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To: Banks and Banking

HOUSE BILL NO. 389

1 AN ACT TO PROVIDE THAT PERSONS ENTITLED TO ACCESS TO A SAFE  
2 DEPOSIT BOX SHALL NOTIFY THE LESSOR OF THE BOX UPON THE DEATH OF  
3 ANY OTHER PERSON HAVING THE RIGHT OF ACCESS, BEFORE SEEKING ACCESS  
4 TO THE BOX; TO PROVIDE THAT THE LESSOR OF THE SAFE DEPOSIT BOX MAY  
5 RELY CONCLUSIVELY UPON THE ABSENCE OF ANY SUCH NOTIFICATION IN  
6 ALLOWING A PERSON WITH THE RIGHT OF ACCESS TO ENTER THE BOX; TO  
7 PROVIDE THAT THE DEATH OF A PERSON AUTHORIZED ACCESS TO A SAFE  
8 DEPOSIT BOX WILL NOT TERMINATE THE ACCESS OF OTHERS SO AUTHORIZED  
9 IN ALL CASES WHERE THERE IS A SURVIVING LESSEE; TO PROVIDE THAT  
10 AFTER THE DEATH OF THE SOLE OR LAST SURVIVING LESSEE OF A SAFE  
11 DEPOSIT BOX, THE EXECUTOR OR ADMINISTRATOR OF THE ESTATE OF THE  
12 DECEASED MAY HAVE ACCESS TO AND REMOVE CONTENTS FROM THE BOX  
13 WITHOUT AN INVENTORY OF THE CONTENTS; TO PROVIDE THAT AFTER THE  
14 DEATH OF THE SOLE OR LAST SURVIVING LESSEE OF A SAFE DEPOSIT BOX,  
15 IF AN EXECUTOR OR ADMINISTRATOR HAS NOT BEEN APPOINTED, THE  
16 LESSEE'S SPOUSE, PARENT, SIBLING OR NEXT OF KIN MAY OPEN THE BOX  
17 IN THE PRESENCE OF AN OFFICER OR EMPLOYEE OF THE LESSOR TO CONDUCT  
18 A DOCUMENT SEARCH FOR A WILL, BURIAL INSTRUCTIONS OR AN INSURANCE  
19 POLICY; TO PROVIDE THAT IF AN EXECUTOR OR ADMINISTRATOR OF THE  
20 LESSEE'S ESTATE DOES NOT REQUEST ACCESS TO THE CONTENTS OF THE  
21 SAFE DEPOSIT BOX WITHIN 60 DAYS AFTER THE LESSEE'S DEATH, THE  
22 LESSOR MAY PERMIT ACCESS BY THE LESSEE'S SPOUSE OR NEXT OF KIN FOR  
23 THE PURPOSES OF INVENTORY AND THE REMOVAL OF CONTENTS; TO PROVIDE  
24 THAT A LESSOR OF A SAFE DEPOSIT BOX SHALL NOT BE LIABLE TO ANY  
25 PERSON FOR THE REMOVAL OR LOSS OF ANY CONTENTS FROM A BOX DURING A  
26 PERIOD OF ACCESS BY AN EXECUTOR OR ADMINISTRATOR OF A DECEASED  
27 LESSEE OR BY ANY OTHER PERSONS AUTHORIZED ACCESS TO THE BOX; TO  
28 REQUIRE LESSORS OF SAFE DEPOSIT BOXES TO GIVE WRITTEN NOTICE OF  
29 CERTAIN PROVISIONS OF THIS ACT TO LESSEES BY AUGUST 1, 2000; AND  
30 FOR RELATED PURPOSES.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

32 SECTION 1. (1) As used in this section unless the context  
33 otherwise requires:

34 (a) "Lessee" means a person contracting with a lessor  
35 for the use of a safe deposit box;

36           (b) "Lessor" means a bank, savings association or  
37 savings bank or a subsidiary corporation of a bank, savings  
38 association or savings bank that rents safe deposit facilities,  
39 and includes a safe deposit company organized and operating under  
40 the jurisdiction of the Department of Banking and Consumer Finance  
41 solely for the purpose of leasing safe deposit facilities; and

42           (c) "Safe deposit box" means a safe deposit box, vault,  
43 or other safe deposit receptacle maintained by a lessor.

44           (2) No lessor shall rent any safe deposit box without first  
45 requiring all persons entitled to access to the box to agree in  
46 writing to notify the lessor of the death of a sole or last  
47 surviving lessee of the box. All persons having the right of  
48 access to the safe deposit box shall notify the lessor of the box  
49 upon the death of any such other person having the right of access  
50 to the box, before seeking access to the box. The lessor may rely  
51 conclusively upon the absence of any such notification in allowing  
52 a person with a right of access to enter the safe deposit box.

53           (3) Access to a safe deposit box shall be in accordance with  
54 the agreement between a lessor and the lessee or lessees. The  
55 death of a person authorized access to a safe deposit box by the  
56 agreement shall not terminate the access of others so authorized  
57 in all cases where there is a surviving lessee, whether the  
58 surviving lessee is an individual, trust, corporation or other  
59 entity, unless further access is restricted by the agreement or by  
60 court order.

61           (4) After the death of the sole or last surviving lessee of  
62 a safe deposit box, access is authorized as follows:

63           (a) The duly qualified executor or administrator of the  
64 lessee may have access to and remove contents from the safe  
65 deposit box without an inventory of the contents, unless an  
66 inventory is required by the lessor or by court order.

67           (b) In order to search for and remove any written  
68 instrument purporting to be the lessee's last will and testament,  
69 or any writing relating to a burial plot or burial instructions,  
70 or any writing purporting to be an insurance policy on the life of  
71 the lessee, a lessor shall permit a person named in a court order  
72 for that purpose, or if no order has been served upon the lessor,  
73 the lessee's spouse, parent, adult sibling or adult descendant, or  
74 a person named as executor in a copy of the lessee's purported  
75 will provided to the lessor, or any person with a right of access  
76 to the safe deposit box immediately before the death of the  
77 lessee, to open the safe deposit box with an officer or employee  
78 of the lessor and remove any such documents. A record of items  
79 removed from the safe deposit box by the person authorized entry  
80 shall be made by the lessor and that other person. If a purported  
81 will is found that does not name as executor the person conducting  
82 the will search with the lessor's representative, the lessor may  
83 make a copy of the instrument and mail or deliver it to the  
84 executor named in the instrument, or to the court having  
85 jurisdiction of the decedent's estate according to the decedent's  
86 domicile as declared in the instrument.

87           (c) If an executor or administrator of the lessee's  
88 estate has not requested access to the contents of the safe  
89 deposit box within sixty (60) days following the lessee's death,  
90 the lessor may then permit access by the surviving spouse or any  
91 next-of-kin of the lessee for the purposes of inventory and the  
92 removal of contents. Before removal, an officer or employee of  
93 the lessor and the surviving spouse or net-of-kin of the lessee  
94 shall inventory the contents of the safe deposit box and prepare a

95 record of the contents to be retained by the lessor.

96 (5) Upon the death of the sole or last surviving lessee, the  
97 lessor shall notify the State Tax Commission of the death of that  
98 lessee and the existence of a safe deposit box within thirty (30)  
99 days of the time the lessor has actual knowledge of the lessee's  
100 death. The lessor shall retain records made under subsection (4)  
101 of this section for a period of three (3) years after entry. The  
102 lessor shall provide copies of any such record to the Department  
103 of Banking and Consumer Finance upon its request, to the executor  
104 or administrator of the decedent upon request, and to any party  
105 designated by court order, and the lessor may elect to provide  
106 copies to any person authorized access to the safe deposit box at  
107 the time of the decedent's death, or to any person having a degree  
108 of kinship to the decedent equal to that of the next-of-kin who  
109 received contents following the death of the decedent.

110 (6) A lessor shall not be liable to any person for the  
111 removal or loss of any contents from a safe deposit box during a  
112 period of access by an executor or administrator of a deceased  
113 lessee, or by any other person or persons authorized access to  
114 open and examine contents, whether the property removed or lost is  
115 that of the decedent's estate, a surviving lessee, or any other  
116 person, and the lessor is entitled to its expenses in defending  
117 against any such claim of liability.

118 (7) Not later than August 1, 2000, the lessor of a safe  
119 deposit box shall mail a notice to the lessee, at the address  
120 maintained by the lessor, which contains substantially the  
121 following:

122 (a) The law governing safe deposit boxes has changed

123 effective July 1, 2000;

124           (b) Upon the death of a lessee, the lessor is not  
125 required to complete an inventory of the contents of the safe  
126 deposit box before delivering the contents to a surviving  
127 co-lessee or to the executor or administrator of the estate of the  
128 deceased;

129           (c) Upon the death of a lessee, an inventory will be  
130 required before delivery of the contents of the safe deposit box  
131 to any persons other than a co-lessee, executor or administrator;  
132 and

133           (d) Such other information concerning the operation of  
134 the safe deposit box that the lessor desires to include.

135           The notice may be included in or combined with a regular  
136 mailing to the customer, provided the notice is clearly  
137 identified.

138           SECTION 2. This act shall take effect and be in force from  
139 and after July 1, 2000.