
DIGEST

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HB 400 Engrossed

2017 Regular Session

Garofalo

Abstract: Authorizes licensed financial institutions to utilize an act under private signature to satisfy certain form requirements relative to the cancellation and partial cancellation of a mortgage.

Proposed law makes technical changes.

Present law provides that, in lieu of complying with certain provisions of present law (R.S. 9:5169-5171), a request for cancellation of a mortgage may have attached to it the signed, written act of a licensed financial institution executed before a notary public or duly acknowledged before a notary public with or without witnesses or any act that is otherwise self-proving pursuant to certain provisions of present law (C.E. Art. 902(1) through (3) or (8)), declaring that the obligee is a licensed financial institution as defined in present law and that the institution meets certain other requirements.

Proposed law allows for partial cancellation of a mortgage.

Proposed law adds that an act under private signature by two authorized officers of the licensed financial institution shall also be allowed to substitute in lieu of complying with certain provisions of present law (R.S. 9:5169-5171).

Present law requires that a request for cancellation must declare certain circumstances related to the nature of the relationship of the particular financial institution making the request for cancellation. Proposed law retains present law and makes it applicable to partial cancellation as well.

Present law provides that when a request for cancellation is made by the licensed financial institution, in lieu of attaching a separate act of release, the financial institution may include the information required by present law (R.S. 9:5169-5171) if the request is in authentic or authenticated form.

Proposed law provides that, when a request for cancellation or partial cancellation is made by the licensed financial institution, in lieu of attaching a separate act of release or partial release, the financial institution may include the information required by present law (R.S. 9:5169-5171) if the request is in authentic or authenticated form or otherwise complies with proposed law.

Present law provides that a financial institution seeking to cancel a mortgage or privilege inscription may use, and the recorder of mortgages for each and every parish in the state of La. shall accept, the

form provided by present law as fully compliant as a request for cancellation and act of release.

Proposed law removes the requirement that the form must be executed before a notary public. Proposed law further changes the form provided by present law to allow for an act under private signature by two authorized officers of the named financial institution.

Proposed law provides a new form which may be used for the partial cancellation of a mortgage.

(Amends R.S. 9:5172(A)(intro. para.) and (2) and (B) and 5173; Adds R.S. 9:5172(A)(3) and 5173.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Specify that the financial institution be represented by one of its officers.
2. Change "any act" that is self-proving to "any form" that is self-proving.
3. Add various technical changes to the form for a mortgage cancellation.
4. Add a new form for the partial cancellation of a mortgage.