



**LOUISIANA STATE LAW INSTITUTE**

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December 17, 2013

Representative Charles "Chuck" Kleckley  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804-9062

Senator John A. Alario, Jr.  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: HCR NO. 76 of 2012**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2012 House Concurrent Resolution No. 76, relative to unpaid wages.

Sincerely,

A handwritten signature in black ink that reads "William E. Crawford".

William E. Crawford  
Director

WEC/puc

cc: Representative Patricia Haynes Smith

e-mail cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.us](mailto:drplibrary@legis.la.us)  
Secretary of State, Mr. Tom Schedler  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**Crawford, Bill**

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**To:** 'drplibrary@legis.state.la.us'  
**Cc:** Mark Levy; admin@sos.louisiana.gov; Claire Popovich; Jim Carter, Jr.;  
Patricia Haynes Smith  
**Subject:** REPORT TO THE LEGISLATURE; 2012 HCR NO. 76; UNPAID WAGES

David R. Poynter Legislative Research Library,

The Louisiana State Law Institute respectfully submits herewith a copy of its interim report to the legislature in response to 2012 House Concurrent Resolution No. 76, relative to unpaid wages.

One print copy of the report will be mailed to the library.

Sincerely,

William E. Crawford  
Director  
Louisiana State Law Institute

**LOUISIANA STATE LAW INSTITUTE  
SECURITY DEVICES COMMITTEE**

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE  
IN REPOSE TO HCR NO. 76 OF THE 2012 REGULAR SESSION  
UNPAID WAGES**

**December 17, 2013  
Baton Rouge, Louisiana**

**L. David Cromwell, Reporter  
Claire Popovich, Staff Attorney**

**LOUISIANA STATE LAW INSTITUTE  
SECURITY DEVICES COMMITTEE**

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<b>Dian Tooley-Knoblett</b>	<b>New Orleans</b>
<b>Keith Vetter</b>	<b>New Orleans</b>

**L. David Cromwell, Reporter  
Claire Popovich, Staff Attorney**

December 17, 2013

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**INTERIM REPORT TO THE LOUISIANA LEGISLATURE IN RESPONSE TO HCR  
NO. 76 OF THE 2012 REGULAR SESSION RELATIVE TO UNPAID WAGES**

During the 2012 Regular Legislative Session, the Louisiana Legislature passed House Concurrent Resolution No. 76, requesting the Louisiana State Law Institute to study “all options, specifically lien rights, and make specific recommendations for legislation to provide an effective remedy for unpaid wages that will be an efficient tool to obtain wrongfully withheld wages without requiring expensive litigation, and that such legislation clearly establish that violations of workplace laws are against the public policy of the state.” In view of the subject matter of the resolution, the Law Institute assigned the resolution to the Security Devices Committee.

In following this mandate, the Committee has spent considerable time and effort in considering how a “wage lien” could be fashioned and fitted to existing Louisiana law. The Committee has had two committee meetings to consider the resolution and its implications and has scheduled yet another to be held early in 2014.

The mandate given by the study resolution is quite broad in scope in that it requests that the Law Institute not only consider liens but “all options” for finding an effective legal mechanism for unpaid workers to achieve redress. This requires the Committee to examine the laws of pledge, mortgage, and privilege. These are extensive areas of the law that require a significant expenditure of time and effort in order to ensure that these possible mechanisms are adequately researched and explored as possible solutions. It also requires studied consideration of the effect that such liens might have upon the rights of third persons, such as lenders and other persons holding security rights in the property of the employer.

At both meetings, the Committee heard from representatives from Work Place Justice, who helped to explain the intent behind the resolution and participated in the Committee’s consideration of possible legal remedies that workers could use when unlawfully deprived of their wages. In response to comments made by Committee members during these meetings, Work Place Justice has submitted memoranda to the Committee for consideration. These

materials include a review of the approaches other states have adopted to address the same concerns that prompted the study resolution.

The Committee will hold its next committee meeting in early 2014. At this meeting, the Committee will again discuss the resolution and what conclusions can be drawn from the research accomplished so far. If the Committee reaches a consensus on the proper response to the resolution, its recommendations will be submitted to the Council of the Louisiana State Law Institute for its consideration and guidance. From there “specific recommendations for legislation” may be drafted by the Law Institute and submitted to the legislature with a recommendation for enactment.

Respectfully submitted,

L. David Cromwell, Reporter  
Security Devices Committee  
Louisiana State Law Institute

Regular Session, 2012

HOUSE CONCURRENT RESOLUTION NO. 76

BY REPRESENTATIVE SMITH

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study procedures for the filing of liens for unpaid wages and to make specific recommendations for legislation.

WHEREAS, working families need the assurance of timely pay for work performed to meet basic living expenses for themselves and their children, and all workers should be paid the wages due for all work performed and should be paid in a timely manner. Where wages are not paid, workers must have a way to recover quickly and without great expense; and

WHEREAS, failure to pay wages may occur when workers' hours are decreased, or workers are required to work before clocking in or after clocking out, not paid overtime when overtime is due, or not paid at all. Failure to pay wages is reported across all industries; and

WHEREAS, for many working families living paycheck-to-paycheck, unpaid wages means the difference between hunger and sustenance, and a safe home and homelessness; and

WHEREAS, the state of Louisiana suffers when employers fail to pay payroll taxes associated with the unpaid wages and fail to make contributions to the unemployment insurance and workers' compensation systems, diminishing state and local government revenues. In the New Orleans area alone, the Wage Claim Clinic at the Workplace Justice Project of Loyola College of Law assisted workers with demands of over six hundred thousand dollars in unpaid wages in 2011. These unpaid wages would have yielded approximately fifty thousand dollars in taxes to the state of Louisiana. This represents a fraction of total unpaid wages just in the city of New Orleans. The total unpaid revenues for the entire state is unknown but could be many times this amount; and

WHEREAS, unpaid wages are bad for business because law-abiding businesses and employers must compete with businesses that do not pay their fair share, leaving an unfair

playing field for honest business people. Local business suffers when workers and their families have no money to spend; and

WHEREAS, communities suffer when working families are forced to rely on public assistance or charities to survive or are forced to leave their homes to seek other work because of unpaid wages; and

WHEREAS, most wage and hour disputes brought in Louisiana are resolved through private litigation, where only twenty-five percent of wages are actually collected; and

WHEREAS, the option of filing liens has been available for construction workers, mechanics, and other tradespeople with success over a long period of time; and

WHEREAS, construction liens filed for wages owed by contractors consistently result in a more successful rate of recovery than private litigation; and

WHEREAS, despite statutes governing the treatment of workers' pay dating back to 1920, the current law in Louisiana anticipates litigation but offers no non-litigation remedy for unpaid wages outside of the construction lien; and

WHEREAS, the option of filing a lien for wages would create an alternative to litigation and could reduce the cost of litigation for Louisiana businesses.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study all options, specifically lien rights, and make specific recommendations for legislation to provide an effective remedy for unpaid wages that will be an efficient tool to obtain wrongfully withheld wages without requiring expensive litigation, and that such legislation clearly establish that violations of workplace laws are against the public policy of the state.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute report its findings and recommendations in the form of specific proposed legislation to the Legislature of Louisiana on or before January 1, 2014.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE