

## RÉSUMÉ DIGEST

ACT 390 (SB 140)

2023 Regular Session

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Prior law (C.C.P. Art. 2293(B)(1)) required service of notice of seizure to be made by the sheriff upon the judgment debtor and requires the notice of seizure to include the time, date, and place of the sheriff's sale.

New law retains prior law and, for sales conducted through an online auction, requires the notice of seizure to state that fact and to provide the date and time and the electronic address of the platform through which bids can be entered. New law also makes technical corrections.

New law (C.C.P. Art. 2334) sets forth certain procedural requirements applicable to sheriff's sales concerning reading the advertisement and reading or providing a copy of a mortgage certificate or any other certificate.

New law retains prior law and, for sales conducted through an online auction, requires the advertisement and mortgage or other certificate to be displayed or made accessible on the electronic platform.

New law (C.C.P. Art. 2344) sets forth the procedures relative to online auctions with respect to providing notice, conducting online auctions, entering bids, displaying the advertisement and mortgage or other certificates, imposing qualifications on bidders, and indicating the presence of the seizing creditor.

Prior law (C.C.P. Art. 2721) required service of notice of seizure to be made by the sheriff and requires the notice of seizure to include the time, date, and place of the sheriff's sale.

New law retains prior law and, for sales conducted through an online auction, requires the notice of seizure to state that fact and to provide the date and time and the electronic address of the platform through which bids can be entered. New law also makes technical corrections.

New law (C.C.P. Art. 2724(A)) extends the application of certain provisions relative to writs of fieri facias to writs of seizure and sale.

Prior law (R.S. 13:3852) set forth the requirements applicable to notices of seizure, provides a form, and provides that the sheriff is not required to serve further notice of rescheduled sale dates if the sheriff has not returned the writ.

New law extends the application of prior law to online auctions by requiring the form to provide the date and time of the online auction and the electronic address of the platform through which bids may be entered. New law also provides that the sheriff is not required to serve further notice of rescheduled online auction dates if the sheriff has not returned the writ.

Prior law (R.S. 13:4341) provided with respect to the time and place of judicial sales and provides for the adjournment of sales to the following legal day.

New law requires online auctions to be conducted on one of the days specified by prior law but otherwise exempts online auctions from the requirements set forth by prior law.

New law (R.S. 13:4358) provides with respect to the use and compensation of online auction companies, including the assessment and maximum amount of fixed fees and buyer's premiums. New law prohibits the sheriff from delegating certain duties and prohibits online auction companies from collecting additional fees or reimbursements or agreeing to share any monies received with the sheriff. New law further provides for requirements concerning data security and liability insurance in contracts with online auction companies and, if the auction company will receive funds from bidders, requires the auction company to furnish a fidelity bond and hold the funds in a separate escrow or trust account.

Prior law (R.S. 13:4360) provided with respect to the reoffering or readvertising of property for which full payment of the adjudication price has not been made.

New law provides that for sales conducted through an online auction, payment is due by 4:30 p.m. on the first day following the sale that is not a legal holiday; otherwise, the property may be adjudicated to the second highest bidder or readvertised.

New law (R.S. 13:4369) prohibits the institution of actions to set aside judicial sales conducted through online auctions for noncompliance with procedural requirements if the sheriff either has filed the proces verbal or has filed the sale for recordation in the conveyance records, for immovables, or has delivered an act of sale, for movables.

Prior law (R.S. 13:5530(A)(7)(a)) provided the sheriffs' commissions on sales of property and defined "price of adjudication".

Effective August 1, 2023.

(Amends C.C.P. Arts. 2293(B)(1), 2334, 2721, and 2724(A) and R.S. 13:3852, 4341, 4360, and 5530(A)(7)(a); adds C.C.P. Art. 2344 and R.S. 13:4358 and 4369)