

**By** the Committee on Banking and Insurance; and 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 who  
53                   present the lessor with a copy of the letters of administration;  
54                   and.

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

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

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

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

63        655.936 Delivery of safe-deposit box contents or property  
64 held in safekeeping to personal representative.—

65        (1) Subject to ~~the provisions of~~ subsection (3), the lessor  
66 shall:

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

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

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

78        Section 3. Section 733.603, Florida Statutes, is amended to  
79 read:

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

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88 representative conferred by this code.

89       Section 4. Subsection (28) is added to section 733.612,  
90 Florida Statutes, to read:

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

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

99       Section 5. Section 733.6125, Florida Statutes, is created  
100 to read:

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

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

115       733.6171 Compensation of attorney for the personal  
116 representative.—

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117 (2)

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

122 1. There is not a mandatory statutory attorney fee for  
123 estate administration.

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

128 3. The fee is subject to negotiation between the personal  
129 representative and the attorney.

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

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

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

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

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

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

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

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

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

173        735.302 Income tax refunds in certain cases.—

174        (1) In any case when the United States Treasury Department

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175 determines that an overpayment of federal income tax exists and  
176 the person in whose favor the overpayment is determined is dead  
177 at the time the overpayment of tax is to be refunded, and  
178 notwithstanding irrespective of whether the decedent had filed a  
179 joint and several or separate income tax return, the amount of  
180 the overpayment, if not in excess of \$5,000 ~~\$2,500~~, may be  
181 refunded as follows:

182 (a) Directly to the surviving spouse on his or her verified  
183 application; or

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

188

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

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

199 735.303 Payment to successor without court proceedings.—

200 (2) A financial institution in this state may pay to the  
201 family member of a decedent, without any court proceeding,  
202 order, or judgment, the funds on deposit in all qualified  
203 accounts of the decedent at the financial institution if the

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total amount of the combined funds in the qualified accounts at the financial institution do not exceed an aggregate total of ~~\$2,000~~ ~~\$1,000~~. The financial institution may not make such payment earlier than 6 months after the date of the decedent's death.

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

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

AFFIDAVIT UNDER

SECTION 735.303, FLORIDA STATUTES,

TO OBTAIN BANK PROPERTY OF DECEASED

ACCOUNT HOLDER: ... (Name of decedent) ...

225 State of .....

226 County of .....

227

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

231 (a) The affiant is (initial one of the following  
232 responses):

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233       .... The surviving spouse of the decedent.

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

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

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

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

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

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

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

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

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262 (g) The affiant understands that he or she is personally  
263 liable to the creditors of the decedent and other persons  
264 rightfully entitled to the funds under the Florida Probate Code,  
265 to the extent the amount paid exceeds the amount properly  
266 attributable to the affiant's share.

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

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

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

278                   ... (Print, Type, or Stamp Commissioned Name of Notary  
279                   Public) ...

280           My commission expires: ... (date of expiration of  
281           commission) ...

283           Section 10. Subsection (1) of section 735.304, Florida  
284 Statutes, is amended to read:

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

287 (1) ~~No Administration is not~~ shall be required and/or  
288 formal proceedings may not be instituted upon the estate of a  
289 decedent who has died intestate leaving only personal property  
290 exempt under ~~the provisions of~~ s. 732.402, personal property

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291 exempt from the claims of creditors under the State  
292 Constitution, and nonexempt personal property the value of which  
293 does not exceed the sum of \$20,000 ~~\$10,000~~ and the amount of  
294 preferred funeral expenses and reasonable and necessary medical  
295 and hospital expenses of the last 60 days of the last illness,  
296 provided the decedent has been deceased for more than 1 year and  
297 no administration of the decedent's estate is pending in this  
298 state.

299 Section 11. For the purpose of incorporating the amendment  
300 made by this act to section 655.933, Florida Statutes, in a  
301 reference thereto, paragraph (b) of subsection (1) of section  
302 655.937, Florida Statutes, is reenacted to read:

303 655.937 Access to safe-deposit boxes leased in two or more  
304 names.—

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

309 (b) Subject to s. 655.933, those persons named in s.  
310 655.933.

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

315 734.101 Foreign personal representative.—

316 (4) Except as provided in s. 655.936, all persons indebted  
317 to the estate of a decedent, or having possession of personal  
318 property belonging to the estate, who have received no written  
319 demand from a personal representative or curator appointed in

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320 this state for payment of the debt or the delivery of the  
321 property are authorized to pay the debt or to deliver the  
322 personal property to the foreign personal representative after  
323 the expiration of 90 days from the date of appointment of the  
324 foreign personal representative.

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

329 733.106 Costs and attorney fees.—

330 (4) If costs and attorney fees are to be paid from the  
331 estate under this section, s. 733.6171(4), s. 736.1005, or s.  
332 736.1006, the court, in its discretion, may direct from what  
333 part of the estate they shall be paid.

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

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

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

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

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

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349       3. The extent to which a person whose part of the estate is  
350 to be assessed, individually or through counsel, actively  
351 participated in the proceeding.

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

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

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

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

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

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

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