

2021 Regular Session

HOUSE BILL NO. 295

BY REPRESENTATIVE SEABAUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY/IMMOVABLE: Provides relative to immovable property in successions

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 3431(A) and 3434(C)(1) and to
3 repeal Code of Civil Procedure Article 3421(B), relative to immovable property in
4 successions; to provide relative to the definition of small succession; to provide
5 relative to the small succession affidavit; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Articles 3431(A) and 3434(C)(1) are hereby
8 amended and reenacted to read as follows:

9 Art. 3431. Small successions; judicial opening unnecessary

10 A. It shall not be necessary to open judicially the small succession of a
11 person domiciled in Louisiana who died intestate ~~or testate as provided by Article~~
12 ~~3421(B)~~ or probate of the testament of the deceased would have the same effect as
13 if the deceased had died intestate or a person domiciled outside of Louisiana who
14 died intestate or whose testament has been probated by court order of another state,
15 and whose sole heirs are the following:

- 16 (1) His descendants.
17 (2) His ascendants.
18 (3) His brothers or sisters, or descendants thereof.

1 (4) His surviving spouse.

2 (5) His legatees under a testament probated by court order of another state.

3 * * *

4 Art. 3434. Endorsed copy of affidavit authority for delivery of property

5 * * *

6 C.(1) A multiple original of the affidavit, to which has been attached a
7 ~~certified~~ copy of the deceased's death certificate or which is an authentic act, shall
8 be recorded in the conveyance records in the office of the clerk of court in the parish
9 where any immovable property described therein is situated, after at least ninety days
10 have elapsed from the date of the deceased's death.

11 * * *

12 Section 2. Code of Civil Procedure Article 3421(B) is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 295 Engrossed

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Seabaugh

Abstract: Redefines small succession and alters the affidavit requirements of a small succession.

Present law (C.C.P. Art. 3431(A)) provides for the following circumstances when it is not necessary to judicially open a small succession:

- (1) For a person domiciled in La. and who died intestate or testate, leaving no immovable property and the probate of the testament would have the same effect as if the deceased died intestate.
- (2) For a person domiciled outside of La. who has died intestate or whose testament has been probated by a court order of another state and whose sole heirs are the following:
 - (a) Descendants.
 - (b) Ascendants.
 - (c) Brothers or sisters, or descendants thereof.
 - (d) Surviving spouse.
 - (e) Legatees under a testament.

Proposed law retains present law in that it is not necessary to open a small succession for a person who died testate and domiciled in Louisiana if the probate of the testament of the deceased would have the same effect as if the deceased had died intestate. Proposed law removes the provision requiring the deceased to not leave immovable property.

Present law (C.C.P. Art. 3434) provides for a certified copy of the deceased's death certificate to be attached to a small succession affidavit.

Proposed law (C.C.P. Art. 3434(C)(1)) removes the present law requirement to attach a certified copy of the deceased's death certificate. Proposed law requires either an authentic act of the affidavit or a copy of the deceased's death certificate.

Proposed law repeals C.C.P. Art. 3421(B).

(Amends C.C.P. Arts. 3431(A) and 3434(C)(1); Repeals C.C.P. Art. 3421(B))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Repeal C.C.P. Art. 3421(B).
2. Require the small successions affidavit be in authentic form or a copy of the death certificate to be attached to the affidavit.
3. Remove the necessity to open a small succession for a deceased person domiciled in La. if the probate of the testament would have the same effect as if the deceased died intestate.
4. Remove requirement that the deceased leave no immovable property.