

2024 Regular Session

SENATE BILL NO. 333

BY SENATOR MORRIS

CIVIL PROCEDURE. Provides for methods of enforcing mortgages. (8/1/24)

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AN ACT

To amend and reenact Code of Civil Procedure Art. 3721, relative to methods of enforcing mortgages; to provide relative to civil actions; to provide with respect to provisions of the judgment; to provide relative to specific amounts, costs, expenses, and fees; to provide relative to terms, conditions, procedures, and requirements; to provide relative to judicial process, collection proceedings, and sales under fieri facias; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Art. 3721 is hereby amended and reenacted to read as follows:

Art. 3721. Methods of enforcing mortgage

A. A conventional mortgage is enforced by ordinary or executory proceedings.

B. In any ordinary or executory proceeding to enforce a promissory note or other debt instrument combined with a mortgage or other security device, the judgment or order of executory process granted may include any amounts which accrue after the rendition of the judgment or order including until the

1 collateral is sold by judicial process pursuant to the provisions of the
 2 promissory note, debt interest, or security device, including, without limitation,
 3 obligations to reimburse advances for taxes and insurance, inspection or other
 4 fees provided for by contract, reasonable attorney fees, and court costs. The
 5 provisions of this Article shall be enforceable notwithstanding any other
 6 provision of law requiring that a judgment or order specify a definite amount.

7 C. Prior to the date of the sheriff's sale, the seizing creditor or his counsel
 8 shall file into the record the payoff amount of the obligation being enforced
 9 including any amounts which have accrued after the filing of the petition, or
 10 rendition of the judgment or order in the case of ordinary process.

11 D. Any party with an interest in the property seized, including but not
 12 limited to mortgage and lien holders, may file a rule to show cause to traverse
 13 the payoff amount filed in accordance with Subsection C of this Article. The
 14 rule to show cause shall be filed before the sheriff disburses any funds from the
 15 judicial sale pursuant to the writ being executed.

16 E. A sheriff's or other sale held pursuant to court order shall be valid
 17 notwithstanding failure of an interested party to comply with the provisions of
 18 this Article.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Hanna Gettys.

DIGEST

SB 333 Engrossed

2024 Regular Session

Morris

Present law (C.C.P. Art. 3721) provides that a conventional mortgage is enforced by ordinary or executory proceedings.

Proposed law provides that in any ordinary or executory proceeding to enforce a promissory note or other debt instrument combined with a mortgage or other security device, the judgment or order of executory process granted may include any amounts which accrue after the rendition of the judgment or order including until the collateral is sold by judicial process pursuant to the provisions of the promissory note, debt interest, or security device, including, without limitation, obligations to reimburse advances for taxes and insurance, inspection or other fees provided for by contract, reasonable attorney fees, and court costs. Proposed law provides that proposed law shall be enforceable notwithstanding any other provision of law requiring that a judgment or order specify a definite amount.

Proposed law provides that prior to the date of the sheriff's sale, the seizing creditor or his counsel shall file into the record the payoff amount of the obligation being enforced

including any amounts which have accrued after the filing of the petition, or rendition of the judgment or order in the case of ordinary process.

Proposed law provides that any party with an interest in the property seized, including but not limited to mortgage and lien holders, may file a rule to show cause to traverse the payoff amount filed in accordance with proposed law.

Proposed law provides that the rule to show cause shall be filed before the sheriff disburses any funds from the judicial sale pursuant to the writ being executed.

Proposed law provides that a sheriff's or other sale held pursuant to court order shall be valid notwithstanding failure of an interested party to comply with the provisions of proposed law.

Effective August 1, 2024.

(Amends C.C.P. Art. 3721)

Summary of Amendments Adopted by Senate

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

1. Makes technical changes.
2. Requires the payoff amount of the obligation being enforced, including any amounts which accrued after the filing of the petition or rendition of the judgment or order, to be filed into the record prior to the date of the sheriff's sale.
3. Allows any party with interest in the property seized to traverse the payoff amount prior to the sheriff disbursing the funds from the judicial sale pursuant to the writ being executed.
4. Provides that a sheriff's or other sale shall be valid notwithstanding failure of a party to comply with the filing procedures.