



**LOUISIANA STATE LAW INSTITUTE**

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January 30, 2024

Representative Phillip R. DeVillier  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

Senator Cameron Henry  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: HOUSE CONCURRENT RESOLUTION NO. 121 OF THE 2023 REGULAR SESSION**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to low-income succession proceedings.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Holdridge".

Guy Holdridge  
Director

GH/puc

Enclosure

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)

Secretary of State, Ms. Nancy Landry  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
SUCCESSIONS AND DONATIONS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE  
TO HCR NO. 121 OF THE 2023 REGULAR SESSION**

**Relative to low-income succession proceedings**

Prepared for the  
Louisiana Legislature on

**January 30, 2024**

Baton Rouge, Louisiana

# LOUISIANA STATE LAW INSTITUTE SUCCESSIONS AND DONATIONS COMMITTEE

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2023 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 121

BY REPRESENTATIVE GAINES

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study succession proceedings and alternatives for low income families and low value properties, and to report its findings to the legislature prior to February 1, 2024.

WHEREAS, the average cost of succession proceedings for smaller estates in Louisiana range from one thousand five hundred dollars to three thousand dollars; and

WHEREAS, an affidavit of small succession is an alternative to a full succession but it is limited to estates valued at less than one hundred twenty-five thousand dollars; and

WHEREAS, the costs for succession proceedings for successions having a gross value of more than one hundred twenty-five thousand dollars, or successions having a gross value of one hundred twenty-five thousand and less that may be required to be opened judicially, may be a reason discouraging heirs from opening judicially a succession for a deceased family member; and

WHEREAS, an individual who wishes to open judicially a succession and who is unable to pay the costs of court because of his poverty and lack of means, may not avail himself of the ability to open judicially a succession without paying the costs in advance or as they accrue as provided for in Code of Civil Procedure Articles 5181 through 5188; and

WHEREAS, more study is needed to determine if there is a way to apply the provisions in Code of Civil Procedure Articles 5181 through 5188 to open judicially a succession; and

WHEREAS, making succession proceedings more financially available to low income families where the only asset may be a low value residence, or an undivided interest

in immovable property, may help ensure the proper and timely transfer of property, which would in turn make land title records more accurate; and

WHEREAS, pursuant to Article VII, Section 20 of the Constitution of Louisiana, homestead exemption is limited to land that is owned and occupied by persons who own and occupy the land in indivision and the homestead exemption is limited to the pro rata ownership interest of that person or persons occupying the homestead; and only the owner of immovable property is authorized to claim homestead exemption; and

WHEREAS, without a judgment of possession rendered in a succession opened judicially or an affidavit of small succession recognizing the ownership interest of a person or persons who are residing on the property, those persons who otherwise would be entitled to claim homestead exemption may not do so; and

WHEREAS, an alternative to a succession opened judicially or an affidavit of small succession proceeding may be beneficial to low income families and allow such families to claim homestead exemption.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study succession proceedings and alternatives for low income families and low value properties and to report its findings to the legislature prior to February 1, 2024.

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

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

January 30, 2024

To: Representative Phillip R. DeVillier  
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P.O. Box 94062  
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**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO HOUSE  
CONCURRENT RESOLUTION NO. 121 OF THE 2023 REGULAR SESSION**

House Concurrent Resolution No. 121 of the 2023 Regular Session authorizes and directs the Louisiana State Law Institute to study succession proceedings and alternatives for low-income families and low-value properties. In fulfillment of this request, the Law Institute assigned the project to its Successions and Donations Committee, which operates under the direction of Professor Ronald J. Scalise, Jr. as Reporter.

The resolution specifically states that study is needed to determine if there is a way to apply the provisions of the Code of Civil Procedure on waiver of costs for indigent parties to judicially open a succession. During Committee discussions, a representative of Louisiana Appleseed informed the Committee that legal aid is unable to participate in succession work because the court costs and filing fees are too high. The Committee recognizes that although many of these successions fall under the small succession affidavit procedure, there are still costs associated with, for example, obtaining the necessary death certificate. The Committee discussed issues such as clarity of title, access to justice, and court costs and filing fees and is considering proposals to signal to courts that the law relative to waiver of costs for indigent parties is applicable to succession proceedings. The Committee is still considering whether other amendments to the Code of Civil Procedure are needed and remains mindful of the varying practices of clerks of court throughout the state.

A final report will be submitted to the Legislature after the Successions and Donations Committee receives approval of its recommendations from the Law Institute's Council.