

1 HB185
2 116133-1
3 By Representative Gaston
4 RFD: Judiciary
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, the surviving spouse or
9 the child of an abandoned property owner who has
10 died intestate may claim the abandoned property if
11 a certain procedure is followed.

12 This bill would allow the next of kin to
13 claim the abandoned property if there is no
14 surviving spouse or children of an abandoned
15 property owner.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 35-12-84, Code of Alabama 1975,
22 relating to filing of claims of abandoned property owners, to
23 allow the next of kin to claim the abandoned property if there
24 is no surviving spouse or children of an abandoned property
25 owner.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 35-12-84, Code of Alabama 1975,
2 is amended to read as follows:

3 "§35-12-84.

4 "(a) The surviving spouse, the child or children of
5 an abandoned property owner who has died intestate, or if
6 there is no surviving spouse or lineal descendants, the next
7 of kin or heirs at law may claim the abandoned property under
8 this section, and will have a defeasible right to the
9 property, if all of the following conditions exist:

10 "(1) The aggregate value of the abandoned property
11 held on behalf of the owner must not exceed the amount allowed
12 in Section 43-2-692.

13 "(2) The claim need not be accompanied by an order
14 of a probate court if the claimant files documentation
15 established in the rules, including, but not limited to, a. a
16 written confirmation by the probate court that no estate has
17 been opened or filed; b. an affidavit, signed by all
18 beneficiaries (defined as spouse and children) stating that
19 all beneficiaries have amicably agreed among themselves upon a
20 division of the property; c. supporting documentation showing
21 heir rights; and d. authorization to release the name and
22 address of the claimant to subsequent claimants.

23 "(b) Nothing in this section shall be construed to
24 remove the jurisdiction of the probate court in matters of
25 estates.

1 "(c) A person may claim abandoned property in his or
2 her name under this section and will have a defeasible right
3 to the property, if all of the following conditions exist:

4 "1. The aggregate amount value of the abandoned
5 property held on behalf of the owner is equal to or less than
6 two hundred dollars (\$200).

7 "2. The claim is accompanied by an affidavit
8 swearing to the authenticity of a claim and lack of matching
9 documentation, and authorization to release the name and
10 address of the claimant to subsequent claimants.

11 "(d) Any person to whom payment, delivery, transfer,
12 or issuance is made under this section shall be answerable and
13 accountable therefore to any heir of the decedent, to any
14 person having a superior right to the decedent's property, or
15 to the surviving spouse or minor children of the decedent who
16 shall proceed against such person. This liability shall only
17 be to the extent of the value of the property received by each
18 person under this section.

19 "(e) Any person who was lawfully entitled to share
20 in the property but did not receive his or her share of the
21 property, may enforce his or her rights in appropriate legal
22 proceedings against those who received the property."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.