



**LOUISIANA STATE LAW INSTITUTE**

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March 11, 2015

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 105 of 2014

Dear Mr. President and Mr. Speaker:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2014 Senate Concurrent Resolution No. 105, relative to posting security in vacant successions.

Sincerely,

A handwritten signature in black ink, reading "William E. Crawford".

William E. Crawford  
Director

WEC/puc  
Enclosure

cc: Senator Ronnie Johns

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.us](mailto:drplibrary@legis.la.us)  
Secretary of State, Mr. Tom Schedler  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE**

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO S.C.R. 105  
OF THE 2014 REGULAR LEGISLATIVE SESSION**

**Relative to requiring attorneys to post security when administering vacant successions**

**Prepared for the Louisiana Legislature on**

**March 11, 2015**

Baton Rouge, LA

March 11, 2015

To: 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  
P.O. Box 94062  
Baton Rouge, Louisiana 70804-9062

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
SCR 105 OF THE 2014 REGULAR SESSION**

Senate Concurrent Resolution No. 105 of the 2014 Regular Session [attached] asks the Louisiana State Law Institute to study and make recommendations regarding Code of Civil Procedure Article 3121 and the requirement that security be posted by an attorney appointed by the court to administer a vacant succession.

The Law Institute Code of Civil Procedure Committee Reporter, with input from the committee, reviewed the issue and referred the resolution to the Successions and Donations Committee of the Law Institute.

The Successions and Donations Committee first reviewed SCR 105 of the 2014 Regular Session at its September 2014 committee meeting. Preliminary research was undertaken following the meeting. The Committee met again in January of 2015, and was unable to reach a consensus on this topic. The Committee will meet again this spring for further discussion.

A final report will be submitted after the Committee presents a report to the Law Institute Council this fall.

Respectfully Submitted,

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

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.

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

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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.