

Regular Session, 2014

HOUSE CONCURRENT RESOLUTION NO. 63

BY REPRESENTATIVE JAMES

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study and make recommendations to the Louisiana Legislature regarding the law of lesion beyond moiety, including but not limited to the restrictions and applicable time limitations for bringing such an action.

WHEREAS, Chapter 12 of Title VII in Book III of the Louisiana Civil Code, comprised of Civil Code Articles 2589 through 2600, provides the legal regime governing lesion beyond moiety; and

WHEREAS, the general principle that underlies lesion is that a party who sells an immovable for less than one-half of its fair market value can rescind the sale because he receives less than an equivalent commitment in exchange for his own promise to perform; and

WHEREAS, Louisiana's contemporary doctrine of lesion is very limited in scope in that it applies only in favor of a seller, only with respect to immovable property, and only upon a determination of a "fair market value" for the immovable; and

WHEREAS, a lesionary price on the face of the public records creates issues regarding the merchantability of title and the ability to issue title insurance, as well as can impede the ability of property to be efficiently put into commerce; and

WHEREAS, Louisiana's law on lesion has persisted with few amendments to the doctrine over the course of its long history in this state, notwithstanding various alterations in other civil law jurisdictions and the omission of the concept entirely in other states; and

WHEREAS, the legislature should be fully informed as to the continued viability of lesion beyond moiety, including an understanding of its effects, consequences, impact upon the efficient use of property, and the ability to provide an appropriate level of fairness and economic balance between contracting parties.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study the legal issues surrounding lesion beyond moiety and to report and recommend any need for the revision of current law.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report its findings and recommendations to the Legislature of Louisiana on or before January 1, 2016.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE