

Regular Session, 2013

SENATE BILL NO. 190

BY SENATOR GALLOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BANKS/BANKING. Provides relative to banks and mutual associations. (gov sig)

AN ACT

To amend and reenact R.S. 6:325, 767, and 768, relative to banks and mutual associations; to provide for the access and transfer of the contents of a safety deposit box by a bank or association to a succession representative, heir, or legatee; to provide for access and transfer of the contents of certain accounts of a bank or association to a succession representative, heir, or legatee; to provide for procedure, terms, and conditions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:325, 767, and 768 are hereby amended and reenacted to read as follows:

§325. **Death of a customer and access and transfer** ~~Transfer~~ of contents of safety deposit boxes, money and other property by bank to **succession representatives, legatees, or** heirs ~~or their representatives, executors, or administrators~~; authority

A. **For all purposes, a** A bank may deal with **a** safety deposit boxes ~~or box~~ **or** money, on deposit or otherwise, and **any** other property in ~~it's~~ **a bank's** possession **titled** ~~standing~~ in the name of a deceased **customer** ~~person or in which the latter had~~

1 an interest in accordance with its contract with its **deceased** customer until the bank
2 receives notice in writing **specifically** addressed to it of the death of ~~the~~ **its** customer.
3 ~~After receipt of such notice in writing and upon proper authority and upon obtaining~~
4 ~~a receipt therefor, any bank may transfer the contents of a safety deposit box or any~~
5 ~~money and other property in its possession standing in the name of a deceased person~~
6 ~~or in which the latter had an interest to the succession representative, the surviving~~
7 ~~spouse, heirs, or legatees of the deceased.~~

8 B.(1) ~~The letters of the succession representative or the judgment recognizing~~
9 ~~and putting the heirs in possession issued by a court of competent jurisdiction and~~
10 ~~accompanied by letters of tutorship or curatorship of the heirs who are not sui juris~~
11 ~~shall constitute proper authority for making the transfer which, when so made and~~
12 ~~receipted for, shall be full protection to the bank as to any heir, legatee, creditor, or~~
13 ~~other person having rights or claims to funds or property of the decedent.~~
14 **Regardless of whether a bank receives written notice of the death of its**
15 **customer and regardless of any prior action by a bank to freeze or restrict**
16 **access and transactions related to its deceased customer's accounts or safety**
17 **deposit box, upon receipt of letters testamentary, letters of administration, or**
18 **letters of independent administration establishing the appointment of an**
19 **authorized succession representative, a bank may grant access to or allow the**
20 **transfer of contents of a safety deposit box or money or other property titled in**
21 **the name of the bank's deceased customer to the succession representative.**

22 **(2) The letters of the succession representative shall constitute full and**
23 **proper authority for allowing the succession representative to access, withdraw,**
24 **or transfer money or property of the bank's deceased customer, and the bank**
25 **shall have no liability related to such activity or transaction involving the**
26 **deceased customer's safety deposit box or money or other property in the**
27 **bank's possession.**

28 **(3) The bank may continue to follow the direction of the authorized**
29 **succession representative related to the safety deposit box or money or other**

1 property of its deceased customer, unless and until the bank receives a
2 subsequent order specifically naming and directing the bank to cease following
3 the written direction of the succession representative, or the bank receives a
4 subsequent order limiting or terminating the authority of or replacing the
5 succession representative.

6 C. The judgment of possession recognizing and putting the legatees or
7 heirs in possession of the bank's deceased customer's estate shall constitute full
8 and proper authority for the bank holding a safety deposit box or money or
9 other property titled in the name of its deceased customer to transfer those
10 assets to the legatees or heirs entitled to such property under the judgment of
11 possession. When a bank makes such a transfer, the bank shall have full
12 protection from any heir, legatee, creditor, or other person having any right or
13 claim to money or other property of its deceased customer. The bank shall have
14 no liability related to any such transfer or transaction involving its deceased
15 customer's safety deposit box or money or other property in the bank's
16 possession.

17 ~~E. D.~~ Conclusive proof to the bank of the letters testamentary, letters of
18 administration, letters of independent administration of the succession
19 representative, or judgment of possession and of the jurisdiction of the court
20 rendering them shall result from copies thereof, duly certified when rendered by a
21 court of this state, or certified according to the Acts of Congress when rendered by
22 a court of any other state, or certified according to the law of the place when
23 rendered by a court of any possession or dependency of the United States, or
24 certified according to the law of the place with the genuineness of the certification
25 attested by a consular agent of the United States when rendered by a court of any
26 foreign country.

27 ~~D. The receipt to be obtained by the bank may be in any form, but it shall be~~
28 ~~signed either by the succession representative accompanied by a certified copy of the~~
29 ~~letters or by the heirs or the legal representatives of the heirs who are not sui juris~~

1 accompanied by a certified copy of the judgment recognizing and putting the heirs
2 in possession and by a certified copy of the letters of tutorship or curatorship of the
3 legal representatives of the heirs who are not sui juris.

4 * * *

5 §767. Death of member or depositor **and access and transfer of money and**
6 **property by association to succession representatives, legatees, or**
7 **heirs; authority**

8 A. Upon the death of a member or depositor, the rights of membership or of
9 a depositor shall continue in the ~~executor, administrator,~~ **succession representatives,**
10 **legatees, or** heirs, ~~or surviving spouse~~ of the deceased depositor, as the case may be.

11 B. ~~The association shall transfer these shares or savings accounts and all~~
12 ~~dividends or interest which have accrued on them as provided by law.~~ **For all**
13 **purposes, an association may deal with money, on deposit or otherwise, held by**
14 **an association in a savings account, demand account, deposit account, share**
15 **account, and with any other property, titled in the name of its deceased member**
16 **or depositor in accordance with its contract with its deceased member or**
17 **depositor until the association receives notice in writing specifically addressed**
18 **to it of the death of the member or depositor.**

19 C. ~~Upon proper authority and surrender of any certificates and evidences of~~
20 ~~ownership of a decedent in shares or savings accounts of an association, by any duly~~
21 ~~qualified administrator or executor of the succession of such decedent, every~~
22 ~~association may pay the withdrawal value of shares, or savings accounts and any~~
23 ~~dividends or interest that may have accrued thereon in its possession belonging to a~~
24 ~~deceased person, to the administrator or executor of the deceased's succession. The~~
25 ~~letters of the succession representative issued by a court shall constitute a proper~~
26 ~~authority for making payment to such administrator or executor, shall constitute full~~
27 ~~protection to the association making any such payment, and the association shall~~
28 ~~have no liability for any inheritance tax due thereon.~~ **Regardless of whether the**
29 **association has received written notice of the death of its member or depositor**

1 and regardless of any prior action by an association to freeze or restrict access
2 and transactions related to its deceased member's or depositor's shares or
3 accounts, upon receipt of the letters testamentary, letters of administration, or
4 letters of independent administration establishing the appointment of an
5 authorized succession representative, an association may grant access to or
6 allow the transfer of money or other property titled in the name of its deceased
7 member or depositor to the succession representative. The letters of the
8 succession representative shall constitute full and proper authority for the
9 association to grant access to or allow the transfer of the withdrawal value of
10 share accounts, demand accounts, deposit accounts, or savings accounts and any
11 dividends or interest that may have accrued thereon or any money or property
12 held in the name of the deceased member or depositor to such succession
13 representative, and the association shall have no liability related to such activity
14 or transactions involving its deceased member's or depositor's money or
15 property in its possession, and the association shall have no liability for any
16 inheritance tax due thereon. The association may continue to follow the
17 direction of the authorized succession representative related to the money or
18 other property titled in its deceased member's or depositor's name, unless and
19 until the association receives a subsequent order specifically naming the
20 association and directing the association to cease following the written direction
21 of the succession representative, or the association receives a subsequent order
22 limiting or terminating the authority of or replacing the succession
23 representative.

24 D. The judgment of possession recognizing and putting the legatees or
25 heirs in possession of the deceased customer's estate shall constitute full and
26 proper authority for the association holding a safety deposit box or money or
27 other property titled in the name of its deceased member or customer to
28 transfer those assets to the legatees or heirs entitled to such property under the
29 judgment of possession, and when an association makes such a transfer, there

1 shall be full protection to the association against any heir, legatee, creditor, or
2 other person having any right or claim to money or property of its deceased
3 customer. The association shall have no liability related to such transfers or
4 transactions involving its deceased customer's money or other property in the
5 association's possession.

6 E. Conclusive proof to the association of the letters testamentary, letters
7 of administration, or letters of independent administration of the succession
8 representative, or of the judgment of possession, and of the jurisdiction of the
9 court rendering them, shall be as provided in R.S. 6:325(D).

10 ~~D. F.~~ Any association may pay to the surviving spouse the value of any
11 savings or demand account or shares standing in the name of the decedent in such
12 association without authorization by any court proceeding, order, or judgment,
13 whether the savings account or shares belong to the separate estate of the decedent
14 or to the community property regime which existed between the decedent and the
15 surviving spouse, subject to the provisions of R.S. 9:1513.

16 §768. Transfer of contents of safety deposit boxes by an association to succession
17 representatives, legatees, heirs, minors or interdicts, ~~their legal~~
18 ~~representatives, executors or administrators;~~ authority

19 A. For all purposes, an An association may deal with safety deposit boxes
20 and the contents therein ~~standing~~ titled in the name of a deceased customer ~~person,~~
21 ~~or in which the latter had an interest,~~ in accordance with its contract with its
22 customer until the association receives notice in writing specifically addressed to it
23 of the death of said its customer. ~~After receipt of such notice in writing and upon~~
24 ~~proper authority and upon obtaining a receipt therefor, any association may transfer~~
25 ~~the contents of a safety deposit box standing in the name of a deceased person or in~~
26 ~~which the latter had an interest, to the succession representative, the surviving~~
27 ~~spouse, heirs, or legatees of the deceased.~~

28 B. Regardless whether an association has received written notice of the
29 death of its customer and regardless of any prior action by an association to

1 freeze or restrict access and transactions related to its deceased customer's
2 safety deposit box, upon receipt of letters testamentary, letters of
3 administration, or letters of independent administration establishing the
4 appointment of an authorized succession representative, an association may
5 grant access to or allow the transfer the contents of a safety deposit box titled
6 in the name of its deceased customer, to the succession representative. The
7 letters of the succession representative shall constitute full and proper authority
8 for allowing the succession representative to access, remove, or transfer the
9 contents of a safety deposit box titled in the name of the deceased customer, and
10 the association shall have no liability related to such activity or transaction
11 involving its deceased customer's safety deposit box. The association may
12 continue to follow the direction of the authorized succession representative
13 related to safety deposit boxes of its deceased customer, unless and until the
14 association receives a subsequent order specifically naming and directing the
15 association to cease following the written direction of the succession
16 representative or receives a subsequent order limiting or terminating the
17 authority of or replacing the succession representative. ~~or the judgment~~
18 ~~recognizing and putting the heirs in possession issued by a court of competent~~
19 ~~jurisdiction, and accompanied by letters of tutorship or curatorship of the heirs who~~
20 ~~are not sui juris, shall constitute proper authority for making the transfer, which,~~
21 ~~when so made and receipted for, shall be full protection to the association as to any~~
22 ~~heir, legatee, creditor, or other person having rights or claims to funds or property~~
23 ~~of the decedent, and the association shall have no liability for any inheritance tax due~~
24 ~~thereon.~~

25 C. The receipt of a judgment of possession recognizing and putting the
26 legatees or heirs in possession of the deceased customer's estate shall constitute
27 full and proper authority for the association holding a safety deposit box or
28 other property titled in the name of the deceased customer's name to transfer
29 those assets to the legatees or heirs entitled to such property under the

judgment of possession, and when an association makes such a transfer, there shall be full protection to the association against any heir, legatee, creditor, or other person having any right or claim to funds or property of its deceased customer, and the association shall have no liability related to such transfer or transaction involving its deceased customer's safety deposit box or money or other property in the association's possession, and the association shall have no liability for any inheritance tax due thereon.

~~C. D.~~ Upon proper authority ~~and upon obtaining a receipt therefor~~, an association may transfer the contents of a safety deposit box belonging to an interdict or a minor to the legal representative of such interdict or minor. The letters issued to the legal representative by a court of competent jurisdiction shall constitute proper authority for making the transfer, which when so made and receipted for, shall be full protection to the association.

~~D. The receipt to be obtained by the association may be in any form, but it shall be signed either by the succession representative accompanied by a certified copy of the letters or by the heirs or the legal representatives of the heirs who are not sui juris, accompanied by a certified copy of the judgment recognizing and putting the heirs in possession and by a certified copy of the letters of tutorship or curatorship of the legal representatives of the heirs who are not sui juris. In the case of minors or interdicts, the receipt shall be signed by the legal representative of the minor or interdict and accompanied by a certified copy of the letters issued to such legal representative.~~

E. Conclusive proof to the association of the letters testamentary, letters of administration, or letters of independent administration of the succession representative, or of the judgment of possession, and of the jurisdiction of the court rendering them, shall be as provided in R.S. 6:325(D).

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Gallot (SB 190)

Present law provides for the disposition of contents of a safety deposit box and money and any other property of a deceased customer of a bank.

Proposed law provides that for all purposes, a bank may deal with a safety deposit box or money and any other property in its possession titled in the name of a deceased customer in accordance with its contract with its deceased customer until the bank receives notice in writing specifically addressed to it of the death of its customer.

Present law provides that after a bank receives written notice of the death of its customer and upon proper authority and upon obtaining a receipt therefor, any bank may transfer the contents of a safety deposit box or any money and other property in its possession standing in the name of a deceased person or in which the latter had an interest to the succession representative, the surviving spouse, heirs, or legatees of the deceased.

Present law provides that the letters of the succession representative or the judgment recognizing and putting the heirs in possession issued by a court of competent jurisdiction and accompanied by letters of tutorship or curatorship of the heirs who are not sui juris shall constitute proper authority for making the transfer which, when so made and receipted for, shall be full protection to the bank as to any heir, legatee, creditor, or other person having rights or claims to funds or property of the decedent.

Proposed law provides that regardless whether a bank receives written notice of the death of its customer and regardless of any prior action by a bank to freeze or restrict access and transactions related to its deceased customer's accounts or safety deposit box, upon receipt of letters testamentary, letters of administration, or letters of independent administration establishing the appointment of an authorized succession representative, a bank may grant access to or allow the transfer of contents of a safety deposit box or money or other property titled in the name of the bank's deceased customer to the succession representative.

Proposed law provides that the letters of the succession representative shall constitute full and proper authority for allowing the succession representative to access, withdraw, or transfer money or property of the bank's deceased customer, and the bank shall have no liability related to such activity or transaction involving the deceased customer's safety deposit box or money or other property in the bank's possession.

Proposed law provides that the bank may continue to follow the direction of the authorized succession representative related to the safety deposit box or money or other property of its deceased customer, unless and until the bank receives a subsequent order specifically naming and directing the bank to cease following the written direction of the succession representative, or the bank receives a subsequent order limiting or terminating the authority of or replacing the succession representative.

Proposed law provides that the judgment of possession recognizing and putting the legatees or heirs in possession of the bank's deceased customer's estate shall constitute full and proper authority for the bank holding a safety deposit box or money or other property titled in the name of its deceased customer to transfer those assets to the legatees or heirs entitled to such property under the judgment of possession.

Proposed law provides that when a bank makes such a transfer, the bank shall have full protection from any heir, legatee, creditor, or other person having any right or claim to money or other property of its deceased customer.

Proposed law provides that the bank shall have no liability related to any such transfer or transaction involving its deceased customer's safety deposit box or money or other property in the bank's possession.

Present law provides that conclusive proof to the bank of the letters or judgment and of the jurisdiction of the court rendering them shall result from copies thereof, duly certified when rendered by a court of this state, or certified according to the Acts of Congress when rendered by a court of any other state, or certified according to the law of the place when rendered by any other state or certified according to the law of the place with the genuineness of the certification attested by a consular agent of the United States when rendered by a court of any foreign country.

Proposed law provides that conclusive proof to the bank of the letters testamentary, letters of administration, or letters of independent administration of the succession representative shall be the same as the proof required in present law.

Present law provides for the form of the receipt of the written notice by the bank of the death of its customer.

Proposed law removes this provision of law.

Present law provides that upon the death of a member or depositor, the rights of membership of a depositor shall continue in the executor, administrator, heirs, or surviving spouse of the deceased depositor, as the case may be.

Proposed law provides that upon the death of a member or depositor, the rights of membership or of a depositor shall continue in the succession representatives, legatees, or heirs of the deceased depositor, as the case may be.

Present law provides that the association shall transfer these shares or savings accounts and all dividends or interest which have accrued on them as provided by law.

Proposed law provides that for all purposes, an association may deal with money, on deposit or otherwise, held by an association in a savings account, demand account, deposit account, share account, and with any other property, titled in the name of its deceased member or depositor in accordance with its contract with its deceased member or depositor until the association receives notice in writing specifically addressed to it of the death of the member or depositor.

Present law provides that upon proper authority and surrender of any certificates and evidences of ownership of a decedent in shares or savings accounts of an association, by any duly qualified administrator or executor of the succession of such decedent, every association may pay the withdrawal value of shares, or savings accounts and any dividends or interest that may have accrued thereon in its possession belonging to a deceased person, to the administrator or executor of the deceased's succession.

Present law provides that the letters of the succession representative issued by a court shall constitute a proper authority for making payment to such administrator or executor, shall constitute full protection to the association making any such payment, and the association shall have no liability for any inheritance tax due thereon.

Proposed law removes these provisions of present law.

Proposed law provides that regardless whether the association has received written notice

of the death of its member or depositor and regardless of any prior action by an association to freeze or restrict access and transactions related to its deceased member's or depositor's shares or accounts, upon receipt of the letters testamentary, letters of administration, or letters of independent administration establishing the appointment of an authorized succession representative, an association may grant access to or allow the transfer of money or other property titled in the name of its deceased member or depositor to the succession representative.

Proposed law provides that the letters of the succession representative shall constitute full and proper authority for the association to grant access to or allow the transfer of the withdrawal value of share accounts, demand accounts, deposit accounts, or savings accounts and any dividends or interest that may have accrued thereon or any money or property held in the name of the deceased member or depositor to such succession representative, and the association shall have no liability related to such activity or transactions involving its deceased member's or depositor's money or property in its possession, and the association shall have no liability for any inheritance tax due thereon.

Proposed law provides that the association may continue to follow the direction of the authorized succession representative related to the money or other property titled in its deceased member's or depositor's name, unless and until the association receives a subsequent order specifically naming the association and directing the association to cease following the written direction of the succession representative, or the association receives a subsequent order limiting or terminating the authority of or replacing the succession representative.

Proposed law provides that the judgment of possession recognizing and putting the legatees or heirs in possession of the deceased customer's estate shall constitute full and proper authority for the association holding a safety deposit box or money or other property titled in the name of its deceased member or customer to transfer those assets to the legatees or heirs entitled to such property under the judgment of possession, and when an association makes such a transfer, there shall be full protection to the association against any heir, legatee, creditor, or other person having any right or claim to money or property of its deceased customer.

Proposed law further provides that the association shall have no liability related to such transfers or transactions involving its deceased customer's money or other property in the association's possession.

Proposed law provides that conclusive proof to the association of the letters testamentary, letters of administration, or letters of independent administration of the succession representative, or of the judgment of possession, and of the jurisdiction of the court rendering them, shall be as provided by law.

Present law provides that an association may deal with safety deposit boxes and the contents therein in the name of a deceased person, or in which the latter had an interest, in accordance with its contract with its customer until the association receives notice in writing addressed to it of the death of its customer.

Present law provides that after receipt of such notice in writing and upon proper authority and upon obtaining a receipt therefor, any association may transfer the contents of a safety deposit box standing in the name of a deceased person or in which the latter had an interest, to the succession representative, the surviving spouse, heirs, or legatees of the deceased.

Proposed law removes the provisions of present law.

Proposed law provides that regardless whether an association has received written notice of the death of its customer and regardless of any prior action by an association to freeze or restrict access and transactions related to its deceased customer's safety deposit box, upon

receipt of letters testamentary, letters of administration, or letters of independent administration establishing the appointment of an authorized succession representative, an association may grant access to or allow the transfer of the contents of a safety deposit box titled in the name of its deceased customer, to the succession representative, and an association may otherwise follow whatever directions its receives from the succession representative.

Proposed law provides that the succession representative shall constitute full and proper authority for allowing the succession representative to access, remove, or transfer the contents of a safety deposit box titled in the name of the deceased customer, and the association shall have no liability related to such activity or transaction involving its deceased customer's safety deposit box.

Proposed law provides that the association may continue to follow the direction of the authorized succession representative related to safety deposit boxes of its deceased customer, unless and until the association receives a subsequent order specifically naming and directing the association to cease following the written direction of the succession representative or receives a subsequent order limiting or terminating the authority of or replacing the succession representative.

Proposed law provides that the receipt of a judgment of possession recognizing and putting the legatees or heirs in possession of the deceased customer's estate shall constitute full and proper authority for the association holding a safety deposit box or other property titled in the name of the deceased customer's name to transfer those assets to the legatees or heirs entitled to such property under the judgment of possession, and when an association makes such a transfer, there shall be full protection to the association against any heir, legatee, creditor, or other person having any right or claim to funds or property of its deceased customer, and the association shall have no liability related to such transfer or transaction involving its deceased customer's safety deposit box or money or other property in the association's possession, and the association shall have no liability for any inheritance tax due thereon.

Present law provides upon proper authority and upon obtaining a receipt therefor, an association may transfer the contents of a safety deposit box belonging to an interdict or a minor to the legal representative of such interdict or minor. The letters issued to the legal representative by a court of competent jurisdiction shall constitute proper authority for making the transfer, which when so made and receipted for, shall be full protection to the association.

Proposed law retains present law but removes the requirement of obtaining a receipt.

Present law provides that the receipt to be obtained by the association may be in any form, but it shall be signed either by the succession representative accompanied by a certified copy of the letters or by the heirs or the legal representatives of the heirs who are not sui juris, accompanied by a certified copy of the judgment recognizing and putting the heirs in possession and by a certified copy of the letters of tutorship or curatorship of the legal representatives of the heirs who are not sui juris. In the case of minors or interdicts, the receipt shall be signed by the legal representative of the minor or interdict and accompanied by a certified copy of the letters issued to such legal representative.

Proposed law removes the provisions of present law.

Proposed law provides that conclusive proof to the association of the letters testamentary, letters of administration, or letters of independent administration of the succession representative, or of the judgment of possession, and of the jurisdiction of the court rendering them, shall be as provided by law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 6:325, 767, and 768)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Changes the effective date from August 1, 2013 to effective upon signature of the governor or lapse of time for gubernatorial action.