

ENGROSSED HOUSE
BILL NO. 1301

By: Paulk of the House
and
Horner of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 812, as last amended by Section 1, Chapter 110, O.S.L. 1993 (68 O.S. Supp. 1994, Section 812), which relates to financial institutions holding decedent's assets; deleting certain limitations and notice requirements; providing exemption from certain notice requirements for certain assets held by certain joint tenants; providing in lieu of notice and reporting requirements for certain joint tenants and financial institutions; providing certain penalty; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 812, as last amended by Section 1, Chapter 110, O.S.L. 1993 (68 O.S. Supp. 1994, Section 812), is amended to read as follows:

Section 812. A. 1. When the president or managing officer of a safe deposit company, trust company, bank, or other financial institution, or person or persons, holding securities or assets of a decedent receives actual notice, from the person or persons entitled

or claiming to be entitled to the securities or assets, from a source deemed reliable by the safe deposit company, trust company, bank or other financial institution or from the Oklahoma Tax Commission, of the death of the decedent, such safe deposit company, trust company, bank or other financial institution in this state, or person or persons, holding securities or assets of a decedent shall not deliver or transfer the same except as provided for in subsection (d) of Section 811 of this title, to the beneficiary or joint survivor, executor, administrator, or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the Oklahoma Tax Commission at least ten (10) days prior to the said transfer or delivery. No such safe deposit company, trust company, bank, or other financial institution, person or persons, shall deliver or transfer any securities or assets of the estate of a decedent except as provided for in subsection (d) of Section 811 of this title, without retaining a sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of the transfer of such securities or assets pursuant to the provisions of this article, unless the Oklahoma Tax Commission consents to such delivery or transfer in writing, and it shall be lawful for the Oklahoma Tax Commission, personally or by representative, to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice of transfer and to retain a sufficient portion of the amount to pay the tax provided for in this section, after having received actual notice of the death of the owner of any such securities or assets, shall render such safe deposit company, trust company, bank, or other financial institution, person or persons, liable for the payment of the tax. ~~In all cases, regardless of the aggregate amount of deposits of money in any safe deposit company, trust company, bank, or other financial institution to the credit of the decedent and any other person or persons not~~

~~the spouse or a lineal descendant of the decedent, as joint tenants, not more than Two Thousand Five Hundred Dollars (\$2,500.00) may be released or paid out by such institutions without notifying the Oklahoma Tax Commission. From deposits of money in any safe deposit company, trust company, bank, or other financial institution, to the credit of the decedent and a lineal descendant as joint tenants, not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate may be released or paid out by such institutions ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission. Any funds held jointly as a beneficiary with the surviving spouse only, without limit, may be released or paid out by such institutions without notifying the Tax Commission~~ The notice provisions in this subsection shall not apply to securities or assets held by the decedent and surviving spouse as joint tenants.

2. In lieu of the notice provisions of paragraph 1 of this subsection, a safety deposit company, trust company, bank, or other financial institution shall file an informational report upon forms prescribed by the Tax Commission within ten (10) days after the transfer of deposit accounts, deposits of money or contents of safe deposit boxes held by the decedent and a lineal descendant or lineal descendants as joint tenants to the surviving joint tenant or tenants. Failure to file the information report shall render the safe deposit company, trust company, bank or financial institution liable for the payment of the tax provided for in this section.

B. No safe deposit company, trust company, bank, or other financial institution, or an officer thereof, or person or persons holding securities or assets of a decedent, shall be held liable for the wrongful release of deposits within the limits of this section.

C. The restrictions of this section shall not be applicable to oil and gas producing monies, received after date of death, whether from royalties, working interests, overriding royalties or otherwise.

D. 1. This section shall not be applicable to deposit accounts and safe deposit boxes held by a trust other than a grantor trust. The restrictions of this section shall apply to a grantor trust upon the death of a grantor.

2. For purposes of this subsection, a grantor trust means a trust for which the grantor is the trustee or a co-trustee and the right to revoke the trust is retained by the grantor or a nonadverse party, or both. A grantor trust includes a trust where a husband and wife are the grantors and the husband or wife is the trustee or a co-trustee and either the husband or wife or a nonadverse party, or both, retain the right to revoke the trust.

3. In all cases, regardless of the aggregate amount of deposits of money in any safe deposit company, trust company, bank or other financial institutions to the credit of decedent's grantor trust, upon request of the trustee of said grantor trust, not more than Two Thousand Five Hundred Dollars (\$2,500.00) may be released or paid out by such institution to a person or persons not the spouse or a lineal descendant of the decedent without notifying the Oklahoma Tax Commission. From deposits of money in any safe deposit company, trust company, bank or other financial institution to the credit of decedent's grantor trust, upon request of the trustee of said grantor trust as authorized under the terms of said grantor trust, not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate may be released or paid out to a lineal descendant of the decedent ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission. Any funds held to the credit of the decedent's grantor trust, if paid out or released by the trustee of said grantor trust as authorized under the terms of said grantor trust, to the surviving spouse of decedent, may be released or paid out without notifying the Oklahoma Tax Commission.

SECTION 2. This act shall become effective July 1, 1995.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 13th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate