

written request to the department of education that the department waive the requirement for that school or school district. The written request shall include the reason for which the waiver is being requested. The state board shall evaluate the application for waiver, determine the validity of the reason for which the waiver is being requested, and grant or deny the application for waiver. The state board shall establish criteria for determination of the validity of reasons for waiver of the requirement that school breakfast programs be operated at each school. However, the state board shall not waive the school breakfast program requirement for a school if thirty-five percent or more of the students in attendance at the school during the month of March 1999 were eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751 - 1785.

b. The board of directors of a school district that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the school district shall develop an alternative site plan to operate the school breakfast program at another attendance center within the school district and shall annually certify to the department that the plan meets the following criteria:

(1) Provides safe travel routes to and from the alternative breakfast site for all eligible students.

(2) Minimizes student travel time between the student's attendance center and the alternative breakfast site.

(3) Provides for a reasonable relationship between the time breakfast is offered, the time the student is required to arrive at the attendance center and alternative site, and the daily school start time.

(4) Provides an alternative breakfast site facility adequate for the number of students participating in the breakfast program.

c. The board of directors of a school district that wishes to provide access to a school breakfast program in accordance with paragraph "b", shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the district of the school district's intention to develop and implement a plan to provide school breakfast programs only in certain attendance centers. At any time in which the school district proposes to make substantive changes to a plan certified with the department of education, the notification requirements of this paragraph shall apply.

Approved May 19, 1999

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## CHAPTER 148

### SAFE DEPOSIT BOX ACCESS — DEATH OF OWNER OR LESSEE

#### S.F. 413

**AN ACT** providing for access to a safe deposit box on the death of the owner or lessee of such box, and exempting state banks and credit unions from liability associated with such access.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 524.810A SAFE DEPOSIT BOX ACCESS ON DEATH OF OWNER OR LESSEE.

1. A bank shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the bank. If a court order has not been delivered to the bank, the following persons may access and remove any or all contents of a safe deposit box located at a state bank and described in an ownership or rental agreement or lease between the state bank and a deceased owner or lessee:

- a. A co-owner or co-lessee of the safe deposit box.
- b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.
- c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state bank of a certified copy of letters of appointment.
- d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.
- e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state bank of a copy of the trust together with an affidavit by the trustee which certifies that the copy of the trust delivered to the state bank with the affidavit is an accurate and complete copy of the trust, the trustee is the duly authorized and acting trustee under the trust, the trust property includes property in the safe deposit box, and that to the knowledge of the trustee the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to subsection 1 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. a. If a person authorized to have access under subsection 1 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state bank has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state bank. If no key is produced, the state bank may cause the safe deposit box to be opened and the state bank shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "a", the bank employees present at such opening shall do all of the following:

- (1) Remove any purported will of the deceased owner or lessee.
- (2) Unseal, copy, and retain in the records of the state bank a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the bank employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.
- (3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee, or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state bank may rely upon published information or other reasonable proof of death of an owner or lessee. A state bank has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state bank has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of subsection 1 or 3, the state bank is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

Sec. 2. NEW SECTION. 533.49E SAFE DEPOSIT ACCESS ON DEATH OF OWNER OR LESSEE.

1. A credit union shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the credit union. If a court order has not been delivered to the credit union, the following persons may access and remove any or all contents of a safe deposit box located at a state credit union and described in an ownership or rental agreement or lease between the state credit union and a deceased owner or lessee:

a. A co-owner or co-lessee of the safe deposit box.

b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.

c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state credit union of a certified copy of letters of appointment.

d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.

e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state credit union of a copy of the trust together with an affidavit by the trustee which certifies that the copy of the trust delivered to the state credit union with the affidavit is an accurate and complete copy of the trust, the trustee is the duly authorized and acting trustee under the trust, the trust property includes property in the safe deposit box, and that to the knowledge of the trustee the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to subsection 1 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. a. If a person authorized to have access under subsection 1 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state credit union has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state credit union. If no key is produced, the state credit union may cause the safe deposit box to be opened and the state credit union shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "a", the credit union employees present at such opening shall do all of the following:

(1) Remove any purported will of the deceased owner or lessee.

(2) Unseal, copy, and retain in the records of the state credit union a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the credit union employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.

(3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state credit union may rely upon published information or other reasonable proof of death of an owner or lessee. A state credit union has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state credit union has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of subsection 1 or 2, the

state credit union is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

Approved May 19, 1999

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## CHAPTER 149

### UNPAID CHARGES FOR CITY WATER, SEWAGE, AND SOLID WASTE SERVICES

H.F. 700

AN ACT relating to the liability for unpaid rates or charges of a city utility or enterprise service for water, sewage, and solid waste services.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 384.84, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises.

Sec. 2. Section 384.84, subsection 3, paragraphs a, c, and d, Code 1999, are amended to read as follows:

a. All Except as provided in paragraph "d", all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten days prior to certification of the lien to the county treasurer.

d. ~~For a residential~~ Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant, ~~the rental property~~ is exempt from a lien for ~~those delinquent rates or charges incurred after~~ associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges ~~and~~ a city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service is to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice ~~and deposit to be given to the city utility or enterprise~~ within ten business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are