

2023 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 121

BY REPRESENTATIVE GAINES

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study succession proceedings and alternatives for low income families and low value properties, and to report its findings to the legislature prior to February 1, 2024.

WHEREAS, the average cost of succession proceedings for smaller estates in Louisiana range from one thousand five hundred dollars to three thousand dollars; and

WHEREAS, an affidavit of small succession is an alternative to a full succession but it is limited to estates valued at less than one hundred twenty-five thousand dollars; and

WHEREAS, the costs for succession proceedings for successions having a gross value of more than one hundred twenty-five thousand dollars, or successions having a gross value of one hundred twenty-five thousand and less that may be required to be opened judicially, may be a reason discouraging heirs from opening judicially a succession for a deceased family member; and

WHEREAS, an individual who wishes to open judicially a succession and who is unable to pay the costs of court because of his poverty and lack of means, may not avail himself of the ability to open judicially a succession without paying the costs in advance or as they accrue as provided for in Code of Civil Procedure Articles 5181 through 5188; and

WHEREAS, more study is needed to determine if there is a way to apply the provisions in Code of Civil Procedure Articles 5181 through 5188 to open judicially a succession; and

WHEREAS, making succession proceedings more financially available to low income families where the only asset may be a low value residence, or an undivided interest

in immovable property, may help ensure the proper and timely transfer of property, which would in turn make land title records more accurate; and

WHEREAS, pursuant to Article VII, Section 20 of the Constitution of Louisiana, homestead exemption is limited to land that is owned and occupied by persons who own and occupy the land in indivision and the homestead exemption is limited to the pro rata ownership interest of that person or persons occupying the homestead; and only the owner of immovable property is authorized to claim homestead exemption; and

WHEREAS, without a judgment of possession rendered in a succession opened judicially or an affidavit of small succession recognizing the ownership interest of a person or persons who are residing on the property, those persons who otherwise would be entitled to claim homestead exemption may not do so; and

WHEREAS, an alternative to a succession opened judicially or an affidavit of small succession proceeding may be beneficial to low income families and allow such families to claim homestead exemption.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study succession proceedings and alternatives for low income families and low value properties and to report its findings to the legislature prior to February 1, 2024.

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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE