

BY REPRESENTATIVE JAMES

1 A CONCURRENT RESOLUTION

2 To urge and request the Louisiana State Law Institute to study the effects of enacting a law

3 that would amend Code of Civil Procedure Article 927 and Civil Code Article 3452

4 to allow courts to raise prescription *sua sponte* in lawsuits and to report its findings

5 of the study to the legislature no later than February 1, 2019.

6 WHEREAS, Louisiana Civil Code Article 3494 states that the prescriptive period for

7 an action on an open account is subject to a liberative prescription period of three years; and

8 WHEREAS, Civil Code Article 3452 and Code of Civil Procedure Article 927(B)

9 state that prescription must be pleaded and the court is not permitted to supply a plea of

10 prescription; and

11 WHEREAS, prescription is the only peremptory exception that may not be raised by

12 the court; and

13 WHEREAS, a default judgment can be rendered on a prescribed debt and result in

14 wage garnishments for unrepresented defendants; and

15 WHEREAS, filing suit on a prescribed debt can result in legally unenforceable

16 obligations becoming enforceable against unrepresented consumers; and

17 WHEREAS, filing suit after the prescriptive period is a violation of the Fair Debt

18 Collection Practices Act.

19 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby

20 urge and request the Louisiana State Law Institute to commission a study regarding a law

1 that would allow the courts to raise prescription *sua sponte* in lawsuits and to report its
2 findings of the study to the Louisiana Legislature no later than February 1, 2019.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 88 Reengrossed

2018 Regular Session

James

Requests the Louisiana State Law Institute to commission a study regarding a law that would allow the courts to raise prescription *sua sponte* in lawsuits and to report the findings to the Louisiana Legislature no later than February 1, 2019.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Delete certain references to suits on open accounts.
2. Delete the reference to the Louisiana Appleseed report and its findings.