HLS 18RS-1868 **ENGROSSED**

2018 Regular Session

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HOUSE CONCURRENT RESOLUTION NO. 52

BY REPRESENTATIVE FOIL

SEIZURES/SALES: Directs the Louisiana State Law Institute to study exemptions from seizure of certain retirement accounts

A CONCURRENT RESOLUTION

2	To authorize and direct the Louisiana State Law Institute to study the exemption of inherited
3	retirement accounts and inherited annuities from liability for any debt except
4	alimony and child support.
5	WHEREAS, R.S. 13:3881(D) provides that pensions, tax-deferred arrangements,
6	annuity contracts, and the proceeds thereof are exempt from all liability for any debt except
7	alimony and child support; and
8	WHEREAS, in 2014, the United States Supreme Court in the matter of Clark v.
9	Rameker held, by drawing distinction between an individual's retirement fund and an
10	inherited retirement fund, that funds held in an inherited IRA are not "retirement funds"
11	within the meaning of the bankruptcy estate exemption provided by 11 U.S.C.
12	§522(b)(3)(C); and
13	WHEREAS, Louisiana is an "opt out" state under the United States Bankruptcy Code
14	and bankruptcy debtors in Louisiana may therefore take advantage of the exemptions
15	provided by both state and federal law; and
16	WHEREAS, relying on the United States Supreme Court's decision in Clark v.
17	Rameker, the United States District Court, Eastern District of Louisiana ruled in In re Everett
18	that "an inherited IRA is not a 'tax-deferred arrangement' within the meaning of R.S.
19	13:3881, and is not exempt from the bankruptcy estate under Louisiana Law"; and
20	WHEREAS, the court's holding in In re Everett as it relates to inherited IRAs could
21	potentially be applied to other inherited accounts provided for in R.S. 13:3881(D).

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby

- 2 authorize and direct the Louisiana State Law Institute to study whether inherited retirement
- 3 funds and other inherited "tax-deferred arrangements" should be generally exempt from
- 4 seizure in Louisiana, and if so, to what extent.
- 5 BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby
- 6 authorize and direct the Louisiana State Law Institute to propose any recommended changes
- 7 to R.S. 13:3881(D) to give effect to its findings.
- 8 BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby
- 9 authorize and direct the Louisiana State Law Institute to include representatives of the
- 10 Louisiana Bankers Association in its study.
- BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted
- to the Louisiana State Law Institute.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 52 Engrossed

2018 Regular Session

Foil

Directs the La. State Law Institute to study the exemption of inherited retirement accounts and inherited annuities from liability for any debt except alimony and child support and propose any recommended changes to <u>present law</u> relative to the exemption of tax-deferred arrangements from seizure.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Civil Law and</u> Procedure to the original bill:

- 1. Add language describing the United States Supreme Court's action in *Clark v. Rameker*.
- 2. Modify the directive to the La. State Law Institute.