

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2049
(Legislative Council)
(Judiciary Committee)

AN ACT to create and enact a new section to chapter 30.1-23 of the North Dakota Century Code, relating to the entry of a safe deposit box.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, the safe deposit company may open the box for an individual who appears in person and furnishes an affidavit stating the following:
 - a. The box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee or that the box may contain property belonging to the estate of the lessee;
 - b. The individual is an interested person and wishes to open the box:
 - (1) To conduct a will search;
 - (2) To obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or
 - (3) To make an inventory of the contents of the box; and
 - c. There has been no application for or appointment of a personal representative or administrator for the decedent's estate.
2. The safe deposit company may not open the box under this section if it has received a copy of letters from the representative of the deceased lessee's estate or other applicable court order.
3. The safe deposit company need not open the box if the lessee's key or combination is not available.
4. For purposes of this section, the term "interested person" means:
 - a. A person named as personal representative in a purported will of the lessee;
 - b. A person who immediately prior to the death of the lessee had the right of access to the box;
 - c. The surviving spouse of the lessee;
 - d. A devisee of the lessee;
 - e. An heir of the lessee; or
 - f. A person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death.

5. The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this section, and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box, nor for conversion of the property in connection with actions performed under this section, except for conversion by intentional acts of the company or its employees, directors, officers, or agents. If the safe deposit company is not satisfied that the requirements of this section have been met, it may decline to open the box.
6. No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this section.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2049.

Senate Vote: Yeas 45 Nays 0 Absent 4

House Vote: Yeas 96 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State