
 DIGEST

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SB 405 Reengrossed

2018 Regular Session

Price

Proposed law provides that in an incorporated municipality that is under a home rule charter and has a population between 6,650 and 7,650, according to the latest federal decennial census, upon satisfaction of the following requirements, ownership of an immovable may be acquired by the prescription of three years without need of just title or possession in good faith:

- (1) The land and all the improvements thereon shall be located in the municipality and shall have been declared or certified blighted after an administrative hearing, pursuant to R.S. 13:2575 or 2576.
- (2) Requires the following to be filed in the mortgage and conveyance records of the parish: an affidavit by the possessor stating the name and address of the possessor, stating the intention of the possessor to take corporeal possession of the immovable property for the possessor's own account, stating that such corporeal possession shall commence no sooner than 14 days from the date of filing of the affidavit and a short legal description of the immovable property intended to be possessed.
- (3) A copy of an order, declaration, determination, resolution or ordinance of the municipality, certified by the municipality as a true copy, declaring the property as blighted property.

Proposed law provides that an affidavit and resolution shall be mailed by certified mail to all interested parties, within 30 days of being filed.

Proposed law provides that a notice, stating the name and address of the possessor, possessor's intent to take possession of the immovable, and the date the notice was posted, shall be affixed on a prominent location on the immovable property within one month after an affidavit and resolution are filed.

Proposed law provides that all ad valorem taxes, interest, and penalties due and payable shall be paid in full.

Proposed law provides that possessor's rights shall be terminated for failure to comply with requirements of proposed law.

Proposed law provides that the possessor shall not demolish the immovable property without authority from the municipality.

Proposed law provides that the possessor shall not be held liable for a cause of action pertaining to the immovable property except causes of actions pursuant to C.Cr.P. Art. 3651. Further provides that the possessor shall not be held criminally responsible for trespass or demolition of the immovable property.

Proposed law provides for reimbursement to the possessor in the event the owner is successful in bringing a real action pursuant to C.Cr.P. Art. 3651. Further provides that possessor shall earn and receive interest at the judicial interest rate as provided by R.S. 13:4202.

Proposed law provides that no recorded mortgage privilege, lien, or judgment encumbering the subject property shall be extinguished or impaired by the accrual of acquisitive prescription and any holder of a mortgage, privilege, lien, or judgment, encumbering the subject property may enforce its rights through foreclosure, including the seizure and sale of the property as though acquisitive prescription had not accrued.

Proposed law provides for certain procedures and requirements in determining cost or value made or done on the immovable property, for reimbursement purposes. Further provides that monies owed to possessor shall be secured by a first privilege lien, which shall be inferior to previously recorded mortgages, privileges, liens, and judgments.

Proposed law provides relative to ownership under acquisitive prescription.

Proposed law provides for criminal penalties for false documents filed under proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 9:5633.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Adds that the failure to comply with notice of affidavit and resolution within 30 days shall result in forfeiture of any and all rights of possessor.
2. Adds that all monies advanced by possessor shall earn interest at the Wall Street Journal prime rate.
3. Adds provision that no liens, privileges, or judgments, shall be impaired by acquisitive prescription, and that liens shall be inferior to previously recorded instruments.

Senate Floor Amendments to engrossed bill

1. Makes technical corrections.

Summary of Amendments Adopted by House

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

1. Change the applicable interest rate from the Wall Street Journal prime rate to the judicial interest rate.