

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 883

1 AN ACT TO AMEND SECTION 91-7-322, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE VALUE OF THE ESTATE OF A DECEDENT REGARDING PAYMENT
3 OF INDEBTEDNESS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 91-7-322, Mississippi Code of 1972, is
6 amended as follows:

7 91-7-322. (1) Except as may be otherwise provided by
8 Sections 81-5-63, 81-12-135, 81-12-137 and 91-7-323, at any time
9 after thirty (30) days from the death of a decedent, any person
10 indebted to the decedent or having possession of tangible personal
11 property or an instrument evidencing a debt, obligation, stock, or
12 chose in action belonging to the decedent shall make payment when
13 due of the indebtedness or deliver the tangible personal property
14 or an instrument evidencing a debt, obligation, stock, or chose in
15 action to a person claiming to be the successor of the decedent,
16 as defined herein, upon being presented an affidavit made by the
17 successor stating:

18 (a) That the value of the entire estate of the
19 decedent, wherever located, excluding all liens and encumbrances
20 thereon, does not exceed Fifty Thousand Dollars (\$50,000.00);

21 (b) That at least thirty (30) days have elapsed since
22 the death of the decedent;

23 (c) That no application or petition for the appointment
24 of a personal representative of the decedent is pending, nor has a
25 personal representative of the decedent been appointed in any
26 jurisdiction; and



27 (d) The facts of relationship establishing the affiant
28 as a successor of the decedent.

29 (2) For the purposes of this section, "successor" means the
30 decedent's spouse; or, if there is no surviving spouse of the
31 decedent, then the adult with whom any minor children of the
32 decedent are residing; or, if there is no surviving spouse or
33 minor children of the decedent, then any adult child of the
34 decedent; or, if there is no surviving spouse or children of the
35 decedent, then either parent of the decedent.

36 (3) Any person who is the successor of the decedent, because
37 the person is an adult with whom the minor children of the
38 decedent are living, shall receive any property or payments of or
39 for the decedent for the use and benefit of said children.

40 (4) The successor of a decedent, upon complying with the
41 provisions of subsection (1) of this section, shall be empowered
42 to negotiate, transfer ownership and exercise all other incidents
43 of ownership with respect to the personal property and instruments
44 described in subsection (1) of this section.

45 (5) Any person paying, delivering, transferring or issuing
46 personal property or the evidence thereof pursuant to the
47 provisions of subsection (1) of this section shall be discharged
48 and released to the same extent as if such person had dealt with a
49 personal representative of the decedent. Such person shall not be
50 required to see to the proper application of the personal property
51 or evidence thereof or to inquire into the truth of any statement
52 in the affidavit. If any person to whom an affidavit is
53 delivered, in accordance with the provisions of subsection (1) of
54 this section, refuses to pay, deliver, transfer or issue any
55 personal property or evidence thereof to the successor, such
56 property or evidence thereof may be recovered or its payment,
57 delivery, transfer or issuance compelled upon proof of the
58 successor's right in a proceeding brought in chancery court for
59 such purpose by or on behalf of the persons entitled thereto. Any



60 person to whom payment, delivery, transfer or issuance is made
61 shall be answerable and accountable to the personal representative
62 of the estate, if any, or to any other person having a superior
63 right.

64 **SECTION 2.** This act shall take effect and be in force from
65 and after July 1, 2002.

