HLS 20RS-562 ORIGINAL

2020 Regular Session

HOUSE BILL NO. 396

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BY REPRESENTATIVE STAGNI

HUMAN REMAINS: Provides relative to the disposition of human remains

AN ACT

2 To enact R.S. 8:655.1 and 659.1, relative to human remains; to provide relative to the 3 disposition of remains of a named funeral recipient in a preneed funeral contract; to 4 provide priority of persons with respect to control of interment of a named funeral 5 recipient; to provide right to seek judicial judgment; to provide permission to move 6 remains of a named funeral recipient; and to provide for related matters. 7 Be it enacted by the Legislature of Louisiana: 8 Section 1. R.S. 8:655.1 and 659.1 are hereby enacted to read as follows: 9 §655.1. Pre-death right of disposing of remains 10 A. Pursuant to the meaning of terms defined in R.S. 37:831, prior to the 11 death of the named funeral recipient in a preneed funeral contract, unless other 12 specific directions have been given or the designation of a specific person to control 13 the disposition of the named funeral recipient has been made by the buyer of the 14 preneed funeral contract in the form of a notarial testament or a written and notarized 15 declaration, the following persons, in the priority listed, have the right to control and 16 authorize the interment of the named funeral recipient: 17 (1) The person designated in the preneed funeral contract by the buyer to 18 control disposition. 19 (2) The surviving spouse of the buyer, if there is no pending petition for 20 divorce filed by either spouse.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(3) A majority of the surviving adult children of the buyer.
2	(4) A majority of the surviving adult grandchildren of the buyer.
3	(5) The surviving parents of the buyer.
4	(6) A majority of the surviving adult siblings of the buyer.
5	(7) A majority of the surviving adult persons respectively in the next degrees
6	of kindred as established in Civil Code Article 880 et seq.
7	B. In the event that the buyer has made multiple notarial testaments or
8	notarized declarations pursuant to Subsection A of this Section, the testament or
9	declaration, whichever is dated last, shall control.
10	C.(1) In the absence of specific directions given by the buyer, if the
11	authorization of the person or persons with the right to control disposition cannot be
12	obtained, a final judgment of a district court shall be required.
13	(2) An individual who attempts to enter a preneed funeral contract as a buyer
14	and is denied by a funeral establishment shall have the right to seek a final judgment
15	of a district court.
16	* * *
17	§659.1. Pre-death permission to move remains
18	A. Prior to the death of the named funeral recipient in a preneed funeral
19	contract, the remains of the named funeral recipient may be authorized to be moved
20	from a cemetery space to another cemetery space in the same cemetery or to another
21	cemetery with the consent of the cemetery authority and the written consent of one
22	of the following, in the order named, unless other specific directions, in the form of
23	a notarial testament or a written and notarized declaration, have been given by the
24	buyer of the preneed funeral contract:
25	(1) The surviving spouse of the buyer, if there is no pending petition for
26	divorce filed by either spouse.
27	(2) A majority of the surviving adult children of the buyer.
28	(3) A majority of the surviving adult grandchildren of the buyer.
29	(4) The surviving parents of the buyer.

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- 1 (5) A majority of the surviving adult siblings of the buyer.
- B. If the required consent cannot be obtained, a final judgment of the district

court of the parish where the cemetery is situated shall be required.

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 396 Original

2020 Regular Session

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Abstract: Provides relative to rights of certain persons authorized to arrange the pre-death disposition and moving of human remains of the named funeral recipient in a preneed funeral contract.

<u>Present law</u> (R.S. 37:831) provides definitions for "buyer", "funeral establishment", "funeral recipient", and "preneed funeral contract".

<u>Proposed law</u> provides for the priority of certain persons in determining the disposition of human remains of the funeral recipient in a preneed funeral contract prior to the death of the funeral recipient. The priority listed in <u>proposed law</u> is as follows:

- (1) The person designated by the buyer of the preneed funeral contract to control disposition in the preneed contract.
- (2) The surviving spouse of the buyer, if no pending petition for divorce has been filed by either spouse.
- (3) A majority of the surviving adult children of the buyer.
- (4) A majority of the surviving adult grandchildren of the buyer.
- (5) The surviving parents of the buyer.
- (6) A majority of the surviving adult siblings of the buyer.
- (7) A majority of the surviving adult persons respectively in the next degrees of kindred as established in <u>present law</u> (C.C. Art 880 et seq.)

<u>Proposed law</u> provides that in the event the buyer has made multiple notarized declarations of interment pursuant to <u>proposed law</u>, the last declaration controls the interment of the named funeral recipient.

<u>Proposed law</u> provides that a final judgment of a district court shall be required when the authorization of the person with the right to control disposition cannot be obtained.

<u>Proposed law</u> provides that an individual who attempts to enter a preneed contract as a buyer and is denied by a funeral establishment shall have the right to seek a final judgment in district court.

<u>Proposed law</u> provides that the remains of the named funeral recipient in a preneed funeral contract may be authorized to be moved to another cemetery space in the same cemetery or to another cemetery with the consent of the cemetery authority and the written consent of one of the following, in the order named prior to the death of the named funeral recipient,

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unless other directions have been given in writing by the buyer of the preneed funeral contract:

- (1) The surviving spouse of the buyer of the preneed funeral contract, if no pending petition for divorce has been filed by either spouse.
- (2) A majority of the surviving adult children of the buyer.
- (3) A majority of the surviving adult grandchildren of the buyer.
- (4) The surviving parents of the buyer.
- (5) A majority of the surviving adult siblings of the buyer.

<u>Proposed law</u> provides that a final judgment of a district court shall be required when the authorization of the person with the right to give permission to move the remains of the named funeral recipient cannot be obtained.

(Adds R.S. 8:655.1 and 659.1)