

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 127

BY REPRESENTATIVE WILLMOTT

WILLS/TESTAMENTS: Requests the La. State Law Institute to study the authority of a testator to designate an attorney to handle legal matters of his estate

1 A CONCURRENT RESOLUTION

2 To urge and request the Louisiana State Law Institute to study the authority of a testator to
3 designate an attorney to handle legal matters of his estate and to make specific
4 recommendations for legislation relative to R.S. 9:2448.

5 WHEREAS, it has been a common practice of testators for many years to designate
6 an attorney in their testaments or codicils; and

7 WHEREAS, this common practice was enacted into law by Act No. 250 of the 1986
8 Regular Session of the Legislature, and became R.S. 9:2448; and

9 WHEREAS, in *Succession of Wallace*, 574 So.2d 348 (La. 1991), the Supreme Court
10 of Louisiana held, "insofar as it conflicts with Rule 1.16(a)(3), R.S. 9:2448 is
11 unconstitutional, null, void, and of no effect"; and

12 WHEREAS, R.S. 9:2241, a provision of the Louisiana Trust Code similar to R.S.
13 9:2448, was amended in response to the court's decision in *Succession of Wallace* by Act No.
14 480 of the 2003 Regular Session of the Legislature; and

15 WHEREAS, R.S. 9:2448 should be amended or repealed in order to avoid confusion
16 and mistaken reliance upon the provisions of that statute.

17 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
18 urge and request the Louisiana State Law Institute to study the authority of a testator to
19 designate an attorney to handle legal matters of his estate and to make specific
20 recommendations for legislation relative to R.S. 9:2448.

1 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
2 director of the Louisiana State Law Institute and that the Louisiana State Law Institute report
3 its findings and recommendations in the form of specific proposed legislation to the
4 Legislature of Louisiana on or before January 1, 2013.

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)]

Willmott

HCR No. 127

Requests the La. State Law Institute to study the authority of a testator to designate an attorney to handle legal matters of his estate and to make specific recommendations for legislation relative to R.S. 9:2448 on or before Jan. 1, 2013.