

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 199

Short Title: Lock Box/Access by Spouse.

(Public)

Sponsors: Representatives Mercer; Albertson, Bowman, and Colton.

Referred to: Judiciary I.

March 4, 1991

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE LOCK BOX INVENTORY REQUIREMENT WHERE THE PERSON ENTITLED TO ACCESS TO THE LOCK BOX IS THE SURVIVING SPOUSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-24(b) reads as rewritten:

"(b) ~~Every safe deposit company, trust company, corporation, bank or other institution, person, or persons engaged in the business of renting lock boxes for the safekeeping of valuable papers and personal effects, or having in their possession or supervision in such lock boxes such valuable papers or personal effects shall, upon the death of any person using or having access to such lock box, as a condition precedent to the opening of such lock box by the executor, administrator, personal representative lessee or cotenant of such deceased person, require the presence of the clerk of the superior court of the county in which such lock box is located. It shall be the duty of the clerk of the superior court, or his representative, in the presence of an officer or representative of the safe deposit company, trust company, corporation, bank, or other institution, person or persons, to~~ A person who provides lock boxes to others for safekeeping personal property may open the lock box to which a deceased individual had access only as provided by this section. The custodian of the lock box shall, upon request, allow the surviving spouse of the decedent access to the lock box if the surviving spouse is the cotenant of the lock box or is the executor, administrator, or personal representative of the decedent's estate. The custodian of the lock box may allow access to the lock box to any other cotenant of the lock box or any other executor, administrator, or personal representative of the decedent's estate only in the presence of

1 the clerk of the superior court of the county in which the lock box is located. The clerk
2 or the clerk's representative shall, in the presence of the custodian of the lock box make
3 an inventory of the contents of such the lock box and to shall furnish a copy of such the
4 inventory to the Secretary of Revenue, to the executor, administrator, personal
5 representative, or cotenant of the decedent, and a copy to the safe deposit company,
6 trust company, corporation, bank, or other institution, person, or persons having
7 possession of such lock box; provided, custodian of the lock box, except that for lock
8 boxes to which decedent merely had access the inventory shall include only assets in
9 which the decedent has or had an interest. Immediately after the clerk of superior court
10 has made an inventory of the contents of the lock box, the safe deposit company, trust
11 company, corporation, bank or other institution, or person custodian of the lock box
12 shall, upon request, release to the lessee or cotenant of the lock box any life insurance
13 policy stored in the lock box for delivery to the beneficiary named in the policy.
14 Notwithstanding any of the provisions of this section any life insurance company may
15 pay the proceeds of any policy upon the life of a decedent to the person entitled thereto
16 as soon as it shall have mailed to the Secretary of Revenue a notice, in such form as the
17 Secretary of Revenue may prescribe, setting forth the fact of such payment; but if such
18 notice be not mailed, all of the provisions of this section shall apply.

19 Notwithstanding any of the provisions of this section, in any case where a bank
20 deposit has been heretofore made or is hereafter made, or where savings and loan stock
21 has heretofore been issued or is hereafter issued, in the names of two or more persons
22 and payable to either or the survivor or survivors of them, such bank or savings and loan
23 association may, upon the death of either of such persons, allow the person or persons
24 entitled thereto to withdraw as much as fifty percent (50%) of such deposit or stock, and
25 the balance thereof shall be retained by the bank or savings and loan association to
26 cover any taxes that may thereafter be assessed under this Article. When it is
27 ascertained that there is no liability of such deposit or stock for taxes under this Article,
28 the Secretary of Revenue shall furnish the bank or savings and loan association his
29 written consent for the payment of the retained percentage to the person or persons
30 entitled thereto by law; and the Secretary of Revenue may furnish such written consent
31 to the bank or savings and loan association upon the qualification of a personal
32 representative of the deceased. If the person entitled to funds in an account is the
33 surviving spouse and the account is a joint account of the surviving spouse and the
34 decedent with right of survivorship, no tax waiver is required from the Secretary of
35 Revenue to release the funds in the account.

36 Failure to comply with the provisions of this section shall render such safe deposit
37 company, trust company, corporation, bank or other institution, person or persons liable
38 for the amount of the taxes and interest due under this Article on property transferred by
39 the decedent. In any action brought under this provision it shall be a sufficient defense
40 that the delivery or transfer of securities, deposits, assets, or property was made in good
41 faith without knowledge of the death of the decedent and without knowledge of
42 circumstances sufficient to place the defendant on inquiry."

43 Sec. 2. This act is effective upon ratification.