

Regular Session, 2011

## HOUSE CONCURRENT RESOLUTION NO. 15

BY REPRESENTATIVE THIBAUT

**JUDGMENTS/CIVIL:** Provides relative to the priority of certain mortgages and liens

## 1 A CONCURRENT RESOLUTION

2 To authorize and direct the Louisiana State Law Institute to study all laws relative to  
3 conventional, legal, and judicial mortgages and liens in order to create a purchase  
4 money special mortgage and to make recommendations on or before January 1,  
5 2013, as to the advisability of revising state laws in order to create a purchase money  
6 special mortgage and to resolve any resulting conflicts between the laws relative to  
7 conventional, legal, and judicial mortgages and liens.

8           WHEREAS, Civil Code Articles 3278 through 3313 and various other provisions of  
9   law, such as those found in Code Titles XXI and XXII of Code Book III of Title 9 of the  
10   Louisiana Revised Statutes of 1950, provide relative to mortgages and liens and to the effect  
11   and rank of mortgages and liens; and

12 WHEREAS, judicial and legal mortgages burden all of the property of an obligor,  
13 including property that the obligor owns when the mortgage is created and property that the  
14 obligor acquires in the future; and

15           WHEREAS, judicial and legal mortgages existing at the time an obligor purchases  
16   new property take priority over a mortgage created at the time of the purchase of the new  
17   property; and

18           WHEREAS, the priority of existing judicial and legal mortgages over mortgages  
19   created with the purchase of new property may prevent the extension of credit for the  
20   purchase of the new property; and

1           WHEREAS, creation of a purchase money special mortgage would enable a  
2 borrower to purchase immovable property, allowing the lender to have first priority and  
3 giving the judicial or legal mortgage holder a second priority on new property that would not  
4 have otherwise been acquired; and

5           WHEREAS, the creation of a purchase money special mortgage may create conflicts  
6 with the existing laws on conventional, legal, and judicial mortgages and liens which may  
7 need to be resolved.

8           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
9 direct the Louisiana State Law Institute to study all laws relative to conventional, legal, and  
10 judicial mortgages and liens and make specific recommendations as to the advisability of  
11 revising state laws in order to create a purchase money special mortgage.

12           BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted  
13 to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute  
14 report its findings and recommendations to the legislature on or before January 1, 2013.

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#### 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)]

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Thibaut

HCR No. 15

Directs the La. State Law Institute to study all laws relative to conventional, legal, and judicial mortgages and liens with respect to creating a purchase money special mortgage.

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provisions requesting the La. State Law Institute to make recommendations as to the advisability of revising state laws to create a purchase money special mortgage.