
DIGEST

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HB 295 Reengrossed

2021 Regular Session

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.

The House Floor Amendments to the engrossed bill:

1. Add that the deceased died testate.
2. Change terminology to "successors" from "heirs".