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HOUSE BILL 15-1064

BY REPRESENTATIVE(S) Nordberg, Fields, Mitsch Bush, Pettersen, Priola, Roupe, Saine, Van Winkle, Young;
also SENATOR(S) Holbert, Lambert, Lundberg, Woods.

CONCERNING ACCESS TO THE SAFE DEPOSIT BOX OF A DECEDENT, AND, IN CONNECTION THEREWITH, LIMITING THE OBLIGATIONS OF CUSTODIANS WHO ACCESS THE BOX.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 15-10-111, **amend** (1) (a), (1) (b), and (4); and **repeal** (2) (d) as follows:

15-10-111. Entry into safe deposit box of decedent - definitions.

(1) (a) Whenever a decedent at the time of his or her death was a sole or joint lessee of a safe deposit box, the custodian shall, prior to notice that a personal representative or special administrator has been appointed, allow access to the box by:

(I) IF THE DECEDENT WAS THE SOLE LESSEE OF THE BOX, a person claiming to be a successor of the decedent, or acting on behalf of a successor of the decedent, ~~if such decedent was the sole lessee of the box,~~ upon presentation of an affidavit made pursuant to section 15-12-1201 for

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

the purpose of delivering the contents of the box in accordance with said section; or

(II) IF THE DECEDENT WAS THE SOLE LESSEE OR A JOINT LESSEE OF THE BOX, a person who is reasonably believed to be an heir at law or devisee of the decedent, a person nominated as a personal representative pursuant to the provisions of section 15-12-203 (1) (a), or the agent or attorney of ANY such person for the purpose of determining whether the box contains an instrument that appears to be a will of the decedent, deed to a burial plot, or burial instructions.

(b) (I) If a person described in subparagraph (I) or (II) of paragraph (a) of this subsection (1) desires access to a safe deposit box but does not possess a key to the box, the custodian shall drill the safe deposit box at the person's expense.

(II) In the case of a person described in subparagraph (I) of paragraph (a) of this subsection (1), the custodian shall deliver the contents of the box, other than a purported will, deed to a burial plot, and burial instructions, to the person in accordance with section 15-12-1201. IN ORDER TO PROTECT A CUSTODIAN IN CARRYING OUT HIS OR HER DUTY UNDER THE FOREGOING SENTENCE TO EXAMINE SUCH CONTENTS SOLELY FOR THE PURPOSE OF IDENTIFYING AND WITHHOLDING SPECIFIED DOCUMENTS AND MAKING DELIVERY OF SUCH CONTENTS OTHER THAN THE SPECIFIED DOCUMENTS TO SUCH PERSON, A CUSTODIAN IS NOT DEEMED TO HAVE ACQUIRED KNOWLEDGE, EITHER ACTUAL OR CONSTRUCTIVE, PERTAINING TO THE VALUE OF ANY OF THE CONTENTS OF THE BOX DELIVERED TO THE PERSON AS A CONSEQUENCE OF THE EXAMINATION AND DELIVERY.

(III) In the case of a person described in subparagraph (II) of paragraph (a) of this subsection (1), the custodian shall retain, in a secure location at the person's expense, the contents of the box other than a purported will, deed to a burial plot, and burial instructions.

(IV) A custodian shall deliver a purported will as described in ~~paragraph (c)~~ of subsection (2) of this section.

~~(V) A deed to a burial plot and burial instructions that are not part of a purported will may be removed by a person described in subparagraph (I) of paragraph (a) of this subsection (1) pursuant to paragraph (d) of~~

~~subsection (2) of this section, IF THE SAFE DEPOSIT BOX CONTAINS A DEED TO A BURIAL PLOT OR BURIAL INSTRUCTIONS THAT ARE NOT A PART OF A PURPORTED WILL, THE PERSON OR PERSONS AUTHORIZED TO HAVE ACCESS TO THE SAFE DEPOSIT BOX UNDER THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION MAY REMOVE THESE INSTRUMENTS, and the custodian shall not prevent the removal.~~

(VI) Expenses incurred by a custodian pursuant to this section shall be considered an estate administration expense.

~~(2) (d) If the safe deposit box contains a deed to a burial plot or burial instructions that are not a part of a purported will, the person or persons authorized to have access to the safe deposit box under the provisions of subsection (1) of this section may remove these instruments.~~

~~(4) If at the time of the decedent's death one or more other persons were legally permitted to enter the safe deposit box, their permission to enter shall continue, notwithstanding the death of the decedent. NOTHING IN THIS SECTION AFFECTS THE RIGHT OF SURVIVING JOINT LESSEES TO ENTER A SAFE DEPOSIT BOX AFTER THE DEATH OF A DECEDENT.~~

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO