



**LOUISIANA STATE LAW INSTITUTE**

PAUL M. HEBERT LAW CENTER, ROOM W127

UNIVERSITY STATION

BATON ROUGE, LA 70803-1016

(225) 578-0200

FAX: (225) 578-0211

EMAIL: [LAWINSTITUTE@LSLI.ORG](mailto:LAWINSTITUTE@LSLI.ORG)

[WWW.LSLI.ORG](http://WWW.LSLI.ORG)

January 26, 2022

Representative Clay Schexnayder  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

Senator Patrick Page Cortez  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: HOUSE CONCURRENT RESOLUTION NO. 92 OF THE 2021 REGULAR SESSION**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to partition of community property.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Holdridge".

Guy Holdridge  
Director

cc: Representative Paula Davis

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)

Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
MARRIAGE-PERSONS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HCR NO. 92 OF THE 2021 REGULAR SESSION**

**Relative to partition of community property**

Prepared for the  
Louisiana Legislature on

**January 26, 2022**

Baton Rouge, Louisiana

# **LOUISIANA STATE LAW INSTITUTE MARRIAGE-PERSONS COMMITTEE**

Dawn Amacker, Covington

Clinton Bowers, Shreveport

André Douget, Lafayette

Lila Tritico Hogan, Hammond

Luke A. LaVergne, Baton Rouge

Sally Richardson, Tulane University School of Law

Philip R. Riegel, Jr., New Orleans

Vincent Saffiotti, Baton Rouge

J. Randall Trahan, Paul M. Hebert Law Center

Frank Tranchina, Covington

Monica H. Wallace, Loyola Law School

\* \* \* \* \*

Katherine S. Spaht, Chair

Andrea B. Carroll, Reporter

Jessica G. Braun, Attorney

2021 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 92

BY REPRESENTATIVE DAVIS

A CONCURRENT RESOLUTION

To request the Louisiana State Law Institute to study provisions of law on partition of community property and report its findings to the Louisiana Legislature no later than February 1, 2022.

WHEREAS, the laws of this state provide that property held in community can be partitioned following a divorce; and

WHEREAS, during divorce proceedings, one spouse may hold financial advantage over the other spouse; and

WHEREAS, advances of community property to the spouse with fewer resources to complete a partition are customarily limited to twenty-five percent or less of the total community to ensure fairness in final partitions; and

WHEREAS, a spouse with a financial advantage may adversely drain the assets of the other spouse prior to arriving at a final partition judgment; and

WHEREAS, the proceedings to partition the community property may render one spouse at a significant financial disadvantage due to extended litigation prior to the final judgment; and

WHEREAS, disadvantaged spouses may have been subject to domestic abuse even when not asserted to the court; and

WHEREAS, the extended litigation may be used as a continuation of domestic abuse by way of "litigation abuse"; and

WHEREAS, both parties and the court may benefit from equitable, expedient, and efficient partitions of community property.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study community property partition laws and to report its findings and recommendations to the Louisiana Legislature no later than February 1, 2022.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to include representatives of the Louisiana Appleseed Center for Law and Justice, the Louisiana Coalition Against Domestic Violence, the Domestic Violence Clinic at Tulane Law School, the New Orleans Family Justice Center, and the United Way of Southeast Louisiana, to the extent not already included in the study group.

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

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE

January 26, 2022

To: Representative Clay Schexnayder  
Speaker of the House  
P.O. Box 94062  
Baton Rouge, Louisiana 70804-9062

Senator Patrick Page Cortez  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO HCR NO. 92 OF THE 2021 REGULAR SESSION**

House Concurrent Resolution No. 92 of the 2021 Regular Session requests the Louisiana State Law Institute to study the law on partition of community property with a view toward preventing extended litigation as a continuation of domestic abuse when one party may have a financial advantage over the other party. The Law Institute was urged to work with Louisiana Appleseed, the Coalition Against Domestic Violence, the Tulane Domestic Violence Clinic, the New Orleans Family Justice Center, and the United Way of Southeast Louisiana during this study. In fulfillment of this request, the Law Institute assigned the project to its Marriage-Persons Committee, which operates under the direction of Professor Andrea B. Carroll as Reporter.

The Committee received background information from Louisiana Appleseed and understands that the goal of the resolution is to craft laws to prevent litigation abuse in the form of drawing out cases and depleting assets. The Committee also, however, recognizes the many problems with partial partition due to reimbursement claims, lawyerly games, and full court dockets. The Committee is researching the possibility of adding attorney fees from the date of divorce and providing guidance to courts in circumstances involving abusive and controlling relationships.

A final report will be submitted to the Legislature once the Committee receives approval of its recommendations from the Law Institute's Council.