

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1395

By: Downing

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6 AS INTRODUCED

7 An Act relating to banks and trust companies;
8 amending 6 O.S. 2011, Sections 1301.2 and 1308, which
9 relate to safe deposit boxes; deleting time
10 limitation for safe deposit box access after death;
11 deleting reference to repealed statute; directing
12 financial institution to release contents to affiant;
13 authorizing affiant to terminate lease and close box;
14 excluding liability for release of box contents;
15 removing reference to repealed statute; and providing
16 an effective date.

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

18 SECTION 1. AMENDATORY 6 O.S. 2011, Section 1301.2, is
19 amended to read as follows:

20 Section 1301.2 A. A lessee of a safe deposit box may grant
21 authorization for one or more persons to have access to that safe
22 deposit box upon the death of the lessee, and the financial
23 institution in which the safe deposit box is located shall grant
24 such access, subject to the provision of this section.

B. The authorization shall be in writing in the following form:

"I hereby authorize access to safe deposit box (number or other

1 identification) at (name of financial institution) upon my death to
2 (name of person)." The form shall be signed and dated by the
3 lessee, and the signature of the lessee shall be notarized. The
4 authorization may be revoked in writing in the following form: "I
5 hereby revoke the authorization for access to safe deposit box
6 (number or other identification) at (name of financial institution)
7 upon my death to (name of person)." The revocation form shall be
8 signed and dated by the lessee, and the signature of the lessee
9 shall be notarized. The authorization also shall be revoked as a
10 matter of law if the lessee is divorced from the person to whom the
11 authorization was granted, and no subsequent written authorization
12 to the former spouse is executed. A copy of any written
13 authorization and any written revocation shall be provided to the
14 financial institution at which the safe deposit box is located. In
15 the event there is more than one lessee for a safe deposit box, all
16 the lessees must authorize access in the manner provided by this
17 subsection.

18 C. ~~At any time during the ten (10) days or more following~~
19 Following the death of the lessee, a person who has been authorized
20 access may submit an affidavit to the financial institution in which
21 the safe deposit box is located. The affidavit shall state:

22 1. That the last surviving lessee of the safe deposit box has
23 died;

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1 2. That the person providing the affidavit is the same person
2 named in the authorization, a copy of which shall be attached to the
3 affidavit;

4 3. That the authorization has not been revoked; and

5 4. That the affiant believes that no estate proceeding will be
6 commenced with respect to the estate of the lessee.

7 D. Upon receipt of an affidavit as provided in subsection C of
8 this section, the financial institution shall ~~comply with provisions~~
9 ~~of Section 812 of Title 68 of the Oklahoma Statutes before granting~~
10 ~~access to the affiant. Under no circumstances shall access be~~
11 ~~granted until all lessees of a safe deposit box are deceased~~ release
12 all contents of the safe deposit box to the affiant. The affiant
13 shall take possession of all contents of the safe deposit box and
14 shall have the power to terminate the lease on the safe deposit box
15 and close it.

16 E. Any person who knowingly signs and submits a false affidavit
17 as provided by subsection C of this section shall be guilty of a
18 misdemeanor and shall be liable in damages to any person harmed
19 thereby.

20 F. Any financial institution that provides access to and
21 releases the contents of a safe deposit box under provisions of this
22 section shall be discharged from all criminal or civil liability for
23 doing so.

1 SECTION 2. AMENDATORY 6 O.S. 2011, Section 1308, is
2 amended to read as follows:

3 Section 1308. A. A lessor shall permit the person named in a
4 court order, or if no order has been served upon the lessor, the
5 spouse, a parent, an adult descendant, or a person named as an
6 executor in a copy of a purported will produced by the person, to
7 open and examine the contents of a safe deposit box leased by a
8 decedent, or any documents delivered by a decedent for safekeeping,
9 in the presence of an officer of the lessor. In addition, the
10 lessor, if so requested by such person, shall deliver:

11 1. Any writing purported to be a will of the decedent to the
12 court having jurisdiction of the decedent's estate according to his
13 or her residence declared in such writing or may, at the option of
14 the bank, be delivered to the person, so long as the bank retains a
15 copy;

16 2. Any writing purported to be a deed to a burial plot or to
17 give burial instructions to the person making the request for a
18 search;

19 3. Any document purporting to be an insurance policy on the
20 life of the decedent to the beneficiary named therein; and

21 4. Any document purporting to be a trust agreement or
22 Declaration of Trust wherein the decedent was the grantor, so long
23 as the bank retains a copy.

1 B. No other contents shall be removed pursuant to this
2 subsection until an executor or administrator qualifies and makes
3 claim to the contents, except where the safe deposit box was held by
4 the decedent and his or her surviving spouse or any other person as
5 joint tenants, in which case any part of the contents thereof may be
6 removed by such surviving spouse or other surviving joint tenant.

7 C. All contents of a safe deposit box shall be presumed to
8 belong to the lessee(s) of the safe deposit box, and the lessor may
9 rely on that assumption unless and until it receives a court order
10 to the contrary.

11 ~~D. Notice to the Oklahoma Tax Commissioner shall be provided as~~
12 ~~required pursuant to Section 812 of Title 68 of the Oklahoma~~
13 ~~Statutes. However, the~~ The lessor shall be under no duty to conduct
14 an inventory of the contents of the safe deposit box. ~~It shall be~~
15 ~~sufficient for the lessor, upon the death of the lessee, to simply~~
16 ~~report that the lessee had rented a safe deposit box.~~

17 SECTION 3. This act shall become effective November 1, 2017.
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