LOUISIANA STATE LAW INSTITUTE

MEETING OF THE COUNCIL

December 13, 2024

Friday, December 13, 2024

Persons Present:

Braun, Jessica G.
Breard, L. Kent
Crochet, Anne J.
Cromwell, L. David
Darensberg, June Berry
Doguet, Andre'
Hamilton, Leo C.
Hawthorne, George "Trippe"
Hayes, Thomas M., III
Hogan, Lila Tritico
Holdridge, Guy
Holthaus, C. Frank
Johnson, Rachael D.
Lee, Amy Allums
Manning, C. Wendell
Melerine, Michael
Miller, Gregory A.
Norman, Rick J.
Philips, Harry "Skip", Jr.
Price, Donald W.
Procell, Christopher A.
Richard, Herschel, E., Jr.
Roussel, Randy
Saloom, Douglas J.
Smith, Kenya J.H.
Sossamon, Meera U.
Stuckey, James A.
Tate, George J.
Thibaut, Martha A.
Thibeaux, Robert P.
Title, Peter S.
Tucker, Zelda W.
Waller, Mallory C.
Weems, Charles S., III
Ziober, John David

President L. David Cromwell called the December Council meeting to order at 10:00 a.m. on Friday, December 13, 2024 at the Louisiana Supreme Court in New Orleans. After asking Council members to briefly introduce themselves, the President called on Mr. Randy Roussel, Reporter of the Common Interest Ownership Regimes Committee, to begin his presentation of materials.

Common Interest Ownership Regimes Committee

Mr. Roussel began his presentation with a reminder of the work previously done by the Committee and the Council on the Planned Community Act and the desire to keep the revisions to the Condominium Act consistent with that legislation. He then directed the Council to page 15 and the definition of "special declarant rights," which is where he paused his presentation at the November Council meeting. Members of the Council discussed the fact that special declarant rights are a subset of development rights and questioned whether the catchall provision is too broad. The Council, wishing to ensure that the catchall is limited to rights that are actually permitted, approved the following changes:

R.S. 9:1121.~~103~~105. Definitions

As used in this Part, the following terms have the meanings indicated below:

* * *

(32) "Special declarant rights" means rights reserved for the benefit of a declarant to do any of the following:

(a) Complete improvements indicated in the declaration.

(b) Exercise any development right.

(c) Exercise sales and marketing rights in accordance with R.S. 9:1122.111.

(d) Establish any servitudes through the common elements for making improvements within the condominium regime or within immovable property that may be added to the condominium regime.

(e) Make the condominium regime subject to a master association.

(f) Combine a condominium regime with another condominium regime.

(g) Appoint or remove any officer of the association or any master association or any director during any period of declarant control.

(h) Control any construction, design review, or aesthetic standards committee or process.

(i) Attend meetings of the unit owners and, except during an executive session, the board of directors.

(j) Have access to the records of the association to the same extent as a unit owner.

(k) Set the number of directors and officers of the association.

(l) Any other rights reserved for the benefit of the declarant in the declaration to the extent permitted by this Part.

The Reporter then introduced the definitions of "supermajority vote" and "two-thirds vote" and explained that a supermajority vote must be comprised of eighty percent of the voting interest in the entire association while a two-thirds vote only requires two-thirds of the voters present at a meeting. The distinction is intentional due to the fundamental changes to the condominium regime and its very existence that may occur with a supermajority vote. Members of the Council inquired as to whether either vote may be taken by ballot or whether one requires an actual meeting, as well as whether or not the definition of "two-thirds vote" should mimic the previously approved definition of "majority vote." The Reporter agreed to note in the Comment that the rules governing quorums are contained in R.S. 9:1123.107, and the following definitions were approved:

(33) "Supermajority vote" means the vote cast through a method permitted by R.S. 9:1123.108 by more than eighty percent of the voting interest in the association.

(34) "Two-thirds vote" means the vote cast through a method permitted by R.S. 9:1123.108 by at least two-thirds of the voting interest present at a duly called meeting of the association at which a quorum is present.

The terms "unit," "unit designation," and "unit owner" were adopted as presented without discussion. Mr. Roussel then introduced the term "unrelated purchaser," and one Council member immediately inquired as to the meaning of "immediate family member" and commented on the breath of this phrase. Mr. Roussel noted that the intent is to cover biological family members but not collaterals, siblings, or ascendants. Members of the Council then reviewed the definition of "immediate family member" in the Governmental Code of Ethics and noted that it includes many people beyond spouses and descendants. It was suggested that in order to better protect consumers, the Reporter should return to the Council with a definition of this phrase, but for now the following definitions were all approved:

(35) "Unit" means a part of the condominium property subject to individual ownership. A unit may include air space only. A unit includes ~~such~~ the accessory rights and obligations as are stipulated in the ~~condominium~~ declaration.

(36) "Unit designation" means the number, letter, or combination thereof or any other official designation identifying a particular unit in the ~~condominium~~ declaration.

(37) "Unit owner" means a person appearing as an owner of a unit in the conveyance records of the parish where the unit is located.

(38) "Unrelated purchaser" means a person who purchases a unit and who is not any of the following:

(a) The declarant or an affiliate of the declarant.

(b) An individual, trust, or other person that directly or indirectly owns twenty percent or more of the declarant.

(c) An immediate family member of a person described in Subparagraph (a) or (b) of this Paragraph.

Finishing this Section with the definitions of "vote" and "voting interest" or "voting power," the following language was adopted as presented and without comment:

(39) "Vote" means consent, waiver, ballot, or proxy by a method permitted by R.S. 9:1123.108.

(40) "Voting interest" or "voting power" means the votes allocated to a unit in the declaration.

Mr. Roussel then introduced Subpart B relative to the creation, amendment, and termination of condominium regimes. The discussion of proposed R.S. 9:1122.101 first reiterated that the declaration is not effective against third parties until it is filed for registry and that property law covers who is considered an owner for purposes of establishing the regime. Members of the Council next examined what may constitute an "insubstantial failure" in Subsection B and concluded that there are too many possible circumstances to define the phrase but that courts will know it when they see it. With respect to Subparagraph (D)(1)(b), the Council discussed what it means to be a unit affected by an amendment and the need to index it in the name of each owner for title purposes because the description of that unit may change over the course of time. Mr. Roussel acknowledged a point made relative to the removal of a common element and whether that must be indexed in the name of every single unit owner, but changes were not proposed. The following was adopted:

R.S. 9:1122.101 Creation of condominium regimes; ~~condominium~~ declaration; recordation

A. A condominium regime is established by the execution of a ~~condominium~~ declaration by ~~the owner~~ all owners of the immovable property to be ~~conveyed and by every lessor of a lease the expiration and termination of which will terminate the condominium or reduce its size~~ affected or by each lessee in the case of a leasehold condominium regime. The ~~condominium~~ declaration ~~and any instrument by which the condominium regime is altered or terminated~~ shall be effective ~~against third parties~~ when filed for registry in the conveyance records ~~in the~~ of each parish in which any portion of the immovable property is ~~located~~ situated.

~~1122.103.(A) and (B)~~ B. All provisions of the declaration ~~and bylaws~~ are severable. The effectiveness of the ~~condominium~~ declaration and merchantability of title to a ~~condominium parcel is~~ unit are not affected by ~~reason of~~ an insubstantial failure of the declaration to comply with this Part.

C. If a conflict exists between the declaration and any other condominium document, the declaration shall prevail.

D.(1)(a) The recorder shall index the initial declaration and plat in the conveyance records in the names of the declarant, the condominium regime, each owner or lessor, and each lessee of the immovable property subject to the declaration, and the association.

(b) The recorder shall index an amendment to the declaration or the plat or a termination of the declaration in the conveyance records in the names of the declarant, the condominium regime, and the association, as applicable. If an amendment relocates the boundary of a unit, incorporates common elements into a unit, or withdraws a unit from the condominium regime, the recorder shall also index the amendment in the name of each owner of each unit affected by the amendment. If an amendment adds additional immovable property, the recorder shall index the amendment in accordance with Subparagraph (a) of this Paragraph. The amendment shall be effective when filed for registry in the conveyance records of each parish in which any portion of the condominium property is situated.

(c) An indexing error shall not impair the effect of recordation of the document.

(2) The grant of a security right by the association shall comply with registry requirements of law, including filings in accordance with the Uniform Commercial Code-Secured Transactions.

~~1122.103.(C)~~ E. Notwithstanding any law or agreement to the contrary, provisions in the declaration ~~and bylaws~~ restricting conveyance based on race or religion shall be ~~void as provided by R.S. 9:2730~~ an absolute nullity.

F. Unit owners do not have the right to demand a partition of the common elements as long as the condominium regime is in existence notwithstanding any other provision of law.

Moving to page 19 of the materials and existing R.S. 9:1122.104, the Reporter explained that the substance of this provision has been relocated to another Section, and the proposed repeal was approved. The final provision considered was R.S. 9:1122.102(A) and consists of the required contents of the declaration. Mr. Roussel explained the use of the terminology from the Private Works Act regarding a complete property description in lieu of referring to a legal description in Paragraph (A)(3), and the Council reorganized the Items in Subparagraph (A)(7)(a) for clarity. Members of the Council then questioned the use of the phrase "who control the declarant" on line 19 of page 22 in Paragraph (A)(14) and wondered if this includes affiliates of the declarant or immediate family members, or both. The Council then approved all of the following with the understanding that the Reporter will return with clarification as to Paragraph (A)(14):

R.S. 9:1122.~~105~~ 102. Contents of the ~~condominium~~ declaration

A. The ~~condominium~~ declaration shall contain ~~or provide for~~ all of the following ~~matters~~:

(1) A statement submitting the immovable property to a condominium regime.

(2) The name by which the condominium regime is to be identified, which ~~name~~ shall include the word "condominium" or be followed by the ~~words~~ phrase "a condominium regime".

(3) ~~A legal description of the land~~ A complete property description of all of the immovable property subject to the condominium regime.

(4) An identification of each unit by letter, name, or number, or combination thereof, so that no unit bears the same designation as any other unit.

(5) A written description delineating the precise boundaries of each unit and designating any common elements and limited common ~~element appurtenant thereto~~ elements meeting the requirements of R.S. 9:1122.110.

(6) The ~~undivided shares, stated as percentages or fractions, in the common elements which are a component part of each of the units~~ manner of allocating common expense liabilities, common surpluses, and voting interest in the association, in accordance with R.S. 9:1122.104.

(7)(a) ~~The proportions or percentages and the manner of sharing common expenses and owning common surplus.~~

~~(8) The proportionate voting rights of the unit owners in the association~~ A description of any development right or other special declarant right reserved by the declarant containing sufficient information to meet the requirements of this Section. To reserve development rights or other special declarant rights, the declaration shall:

(i) Describe each reserved right in the condominium regime.

(ii) Contain a general schematic map of any immovable property that may be added to the condominium regime pursuant to a development right.

(iii) State the number of phases, if more than one.

(iv) State whether existing provisions in the condominium documents governing use, occupancy, and alienation shall apply to property that may be added to the condominium regime or a statement of any differentiation intended.

(v) State whether future improvements will be consistent in terms of architectural style, quality of construction, principal materials, or whether no assurance is made.

(vi) State any limitations as to location of improvements within the immovable property to be added or whether no assurance is made.

(vii) State that special declarant rights shall be exercised within the time period and in the manner set forth in R.S. 9:1122.109.

(b) If the declarant reserved development rights, the declaration shall further provide for the following:

(i) The method of reallocating a unit owner's interest in the common elements upon the exercise of a development right to add immovable property, common elements, or additional units.

(ii) The formulas or methods used to establish, as a fraction or percentage, the amended allocation of the common expense liabilities, common surpluses, and voting interest in the association.

~~(9) The method of amendment of the condominium declaration.~~

~~(10) A~~ (8) The plat ~~of survey of the land~~ and plans ~~of the proposed or existing improvements complying with Section~~ required by R.S. 9:1122.110.

~~(11) All matters required by Section 1122.106 in the event the declarant or an individual unit owner intends to reserve the right to change with respect to a unit or units, its percentage interest in the common elements, percentage of sharing of common surplus and common expense, and proportion of voting power in the association of unit owners.~~

~~(12) The reconstruction or repair of all or part of the condominium property after casualty and the disposition of the proceeds of casualty insurance required by Section 1123.112 among owners of destroyed or damaged units or to the owners of any common elements destroyed.~~

~~(13)~~ (9) The name of the association formed in accordance with R.S. 9:1123.101. ~~and the type of legal entity under which it is organized; if the association is not incorporated, the name and residence address of the person designated as agent to receive service of process upon the association, which agent must be a resident of the state of Louisiana; and~~

~~(14) The procedure for collecting from the unit owners their respective shares of the common expenses assessed~~.

(10) The procedure for restoration, repairing, rebuilding, or the withdrawal of damaged or destroyed units from the condominium regime following a casualty, to the extent the procedures vary from R.S. 9:1122.108, 1123.115, or 1123.118.

(11) The rights and responsibilities for the maintenance, repair, and replacement of the condominium property.

(12) Any building restrictions or servitudes affecting the condominium property.

(13) Identification of units as intended for residential or nonresidential use.

(14) The name of all natural persons who control the declarant, if the declarant is not a natural person.

(15) Subject to limitations provided in this Part, the method by which common elements may be transferred.

At this time, Mr. Roussel concluded his presentation, and the Council adjourned for lunch.

Membership and Nominating Committee

After lunch, the President called on Mr. John David Ziober, Chairman of the Membership and Nominating Committee, to present the Committee's annual report to the Council. Mr. Ziober detailed the Committee's recommendations for the officers of the Law Institute and other members of the Council and Executive Committee. A motion was made and seconded to adopt the report as presented, a copy of which is attached, and the motion passed with no objection. Mr. Ziober then concluded his presentation, and the President called on Judge Guy Holdridge, Director and Reporter of the Code of Civil Procedure Committee, to begin his presentation of materials.

Code of Civil Procedure Committee

Judge Holdridge began by directing the Council to the "Reporter's Proposed Revisions" materials, specifically Code of Civil Procedure Article 74.2 on page 1. Judge Holdridge explained that in addition to a few technical changes, Paragraph F contains language concerning changes of domicile between August 2005 and August 2007 that was intended to address issues resulting from Hurricane Katrina but is no longer necessary. A motion was made and seconded to adopt the proposed changes to Article

74.2 as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 74.2. Custody proceedings; support; forum non conveniens

* * *

D. A proceeding to register a child support, medical support, and income assignment order, or any ~~such~~ order issued by a court of this state for modification, may be brought in the parish where the person awarded support is domiciled.

E. For the convenience of the parties and the witnesses and in the interest of justice, a court, upon contradictory motion or upon its own motion after notice and hearing, may transfer the custody or support proceeding to another court where the proceeding ~~might~~ may have been brought.

~~F. Notwithstanding any other provision of law, if after August 26, 2005, and before August 15, 2007, a party has changed his domicile within the state and the other party resided in another state prior to the hurricanes, the custody or support proceeding shall be transferred to the parish of the domicile, upon motion made prior to December 31, 2007.~~

Next, the Reporter asked the Council to turn to Article 371, on page 2 of the materials. Judge Holdridge explained that in addition to a few technical changes that had been made to this provision, substantive changes appear on lines 8 and 9 and in Paragraph C concerning artificially generated or manipulated evidence. A motion was made and seconded to approve the proposed changes, at which time one Council member questioned the meaning of the term "deepfake," and the Council reviewed the definition of this term in R.S. 14:73.13. One Council member expressed concern over the inclusion of "accuracy" in addition to "authenticity" on line 11, arguing that this is an additional burden that may be overly cumbersome if, for example, attorneys would be required to redo expert calculations or verify that every payment included in a bank statement had actually been made. After additional discussion, members of the Council ultimately agreed to delete "and accuracy" after "authenticity" on line 11 and to add "or should have known" after "knew" on line 12.

The Council then discussed whether to include some sort of exception when disclosure of artificial manipulation has been made to the other party – if, for example, a photograph was brightened for the purpose of enhancing visibility of a certain detail and not to purportedly reflect the conditions at the time of the crash – with members questioning whether disclosure to the court should also be included. Ultimately, the Council agreed to add "without disclosure of that fact" before "shall be" on line 13 after discussing that upon disclosure, the other party can object to the introduction of the manipulated evidence and a hearing will be held. The Council also discussed the value of including these changes in the Code of Civil Procedure as a warning to practitioners of the pitfalls of misusing advancements in technology and to increase the likelihood of education on artificial intelligence and related issues for the bench and bar. The Council then agreed to delete "but not limited to" after "including" on line 8 as well as "at law" after "attorney" on lines 2 and 15. A vote was then taken on the motion to adopt Article 371 as amended, and the motion passed with all in favor. The adopted proposal reads as follows:

Article 371. Attorney

A. An attorney ~~at law~~ is an officer of the court. ~~He~~ An attorney shall ~~conduct himself~~ at all times act with decorum, and in a manner consistent with the dignity and authority of the court and the role ~~which he himself~~ that the attorney should play in the administration of justice.

B. ~~He~~ An attorney shall treat the court, its officers, jurors, witnesses, opposing party, and opposing counsel with due respect; shall not interrupt opposing counsel, or otherwise interfere with or impede the orderly dispatch

of judicial business by the court; shall not knowingly encourage or produce false evidence including artificially generated or manipulated evidence such as deepfakes; and shall not knowingly make any misrepresentation, or otherwise impose upon or deceive the court.

C. An attorney shall exercise reasonable diligence to verify the authenticity of evidence before offering it to the court. If an attorney knew or should have known through the exercise of reasonable diligence that evidence was false or artificially manipulated, the offering of that evidence without disclosure of that fact shall be considered a violation of this Article.

D. For a violation of any of the provisions of this ~~article~~ Article, the attorney ~~at law subjects himself~~ is subject to punishment for contempt of court, and ~~such~~ further disciplinary action as is otherwise provided by law.

Turning next to Article 684, on page 3 of the materials, Judge Holdridge explained that in the *Walcott* case, an issue arose as to whether a defendant who was determined to be mentally incompetent to stand trial in criminal court should also be precluded from filing a civil suit for overincarceration upon his release from prison pursuant to this provision. The First Circuit determined that if this were the case, the criminal defendant would have no avenue to pursue a civil claim, and the Committee agreed with this policy and thus proposes to change "mental incompetent" to "interdict." The Council then engaged in a great deal of discussion with respect to the fact that interdictions can be both full or limited, and limited interdictions can be as to person or property. One Council member questioned whether a curator who is appointed to manage the interdict's property, but not his person, would still be the proper party to sue, and another Council member questioned whether a limited interdict should necessarily be precluded from filing suit or whether this determination could vary since judgments of interdiction should include the least restrictive means. Several suggestions as to these points were made, including clarifying that this provision applies to only to full interdictions and limited interdictions for mental incompetence or including an exception along the lines of "unless the judgment of interdiction provides otherwise." One Council member then noted that perhaps the use of "mental incompetent" was intentional here because a person who lacks mental competence also lacks the procedural capacity to sue regardless of whether that person was actually interdicted. Ultimately, the Council voted to recommit Article 684 for further consideration by the Committee of the issues that arose during the course of its discussion.

Judge Holdridge then directed the Council's attention to Article 1201, on page 4 of the materials, and explained that the language on line 11 had been added for purposes of consistency with R.S. 13:5107. This statute in Title 13 provides that for suits against the state, a state agency, or a political subdivision, if service of process is not requested within ninety days, the action is dismissed without prejudice after a contradictory motion, whereas under Article 1201, insufficiency of service of process is raised in a declinatory exception. The Reporter noted that including the contradictory motion language in Article 1201 would result in a substantive change since declinatory exceptions are waived with the filing of an answer, whereas a contradictory motion can be filed after the filing of the answer. A motion was made and seconded to adopt the proposed change as presented, and the motion passed without objection. The adopted proposal reads as follows:

Article 1201. Citation; waiver; delay for service

* * *

C. Service of the citation shall be requested on all named defendants within ninety days of commencement of the action. When a supplemental or amended petition is filed naming any additional defendant, service of citation shall be requested within ninety days of its filing, and the additional defendant shall be served with the original petition and the supplemental or amended petition. The defendant may expressly waive the requirements of this Paragraph by any written waiver. The requirement provided by this Paragraph shall be expressly waived by a defendant unless

the defendant files, in accordance with the provisions of Article 928, a declinatory exception of insufficiency of service of process specifically alleging the failure to timely request service of citation or a contradictory motion in accordance with Article 1672(C).

* * *

Next, the Council considered Article 1313(A)(4), on page 5 of the materials, and Judge Holdridge explained that in the context of summary judgments, parties are required to serve each other electronically, but if electronic service cannot be effected, there is currently no provision that specifies what should be done. As a result, the Committee recommends adding the language on lines 10 through 12 to provide that one of the other means of service should be used. Members of the Council discussed the mandatory provisions concerning electronic service and eliminating fax filings, which are currently scheduled to go into effect on January 1, 2026, including funding difficulties for city courts and other courts in rural jurisdictions. A motion was then made and seconded to adopt the proposed revisions as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 1313. Service by mail, delivery, or electronic means

A. Except as otherwise provided by law, every pleading subsequent to the original petition, and every pleading which under an express provision of law may be served as provided in this Article, may be served either by the sheriff or by:

* * *

(4) Transmitting a copy by electronic means to counsel of record, or if there is no counsel of record, to the adverse party, at the number or addresses expressly designated in a pleading or other writing for receipt of electronic service. Service by electronic means is complete upon transmission but is not effective and shall not be certified if the serving party learns the transmission did not reach the party to be served. If electronic service cannot be effected in accordance with this Subparagraph, service may be effected in accordance with the other provisions of this Paragraph.

* * *

Comments – 2025

The amendment to Subparagraph (A)(4) of this Article clarifies that if electronic service cannot be effected by electronic means, service may be effected in accordance with the other provisions of Paragraph A. See Subparagraphs (B)(1) and (2) of Article 966 providing that a motion for summary judgment, all documents in support of the motion, any opposition to the motion, and all documents in support of the opposition shall be filed and served in accordance with Subparagraph (A)(4) of this Article.

* * *

The Reporter then directed the Council's attention to Article 1351, on page 6 of the materials, concerning the issuance of subpoenas, and Judge Holdridge explained that the language on line 2 had been changed to clarify that the clerk of court is responsible for the issuance of subpoenas, although the court can request that they be issued. One Council member questioned the applicability of this provision in the context of justices of the peace, and after discussion, the Council agreed that a Comment should be added noting that this amendment is not intended to change the authority of justices of the peace to issue a summons in accordance with Code of Civil Procedure Article 4921.2. A motion was then made and seconded to adopt the proposed changes to Article 1351 as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 1351. Issuance; form

The clerk ~~or judge~~ of the court wherein the action is pending, at the request of the court or a party, shall issue subpoenas for the attendance of witnesses at hearings or trials. A subpoena shall issue under the seal of the court. It shall state the name of the court, the title of the action, and shall command the attendance of the witness at a time and place specified, until discharged.

Next, the Council turned to Article 1425, on page 7 of the materials, and Judge Holdridge explained that a sentence had been added to the Comment on lines 16 through 18 to clarify that any amending or supplemental opinion provided by the expert is still subject to opposition. The Council discussed the manner in which this Comment should be updated and ultimately agreed to publish this additional sentence as a clarification of the 2024 amendment and Comment to Article 1425(F). A motion was made and seconded to adopt the Comment change as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 1425. Experts; pretrial disclosures; scope of discovery

* * *

Comments – 2024

The amendment to Paragraph F of this Article makes clear that a pretrial hearing is necessary to determine whether a witness qualifies as an expert or whether the methodologies employed by the witness are reliable. This would change the result reached by the First Circuit in Williams v. State Farm Mutual Automobile Insurance Company, 322 So. 3d 795, 797 (La. App. 1 Cir. 2021), in which the court held that the use of the permissive "may" did not mandate a pretrial motion to challenge the qualifications of an expert. The amendment does not preclude an opportunity to oppose any supplemental opinion given by the expert on any grounds after a determination has been made as to the expert's qualifications or methodologies.

Members of the Council then considered Article 1702, on page 8 of the materials, and Judge Holdridge explained that the current version of this Article references R.S. 13:3205, but the Committee thought it preferable to reproduce the actual language of that provision here. One Council member noted that Subparagraph (A)(2) includes both the party and his attorney and questioned whether the attorney should also be mentioned throughout this Subparagraph, and the Reporter agreed. The Reporter also agreed to change "process" to "notice" throughout Subparagraph (A)(5). A motion was then made and seconded to adopt the changes to Article 1702 as amended, and the motion passed with no objection. The adopted proposal reads as follows:

Article 1702. Default judgment

A.(1) * * *

* * *

(5) No default judgment shall be rendered against a defendant when notice is required under Subparagraph (2) or (3) of this Paragraph unless proof of the required notice is made by any of the following: ~~in the manner provided by R.S. 13:3205.~~

(a) Mailing the notice to the defendant or attorney, showing that it was enclosed in an envelope properly addressed to the defendant or attorney, with sufficient postage affixed, and the date it was deposited in the

United States mail, to which shall be attached the return receipt of the defendant or attorney.

(b) Utilizing the services of a commercial courier to make delivery of the notice to the defendant or attorney, showing the name of the commercial courier, the date, and address at which the ~~process~~ notice was delivered to the defendant or attorney, to which shall be attached the commercial courier's confirmation of delivery.

(c) Actually delivering the notice to the defendant or attorney, showing the date, place, and manner of delivery.

* * *

Judge Holdridge then directed the Council's attention to Article 3784, on page 9 of the materials, which the Committee proposes to delete because courts are no longer "in vacation" for extended periods of time, and these hearings on quo warranto and habeas proceedings should be held in open court rather than in chambers. A motion was made and seconded to adopt the deletion of Article 3784 in its entirety, and the motion passed with no objection. The adopted proposal reads as follows:

~~**Article 3784. Hearing**~~

~~The hearing may be held in open court or in chambers, in term or in vacation.~~

Turning to Article 4607, on page 10 of the materials, the Council considered the proposed change of "curators" to "attorneys" on line 8 in keeping with the provisions of Article 5091 on the appointment of attorneys to represent absentee defendants. A motion was quickly made and seconded to adopt the proposed change as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 4607. Partition by licitation or by private sale

When a partition is to be made by licitation, the sale shall be conducted at public auction and after the advertisements required for judicial sales under execution. When a partition is to be made at private sale without the consent of all co-owners, the sale shall be for not less than the appraised value of the property, and documents required pursuant to a court order shall be executed on behalf of the absentee or nonconsenting co-owner by a court-appointed representative, who may be a co-owner, after the advertisements required for judicial sales under execution are made. All counsel of record, including ~~curators~~ attorneys appointed to represent absentee defendants, and persons appearing in proper person shall be given notice of the sale date. At any time prior to the sale, the parties may agree upon a nonjudicial partition.

The Council then considered the last provision in this packet of materials, Article 4873 on page 11 of the materials, and Judge Holdridge explained that during Criminal Justice Reform several years ago, the threshold for jury trials was changed to matters that exceed ten thousand dollars, and this provision sets forth the procedure to transfer those matters from city court to district court. The Committee recommends adding a provision specifying that a plaintiff can oppose the transfer of the action to district court, but only if the plaintiff stipulates that the amount in controversy does not exceed ten thousand dollars. A motion was made and seconded to adopt the proposed revisions as presented, at which time the Council discussed whether the plaintiff should be required to stipulate that the amount in controversy does not exceed ten thousand dollars at the outset by including this in the petition itself. After additional discussion concerning the gamesmanship involved in these types of situations, a vote was taken on the motion to adopt Article 4873 as presented, which passed with no objection. The adopted proposal reads as follows:

Article 4873. Transfer to district court; procedure; contest; effect

A party entitled thereto under the provisions of Article 4872 may transfer the action to the district court in the following manner:

(1) Within the delay allowed for answer in the trial court of the limited jurisdiction, or within ten days after answer has been filed, ~~he~~ the party shall file a motion to transfer with the clerk of the court in which the suit is pending. The motion shall include a declaration that the matter is one to which defendant would have been entitled to trial by jury if commenced in district court, and that defendant desires trial by jury. If a party fails to file a motion to transfer within the delays required by this Subparagraph, the matter shall not be transferred.

(2) A plaintiff may oppose the transfer of the action to a district court only if the plaintiff stipulates that the action does not exceed ten thousand dollars exclusive of interest and costs.

(3) If no opposition is filed within ten days after the filing of the motion to transfer, the judge of the court in which the suit is pending shall order the transfer to the district court. If an opposition is timely filed, it shall be tried summarily.

~~(3)~~(4)(a) Where a transfer is ordered, the clerk of the court in which the action was initially filed shall forward to the clerk of court to which the action is transferred a certified copy of the record in the initial court, including pleadings, minute entries, and all other proceedings.

(b) The clerk of the district court shall file the action as a new proceeding in that court, upon payment by the defendant of a filing fee as provided by rule of the district court. All costs accruing thereafter, however, shall be advanced in the same manner as though the action initially had been commenced in the district court by the original plaintiff.

~~(4)~~(5) When the matter is docketed by the clerk of the district court, the proceeding shall continue in that court as though originally commenced therein. In the event transfer is effected prior to answer, defendant shall file ~~his~~ the answer in the district court within the delays provided by Article 1001, commencing from the date the transferred proceeding is filed in that court.

~~(5)~~(6) The disposition of a motion to transfer and any opposition thereto shall not be appealable, but shall be reviewable through the exercise of its supervisory jurisdiction by the court of appeal having appellate jurisdiction over the case.

The Reporter then asked the Council to turn to the materials on "Interruption of Prescription," which he explained had been submitted to the legislature as House Bill No. 803 of the 2024 Regular Session after approval by the Council earlier this year. The bill would have provided that prescription is interrupted for actions filed in courts of competent jurisdiction, even if venue is improper, and as long as the action is transferred to a court of proper venue within a certain period of time, sanctions will not be imposed under Article 863. During the course of the legislative process, however, the legislature voted to extend the prescriptive period applicable to torts for one year to two years, and as a result, Judge Holdridge agreed to revisit the policy of these proposals with that extension in mind. The Reporter also noted that the Code of Civil Procedure Committee voted in favor of resubmitting the bill despite the two-year prescription for torts because the policy behind the change is still sound, and members of the Council agreed that determinations concerning venue can be tricky, particularly when an accident occurs near parish lines or a party has multiple residences that could serve as his or her domicile. One Council member suggested that perhaps the criminal rule providing that venue is proper in any location in which an element of the crime occurred could be incorporated here, but other Council members noted that this rule concerning interruption of prescription applies in all

types of actions, not just those involving torts. Members of the Council also discussed the ability of some attorneys and clients to strategically file protective suits in multiple venues but recognized that the expenses associated with doing so could be prohibitive to others. In light of these considerations, the Council unanimously agreed that the proposed revisions on interruption of prescription and sanctions for improper venue should be resubmitted to the legislature without change in 2025.

Finally, Judge Holdridge directed the Council's attention to the final set of materials, "Proposed Revisions Relative to Article 1915," and explained to the Council that the Code of Civil Procedure Committee had been grappling with Article 1915(B) for at least a decade, discussing the holding of *Messinger* and the practical issues associated with certification of partial judgments as final and appealable after the court determines that there is no just reason for delay. The Reporter explained that once a certified partial final judgment reaches the court of appeal, it gives no deference to the decision of the trial court and conducts a de novo review, and if the court of appeal concludes that the judgment is not final and therefore not appealable, often after briefing and oral argument, it will dismiss the appeal on the grounds that it lacks subject matter jurisdiction. Judge Holdridge noted that if the dismissal occurs within the thirty-day window to seek a writ for supervisory jurisdiction, the appeal can be converted, but often that period of time has long since lapsed. As a result, and after many years of study, the Committee recommends the deletion of Article 1915(B) such that partial judgments will no longer be certified and will now be interlocutory and not appealable unless they are included in Article 1915(A). In other words, partial judgments that are not final will only be subject to writ procedure, and the court of appeal can decline to exercise its supervisory jurisdiction. Judge Holdridge also noted that the Committee is currently attempting to draft a revision involving the *Herlitz* factors for writ procedure and may even require that cases that would have previously fallen under Article 1915(B) must at least be considered by the court of appeal, even if the court of appeal ultimately decides not to grant the writ. The Reporter also noted that this change would have economic implications in light of the cost of submitting the entire record when, practically speaking, the court of appeal may only be able to consider very limited information if, for example, the judgment at issue is a partial summary judgment, as well as the practice of filing both a writ and an appeal out of an abundance of caution in these types of situations.

Members of the Council then expressed their general agreement with the deletion of Article 1915(B) but noted some reservations, including a potential expansion of the matters that are included in Article 1915(A) and will still be considered final and appealable. One Council member provided the example of a jurisdictional question that would have determined a threshold issue involving community property – if Texas had jurisdiction, the community property issues would have been moot, but if Louisiana had jurisdiction, they would not. Judge Holdridge reiterated that the Committee was still considering whether, if a decision on an issue would end or substantially reduce the cost of the litigation, the court of appeal should be required to exercise its supervisory jurisdiction to at least consider the issue, even if it ultimately decides not to grant the writ. The President then provided another example involving an ordinary process mortgage foreclosure in which summary judgment is granted as to the principal and interest but debate remains as to appraisal costs, and perhaps the judgment is for $2 million and the appraisal costs amount to $50,000 – if the judgment is in the mortgagee's favor such that the mortgagee cannot take a writ, and the judgment also cannot be certified as final to allow the property to be seized and foreclosed upon, the $2 million judgment will just be sitting pending resolution of the question of $50,000. The Council discussed issues concerning finality and appealability under Article 1915(B) as well as the inability to use executory process in every situation.

The Council continued its policy discussion concerning the deletion of Article 1915(B), and Judge Holdridge noted a few other solutions that the Code of Civil Procedure Committee had considered over the years – for example, requiring the trial judge to provide written reasons as to why there is no just reason for delay or requiring the court of appeal to consider any matter that is certified as final under Article 1915(B). Some members of the Council expressed agreement with the policy of disallowing piecemeal appeals while others suggested that perhaps special rules concerning promissory notes should be included in Article 1915(A). Members of the Council also

expressed an interest in reviewing the pre-1996 version of this law and wanted to ensure that the district court retains jurisdiction over the case while these issues are pending, a rule that is provided on lines 6 and 7 of page 2. The Council also discussed the practical reality that some of these certifications are prepared by the attorneys in the case rather than the judge himself, who may not be giving any real thought as to whether the partial judgment should be designated as final and therefore appealable. Other members of the Council expressed their hope that the deletion of Article 1915(B) would result in more consistency among the courts of appeal, and the Council discussed the perception that writs are not treated as seriously as appeals, a sentiment to which Judge Holdridge responded by noting that most writs are denied due to some sort of procedural error rather than based on the substance of the writ. Ultimately, the Council agreed to vote on the policy of deleting Article 1915(B) and to revisit whether to add to Article 1915(A) at a future meeting. A motion was made and seconded to delete Article 1915(B) concerning the certification of partial judgments as final and appealable, and the motion passed with all in favor.

Judge Holdridge then concluded his presentation, and there being no additional business, the Friday session of the December Council meeting was adjourned.

LOUISIANA STATE LAW INSTITUTE

MEETING OF THE COUNCIL

December 14, 2024

Saturday, December 14, 2024

Persons Present:

Belanger, Kahryn (Katie)
Breard, L. Kent
Crochet, Anne J.
Cromwell, L. David
Darensberg, June Berry
Doguet, Andre'
Hayes, Thomas M., III
Hogan, Lila Tritico
Holdridge, Guy
Holthaus, C. Frank
Johnson, Rachael D.
Kunkel, Nick
Lee, Amy Allums
Manning, C. Wendell
Miller, Gregory A.
Norman, Rick J.
Procell, Christopher A.
Richard, Herschel, E., Jr.
Saloom, Douglas J.
Thibaut, Martha A.
Tucker, Zelda W.
Waller, Mallory C.
Weems, Charles S., III
Ziober, John David

President L. David Cromwell called the Saturday session of the December Council meeting to order at 9:00 a.m. on Saturday, December 14, 2024 at the Louisiana Supreme Court in New Orleans. The President then called on Mr. Nick Kunkel, one of the Law Institute staff attorneys, to begin his presentation of materials on Tax Sales.

Tax Sales

Mr. Kunkel began his presentation by reminding the Council that in the spring, it had approved a comprehensive report concerning tax sales detailing a number of important policy decisions that would ultimately need to be made by the legislature after a landmark U.S. Supreme Court decision. Because the Committee could not reach a consensus with respect to certain policies involved, the Law Institute submitted its recommendations in the form of a report to the legislature. Several bills on tax sales were subsequently filed during the 2024 Regular Session, and, after negotiations between various stakeholders produced a number of last-minute amendments, the resulting legislation, Act No. 774 of the 2024 Regular Session, was enacted with a delayed effective date of January 1, 2026 and a request that the Law Institute review the provisions of the Act and recommend technical and other changes to clarify, modify, or eliminate antiquated provisions of law. The Executive Committee determined that this project should be handled internally by Law Institute staff as opposed to being referred to the Tax Sales Committee, which is now considered inactive.

With that introduction, Mr. Kunkel asked the Council to turn to R.S. 47:2122 on page 1 of the materials. A motion was made and seconded to approve the deletion of line 10, as, under the 2024 revision, tax sale purchasers no longer acquire an ownership interest in the property, thus rendering it unnecessary to extend the umbrella term "acquiring person" to purchasers after January 1, 2026. The motion passed with no objection. Turning to the proposed changes to Paragraph (5) on lines 13 through 16 of page 1, Mr. Kunkel explained that subsequent statutory impositions can also be included within the meaning of "delinquent obligation" if these impositions are paid by the acquirer. A motion was made and seconded to approve the proposed changes, and the Council agreed that "paid" in brackets should be included on line 14 and that a more specific citation to Subsection B of R.S. 47:2160.1 should be included on line 15. With those changes, the motion to adopt passed with no objection, and the adopted proposal reads as follows:

(5) "Delinquent obligation" means the debt for statutory impositions ~~included in the tax bill~~ that are not paid by the due date and any subsequent statutory impositions paid pursuant to R.S. 47:2160.1(B), plus any interest, penalty, and costs that may accrue in accordance with this Chapter.

Turning to R.S. 47:2122(16), on page 2 of the materials, Mr. Kunkel explained that the Act refers to the bundle of rights being sold in different ways, which could lead to confusion, and therefore recommended including three distinct definitions: delinquent obligation, to refer to the debt; tax lien, to refer to the bundle of rights itself; and tax lien certificate, to refer to the instrument evidencing the bundle of rights. A motion was made and seconded to adopt the proposed definition of "tax lien," and one Council member suggested deleting "both" on line 4 and adding "includes" at the end of line 4, and the Council agreed. After another Council member questioned the inclusion of both liens and privileges on line 5, which Mr. Kunkel indicated was the product of a suggestion previously made by the Council as a signal to practitioners, the motion to adopt Paragraph (16) as amended passed without objection. The adopted proposal reads as follows:

(16) "Tax lien" means the right to receive payment of the delinquent obligation and includes the lien and privilege securing the delinquent obligation in accordance with R.S. 47:2127(C).

Moving to Paragraph (18), on page 2 of the materials, Mr. Kunkel explained that the defined term "tax lien" now encompasses the substance being replaced. A motion was made and seconded to adopt these proposed changes, and one Council member questioned the use of "party identified thereon" as opposed to "tax lien certificate holder." Mr. Kunkel responded that this is intended to distinguish the initial holder of the certificate, who would be identified on the certificate but may not still be the holder at the time in question, from that person's successors or assigns who would not be identified on the tax lien certificate. A vote was then taken on the motion to adopt the proposed language as presented, which passed without objection.

Returning to Paragraph (6), on page 1 of the materials, a motion was made and seconded to adopt the definition of "face value," which Mr. Kunkel explained is intended to include interest and costs that accrue prior to the time of the auction and are thus part of the price paid at auction. He noted that the five-percent penalty under R.S. 47:2127 is also assessed at that time but is not included in this definition, as it is excluded from the auction price. The motion to adopt the proposed language passed without objection. The Council also considered Paragraph (8) on page 1, the definition of "owner" as opposed to tax notice party and tax auction party, which are broader. A motion was made and seconded to adopt the proposed definition, at which time one Council member questioned whether there was a definition of "property," to which Mr. Kunkel responded in the negative after noting that there was, however, a definition of "tax sale property." Mr. Kunkel also noted that the phrase "as of the date of the determination" also appears in other definitions and is intended to identify the proper party at whichever point in time is applicable for the purposes of the substantive provision in which it is used, as opposed to only at the time of the tax lien auction. One Council member questioned the applicability of this provision to unrecorded interest owners, such as heirs, after which the motion to adopt the definition as presented passed with all in favor.

Next, the Council considered the definition of "tax auction party" in Paragraph (14), on page 1 of the materials. Mr. Kunkel first explained that the concept of the party's interest and whereabouts being reasonably ascertainable had been moved to the introductory language of this definition to apply to all categories of parties and that the language was intended to import the standard required for Due Process purposes. He also explained that the bracketed language on lines 35 and 36 was cosmetic in nature and may not be necessary, while the bracketed language on line 39 was substantive with respect to the recordation of the tax lien certificate as the applicable trigger. A motion was made and seconded to adopt the proposed definition without any of the bracketed language, with one Council member noting that lines 35 and 36 were unnecessary and line 39 was covered by the concept of reasonably ascertainable. The Council agreed to add "persons" after "following" on line 28 and to change "party's" to "person's" before "interest" on the same line. One Council member then questioned whether Subparagraph

(d) was intended to include a lessee under a recorded lease, noting that because the lessee derives his rights from the owner, if the owner loses rights, so too does the lessee. Members of the Council ultimately agreed that lessees should be specifically mentioned and settled upon the following language as new Subparagraph (d), with existing Subparagraph (d) being redesignated as Subparagraph (e): "A lessee of the property whose lease or a notice thereof has been recorded." A vote was then taken on the motion to adopt Paragraph (14) as amended, which passed with no objection. The adopted proposal reads as follows:

(14) "Tax auction party" means each of the following persons, to the extent that the person's interest and whereabouts are reasonably ascertainable: ~~the~~

(a) A tax notice party. ~~, the~~

(b) The owner or owners of the property.~~, including the owner of record at the time of a tax lien auction, as shown in the conveyance records of the appropriate parish, any reasonably locatable person holding an identifiable ownership or usufruct interest even if not shown in the conveyance records of the parish in which the property subject to the tax lien is located, and~~

(c) The owner or owners of the property at the time of the tax lien auction.

(d) A lessee of the property whose lease or a notice thereof has been recorded.

(e) ~~any~~ Any other person holding an interest in the property, ~~such as a~~ including any mortgage, privilege, or other encumbrance. ~~on the property, including~~ This shall include a tax lien certificate holder~~, as shown in the mortgage and conveyance records of the appropriate parish~~.

Mr. Kunkel then directed the Council's attention to the definition of "tax lien certificate holder" in Paragraph (19), on page 2 of the materials. A motion was made and seconded to adopt this definition, at which time the Council discussed the proper object of the "termination" and concluded that two distinct issues are involved: the termination of the rights themselves and the cancellation of the instrument representing those rights. Members of the Council ultimately agreed to delete the bracketed "certificate" language on line 12 and to use "extinguished" rather than "terminated" on line 13. The motion to adopt Paragraph (19) as amended then passed without objection, and the adopted proposal reads as follows:

(19) "Tax lien certificate holder" means the purchaser of a tax lien pursuant to this Chapter and the purchaser's successors or assigns, provided that the tax lien has not been extinguished.

Turning to the definition of "tax lien auction" in Paragraph (17) on page 2 of the materials, Mr. Kunkel explained that "Chapter" had been replaced with a more specific cross-reference. A motion was quickly made and seconded to adopt the proposed changes as presented, and the motion passed with no objection. Motions were also made and seconded to adopt the definitions of "tax notice party" in Paragraph (20) and "tax sale certificate" in Paragraph (22) as presented, and these motions also passed with no objection. The Council then considered the definition of "termination price" in Paragraph (23), and after one Council member suggested changing "terminate" to "extinguish" on line 21, a motion was made and seconded to adopt this definition as amended, which passed with no objection. The adopted proposal reads as follows:

(23) "Termination price" means the amount calculated pursuant to R.S. 47:2243 that is required to be paid in order to ~~terminate~~ extinguish a tax lien ~~certificate~~.

Next, the Council considered the proposed changes to R.S. 41:2124, on page 2 of the materials, and Mr. Kunkel explained that Subsection A restores a provision of current law because even though redemption nullities no longer exist under the revision, this may still be an issue with respect to prior tax sales. Members of the Council discussed whether the reinsertion of this language had been requested and whether it was really just a more specific example of Subsection B, and the Council engaged in a great deal of discussion with respect to principles of statutory interpretation as applied to this grant of immunity. Ultimately, the Council agreed that this provision should be omitted from the Law Institute's recommendations.

Members of the Council then turned to R.S. 47:2127, on page 3 of the materials, and Mr. Kunkel explained that the proposed changes to this provision were intended to clarify the applicable calculation. A motion was made and seconded to adopt Subsection B, at which time one Council member questioned why line 10 refers to both movables and immovables. The Council discussed that there is a separate Subpart applicable to movables and that perhaps this provision could be added there, along with the inclusion of some sort of clarificatory language such as "in the case of statutory impositions on movable property." One Council member questioned whether "delinquent statutory impositions" as opposed to "delinquent obligation" would be construed as charging interest on interest, but the Council agreed that this was not an issue. Ultimately, the Council determined that Subsections B through D should be "recommitted" to staff for the purpose of addressing the concerns with respect to applicability to movables. A motion was then made and seconded to approve Subsections A and E as presented, and that motion passed with no objection.

Mr. Kunkel then asked the Council to consider the technical change to R.S. 47:2127.1 on page 6 of the materials, and a motion was quickly made and seconded to adopt the proposal as presented, which passed without objection. Turning to the provisions applicable to movables, the Council approved the changes to the Part heading as well as to R.S. 47:2141, 2145, and 2151 as presented and with little discussion. With respect to R.S. 47:2151.1 on page 7, Mr. Kunkel explained that under present law, a tax sale cannot be conducted when a bankruptcy proceeding is pending but questioned whether this suspension is still necessary when all that is being "sold" at the auction is a certificate rather than the property itself. A motion was made and seconded to adopt the proposed changes to this provision as presented, and the motion passed with no objection.

Next, members of the Council turned to R.S. 47:2153, on page 7 of the materials, and a motion was made and seconded to adopt the proposed changes to Subsection A of this provision. The Council then agreed to change "shall" to "will" on line 35 of page 7, to change "lien and privilege" to "tax lien" on page 8, and to change "including a" to "which includes the" on the same page. In Subsection B on page 10, the Council agreed to change "no fewer than" to "at least" on line 2, and in Subsection C on the same page, the Council agreed to undo the change on line 25 and restore the "for cash" language. The Council also agreed to change "certificate may be terminated" to "may be extinguished" on line 2 of page 11. A motion was then made and seconded to adopt R.S. 47:2153 as amended, and the motion passed with no objection. The amended portions of the adopted proposal read as follows:

§ 2153. Notice of delinquency; tax lien holder; tax lien auction

A. No later than the first Monday of February of each year, or as soon thereafter as possible, the tax collector shall send a written notice by certified mail, return receipt requested, to each tax notice party when the tax debtor has not paid all of the statutory impositions assessed on immovable property for the previous year. The notice shall inform the tax notice party that if the statutory impositions are not paid within twenty days after the sending of the notice, or as soon thereafter before the tax lien auction is scheduled, the tax collector ~~shall~~ will advertise for sale by public auction the ~~delinquent obligation and the lien and privilege securing it~~ tax lien and that the tax collector ~~shall~~ will issue in favor of the winning bidder

and record in the mortgage records a tax lien certificate. The notice shall be sufficient if it is in the following form:

* * *

*[DATE OF NOTICE]. If ad valorem taxes and statutory impositions are not paid in full within twenty (20) days after this date, the tax collector will proceed to auction the tax lien for payment of taxes and other statutory impositions at [list location of the tax lien auction] beginning on [list first day of sale] and will issue a tax lien certificate in favor of the winning bidder. The tax lien certificate ~~shall~~ will be prima facie evidence of the validity of the tax lien ~~and privilege~~ and the assignment to the tax lien purchaser. You will have the right to pay the amounts due until the day before the auction. If the tax lien is sold at auction, you may terminate the lien according to law, but in order to terminate, you will be required to pay the delinquent obligation, ~~a~~ which includes the five percent (5%) penalty, and interest not to exceed the rate of one percent (1%) per month on a noncompounding basis computed on the amount paid at auction by the tax lien certificate purchaser, together with other amounts in accordance with law.

* * *

B. (1) If the certified mail sent to the tax debtor is returned for any reason, the tax collector shall resend the notice by first class mail and to "occupant" at the address listed and shall take additional steps to notify the tax debtor of the delinquent statutory impositions and pending tax lien auction, which shall include ~~any~~ at least three of the following:

* * *

C. (1)(a) At the expiration of twenty days' notice, counting from the day when the last of the written notices are sent, or as soon thereafter as practicable, the tax collector shall proceed to publish a notice of the delinquency and to advertise for auction the consolidated delinquent tax list under one form in the official journal of the political subdivision. The publication and advertisement shall be sufficient if it is in the following form:

* * *

At the auction, I will sell the tax lien to the winning bidder. The ~~auction~~ sale will be for cash or other payment method acceptable to the tax collector, in legal tender money of the United States.

At any time prior to the institution of an action to enforce the tax lien ~~certificate~~, the tax lien ~~certificate~~ may be ~~terminated~~ extinguished by paying the price paid at auction together with interest at the rate established at the tax auction which shall not exceed one percent (1%) per month on a noncompounding basis computed on the amount paid at auction by the tax lien certificate purchaser until terminated, a penalty at the rate of five percent (5%), and costs reimbursable pursuant to R.S. 47:2156. The termination payment shall also include the amount of any subsequent parish and municipal statutory impositions paid by the tax lien certificate holder, together with the applicable five percent (5%) penalty and any applicable interest computed on the statutory impositions at a rate of one percent (1%) per month on a noncompounding basis.

* * *

Finally, Mr. Kunkel explained that the substance of R.S. 47:2153.1 had been moved to R.S. 47:2154(A)(2) on page 12 of the materials. A motion was made and seconded to approve this relocation, and the motion passed without objection. Turning to R.S. 47:2154 as a whole, the Council agreed to delete "for" in Subsection C on line 22 of

page 12 before briefly discussing Subsection D and the need to include some concept of "at a rate of *not more than* one percent per month" on line 26. At this time, a motion was made and seconded, and the December 2024 Council meeting was adjourned.

Jessica G. Braun

Nick Kunkel

Josef Ventulan

Mallory C. Waller

MEMBERSHIP AND NOMINATING COMMITTEE REPORT
December 13, 2024

This committee respectfully makes the following nominations of officers and members to fill vacancies on the Council of the Louisiana State Law Institute for 2024 as follows:

Positions to be Approved by Council

POSITION	NAME	CITY	TERM
Chair	Thomas M. Hayes, III	Monroe	12-31-25
President	L. David Cromwell	Shreveport	12-31-25
Vice-Presidents	Leo Hamilton Kay Medlin Marguerite "Peggy" L. Adams James A. Stuckey	Baton Rouge Shreveport New Orleans New Orleans	12-31-25 12-31-25 12-31-25 12-31-25
Director	Guy Holdridge	Baton Rouge	12-31-25
Assistant Director	Charles S. Weems, III	Alexandria	12-31-25
Secretary	Alena M. Allen	Baton Rouge	12-31-25
Assistant Secretary	Andrea B. Carroll	Baton Rouge	12-31-25
Treasurer	Melissa T. Lonegrass	Baton Rouge	12-31-25
Assistant Treasurer	John David Ziober	Baton Rouge	12-31-25
Executive Committee-at-Large	Gregory A. Miller Sally Brown Richardson Christopher H. Riviere	Norco New Orleans Thibodaux	12-31-25 12-31-25 12-31-25
Senior Officers	Robert W. "Bob" Kostelka Joseph W. Mengis Robert P. Thibeaux Isaac M. "Mack" Gregorie Peter S. Title	Monroe Baton Rouge New Orleans Baton Rouge New Orleans	N/A N/A N/A N/A N/A
Practicing Attorneys	Shelton D. Blunt Danielle L. Borel Jon K. Guice Amy A. Lee Donald W. Price Christopher H. Riviere Zelda W. Tucker H. Aubrey White	Baton Rouge Baton Rouge Monroe Lafayette Baton Rouge Thibodaux Shreveport Lake Charles	12-31-27 12-31-25 12-31-27 12-31-28 12-31-28 12-31-28 12-31-28 12-31-28
Representative, Young Lawyers Section	Christopher A. Procell	Shreveport	12-31-26

Recently Appointed Positions

POSITION	NAME	CITY	TERM
President, LSBA	Patrick A. Talley, Jr.	New Orleans	6-06-25
Chair, Young Lawyers Section	Kristen D. Amond	New Orleans	6-06-25
Observers, Young Lawyers Section	Lauren Brink Adams John Paul "Beau" Byers	New Orleans Metairie	12-31-25 12-31-25
Louisiana Member, House of Delegates, American Bar Association	Taylor B. Ashworth Shelton Dennis Blunt Colleen C. Jarrott Robert A. Kutcher H. Minor Pipes, III Edward J. Walters, Jr. (replacing Shayna L. Sonnier for remainder of term)	Baton Rouge Baton Rouge New Orleans Metairie New Orleans Baton Rouge	8-26 8-26 8-26 8-26 8-27 8-25
Louisiana Member, Board of Governors, National Bar Association	James J. Carter Arlene D. Knighten	New Orleans Hammond	8-01-26 8-01-26
Louisiana Member, National Bar Association, Appointed by the President of the NBA	Harry Landry, III	Baton Rouge	8-09-25
President, LDAA	Kristine Russell	Thibodaux	8-15-25
Member of the NBA Appointed by the President of the Judicial Council	June Berry Darensburg Rachel D. Johnson	Gretna New Orleans	6-30-28 6-30-28
Executive Counsel to the Governor	Angelique Freel	Baton Rouge	1-08-24
Representative, Court of Appeal	Allison Penzato	Madisonville	11-02-28
Representative, Council of Juvenile & Family Court	Pamela J. Baker Desiree Duhon Dyess	Baton Rouge Natchitoches	11-02-28 11-02-28
Representative, Paul M. Hebert Law Center	Nikolaos A. Davrados	Baton Rouge	12-31-28
Representative, Paul M. Hebert Law Center	Kenya J.H. Smith	Baton Rouge	12-31-25
Representative, Southern University Law Center	Jason B. Thrower	Baton Rouge	12-31-27
Representative, Tulane School of Law	Sally Brown Richardson	New Orleans	12-31-28

Representative, Tulane School of Law	Sally Brown Richardson	New Orleans	12-31-28

Honor Graduates

POSITION	NAME	CITY	TERM
Loyola University College of Law			12-31-25 12-31-25 12-31-25
Paul M. Hebert Law Center	Erin N. Alpandinar Caleb O'Connell Sarah M. Procopio	Lafayette Alexandria Baton Rouge	12-31-25 12-31-25 12-31-25
Southern University Law Center	Aaron J. Bergeron Hayden M. Bergeron Chelsea S. Zachary	Lafayette Baton Rouge Denham Springs	12-31-25 12-31-25 12-31-25
Tulane University School of Law	Julia A. Meyer Ruth A. Reeves Kathryn E. Schimmel	New Orleans New Orleans Baton Rouge	12-31-25 12-31-25 12-31-25

Proxies and Designees

POSITION	NAME	CITY	TERM
Designee, State Public Defender (Remy Voisin Starnes)	C. Frank Holthaus	Baton Rouge	N/A
Designee, President of the Louis A. Martinet Society (Alejandro Perkins)	Christopher B. Hebert	Greenwell Springs	N/A
Proxy, Dean of Loyola University College of Law (Madeleine Landrieu)	Markus G. Puder	New Orleans	N/A
Proxy, Representative, Paul M. Hebert Law Center (J. Randall Trahan)	John A. Lovett	Baton Rouge	12-31-25
Proxy, Chancellor of Southern University Law Center (Alexander Washington)	Regina Ramsey	Baton Rouge	N/A
Proxy, Dean, Tulane School of Law (Marcilynn Burke)	Mateusz Grochowski	New Orleans	N/A

Respectfully submitted:

L. David Cromwell
Kevin C. Curry
Leo C. Hamilton
Amy Allums Lee
Thomas M. Hayes, III
Christopher H. Riviere
Monica T. Surprenant
Zelda W. Tucker
John David Ziober

By: _____
John David Ziober
December 13, 2024