SLS 19RS-675 ORIGINAL

2019 Regular Session

SENATE RESOLUTION NO. 149

BY SENATOR MORRISH

LEGIS POWERS/FUNCTIONS. Provides that certain liability insurance restatements are not statements of public policy.

1	A RESOLUTION
2	To express the will of the Louisiana Senate regarding certain Restatements of the Law.
3	WHEREAS, the Louisiana Senate recognizes its inherent and exclusive duty, shared
4	by the Louisiana House of Representatives, in determining and articulating public policy for
5	the betterment of the citizens of our great state; and
6	WHEREAS, public policy is set by the legislature through the legislative process;
7	and
8	WHEREAS, the sources of law in the state of Louisiana are legislation and custom;
9	and
10	WHEREAS, legislation is a solemn expression of legislative will, while custom
11	results from long-repeated practice generally accepted as having acquired the force of law;
12	however, custom may not abrogate legislation; and
13	WHEREAS, when a law is clear and unambiguous and its application does not lead
14	to absurd consequences, the law shall be applied as written and no further interpretation may
15	be made in search of the intent of the legislature; and
16	WHEREAS, it is the province of the Louisiana judiciary to interpret Louisiana law,
17	and when the meaning of a law cannot be ascertained by the application of the laws
18	governing statutory interpretation, the court shall consider the intent of the legislature; and

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WHEREAS, when no rule for a particular situation can be derived from legislation or custom, the court is bound to proceed according to equity; and

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WHEREAS, attorneys and other legal professionals and scholars, at times, rely on secondary sources in seeking to ascertain the most equitable resolution in a matter or to bolster an argument for a particular resolution in a given situation, including legal treatises, periodicals, scholarly essays, and Restatements of the Law; and

WHEREAS, the highly regarded American Law Institute describes the Restatements it produces as "aim[ing] at clear formulations of common law and its statutory elements"; and

WHEREAS, even the most carefully crafted secondary source may infringe on the legislative prerogative of the Legislature of Louisiana or the authority of the Louisiana judiciary, if it purports to pronounce public policy that is inconsistent with or in conflict with any source of law in Louisiana.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby declare that any statement of the law contained in the Restatement of the Law, Liability Insurance does not constitute the public policy of Louisiana if the statement of the law is inconsistent with or in conflict with Louisiana law.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by LG Sullivan.

DIGEST 2019 Regular Session

Morrish

Provides that, to the extent the Restatement of the Law, Liability Insurance is inconsistent with Louisiana law, the Restatement does not constitute Louisiana public policy.