

§ 28A-15-13. Opening and inventory of decedent's safe-deposit box.

(a) Definitions. – The following definitions apply to this section:

- (1) Institution. – Any entity or person having supervision or possession of a safe-deposit box to which a decedent had access.
- (1a) Deputy. – A person appointed in writing by a lessee or cotenant of a safe-deposit box as having right of access to the safe-deposit box without further authority or permission of the lessee or cotenant, in a manner and form designated by the institution.
- (2) Letter of authority. – Letters of administration, letters testamentary, an affidavit of collection of personal property, an order of summary administration, or a letter directed to the institution designating a person entitled to receive the contents of a safe-deposit box to which the decedent had access. The letter of authority must be signed by the clerk of superior court or by the clerk's representative.
- (3) Qualified person. – A person possessing a letter of authority or a person named as a deputy, lessee or cotenant of the safe-deposit box to which the decedent had access.

(b) Presence of Clerk Required. – Any safe-deposit box to which a decedent had access shall be sealed by the institution having supervision or possession of the box. Except as provided in subsection (c) of this section, the presence of the clerk of superior court of the county where the safe-deposit box is located or the presence of the clerk's representative is required before the box may be opened. The clerk or the clerk's representative shall open the safe-deposit box in the presence of the person possessing a key to the box and a representative of the institution having supervision or possession of the box. The clerk shall make an inventory of the contents of the box and furnish a copy to the institution and to the person possessing a key to the box.

(c) Presence of Clerk Not Required. – The presence of the clerk of superior court or the clerk's representative is not required when the person requesting the opening of the decedent's safe-deposit box is a qualified person. In that event, the qualified person shall make an inventory of the contents of the box and furnish a copy to the institution and to the person possessing a key to the box if that person is someone other than the qualified person.

(d) Testamentary Instrument in Box. – If the safe-deposit box contains any writing that appears to be a will, codicil, or any other instrument of a testamentary nature, then the clerk of superior court or the qualified person shall file the instrument in the office of the clerk of superior court.

(e) Release of Contents. – Except as provided in subsection (d) for testamentary instruments, the institution shall not release any contents of the safe-deposit box to anyone other than a qualified person.

(f) No Tax Waiver Required. – No tax waiver is required for the release of the contents of the decedent's safe-deposit box. (1998-212, s. 16.14(a); 2003-255, s. 1.)