HOUSE BILL NO. 41

To: Banks and Banking

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2001

By: Representative Robertson

AN ACT TO PROVIDE THAT PERSONS ENTITLED TO ACCESS TO A SAFE DEPOSIT BOX SHALL NOTIFY THE LESSOR OF THE BOX UPON THE DEATH OF ANY OTHER PERSON HAVING THE RIGHT OF ACCESS, BEFORE SEEKING ACCESS TO THE BOX; TO PROVIDE THAT THE LESSOR OF THE SAFE DEPOSIT BOX MAY RELY CONCLUSIVELY UPON THE ABSENCE OF ANY SUCH NOTIFICATION IN ALLOWING A PERSON WITH THE RIGHT OF ACCESS TO ENTER THE BOX; TO PROVIDE THAT THE DEATH OF A PERSON AUTHORIZED ACCESS TO A SAFE DEPOSIT BOX WILL NOT TERMINATE THE ACCESS OF OTHERS SO AUTHORIZED IN ALL CASES WHERE THERE IS A SURVIVING LESSEE; TO PROVIDE THAT AFTER THE DEATH OF THE SOLE OR LAST SURVIVING LESSEE OF A SAFE DEPOSIT BOX, THE EXECUTOR OR ADMINISTRATOR OF THE ESTATE OF THE DECEASED MAY HAVE ACCESS TO AND REMOVE CONTENTS FROM THE BOX WITHOUT AN INVENTORY OF THE CONTENTS; TO PROVIDE THAT AFTER THE DEATH OF THE SOLE OR LAST SURVIVING LESSEE OF A SAFE DEPOSIT BOX, IF AN EXECUTOR OR ADMINISTRATOR HAS NOT BEEN APPOINTED, THE LESSEE'S SPOUSE, PARENT, SIBLING OR NEXT OF KIN MAY OPEN THE BOX IN THE PRESENCE OF AN OFFICER OR EMPLOYEE OF THE LESSOR TO CONDUCT A DOCUMENT SEARCH FOR A WILL, BURIAL INSTRUCTIONS OR AN INSURANCE POLICY; TO PROVIDE THAT IF AN EXECUTOR OR ADMINISTRATOR OF THE LESSEE'S ESTATE DOES NOT REQUEST ACCESS TO THE CONTENTS OF THE SAFE DEPOSIT BOX WITHIN 60 DAYS AFTER THE LESSEE'S DEATH, THE LESSOR MAY PERMIT ACCESS BY THE LESSEE'S SPOUSE OR NEXT OF KIN FOR THE PURPOSES OF INVENTORY AND THE REMOVAL OF CONTENTS; TO PROVIDE THAT A LESSOR OF A SAFE DEPOSIT BOX SHALL NOT BE LIABLE TO ANY PERSON FOR THE REMOVAL OR LOSS OF ANY CONTENTS FROM A BOX DURING A PERIOD OF ACCESS BY AN EXECUTOR OR ADMINISTRATOR OF A DECEASED LESSEE OR BY ANY OTHER PERSONS AUTHORIZED ACCESS TO THE BOX; TO REQUIRE LESSORS OF SAFE DEPOSIT BOXES TO GIVE WRITTEN NOTICE OF CERTAIN PROVISIONS OF THIS ACT TO LESSEES BY AUGUST 1, 2001; AND FOR RELATED PURPOSES.

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

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

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

(b) "Lessor" means a bank, savings association or savings bank or a subsidiary corporation of a bank, savings association or savings bank that rents safe deposit facilities, and includes a safe deposit company organized and operating under the jurisdiction of the Department of Banking and Consumer Finance solely for the purpose of leasing safe deposit facilities; and
(c) "Safe deposit box" means a safe deposit box, vault, or other safe deposit receptacle maintained by a lessor.

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

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

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

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

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

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

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

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

(7) Not later than August 1, 2001, the lessor of a safe
deposit box shall mail a notice to the lessee, at the address
maintained by the lessor, which contains substantially the
following:

(a) The law governing safe deposit boxes has changed
effective July 1, 2001;

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

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

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

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

SECTION 2. This act shall take effect and be in force from
and after July 1, 2001.