

Regular Session, 2014

SENATE CONCURRENT RESOLUTION NO. 105

BY SENATOR JOHNS

LEGIS POWERS/FUNCTIONS. Requests the Louisiana State Law Institute to study and make recommendations regarding Code of Civil Procedure Article 3121.

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A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study and make recommendations to the Louisiana Legislature regarding Code of Civil Procedure Article 3121 and the article's requirement that security be posted by an attorney appointed by the court to administer a vacant succession.

WHEREAS, Code of Civil Procedure Article 3121 was first enacted in 1961, and originally provided that when no qualified person petitioned for appointment as administrator of a vacant succession, the court may appoint the clerk of court to be administrator of that succession; and

WHEREAS, the original article further stated that if the clerk of court was appointed, then his official bond should provide security for the performance of the duties of administering that vacant succession; and

WHEREAS, in 1974, the Legislature amended Code of Civil Procedure Article 3121 to authorize the court to appoint an attorney at law, rather than the clerk of court, as administrator and that the attorney "shall be required to furnish security as required by law", and that, otherwise, "all of the provisions of law relating to the administrator of a succession" apply to such appointment; and

WHEREAS, the security requirements of Code of Civil Procedure Article 3121 may

1 impose hardship upon attorneys appointed by a court to administer vacant successions.

2 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
3 urge and request the Louisiana State Law Institute to study and make recommendations to
4 the Louisiana Legislature regarding Code of Civil Procedure Article 3121, and the article's
5 requirement that security be posted by an attorney appointed by the court to administer a
6 vacant succession.

7 BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report
8 its findings and recommendations to the Legislature of Louisiana on or before January 1,
9 2015.

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Johns

SCR No. 105

Requests the Louisiana State Law Institute to study and make recommendations to the Louisiana Legislature regarding Code of Civil Procedure Article 3121 and the article's requirement that security be posted by an attorney appointed by the court to administer a vacant succession.