Regular Session, 2011

HOUSE CONCURRENT STUDY REQUEST NO. 6

BY REPRESENTATIVE PEARSON

INSURANCE/LIABILITY: Requests study to review lawyer misconduct relative to settlements in third party liability insurance claims

1	A CONCURRENT STUDY REQUEST
2	To the House Committee on Insurance and the Senate Committee on Insurance to meet and
3	to function as a joint committee to study lawyer misconduct relative to the settlement
4	of third-party liability claims, and to report the findings of the joint committee to the
5	legislature prior to the convening of the 2012 Regular Session of the Legislature.
6	WHEREAS, the Louisiana State Bar Association maintains a Client Assistance Fund
7	which exists in order to protect the public by reimbursing, to the extent deemed appropriate
8	and subject to a per claim limit of twenty-five thousand dollars, losses caused by the
9	dishonest conduct of any licensed Louisiana lawyer practicing in this state; and
10	WHEREAS, the Louisiana State Bar Association reports that the number and dollar
11	amount of claims reported to the Client Assistance Fund have been on the rise in recent
12	years, with some thirty-two claims totaling in excess of one hundred eighty-seven thousand
13	dollars in 2009 and some one hundred two claims totaling in excess of four hundred forty
14	thousand dollars in 2010; and
15	WHEREAS, a significant portion of recent payments by the Client Assistance Fund
16	have been related to misappropriation of settlement proceeds by the lawyers whose clients
17	were unaware their settlement funds were paid; and
18	WHEREAS, the twenty-five thousand dollars cap on damages provided by the fund
19	is often not enough to settle a client's claim for loss caused by lawyer misconduct; and
20	WHEREAS, in an effort to curtail lawyer misappropriation of settlement funds,
21	fifteen states have implemented laws or guidelines, patterned after the American Bar

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- 1 Associations's Model Rule, calling for insurers to provide direct written notification to
- 2 claimants of third-party liability settlements; and
- 3 WHEREAS, those states that have adopted settlement payee notification laws have
- 4 generally reported a decline in the number of client protection fund claims based upon
- 5 settlement misappropriation; and
- 6 WHEREAS, Louisiana currently has no requirement that an insurance company
- 7 provide written notice to a claimant when a settlement check is issued and sent to the
- 8 claimant's lawyer or representative.
- 9 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana requests the
- 10 House Committee on Insurance and the Senate Committee on Insurance to meet and to
- 11 function as a joint committee to study lawyer misconduct in the settlement of third-party
- 12 liability claims and to report the findings of the joint committee to the legislature prior to the
- 13 convening of the 2012 Regular Session of the Legislature.

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)]

Pearson

HCSR No. 6

Requests the House Committee on Insurance and the Senate Committee on Insurance to meet and to function as a joint committee to study lawyer misconduct in the settlement of third-party liability claims. Also requires a report of the findings of the joint committee to the legislature prior to the convening of the 2012 R.S.