

Regular Session, 2014

HOUSE CONCURRENT RESOLUTION NO. 63

BY REPRESENTATIVE JAMES

CIVIL/LAW: Authorizes and directs the Louisiana State Law Institute to study and make recommendations regarding the law of lesion beyond moiety

1 A CONCURRENT RESOLUTION

2 To authorize and direct the Louisiana State Law Institute to study and make
3 recommendations to the Louisiana Legislature regarding the law of lesion beyond
4 moiety, including but not limited to the restrictions and applicable time limitations
5 for bringing such an action.

6 WHEREAS, Chapter 12 of Title VII in Book III of the Louisiana Civil Code,
7 comprised of Civil Code Articles 2589 through 2600, provides the legal regime governing
8 lesion beyond moiety; and

9 WHEREAS, the general principle that underlies lesion is that a party who sells an
10 immovable for less than one-half of its fair market value can rescind the sale because he
11 receives less than an equivalent commitment in exchange for his own promise to perform;
12 and

13 WHEREAS, Louisiana's contemporary doctrine of lesion is very limited in scope in
14 that it applies only in favor of a seller, only with respect to immovable property, and only
15 upon a determination of a "fair market value" for the immovable; and

16 WHEREAS, a lesionary price on the face of the public records creates issues
17 regarding the merchantability of title and the ability to issue title insurance, as well as can
18 impede the ability of property to be efficiently put into commerce; and

19 WHEREAS, Louisiana's law on lesion has persisted with few amendments to the
20 doctrine over the course of its long history in this state, notwithstanding various alterations
21 in other civil law jurisdictions and the omission of the concept entirely in other states; and

1 WHEREAS, the legislature should be fully informed as to the continued viability of
2 lesion beyond moiety, including an understanding of its effects, consequences, impact upon
3 the efficient use of property, and the ability to provide an appropriate level of fairness and
4 economic balance between contracting parties.

5 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
6 authorize and direct the Louisiana State Law Institute to study the legal issues surrounding
7 lesion beyond moiety and to report and recommend any need for the revision of current law.

8 BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report
9 its findings and recommendations to the Legislature of Louisiana on or before January 1,
10 2016.

11 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
12 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)]

James

HCR No. 63

Authorizes and directs the Louisiana State Law Institute to study and make recommendations to the Louisiana Legislature regarding the law of lesion beyond moiety and to report its findings and recommendations to the Legislature of Louisiana on or before Jan. 1, 2016.