

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 127

BY REPRESENTATIVE WILLMOTT

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study the authority of a testator to designate an attorney to handle legal matters of his estate and to make specific recommendations for legislation relative to R.S. 9:2448.

WHEREAS, it has been a common practice of testators for many years to designate an attorney in their testaments or codicils; and

WHEREAS, this common practice was enacted into law by Act No. 250 of the 1986 Regular Session of the Legislature, and became R.S. 9:2448; and

WHEREAS, in *Succession of Wallace*, 574 So.2d 348 (La. 1991), the Supreme Court of Louisiana held, "insofar as it conflicts with Rule 1.16(a)(3), R.S. 9:2448 is unconstitutional, null, void, and of no effect"; and

WHEREAS, R.S. 9:2241, a provision of the Louisiana Trust Code similar to R.S. 9:2448, was amended in response to the court's decision in *Succession of Wallace* by Act No. 480 of the 2003 Regular Session of the Legislature; and

WHEREAS, R.S. 9:2448 should be amended or repealed in order to avoid confusion and mistaken reliance upon the provisions of that statute.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the authority of a testator to designate an attorney to handle legal matters of his estate and to make specific recommendations for legislation relative to R.S. 9:2448.

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

its findings and recommendations in the form of specific proposed legislation to the Legislature of Louisiana on or before January 1, 2013.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE