

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0341.01 Richard Sweetman x4333

HOUSE BILL 15-1064

HOUSE SPONSORSHIP

Nordberg,

SENATE SPONSORSHIP

Holbert,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ACCESS TO THE SAFE DEPOSIT BOX OF A DECEDENT, AND,
102 IN CONNECTION THEREWITH, LIMITING THE OBLIGATIONS OF
103 CUSTODIANS WHO ACCESS THE BOX.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill clarifies who has access to the safe deposit box of a decedent. A custodian of a safe deposit box is not deemed to have acquired knowledge, either actual or constructive, pertaining to the value of any of the contents of the box delivered to a person as a consequence of the custodian's examination and delivery of such contents.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 15-10-111, **amend**
3 (1) (a), (1) (b), and (4); and **repeal** (2) (d) as follows:

4 **15-10-111. Entry into safe deposit box of decedent -**
5 **definitions.** (1) (a) Whenever a decedent at the time of his or her death
6 was a sole or joint lessee of a safe deposit box, the custodian shall, prior
7 to notice that a personal representative or special administrator has been
8 appointed, allow access to the box by:

9 (I) IF THE DECEDENT WAS THE SOLE LESSEE OF THE BOX, a person
10 claiming to be a successor of the decedent, or acting on behalf of a
11 successor of the decedent, ~~if such decedent was the sole lessee of the box,~~
12 upon presentation of an affidavit made pursuant to section 15-12-1201 for
13 the purpose of delivering the contents of the box in accordance with said
14 section; or

15 (II) IF THE DECEDENT WAS THE SOLE LESSEE OR A JOINT LESSEE OF
16 THE BOX, a person who is reasonably believed to be an heir at law or
17 devisee of the decedent, a person nominated as a personal representative
18 pursuant to the provisions of section 15-12-203 (1) (a), or the agent or
19 attorney of ANY such person for the purpose of determining whether the
20 box contains an instrument that appears to be a will of the decedent, deed
21 to a burial plot, or burial instructions.

22 (b) (I) If a person described in subparagraph (I) or (II) of
23 paragraph (a) of this subsection (1) desires access to a safe deposit box
24 but does not possess a key to the box, the custodian shall drill the safe
25 deposit box at the person's expense.

26 (II) In the case of a person described in subparagraph (I) of

1 paragraph (a) of this subsection (1), the custodian shall deliver the
2 contents of the box, other than a purported will, deed to a burial plot, and
3 burial instructions, to the person in accordance with section 15-12-1201.
4 IN ORDER TO PROTECT A CUSTODIAN IN CARRYING OUT HIS OR HER DUTY
5 UNDER THE FOREGOING SENTENCE TO EXAMINE SUCH CONTENTS SOLELY
6 FOR THE PURPOSE OF IDENTIFYING AND WITHHOLDING SPECIFIED
7 DOCUMENTS AND MAKING DELIVERY OF SUCH CONTENTS OTHER THAN THE
8 SPECIFIED DOCUMENTS TO SUCH PERSON, A CUSTODIAN IS NOT DEEMED TO
9 HAVE ACQUIRED KNOWLEDGE, EITHER ACTUAL OR CONSTRUCTIVE,
10 PERTAINING TO THE VALUE OF ANY OF THE CONTENTS OF THE BOX
11 DELIVERED TO THE PERSON AS A CONSEQUENCE OF THE EXAMINATION AND
12 DELIVERY.

13 (III) In the case of a person described in subparagraph (II) of
14 paragraph (a) of this subsection (1), the custodian shall retain, in a secure
15 location at the person's expense, the contents of the box other than a
16 purported will, deed to a burial plot, and burial instructions.

17 (IV) A custodian shall deliver a purported will as described in
18 ~~paragraph (c)~~ of subsection (2) of this section.

19 ~~(V) A deed to a burial plot and burial instructions that are not part~~
20 ~~of a purported will may be removed by a person described in~~
21 ~~subparagraph (I) of paragraph (a) of this subsection (1) pursuant to~~
22 ~~paragraph (d) of subsection (2) of this section;~~ IF THE SAFE DEPOSIT BOX
23 CONTAINS A DEED TO A BURIAL PLOT OR BURIAL INSTRUCTIONS THAT ARE
24 NOT A PART OF A PURPORTED WILL, THE PERSON OR PERSONS AUTHORIZED
25 TO HAVE ACCESS TO THE SAFE DEPOSIT BOX UNDER THE PROVISIONS OF
26 SUBSECTION (1) OF THIS SECTION MAY REMOVE THESE INSTRUMENTS, and
27 the custodian shall not prevent the removal.

1 (VI) Expenses incurred by a custodian pursuant to this section
2 shall be considered an estate administration expense.

3 (2) (d) ~~If the safe deposit box contains a deed to a burial plot or~~
4 ~~burial instructions that are not a part of a purported will, the person or~~
5 ~~persons authorized to have access to the safe deposit box under the~~
6 ~~provisions of subsection (1) of this section may remove these instruments.~~

7 (4) ~~If at the time of the decedent's death one or more other persons~~
8 ~~were legally permitted to enter the safe deposit box, their permission to~~
9 ~~enter shall continue, notwithstanding the death of the decedent.~~ NOTHING
10 IN THIS SECTION AFFECTS THE RIGHT OF SURVIVING JOINT LESSEES TO
11 ENTER A SAFE DEPOSIT BOX AFTER THE DEATH OF A DECEDENT.

12 **SECTION 2. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2016 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.