

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 15

BY REPRESENTATIVE THIBAUT

A CONCURRENT RESOLUTION

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED that a suitable 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 to the legislature on or before January 1, 2013.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE