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
admin@sos.louisiana.gov
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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Sidney M. Blitzer, Jr.        Baton Rouge
David F. Edwards             New Orleans
Kathryn V. Lorio             New Orleans
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Jacques L. Wiener, Jr.        New Orleans

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Dian Tooley-Knoblett
Richard C. Stanley

Max Nathan, Jr., Chairman and Reporter
Claire Popovich, Staff Attorney
December 13, 2013

To: Senator John A. Alario, Jr.
President of the Senate
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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
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
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.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES