

By the Committee on Banking and Insurance; and Senator Bradley

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A bill to be entitled

An act relating to estates; amending ss. 655.933 and 655.936, F.S.; revising the responsibilities a lessor of a safe-deposit box has to certain persons; amending s. 733.603, F.S.; revising the issues a court may resolve for a personal representative; amending s. 733.612, F.S.; revising the list of transactions a personal representative may make if acting reasonably for the benefit of certain persons; creating s. 733.6125, F.S.; requiring the court to award taxable costs and attorney fees in certain proceedings; authorizing the court to direct such payment from certain persons; providing that such payment may be satisfied from certain property; amending s. 733.6171, F.S.; revising what constitutes an extraordinary service of an attorney; making technical changes; amending s. 735.201, F.S.; revising when summary administration proceedings may commence for either a resident or nonresident decedent's estate; amending s. 735.302, F.S.; revising the sum at which an overpayment of taxes by a decedent may be refunded by the United States Treasury Department; amending s. 735.303, F.S.; revising the sum for funds certain financial institutions may make payable to a decedent's family member; conforming provisions to changes made by the act; amending s. 735.304, F.S.; revising the prohibition against certain proceedings for a decedent when he or she dies intestate and leaves only certain personal property worth a

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

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

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

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

(1) Must allow access to the safe-deposit box by any ~~one or more~~ of the persons acting as personal representatives who present the lessor with a copy of the letters of administration; and.

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

(a) Any ~~one or more~~ of the persons otherwise acting as fiduciaries if authorized in writing, which writing is signed by 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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(2)

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

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

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

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

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

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

(4) Subject to subsection (2), in addition to fees for ordinary services, the attorney for the personal representative shall be allowed further reasonable compensation for any extraordinary service. What is an extraordinary service may vary depending on many factors, including the size and complexity of the estate. Extraordinary services may include, but are not 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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determines that an overpayment of federal income tax exists and the person in whose favor the overpayment is determined is dead at the time the overpayment of tax is to be refunded, and notwithstanding ~~irrespective of~~ whether the decedent had filed a joint and several or separate income tax return, the amount of the overpayment, if not in excess of \$5,000 ~~\$2,500~~, may be refunded as follows:

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

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

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

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

735.303 Payment to successor without court proceedings.—

(2) A financial institution in this state may pay to the family member of a decedent, without any court proceeding, order, or judgment, the funds on deposit in all qualified 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.

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

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

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

AFFIDAVIT UNDER

SECTION 735.303, 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):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

734.101 Foreign personal representative.—

(4) Except as provided in s. 655.936, all persons indebted to the estate of a decedent, or having possession of personal property belonging to the estate, who have received no written 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.