



LOUISIANA STATE LAW INSTITUTE

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January 24, 2025

Representative Phillip R. DeVillier
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

Senator Cameron Henry
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**RE: HOUSE CONCURRENT RESOLUTION NO. 80 OF THE 2024 REGULAR
SESSION**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its interim report to the legislature concerning additional protections for homeowners under the Private Works Act.

Sincerely,

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

Guy Holdridge
Director

GH/pc

Enclosure

email cc: David R. Poynter Legislative Research Library
drplibary@legis.la.gov

Secretary of State, Ms. Nancy Landry
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
SECURITY DEVICES COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE
TO HCR NO. 80 OF THE 2024 REGULAR SESSION**

Relative to additional protections for homeowners under the Private Works Act

Prepared for the
Louisiana Legislature on

January 24, 2025

Baton Rouge, Louisiana

2024 Regular Session
HOUSE CONCURRENT RESOLUTION NO. 80
BY REPRESENTATIVE FARNUM

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study the Private Works Act and provisions relative to protecting homeowners from claims when conducting home improvement projects and protecting homeowners from having to pay twice for work in order to avoid claims by unpaid claimants under the Private Works Act and report its findings to the legislature no later than January 25, 2025.

WHEREAS, the Private Works Act, R.S. 9:4801 et seq., governs the rights of parties to be paid when performing improvements on immovable property; and

WHEREAS, the Private Works Act applies to all construction projects in this state and there may be a need to provide additional special protections for homeowners when conducting residential improvement projects; and

WHEREAS, the protections that are available under the Private Works Act for property owners are often not known to or practical for homeowners when conducting residential improvement projects; and

WHEREAS, the Private Works Act only allows a homeowner to be relieved of claims against him when the claims arise from the performance of a contract by a general contractor for whom a bond is given and maintained as required by R.S. 9:4812 and when notice of the contract with the bond is properly filed as required by R.S. 9:4811; and

WHEREAS, circumstances arise in which the homeowner has paid the contractor in full, but because the homeowner does not have a bond and notice filed, the homeowner is not relieved of claims against him.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study the Private Works Act relative to the possibility of protecting a homeowner who conducts a residential improvement project from having to pay twice for some or all of the work in order to avoid claims by unpaid subcontractors, suppliers, laborers, and other claimants or in order to avoid or discharge privileges asserted by such claimants against the homeowners, and report its findings no later than January 25, 2025.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to include representatives of the stakeholders impacted by the issues to be studied including but not limited to the Louisiana Bankers Associations, ABC Louisiana, Louisiana AGC, Louisiana Homebuilders Association, Louisiana Concrete Association, Louisiana Land Title Association, representatives of suppliers, and homeowners, to the extent not already included in the study.

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 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 24, 2025

To: Representative Phillip R. DeVillier
Speaker of the House of Representatives
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President of the Senate
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**INTERIM REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO HCR NO. 80 OF THE 2024 REGULAR SESSION**

House Concurrent Resolution No. 80 of the 2024 Regular Session authorized and directed the Louisiana State Law Institute to study the Private Works Act and provisions relative to protecting homeowners from having to pay twice for work in order to avoid claims by unpaid claimants when conducting home improvement projects under the Act. In fulfillment of this request, the Law Institute assigned this project to its Security Devices Committee, which operates under the direction of Mr. L. David Cromwell as Reporter. The resolution also directed the Law Institute to include representatives of the stakeholders impacted by these issues, including but not limited to the Louisiana Bankers Association, ABC Louisiana, Louisiana AGC, Louisiana Homebuilders Association, Louisiana Concrete Association, Louisiana Land Title Association, representatives of suppliers, and homeowners.

The Law Institute's Security Devices Committee met on multiple occasions to discuss the resolution, review various protections provided to homeowners in other states, and consider its previous revisions to the Private Works Act generally as well as more specific remedies that would offer additional protections to homeowners in Louisiana. The Committee quickly agreed that the two fundamental tenets of the Private Works Act should be maintained – that persons who contribute to the improvement of an immovable are entitled to legal protection so that an owner does not appropriate the value of their efforts without compensating them, and that owners, who initiate and will benefit from the work, should take reasonable steps to see that subcontractors, laborers, and suppliers are paid and that contractors do not appropriate the price of the work and leave subcontractors, laborers, and suppliers unpaid. The Committee did, however, devise several revisions to the Residential Truth in Construction Act (RTICA) designed to lessen the risk that a homeowner will have the burden of paying twice for the same work due to the failure of the contractor or a subcontractor to pay those who supply labor, services, or material in connection with a residential improvement project.

The proposed revisions would give the owner the right to obtain information about those who performed work or supplied materials or equipment along with a statement of amounts owed to them, include an explicit statement in the notice of lien rights required by the Act informing the

owner of this right, and entitle the owner to withhold payment to the contractor until this information is provided. The proposed revisions would also deprive a contractor who fails to timely deliver the required notice of lien rights to the owner of any privilege upon the owner's immovable under the Act and provide that the claim and privilege of a person who receives a request for information from the homeowner and fails to timely and accurately respond is extinguished to the extent of any damages suffered by the homeowner. The Committee will present these proposed revisions to the Law Institute's Council later this month, and a final report will be submitted to the Legislature once the proposals are approved.