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HOUSE BILL NO. 1454

Offered January 9, 2013

Prefiled December 27, 2012

A BILL to amend and reenact § 6.2-2302 of the Code of Virginia, relating to access to safe deposit boxes.

Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 6.2-2302 of the Code of Virginia is amended and reenacted as follows:****§ 6.2-2302. Limited access to safe deposit box upon death of lessee.**

A. Upon (i) the death of the sole lessee of a box or (ii) the death of a lessee of a box rented under the name of two or more persons upon proof satisfactory to the company that no then co-lessee is reasonably available for access to the box, the company ~~may~~ shall permit, upon compliance with requirements of subsection B, limited access to the box by the spouse or next of kin of the deceased lessee, a court clerk, or other interested person for the limited purpose of looking for a will or other testamentary instruments.

For purposes of this section, "interested person" means a person who, immediately before the lessee's death, was the lessee's (i) guardian, (ii) conservator, (iii) agent under a power of attorney, or (iv) agent in an advance medical directive.

B. The company may require proof of death as it deems necessary prior to permitting access to a box. The company shall require any person, other than a court clerk, who is given limited access to a box pursuant to subsection A to provide an affidavit, sworn to under oath before a notary public or other official before whom oaths may be taken, that (i) states that the lessee has died and that no co-lessee is reasonably available and (ii) identifies the person's relationship to the lessee according to documentation provided by the person, a copy of which documentation shall be attached to the affidavit.

C. Access to a box shall be under the supervision of a designated officer or employee of the company, and nothing shall be removed from the box except the will or testamentary instrument for transmission to the appropriate clerk.

D. The company shall (i) make a photocopy of any document removed from a box pursuant to this section; and (ii) place the affidavit described in subsection B and the ~~copy~~ photocopy of any removed document in the box prior to delivering the original to any person; and ~~(iii) not be liable except for acting.~~

E. A company that complies with the requirements of this section shall not be liable for, and shall be held harmless against, any loss or damage to the estate of the decedent resulting in the removal of any item from a box by a person who obtains access to the box pursuant to this section; however, this exculpation from liability shall not apply when the company acts in bad faith or ~~for permitting~~ permits the removal from the safe deposit box of items other than the will or other testamentary instrument of the deceased lessee.

F. Any person who removes the will or other testamentary instrument from a box pursuant to this section for transmission to the appropriate clerk is answerable and accountable therefor to any personal representative of the decedent's estate or to any other successor having an equal or superior right.

INTRODUCED

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