court, in its discretion, may direct from what
331 part of the estate they shall be paid.

332 (a) If the court directs an assessment against a person's
333 part of the estate and such part is insufficient to fully pay
334 the assessment, the court may direct payment from the person's
335 part of a trust, if any, if a pour-over will is involved and the
336 matter is interrelated with the trust.

337 (b) All or any part of the costs and attorney fees to be
338 paid from the estate may be assessed against one or more
339 persons' part of the estate in such proportions as the court
340 finds to be just and proper.

341 (c) In the exercise of its discretion, the court may
342 consider the following factors:

343 1. The relative impact of an assessment on the estimated
344 value of each person's part of the estate.

345 2. The amount of costs and attorney fees to be assessed
346 against a person's part of the estate.

347 3. The extent to which a person whose part of the estate is
348 to be assessed, individually or through counsel, actively

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349 participated in the proceeding.

350 4. The potential benefit or detriment to a person's part of
351 the estate expected from the outcome of the proceeding.

352 5. The relative strength or weakness of the merits of the
353 claims, defenses, or objections, if any, asserted by a person
354 whose part of the estate is to be assessed.

355 6. Whether a person whose part of the estate is to be
356 assessed was a prevailing party with respect to one or more
357 claims, defenses, or objections.

358 7. Whether a person whose part of the estate is to be
359 assessed unjustly caused an increase in the amount of costs and
360 attorney fees incurred by the personal representative or another
361 interested person in connection with the proceeding.

362 8. Any other relevant fact, circumstance, or equity.

363 (d) The court may assess a person's part of the estate
364 without finding that the person engaged in bad faith,
365 wrongdoing, or frivolousness.

366 Section 14. This act shall take effect July 1, 2026.