

SENATE BILL NO. 2049

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to create and enact a new section to chapter 30.1-23 of the North Dakota
2 Century Code, relating to the entry of a safe deposit box.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 30.1-23 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Will searches, burial documents procurement, and inventory of contents.**

7 1. Upon being furnished with satisfactory proof of death of a sole lessee or the last
8 surviving co-lessee of a safe deposit box, an employee of the safe deposit
9 company shall open the box and examine the contents in the presence of an
10 individual who appears in person and furnishes an affidavit stating that the
11 individual believes:

12 a. The box may contain the will or deed to a burial lot or a document containing
13 instructions for the burial of the lessee or that the box may contain property
14 belonging to the estate of the lessee; and

15 b. The individual is an interested person and wishes to open the box:

16 (1) To conduct a will search;

17 (2) To obtain a document required to facilitate the lessee's wishes
18 regarding body, funeral, or burial arrangements; or

19 (3) To obtain an inventory of the contents of the box.

20 2. The safe deposit company may not open the box under this section if it has
21 received a copy of letters from the representative of the deceased lessee's estate
22 or other applicable court order.

23 3. The safe deposit company need not open the box if:

24 a. The box has previously been opened under this section for the same purpose;

- 1 b. The safe deposit company has received notice of a written or oral objection
- 2 from any person or has reason to believe that there would be an objection; or
- 3 c. The lessee's key or combination is not available.
- 4 4. For purposes of this section, the term "interested person" means:
- 5 a. A person named as personal representative in a purported will of the lessee;
- 6 b. A person who immediately prior to the death of the lessee had the right of
- 7 access to the box;
- 8 c. The surviving spouse of the lessee;
- 9 d. A devisee of the lessee;
- 10 e. An heir of the lessee; or
- 11 f. A person designated by the lessee in a writing acceptable to the safe deposit
- 12 company which is filed with the safe deposit company before death.
- 13 5. If the box is opened for the purpose of conducting a will search, the safe deposit
- 14 company shall remove any document that appears to be a will and make a true
- 15 and correct machine copy of the will, replace the copy in the box, and deliver the
- 16 original will to the clerk of court for the county in which the lessee resided
- 17 immediately before the lessee's death, if known to the safe deposit company,
- 18 otherwise to the clerk of the court for the county in which the safe deposit box is
- 19 located. The will must be personally delivered or sent by registered mail. If the
- 20 interested person so requests, the safe deposit company shall copy and deliver a
- 21 copy to the interested person of any deed to burial lot or document containing
- 22 instructions for the burial of the lessee.
- 23 6. If the box is opened for the purpose of obtaining a document required to facilitate
- 24 the lessee's wishes regarding the body, funeral, or burial arrangements, that
- 25 document may be removed from the box and delivered to the interested person
- 26 with a true and correct machine copy retained in the box. If the safe deposit
- 27 company discovers a document that appears to be a will, the safe deposit
- 28 company shall act in accordance with subsection 5.
- 29 7. If the box is opened for the purpose of obtaining an inventory of the contents of the
- 30 box, the employee of the safe deposit company shall make, or cause to be made,
- 31 an inventory of the contents of the box, to which the employee and the interested

1 person shall attest under penalty of perjury to be correct and complete. Within ten
2 days of opening the box pursuant to this subsection, the safe deposit company
3 shall deliver the original inventory of the contents to the clerk of court for the county
4 in which the lessee resided immediately before the lessee's death, if known to the
5 safe deposit company, otherwise to the clerk of court for the county in which the
6 safe deposit box is located. The inventory must be personally delivered or sent by
7 registered mail. If the interested person so requests, the safe deposit company
8 shall make a true and correct copy of any document in the box and deliver that
9 copy to the interested person. If the contents of the box include a document that
10 appears to be a will, the safe deposit company shall act in accordance with
11 subsection 5.

12 8. The safe deposit company need not ascertain the truth of any statement in the
13 affidavit required to be furnished under this section, and when acting in reliance
14 upon an affidavit, it is discharged as if it dealt with the personal representative of
15 the lessee. The safe deposit company is not responsible for the adequacy of the
16 description of any property included in an inventory of the contents of a safe
17 deposit box, nor for conversion of the property in connection with actions
18 performed under this section, except for conversion by intentional acts of the
19 company or its employees, directors, officers, or agents. If the safe deposit
20 company is not satisfied that the requirements of this section have been met, it
21 may decline to open the box.

22 9. No contents of a box other than a will and a document required to facilitate the
23 lessee's wishes regarding body, funeral, or burial arrangements may be removed
24 pursuant to this section.