2023 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 121

BY REPRESENTATIVE GAINES

SUCCESSIONS: Directs the La. State Law Institute to study succession proceedings and alternatives for low income families and low value properties

1	A CONCURRENT RESOLUTION		
2	To authorize and direct the Louisiana State Law Institute to study succession proceedings		
3	and alternatives for low income families and low value properties, and to report its		
4	findings to the legislature prior to February 1, 2024.		
5	WHEREAS, the average cost of succession proceedings for smaller estates in		
6	Louisiana range from one thousand five hundred dollars to three thousand dollars; and		
7	WHEREAS, an affidavit of small succession is an alternative to a full succession but		
8	it is limited to estates valued at less than one hundred twenty-five thousand dollars; and		
9	WHEREAS, the costs for succession proceedings for successions having a gross		
10	value of more than one hundred twenty-five thousand dollars, or successions having a gross		
11	value of one hundred twenty-five thousand and less that may be required to be opened		
12	judicially, may be a reason discouraging heirs from opening judicially a succession for a		
13	deceased family member; and		
14	WHEREAS, an individual who wishes to open judicially a succession and who is		
15	unable to pay the costs of court because of his poverty and lack of means, may not avail		
16	himself of the ability to open judicially a succession without paying the costs in advance or		
17	as they accrue as provided for in Code of Civil Procedure Articles 5181 through 5188; and		
18	WHEREAS, more study is needed to determine if there is a way to apply the		
19	provisions in Code of Civil Procedure Articles 5181 through 5188 to open judicially a		
20	succession; and		

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- 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 4 would in turn make land title records more accurate; and 5 WHEREAS, pursuant to Article VII, Section 20 of the Constitution of Louisiana, 6 homestead exemption is limited to land that is owned and occupied by persons who own and 7 occupy the land in indivision and the homestead exemption is limited to the pro rata 8 ownership interest of that person or persons occupying the homestead; and only the owner 9 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 12 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 16 claim homestead exemption. 17 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby 18 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
- 25 to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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 121 Engrossed	2023 Regular Session	Gaines
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Directs the La. State Law Institute to study succession proceedings and alternatives for low income families and low value properties.

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Civil Law and</u> <u>Procedure to the original bill:</u>
- 1. Provide that the costs of opening a succession may be a reason discouraging heirs from opening a succession.
- 2. Provide that additional study is needed to determine if a party may proceed in forma pauperis in succession proceedings.
- 3. Provide that the homestead exemption is limited to the exceptions provided by Article VII, Section 20 of the Constitution of La.