

SENATE SUMMARY OF HOUSE AMENDMENTS

**SB 190 By Senator Gallot**

**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

BANKS/BANKING. Provides for transfer of items and accounts at banks, credit unions, and mutual associations when the account holder is deceased. (gov sig)

**SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL**

1. Add provisions regarding death of credit union members and the responsibilities of credit unions to accounts in the name of the deceased.

**DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**

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, issued by a court of competent jurisdiction appointing 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 appointing 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 court order, issued by a court of competent jurisdiction, specifically naming and directing the bank to cease following the written direction of the succession representative, or the bank receives a subsequent court

order, issued by a court of competent jurisdiction, 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 authorizes a credit union to conduct business pursuant to its membership agreement and contract terms concerning a deceased person until it receives written notice of the person's death. Proposed law retains these provisions but requires that the notice of a the death of a member or depositor be specifically addressed to the credit union.

Present law authorizes a credit union to transfer property standing in a deceased's name or in which a deceased has an interest to succession representatives, surviving spouse, heirs, or legatees of the deceased, as the case may be, upon receiving proof of proper authority and after obtaining a receipt therefor. Provides that if a judgment places the property into possession of a person sui juris, then the credit union is authorized to transfer the property to that person's legal representative upon additionally receiving proof of authority of the legal representative.

Proposed law authorizes the credit union, upon receipt of letters testamentary, letters of administration, or letters of independent administration, issued by a court of competent jurisdiction, appointing any authorized succession representative, to grant access to or allow the transfer of contents of a safety deposit box or money or other property titled in the name of its deceased member or depositor to the succession representative.

Provides that the credit union 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 member or depositor, unless and until the credit union receives a subsequent order issued by a court of competent jurisdiction specifically naming and directing the credit union to cease following the direction of the succession representative, or the credit union receives a subsequent order issued by a court of competent jurisdiction limiting or terminating the authority of or replacing the succession representative. Provides that a judgment of possession issued by a court of competent jurisdiction recognizing and putting the legatees or heirs in possession of the estate of its deceased member or depositor shall constitute full and proper authority for the credit union holding a safety deposit box or money or other

property titled in the name of the deceased member or depositor to transfer those assets to the legatees or heirs entitled to the property under the judgment of possession.

Present law provides that letters issued to succession representative by a court of competent jurisdiction, letters issued to the legal representative of persons sui juris by a court of competent jurisdiction, and a judgment rendered by a court of competent jurisdiction recognizing and putting in possession the surviving spouse, the heirs, and/or the legatees of the deceased constitutes proper authority to the credit union to transfer property in accordance with law. Provides that conclusive proof to a credit union of the letters or judgment and of the jurisdiction of the court rendering same 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 possession or dependency of the United States, 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 clarifies that the conclusive proof of letters testamentary, letters of administration, letters of independent administration of the succession representative or judgment of possession issued by a court of competent jurisdiction 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 possession or dependency of the United States, 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.

Present law provides that a receipt obtained by the credit union for the property transferred may be in any form, but must be signed, as the case may be, by the succession representative accompanied by a certified copy of the letters or by the surviving spouse, heirs, and/or legatees accompanied by a certified copy of the judgment recognizing and placing them into possession of the said property and, when a judgment places the property into possession of a person sui juris, the receipt must be signed in his stead by his legal representative and additionally accompanied by a certified copy of the letters of tutorship or curatorship. Proposed law removes this language.

Present law provides that transfers made and receipted for in accordance present law shall constitute full protection to a credit union as to any heir, legatee, surviving spouse, creditor, those who are sui juris or other person having rights or claims to the transferred funds or property, and the credit union shall have no liability to the state of Louisiana for any taxes.

Proposed law provides that transfers made pursuant to proposed law constitute full protection to the credit union as to any heir, legatee, surviving spouse, creditor, those who are sui juris or claims related to such activity or transaction and the credit union is not liable for any taxes due to the state.

Present law provides that when a deposit in a share account is made in a credit union under the names of two or more members payable to any one of them, then the share account or any part of it may be paid to any one of the member, whether the other member is living or not, and receipt or acquittance of the member paid is a full release and discharge of the credit union as to any heir, legatee, creditor, or other person having rights or claims to funds of such deceased member for any payment made. Provides that the credit union is not liable for any estate, inheritance, or succession taxes that may be due this state. Requires the credit union which has received notice addressed to it in writing of the death of any account owner report payments made out of the account to the secretary of the Department of Revenue within 15 days after payment is made.

Proposed law retains these provisions but remove the requirement that the credit union report payments to the secretary of the Department of Revenue within 15 days after payment is made.

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 of 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. 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. 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 of 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 it 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 of 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. 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, 653.4, 664(A), 767, and 768)

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