

SENATE BILL NO. 461

BY SENATORS PEACOCK AND LAFLEUR

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3191, relative to administration of
3 successions; to provide relative to certain functions, powers, and duties of a
4 succession representative; to provide relative to terms and definitions; to provide
5 with respect to electronic assets of a decedent; to provide for limitations of certain
6 causes of action; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 3191 is hereby amended and reenacted
9 to read as follows:

10 Art. 3191. General duties; appointment of agent

11 A. A succession representative is a fiduciary with respect to the succession,
12 and shall have the duty of collecting, preserving, and managing the property of the
13 succession in accordance with law. He shall act at all times as a prudent
14 administrator, and shall be personally responsible for all damages resulting from his
15 failure so to act.

16 B. A nonresident succession representative may execute a power of attorney
17 appointing a resident of the state to represent him in all acts of his administration. A
18 resident succession representative who will be absent from the state temporarily
19 similarly may appoint an agent to act for him during his absence. In either case, the
20 power of attorney appointing the agent shall be filed in the record of the succession
21 proceeding.

22 C. Subject to any restrictions provided in a valid testament of a decedent
23 or an order of a court of competent jurisdiction, a succession representative
24 shall have the power and authority to take control of, handle, conduct, continue,
25 distribute, or terminate any digital account of the decedent.

26 D.(1) Except as provided in Subparagraph (2) of this Paragraph and to

1 the extent permitted by federal law, any person that electronically stores,
2 maintains, manages, controls, operates or administers the digital accounts of a
3 decedent shall transfer, deliver, or provide a succession representative access
4 or possession of any digital account of a decedent within thirty days after
5 receipt of letters testamentary, letters of administration, or letters of
6 independent administration evidencing the appointment of the succession
7 representative.

8 (2) Notwithstanding any other provision of law to the contrary, R.S.
9 6:325 or R.S. 6:767 shall control how federally insured financial institutions
10 provide Internet or other electronic access to an authorized succession
11 representative for the administration of a decedent's estate.

12 E. This Article supersedes any contrary provision in the terms and
13 conditions of any service agreement and a succession representative shall be
14 considered an authorized user with lawful consent of the decedent for purposes
15 of accessing or possessing the decedent's digital accounts.

16 F. The authority provided in this Article shall be specifically subject to
17 copyright law and shall not increase the scope of the license granted in the terms
18 of service of any digital account. The agent, representative or fiduciary shall be
19 personally responsible for any infringement of third party copyrights that
20 occurs in the transfer or distribution of any digital account or its contents.

21 G. No cause of action shall lie in any court under the law of this state
22 against any provider of digital account service, including its officers, directors,
23 employees, agents, members, or other specified persons, for any actions taken
24 to disclose or otherwise provide access to the contents of a digital account
25 pursuant to this Article.

26 H. For purposes of this Article, the term "digital account" shall include
27 any account of the decedent on any social networking Internet website, web log
28 Internet website, microblog service Internet website, short message service
29 Internet website, electronic mail service Internet website, financial account
30 Internet website, or any similar electronic services or records, together with any

1 words, characters, codes, or contractual rights necessary to access such digital
2 assets and any text, images, multimedia information, or other personal property
3 stored by or through such digital account.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____