2018 Regular Session

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HOUSE CONCURRENT RESOLUTION NO. 52

BY REPRESENTATIVE FOIL

2	To urge and request the Louisiana State Law Institute to study the exemption of inherited
3	retirement accounts and inherited annuities from liability for any debt except
4	alimony and child support.
5	WHEREAS, R.S. 13:3881(D) provides that pensions, tax-deferred arrangements,
6	annuity contracts, and the proceeds thereof are exempt from all liability for any debt except
7	alimony and child support; and
8	WHEREAS, in 2014, the United States Supreme Court in the matter of Clark v.
9	Rameker held, by drawing distinction between an individual's retirement fund and an
10	inherited retirement fund, that funds held in an inherited IRA are not "retirement funds"
11	within the meaning of the bankruptcy estate exemption provided by 11 U.S.C.
12	§522(b)(3)(C); and
13	WHEREAS, Louisiana is an "opt out" state under the United States Bankruptcy Code
14	and bankruptcy debtors in Louisiana may therefore take advantage of the exemptions
15	provided by both state and federal law; and
16	WHEREAS, relying on the United States Supreme Court's decision in Clark v.
17	Rameker, the United States District Court, Eastern District of Louisiana ruled in In re Everett
18	that "an inherited IRA is not a 'tax-deferred arrangement' within the meaning of R.S.
19	13:3881, and is not exempt from the bankruptcy estate under Louisiana Law"; and
20	WHEREAS, the court's holding in <i>In re Everett</i> as it relates to inherited IRAs could
21	potentially be applied to other inherited accounts provided for in R.S. 13:3881(D).

A CONCURRENT RESOLUTION

HCR NO. 52 **ENROLLED** 1 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby 2 urge and request the Louisiana State Law Institute to study whether inherited retirement 3 funds and other inherited "tax-deferred arrangements" should be generally exempt from 4 seizure in Louisiana, and if so, to what extent. 5 BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to propose any recommended changes to R.S. 6 7 13:3881(D) to give effect to its findings. 8 BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge 9 and request the Louisiana State Law Institute to include representatives of the Louisiana 10 Bankers Association in its study. 11 BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted 12 to the Louisiana State Law Institute. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____