

SENATE BILL NO. 70

BY SENATOR MURRAY

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AN ACT

To amend and reenact Code of Civil Procedure Articles 3421, 3431(A)(introductory paragraph), and 3432(A)(8) and (9), to enact Code of Civil Procedure Article 3432.1, and to repeal Code of Civil Procedure Article 3422.1(G) and 3432(A)(10), relative to small successions; to provide relative to small succession procedures and effects; to provide certain definitions, conditions, terms, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 3421, 3431(A)(introductory paragraph), and 3432(A)(8) and (9) are hereby amended and reenacted and Code of Civil Procedure Article 3432.1 is hereby enacted to read as follows:

Art. 3421. Small successions defined

A small succession, within the meaning of this Title, is the succession or the ancillary succession of a person who at any time has died ~~at any time~~, leaving property in Louisiana having a gross value of seventy-five thousand dollars or less valued as of the date of death **or, if the date of death occurred at least twenty-five years prior to the date of filing of a small succession affidavit as authorized in this Title, leaving property in Louisiana of any value.**

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Art. 3431. Small successions; judicial opening unnecessary

A. It shall not be necessary to open judicially the small succession of a person domiciled in Louisiana who died intestate, or domiciled outside of Louisiana **who died intestate or** whose testament has been probated by court order of another state, and whose sole heirs are the following:

* * *

1 Art. 3432. Affidavit for small succession; contents

2 A. When it is not necessary under the provisions of Article 3431 to open
3 judicially a small succession, at least two persons, including the surviving spouse,
4 if any, and one or more competent major heirs of the deceased, may execute one or
5 more multiple originals of an affidavit, duly sworn before any officer or person
6 authorized to administer oaths in the place where the affidavit is executed, setting
7 forth:

8 * * *

9 ~~(8) An attachment consisting of certified copies of the testament and the~~
10 ~~probate order of another state, if the affidavit is being used in lieu of an ancillary~~
11 ~~probate proceeding.~~

12 ~~(9)~~ An affirmation that, by signing the affidavit, the affiant, if an heir, has
13 accepted the succession of the deceased; and

14 ~~(10)~~**(9)** An affirmation that, by signing the affidavit, the affiants swear under
15 penalty of perjury that the information contained in the affidavit is true, correct and
16 complete to the best of their knowledge, information, and belief.

17 * * *

18 **Art. 3432.1. Affidavit for small succession for a person domiciled outside of**
19 **Louisiana who died testate; contents**

20 **A. When it is not necessary under the provisions of Article 3431 to open**
21 **judicially a small succession, at least two persons, including the surviving**
22 **spouse, if any, and one or more competent legatees of the deceased, may execute**
23 **one or more multiple originals of an affidavit, duly sworn before any officer or**
24 **person authorized to administer oaths in the place where the affidavit is**
25 **executed, setting forth all of the following:**

26 **(1) The date of death of the deceased, and his domicile at the time**
27 **thereof.**

28 **(2) The fact that the deceased died testate.**

29 **(3) The marital status of the deceased, the location of the last residence**
30 **of the deceased, and the name of the surviving spouse, if any, and the surviving**

1 spouse's address, domicile, and location of last residence, together with the
2 names and last known addresses of the legal heirs of the deceased, and
3 identifying those of the legal heirs who are also forced heirs of the deceased.

4 (4) The names and last known addresses of the legatees of the deceased,
5 and the statement that a legatee not signing the affidavit was given ten days
6 notice by U.S. mail of the affiants' intent to execute an affidavit for small
7 succession and did not object.

8 (5) A description of the property left by the deceased, including whether
9 the property is community or separate, and which, in the case of immovable
10 property, must be sufficient to identify the property for purposes of transfer.

11 (6) A showing of the value of each item of property subject to the
12 jurisdiction of the courts of Louisiana, and the aggregate value of all such
13 property, at the time of the death of the deceased.

14 (7) A statement describing the respective interests in the property which
15 each legatee has inherited and whether a legal usufruct of the surviving spouse
16 attaches to the property.

17 (8) An attachment consisting of certified copies of the testament and the
18 probate order of another state.

19 (9) An affirmation that, by signing the affidavit, the affiant, if a legatee,
20 has accepted the legacy of the deceased.

21 (10) An affirmation that, by signing the affidavit, the affiants swear
22 under penalty of perjury that the information contained in the affidavit is true,
23 correct, and complete to the best of their knowledge, information, and belief.

24 B. If the deceased had no surviving spouse, the affidavit must be signed
25 by at least two persons who have actual knowledge of the matters stated therein.

26 C. In addition to the powers of a natural tutor otherwise provided by
27 law, a natural tutor may also execute the affidavit on behalf of a minor child
28 without the necessity of filing a petition pursuant to Article 4061.

29 Section 2. Code of Civil Procedure Article 3422.1(G) and 3432(A)(10) are hereby
30 repealed.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____