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HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 335

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO RESTRICTED ACCESS TO SAFE DEPOSIT BOXES FOR RETRIEVAL OF DECEDENT'S LAST WILL AND DECLARATION OF LAST REMAINS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 13, Title 12 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 §1313. Restricted access to a decedent's safe deposit box for the limited purpose of retrieving the decedent's last  
4 will and/or declaration of last remains prior to the appointment of personal representative.

5 (a) After the death of the decedent but prior to the appointment of a personal representative for the decedent's  
6 estate, access to the decedent's safe deposit box located in a financial institution, as defined by 5 Del.C. § 101(9), and held  
7 in the decedent's sole name shall be limited to only such person or persons who present to the financial institution all of the  
8 following:

9 (1) A key or combination to the lock to the decedent's safe deposit box.

10 (2) A certified copy of the certificate of the decedent's death or other satisfactory proof thereof.

11 (3) Proof of identity of the person seeking access to the safe deposit box, with a photocopy of the proof of  
12 identity to be placed in the safe deposit box and to remain in the safe deposit box until retrieved by the personal  
13 representative of the decedent's estate.

14 (b) The financial institution has no duty to inquire into the truth of any statement, declaration, certificate, affidavit,  
15 or document offered as proof of the decedent's death or proof of identity of the person seeking access.

16 (c) If a person is unable to present a key or combination to the lock to the decedent's safe deposit box, a court  
17 order is required for access to the safe deposit box.

18 (d) Access to a safe deposit box pursuant to subsection (a) shall be only under the supervision of an officer or  
19 employee of the financial institution, and shall be restricted only to the following:

20 (1) Opening the safe deposit box with the key presented in accordance with subsection (a),

21 (2) Making a photocopy of any wills or declarations of last remains located in the safe deposit box,

22           (3) Removal of wills and declarations from within the safe deposit box only after placing in the safe deposit  
23 box the photocopies of such wills and declarations to be removed, with the photocopies remaining in the safe deposit  
24 box until removed by the personal representative of the decedent's estate.

25           (e) Any will removed from a safe deposit box pursuant to this section and appearing on its face to have been  
26 executed in Delaware or by a testator residing in Delaware shall be sent from the financial institution to the Register of  
27 Wills in accordance with §1301(a) of this title if the decedent was domiciled in Delaware at the time of death. All  
28 declarations of last remains removed from the safe deposit box may be released to the person seeking access to the safe  
29 deposit box after compliance with subsection (d) of this section.

30           (f) The financial institution may charge reasonable fees for any cost of sending the will to the Register of Wills  
31 and for photocopying any documents pursuant to subsections (a) and (d) of this section. Nothing herein shall preclude the  
32 person seeking access to the safe deposit box from seeking reimbursement of such costs from the decedent's estate.

33           (g) No financial institution shall be liable for the loss of any content of any safe deposit box for which access was  
34 granted pursuant to this section.

35           Section 2. This Act becomes effective 60 days after its enactment into law.

SYNOPSIS

This Act amends Delaware's probate code by adding a new section to provide restricted access to a decedent's safe deposit box located in a financial institution and held in the decedent's sole name, for the limited purpose of retrieving the decedent's last will and declaration of last remains.