

By: Senator(s) Doty, Parks

To: Business and Financial
Institutions; Judiciary,
Division A

SENATE BILL NO. 2668
(As Sent to Governor)

1 AN ACT TO CREATE NEW SECTION 81-5-64, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THE ORDER OF PRIORITY BY WHICH A FINANCIAL
3 INSTITUTION MUST GRANT ACCESS TO A SAFE-DEPOSIT BOX UPON THE DEATH
4 OF THE LESSEE; TO PROVIDE THAT A PERSON SEEKING ACCESS TO A
5 SAFE-DEPOSIT BOX MUST PROVIDE TO A FINANCIAL INSTITUTION CERTAIN
6 DOCUMENTATION; TO PROVIDE LIABILITY PROTECTIONS TO FINANCIAL
7 INSTITUTIONS IN CERTAIN INSTANCES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The following shall be codified as Section
10 81-5-64, Mississippi Code of 1972:

11 81-5-64. (1) **Definitions.** For purposes of this section,
12 the following terms shall have the following meanings:

13 (a) "Financial institution" means any banking
14 corporation, national bank, savings and loan association, credit
15 union or postal savings bank operating in this state.

16 (b) "Safe-deposit box" means a storage container
17 maintained in the vault area of a financial institution leased to
18 a financial institution customer for the safekeeping of personal
19 property that can be accessed with keys, pin numbers or some other
20 security device.



21 (c) "Successor" means the decedent's spouse; or if
22 there is no surviving spouse of the decedent, then any adult child
23 of the decedent; or if there is no surviving spouse or adult child
24 of the decedent, then either parent of the decedent; or, if there
25 is no surviving spouse, adult child or parent of the decedent,
26 then any adult sibling of the decedent.

27 (2) **Persons entitled to access in absence of probate or**
28 **administration.** At any time after one hundred eighty (180) days
29 from the death of a sole lessee or the last surviving co-lessee of
30 a safe-deposit box, a financial institution shall grant access in
31 the following order of priority to a safe-deposit box that was
32 leased by the lessee at the time of the lessee's death:

33 (a) The personal representative named in the lessee's
34 will if an estate has not been opened.

35 (b) A successor of the deceased safe-deposit box
36 lessee, without necessity of administration, if an estate has not
37 been opened.

38 (3) **Documentation required.** A person seeking access to the
39 safe-deposit box must provide the financial institution with the
40 following:

41 (a) Reasonable proof of the lessee's death;

42 (b) Reasonable proof of the identity of the person
43 seeking access; and

44 (c) An affidavit meeting the requirements of subsection
45 (5) of this section.



46 (4) **Inventory.** After presenting the financial institution
47 with the items required by subsection (3) of this section, and
48 within a reasonable time that allows the financial institution to
49 comply, a person entitled to access to a safe-deposit box under
50 subsection (2) of this section may exercise the following rights:

51 (a) The right to open the safe-deposit box in the
52 presence of an employee of the financial institution along with
53 one (1) other person who is either an officer of the financial
54 institution or an attorney with an active bar license, after which
55 an inventory of the contents of the safe-deposit box must be
56 prepared by the person granted access and signed by:

57 (i) The person granted access to the safe-deposit
58 box;

59 (ii) The employee; and

60 (iii) The third person who witnessed the inventory
61 of the contents.

62 A copy of the inventory may be retained by the financial
63 institution as a business record.

64 (b) The right to remove the contents of the
65 safe-deposit box, subject to the requirements and limitations of
66 this section.

67 (c) The right to cancel the lease for the safe-deposit
68 box after all contents of the safe-deposit box have been removed.

69 (5) **Affidavit.** An affidavit required by subsection (3)(c)
70 of this section must contain the following information:



71 (a) The name of the person leasing the safe-deposit box
72 and the date of the lessee's death;

73 (b) The county in which the lessee was domiciled at the
74 time of the lessee's death;

75 (c) A statement that no application or petition for the
76 appointment of a personal representative has been granted or is
77 pending in any jurisdiction;

78 (d) A statement that the value of the entire estate of
79 the decedent, wherever located, excluding all liens and
80 encumbrances thereon, does not exceed Fifty Thousand Dollars
81 (\$50,000.00); and

82 (e) A statement under penalty of perjury that the
83 affiant is qualified under subsection (2)(a) or (2)(b) of this
84 section to obtain access to the safe-deposit box leased by the
85 individual and the facts establishing the qualification.

86 (6) **Responsibility of a person granted access.** A person to
87 whom access to a safe-deposit box is provided under this section
88 is answerable and accountable to the administrator or executor of
89 the estate of the decedent if one is subsequently opened.
90 However, a financial institution that provides access to a
91 safe-deposit box under this section is discharged and released
92 from liability and responsibility for the contents held in the
93 safe-deposit box to the same extent as if the financial
94 institution had dealt with the personal representative or executor
95 of the decedent. The financial institution is not required to:



96 (a) Inquire into the truth of any statement in an
97 affidavit presented under this section; or

98 (b) Participate in the disposition of the assets held
99 in the safe-deposit box or ensure that such assets are properly
100 handled or disposed of.

101 (7) **Prepayment of fees or cost.** If a person granted access
102 under this section does not have a key to the safe-deposit box and
103 a financial institution requires the services of a locksmith or
104 other contractor to gain access to a safe-deposit box, the
105 financial institution may charge the person granted access a
106 lost-key, drilling or similar fee, or require the person granted
107 access to pay any cost associated with the services of a locksmith
108 or other contractor necessary to gain access to the safe-deposit
109 box. The financial institution shall have a reasonable amount of
110 time to have the safe-deposit box drilled after payment of the
111 required fee to allow the person granted access to access the
112 safe-deposit box.

113 (8) **Interim access.** (a) A person described in subsection
114 (2) of this section shall be given access to a safe-deposit box
115 before expiration of the required one-hundred-eighty-day period
116 only to remove any will or burial instructions contained therein.
117 The person must first meet all the requirements and conditions of
118 subsection (4) (a) of this section concerning the persons required
119 to be present and a full inventory of the contents of the
120 safe-deposit box; but no other contents of the safe-deposit box



121 may be removed until the one-hundred-eighty-day requirement of
122 subsection (2) has been satisfied. The person given interim
123 access to the safe-deposit box must immediately deliver all wills
124 found and removed from the safe-deposit box to the clerk of the
125 chancery court of the county in which the decedent was domiciled
126 at the time of the decedent's death; failure to do so shall
127 subject the person to criminal liability under Section 97-9-77.

128 (b) The financial institution may make a complete copy
129 of any document removed and delivered under the terms of this
130 subsection (8) and place that copy, together with a copy of the
131 inventory and supporting documentation noted with the date of
132 delivery, in the safe-deposit box to remain there pending removal
133 of the contents of the box as provided by this section or other
134 law.

135 (9) **Reliance on affidavit.** (a) A financial institution
136 that acts in reliance upon an affidavit described in subsection
137 (5) of this section without knowledge that the representations
138 contained therein are incorrect is not liable to any person for so
139 acting. A financial institution that does not have actual
140 knowledge that the facts contained in the affidavit described in
141 subsection (5) of this section are incorrect may assume without
142 inquiry the existence of the facts contained in the affidavit.

143 (b) A financial institution shall not be held liable
144 for any costs, expenses, damages or attorney's fees arising from a
145 grant of access to, or delivery of, the contents held in a



146 safe-deposit box when the access or delivery is under the
147 provisions of this section.

148 (10) **Affidavit form.** A document substantially in the
149 following form may be used as the affidavit prescribed in
150 subsection (3) (c) and subsection (5) of this section.

151 SAFE-DEPOSIT BOX AFFIDAVIT

152 The undersigned, after having been first duly sworn, hereby
153 state(s) that:

154 1. The undersigned makes this affidavit under penalty of
155 perjury pursuant to Section 81-5-64, Mississippi Code of 1972;

156 2. _____ ("decedent") died on the ____ day of
157 _____, 20__, and was domiciled in _____ County;

158 3. At least one hundred eighty (180) days have elapsed since
159 the death of the decedent;

160 4. The value of the entire estate of the decedent, wherever
161 located, excluding all liens and encumbrances thereon, does not
162 exceed Fifty Thousand Dollars (\$50,000.00);

163 5. No application or petition for the appointment of a
164 personal representative of the estate has been granted or is
165 pending in any jurisdiction;

166 6. At his/her death, decedent was the last surviving
167 lessee/sole lessee of safe-deposit box number _____ located at
168 _____.

169 7. The undersigned is qualified to obtain access to the
170 safe-deposit box leased by the decedent as the successor as



171 defined in Section 81-5-64, Mississippi Code of 1972: (Choose
172 one)

173 a. The decedent's spouse;

174 b. Or if there is no surviving spouse of the decedent,
175 then any adult child of the decedent;

176 c. Or if there is no surviving spouse or adult child of
177 the decedent, then either parent of the decedent; or

178 d. If there is no surviving spouse, adult child or
179 parent of the decedent, then any adult sibling of the decedent.

180 The undersigned hereby ask(s) the financial institution to
181 allow access to the safe-deposit box of the decedent to allow for
182 the cancellation of the rental contract and relinquishment of the
183 contents contained therein.

184 SIGNATURE AND ACKNOWLEDGMENT

185 _____

186 Date:

187 _____

188 Printed Name:

189 _____

190 Address:

191 _____

192 Telephone Number:

193 _____



194 This document was acknowledged before me on
195 _____ (Date) by _____
196 (Name of Affiant).
197 Signature of Notary
198 _____ (Seal, if any.)
199 My commission expires: _____

200 **SECTION 2.** This act shall take effect and be in force from
201 and after July 1, 2018.

