Louisiana Department of Public Safety

Office of Motor Vehicles

18.01 Small Successions

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To view Louisiana Statutes: http://www.legis.state.la.us/

Definitions:

- **Affiant –** A person who makes and swears to an affidavit
- **Ancillary succession –** The succession of a person who died domiciled outside of Louisiana, leaving property in Louisiana with a gross value of $200,000 or less valued as of the date of death
- **Curator –** A court-appointed guardian for an adult who cannot manage their own affairs.
- **Interdict –** An adult who has been legally declared unable to manage their owner affairs because of incapacity
- **Legatee –** A person or organization that receives property or money through a will.
- **Natural Tutor –** A parent or other person who automatically has legal authority to act for a minor
- **Small Successions -** The succession or the ancillary succession of a person who died leaving property in Louisiana with a gross value of $200,000 or less valued as of the date of death or, if the date of death occurred at least 20 years prior to the date of filing of a small succession affidavit, leaving property in Louisiana of any value.
- **Usufruct –** A clause in a will that allows someone to use property for a set amount of time after the owner's death

General:

- The decedent died intestate (no will) or testate (will);
- The value of the decedent's property in Louisiana at the time of death does not exceed $200,000 or any value if the date of death occurred at least 20 years from the date of filing.
- The decedent's estate contains movable or immovable property;
- It shall not be necessary to judicially open a small succession if:
    - A person domiciled in Louisiana who died intestate,
    - A person domiciled outside of Louisiana who died intestate or whose testament has been probated by court order of another state.
    - A person domiciled in Louisiana who died testate leaving no immovable property in Louisiana, if the surviving spouse, all persons who would inherit under the testament, and all other persons who would inherit in the absence of a testament agree to waive probate of the testament.

Requirements:

- **Affidavit for Small Succession for a Person who Died Intestate**
  - The affidavit must include:
    - The date of death, and his/her domicile at the time of death
    - That the deceased died intestate and last residential address
    - The marital status of the deceased, and the name and residential address of the surviving spouse, if applicable
    - The names and last known address of the heirs of the deceased, their relationship to the deceased, and if applicable, a statement that an heir not signing the affidavit cannot be located or was given 30 days' notice by United States mail of the affiants' intent to execute an affidavit for a small succession and did not object
    - A description of the property left by the deceased, including whether the property is community or separate
    - A listing of the value of each item of property, and the total value of the property at the time of death
    - A statement describing the respective interests in the property that each heir has inherited and whether a legal usufruct of the surviving spouse attaches to the property
    - An attachment consisting of certified copies of the last will and testament and the probate order of another state, if the affidavit is being used in lieu of an ancillary probate proceeding
    - An affirmation that, by signing the affidavit, the affiant, if an heir, has accepted the succession of the deceased
    - An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief
      - If the deceased had no surviving spouse, the affidavit shall be signed by at least two heirs. If the deceased had no surviving spouse and only one heir, the affidavit shall be signed by a second person who has actual knowledge of the matter.
      - In addition to the powers of a natural tutor or curator otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child and a curator may also execute the affidavit on behalf of an interdict without the necessity of court authorization.
- **Affidavit for a Small Succession for a Person Domiciled in Louisiana who Died Testate**
  - The affidavit must include:
    - The date of death of the deceased, and his/her domicile at the time of death
    - The fact that the deceased died testate
    - The marital status of the deceased, and the name and residential address of the surviving spouse, if applicable.
    - The names and last known addresses of the heirs of the deceased, and identifying those of the heirs who are also forced heirs of the deceased
    - The names and last known addresses of the legatees of the deceased
    - A description of the movable property left by the deceased, including whether the property is community or separate, and an affirmation that the deceased died owning no immovable property in Louisiana

        - A listing of the value of each item of property, and the total value of the property at the time of death
        - A statement describing the respective interests in the property that each legatee has inherited and whether a usufruct of the surviving spouse attaches to the property
        - A copy of the last will and testament
        - An affirmation that, by signing the affidavit, the affiant, if a legatee, has accepted the legacy of the deceased
        - An affirmation that, by signing the affidavit, each affiant expressly waives any right to challenge the validity of the testament or any of its provisions
        - An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct, and complete to the best of their knowledge, information, and belief
            - In addition to the powers of a natural tutor or curator otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061, and a curator may also execute the affidavit on behalf of an interdict without the necessity of court authorization.
- **Affidavit for a Small Succession for a Person Domiciled Outside of Louisiana who Died Testate.**
    - The affidavit must include:
        - The date of death of the deceased, and his domicile at the time thereof
        - The fact that the deceased died testate
        - The marital status of the deceased, and the name and residential address of the surviving spouse, if applicable.
        - The names and last known addresses of the heirs of the deceased and identifying those of the heirs who are also forced heirs of the deceased
        - The names and last known addresses of the legatees of the deceased, and the statement that a legatee not signing the affidavit was given thirty days' notice by United States mail of the affiants' intent to execute an affidavit for small succession and did not object
        - A description of the property left by the deceased in Louisiana, including whether the property is community or separate, and which, in the case of immovable property, shall be sufficient to identify the property for purposes of transfer
        - A listing of the value of each item of property subject to the jurisdiction of the courts of Louisiana, and the total value of the property, at the time of the death of the deceased
        - A statement describing the respective interests in the property that each legatee has inherited and whether a usufruct of the surviving spouse attaches to the property
        - A copy of the last will and testament and a certified copy of the probate order of the court of another jurisdiction or the equivalent thereof
        - An affirmation that, by signing the affidavit, the affiant, if a legatee, has accepted the legacy of the deceased
        - An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct, and complete to the best of their knowledge, information, and belief

        - If the deceased had no surviving spouse, the affidavit shall be signed by at least two persons who have actual knowledge of the matters stated in the affidavit
        - In addition to the powers of a natural tutor or curator otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061, and a curator may also execute the affidavit on behalf of an interdict without the necessity of court authorization
- Title and registration certificate, if available.

- **Tax Rules:**
    - Donations by testament (will) are never taxable.
    - All inherited transfers are tax free.
    - Transfer of vehicles by heirs or legatees may or may not be taxable, depending on the nature of the transfer.
    - If an existing mortgage is being assumed by the surviving spouse, taxes are not due on the unpaid principal balance of the mortgage.