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December 13, 2013

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Charles "Chuck" Kleckley
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804-9062

RE: SCR NO. 26 of 2012

Dear Mr. President and Mr. Speaker:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2012 Senate Concurrent Resolution No. 26, relative to heirship property.

Sincerely,


William E. Crawford
Director

WEC/puc

cc: Senator Rick Gallot

e-mail cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
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LOUISIANA STATE LAW INSTITUTE
SUCCESSIONS AND DONATIONS COMMITTEE

INTERIM REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SENATE CONCURRENT RESOLUTION NO. 26
OF THE 2012 REGULAR SESSION
“Heirship Property”

Baton Rouge, Louisiana

December 13, 2013

LOUISIANA STATE LAW INSTITUTE
SUCCESSIONS AND DONATIONS COMMITTEE

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**INTERIM REPORT TO THE LOUISIANA LEGISLATURE IN RESPONSE TO SCR
NO. 26 OF THE 2012 REGULAR SESSION "HEIRSHIP PROPERTY"**

During the 2012 Regular Legislative Session, the Louisiana Legislature passed Senate Concurrent Resolution No. 26. In this resolution, the legislature requests that the Louisiana State Law Institute study "heirship property." Specifically, the resolution requests that the Law Institute provide recommendations for making it easier for family members in possession of immovable property to remove any cloud on a title to the immovable property that has arisen from the failure of previous generations to file succession proceedings. The resolution also asks that the Law Institute consider and propose recommendations for how to facilitate more equitable and economically-efficient distribution of immovable property that is the subject of such "unopened proceedings." Due to the subject matter of the resolution, the Law Institute assigned this study resolution to the Successions and Donations Committee.

The Committee has spent considerable time and thought in considering "heirship property" and its concomitant issues. The resolution and its issues were discussed during every Committee meeting held in 2013. In conducting its research, the Committee also communicated with practitioners across the State, all of whom reported that no significant issues arise from current practice. More importantly, the Law Institute has found that the implementation and use of the "Affidavit of Small Succession Procedure" has been largely successful in addressing the "unopened succession" issue that pervades many heirship property situations.

The Committee presented its findings to the October 2013 meeting of the Council of the Louisiana State Law Institute for its consideration and guidance. It is agreed that no pressing problems exist, but the Committee will stay alert to the issue and use the feedback it received from the Council at future committee meetings. The Law Institute will continue to study heirship property and any related successions issues and in due course render a comprehensive final report to the legislature.

Respectfully submitted,

Max Nathan, Jr. – Chairman and Reporter
Successions and Donations Committee
Louisiana State Law Institute

SENATE CONCURRENT RESOLUTION NO. 26

BY SENATOR GALLOT

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study the issue of heirship property; to request the Louisiana State Law Institute develop recommendations for facilitating the ability of family members to receive title to immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property.

WHEREAS, a significant percentage of Louisiana families have immovable property which has been passed down from generation to generation without the filing of succession proceedings; and

WHEREAS, surviving family members often do not have merchantable title to their immovable property because they have not completed the recognized formalities of succession procedure; and

WHEREAS, Louisiana citizens without significant economic means are less likely to seek estate planning services or have the funds to complete the successions of their deceased relatives which would restore their titles to a merchantable status; and

WHEREAS, there is a need to review present law to determine whether changes should be made to facilitate, encourage, and promote merchantability of immovable property owned after the death of family members; and

WHEREAS, officials of state, parish, and municipal governments and pro bono organizations have expressed an interest in solving these problems; and

WHEREAS, it is the policy of this legislature to foster free commerce in Louisiana's immovable property for all Louisiana citizens.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the issue of heirship property

SCR NO. 26

ENROLLED

provisions in current law; to develop recommendations for facilitating the ability of Louisiana family members to receive title to immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property by merchantable titles.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before January 1, 2014.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES