



LOUISIANA STATE LAW INSTITUTE

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May 15, 2014

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

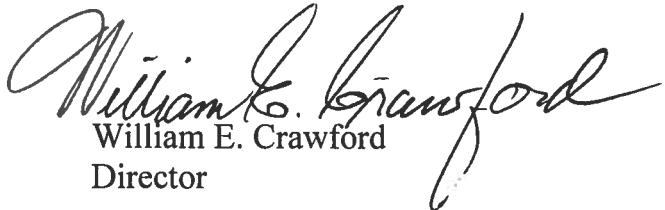
Representative Charles "Chuck" Kleckley
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804-9062

RE: SCR 26 of 2012

Dear Mr. President and Mr. Speaker:

The Louisiana State Law Institute respectfully submits herewith its report to the legislature in response to 2012 Senate Concurrent Resolution No. 26, relative to heirship property.

Sincerely,


William E. Crawford
Director

WEC/puc

Enclosure

cc: Senator Rick Gallot

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

LOUISIANA STATE LAW INSTITUTE

SUCCESSIONS AND DONATIONS COMMITTEE

**REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SCR No. 26 OF 2012 REGULAR SESSION
(Heirship Property)**

May 15, 2014
Baton Rouge, Louisiana

Max Nathan, Jr., Chairman and Reporter

Claire Popovich, Staff Attorney

LOUISIANA STATE LAW INSTITUTE
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Max Nathan, Jr., Chairman and Reporter
Claire Popovich, Staff Attorney

May 15, 2014

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

Representative Charles “Chuck” Kleckley
Speaker of the House of Representatives
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**REPORT TO THE LEGISLATURE IN RESPONSE TO SCR NO. 26 OF THE 2012
REGULAR SESSION RELATIVE TO HEIRSHIP PROPERTY**

Senate Concurrent Resolution No. 26 of the 2012 Regular Legislative Session requests that the Louisiana State Law Institute study “heirship property” and provide recommendations for making it easier for family members in possession of immovable property to remove any cloud on a title to immovable property that has arisen from the failure of previous generations to file succession proceedings. The resolution also asks the Law Institute to consider and propose recommendations for facilitating more equitable and economically-efficient distribution of immovable property that is the subject of such “unopened proceedings.” In view of the subject matter of the resolution, the Law Institute assigned this study resolution to the Successions and Donations Committee.

The Committee has spent over a year devoting considerable thought to the issue of “heirship property” and any concomitant issues. In conducting its research, the Committee communicated with practitioners, all of whom reported that no significant issues arise from current practice. More importantly, the Law Institute has found that the implementation and use of the “Affidavit of Small Succession Procedure” has been largely successful in addressing the “unopened succession” issue that affects many heirship property situations.¹ The Law Institute hereby submits this conclusion in this report for the legislature’s consideration.

¹ See C.C.P. Art. 3431, et seq., as revised by Acts 2009 No. 81, Acts 2011, No. 323, and Acts 2012, No. 618.

SENATE CONCURRENT RESOLUTION NO. 26

BY SENATOR GALLOT

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study the issue of heirship property; to request the Louisiana State Law Institute develop recommendations for facilitating the ability of family members to receive title to immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property.

WHEREAS, a significant percentage of Louisiana families have immovable property which has been passed down from generation to generation without the filing of succession proceedings; and

WHEREAS, surviving family members often do not have merchantable title to their immovable property because they have not completed the recognized formalities of succession procedure; and

WHEREAS, Louisiana citizens without significant economic means are less likely to seek estate planning services or have the funds to complete the successions of their deceased relatives which would restore their titles to a merchantable status; and

WHEREAS, there is a need to review present law to determine whether changes should be made to facilitate, encourage, and promote merchantability of immovable property owned after the death of family members; and

WHEREAS, officials of state, parish, and municipal governments and pro bono organizations have expressed an interest in solving these problems; and

WHEREAS, it is the policy of this legislature to foster free commerce in Louisiana's immovable property for all Louisiana citizens.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the issue of heirship property provisions in current law; to develop recommendations for facilitating the ability of Louisiana family members to receive title to

immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property by merchantable titles.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before January 1, 2014.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES