

SENATE BILL NO. 184

BY SENATOR MURRAY AND REPRESENTATIVES ABRAMSON, CHANEY,
ERNST, HINES, MILLS AND WILLMOTT

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

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AN ACT

To amend and reenact Code of Civil Procedure Articles 3421, 3431, 3432, and 3434, and to repeal Code of Civil Procedure Article 3433, relative to small successions; to define a small succession; to provide relative to small succession procedure and effects; to authorize recognition and conveyance of an ownership interest in certain immovable property through a small succession; to provide certain definitions, procedures, conditions, and requirements; to provide a prescriptive period for certain actions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 3421, 3431, 3432 and 3434 are hereby amended and reenacted to read as follows:

Art. 3421. Small successions defined

A small succession, within the meaning of this Title, is the succession of a person who dies leaving property in Louisiana having a gross value of fifty thousand dollars or less. **On and after January 1, 2010, a small succession, within the meaning of this Title, is the succession of a person who dies leaving property in Louisiana, the deceased's interest in which has a gross value of seventy-five thousand dollars or less.**

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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 who died intestate leaving no immovable property, ~~excluding an ownership interest in any cemetery space intended for the interment of the person who died intestate~~ **other than an ownership interest in small succession immovable**

1 **property as defined in Paragraph D**, and whose sole heirs are the following:

2 (1) His descendants.

3 (2) His ascendants.

4 (3) His brothers or sisters, or descendants thereof.

5 (4) His surviving spouse.

6 B. Any person appointed as public administrator by the governor may use
7 the affidavit procedure of this Chapter to take possession of the estate of the ~~decedent~~
8 **deceased** for transmittal to the state provided there is no surviving spouse or other
9 heir present or represented in the state and provided that the estate does not include
10 any immovable property, **other than small succession immovable property**, and
11 provided he has advertised one time in the official journal of the parish **where a**
12 **succession would have been opened under Article 2811**, and verifies that he has
13 received no notice of opposition.

14 C. The legal notice required in Paragraph B of this Article shall read as
15 follows:

16 "Notice is hereby given to any heirs or creditors of _____ that
17 _____, Public Administrator for the parish of _____, intends to
18 administer the intestate succession of _____, under the provisions
19 of Small Successions as set forth in Chapter 2 of Title V of Book VI of the Code of
20 Civil Procedure.

21 Anyone having an objection to such administration of the succession should
22 notify _____ at _____."

23 **D. As used in this Chapter, "small succession immovable property"**
24 **means (1) immovable property, comprised of a single lot or contiguous lots, on**
25 **which is situated a single building that, together with any ancillary buildings,**
26 **contains not more than four dwelling units, each of which has its primary use**
27 **as a residence, and in a portion of which either the deceased or the surviving**
28 **spouse resided or a portion of which was the last place of residence of either the**
29 **deceased or the surviving spouse if neither the deceased nor the surviving**
30 **spouse was residing in that residence on the date of death because of illness,**

1 property for purposes of transfer;

2 (7) A showing of the value of each item of property, and the aggregate
3 value of all such property, at the time of the death of the deceased;

4 (8) A statement describing the respective interests in the property which
5 each heir has inherited and whether a legal usufruct of the surviving spouse
6 attaches to the property;

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

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

12 B. If the deceased had no surviving spouse, the affidavit must be signed
13 by at least two heirs. If the deceased had no surviving spouse and only one heir,
14 the affidavit must also be signed by a second person who has actual knowledge
15 of the matters stated therein.

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

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

21 A. A multiple original of the affidavit required ~~required~~ **authorized** by Article 3432;
22 bearing the endorsement of the inheritance tax collector that no inheritance taxes are
23 due, shall be full and sufficient authority for the payment or delivery of any money
24 or property of the deceased described in the affidavit by any bank **to the heirs of the**
25 **deceased and the surviving spouse in community, if any, in the percentages**
26 **listed therein, by any bank, financial institution,** trust company, warehouseman,
27 or other depository, or by any person having such property in his possession or under
28 his control. Similarly, a multiple original of this affidavit endorsed as required above
29 **of an affidavit satisfying the requirements of this Article** shall be full and
30 sufficient authority for the transfer to the heirs of the deceased, and surviving spouse

1 in community, if any, or to their assigns, of any stock or registered bonds in the
2 name of the deceased and described in the affidavit, by any domestic or foreign
3 corporation.

4 B. The receipt of the persons named in the affidavit as heirs of the deceased,
5 or surviving spouse in community thereof, constitutes a full release and discharge
6 for the payment of money or delivery of property made under the provisions of this
7 Article. ~~The inheritance tax collector, and any~~ Any creditor, heir, succession
8 representative, or other person whatsoever shall have no right or cause of action
9 against the person paying the money, or delivering the property, or transferring the
10 stock or bonds, under the provisions of this Article, on account of such payment,
11 delivery, or transfer.

12 C. (1) A multiple original of the affidavit, to which has been attached a
13 certified copy of the deceased's death certificate, shall be recorded in the
14 conveyance records in the office of the clerk of court in the parish where any
15 small succession immovable property described therein is situated, after at least
16 ninety days have elapsed from the date of the deceased's death.

17 (2) An affidavit so recorded, or a certified copy thereof, shall be
18 admissible as evidence in any action involving small succession immovable
19 property to which it relates or is affected by the instrument, and shall be prima
20 facie evidence of the facts stated therein, including the relationship to the
21 deceased of the parties recognized as heir, surviving spouse in community or
22 usufructuary as the case may be, and of their rights in the small succession
23 immovable property of the deceased.

24 (3) An action by a person, who claims to be a successor of a deceased
25 person but who has not been recognized as such in an affidavit authorized by
26 Article 3432, to assert an interest in small succession immovable property
27 formerly owned by the deceased, against a third person who has acquired an
28 interest in the small succession immovable property, or against his successors
29 by onerous title, is prescribed in two years from the date of the recording of the
30 affidavit in accordance with this Paragraph.

1 Section 2. Code of Civil Procedure Article 3433 is hereby repealed in its entirety.

2 Section 3. The provisions of this Act are not intended to establish any necessity to
3 open a succession judicially which does not qualify as a small succession.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____