SLS 15RS-1189 **ORIGINAL**

2015 Regular Session

SENATE CONCURRENT RESOLUTION NO. 102

BY SENATOR BROOME

LEGIS POWERS/FUNCTIONS. Requests the Louisiana State Law Institute to study and make recommendations regarding whether an assignment or transfer of a mortgage loan on residential real property should be required to be recorded in the appropriate mortgage or conveyance records in order to be effective as to third parties.

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study and make recommendations regarding whether an assignment or transfer of a mortgage loan on residential real property should be required to be recorded in the appropriate mortgage or conveyance records in order to be effective as to third parties.

WHEREAS, currently Civil Code Article 3338 provides that the rights and obligations established or created by certain written instruments are without effect as to a third person unless the instrument is registered by recording it in the appropriate mortgage or conveyance records; and

WHEREAS, the list of instruments Civil Code Article 3338 requires to be recorded in the appropriate mortgage or conveyance records in order to be effective as to third parties does not include instruments or endorsements that transfer an interest in a note that is secured by a mortgage or a deed of trust on an immovable, nor does it require any instrument reflecting a new assignment of that mortgage to be recorded; and

WHEREAS, currently when a note secured by a residential mortgage is transferred or assigned to a new mortgagee, no instrument reflecting the latest assignment or transfer of that note secured by a residential mortgage is required to be recorded in the appropriate mortgage records; and

WHEREAS, this can create difficulty and confusion for consumers or debtors whose mortgage is sold or otherwise transferred or assigned to a new mortgagee on the secondary market, and who are seeking to ascertain from the public record who the new mortgagee is, potentially causing challenges for mortgagors or debtors in various types of proceedings, including foreclosure proceedings, in properly identifying who the new mortgagee is or which party to pay in order to avoid foreclosure proceedings and keep their mortgage payment schedule in good standing; and

WHEREAS, for such reasons, the Louisiana State Law Institute should study whether requiring, rather than simply permitting, recording of new assignments or transfers of mortgage loans on residential real property may assist mortgagors or debtors to be better advised of the contact information for new mortgagees, including the new mortgagee's name, telephone number, and mailing address to which the mortgagor or debtor may send payments on the mortgage loan.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study and make recommendations regarding whether any assignment or transfer of a mortgage loan on residential real property should be required to be recorded in the appropriate mortgage or conveyance records in order to be effective as to third parties, and further to determine whether there are alternative measures other than such recording in the public record that may assist in ensuring that mortgagors are better advised of the identity and contact information of new mortgagees in successive assignments or transfers of a mortgage loan on residential real property.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

SCR 102 Original 2015 Regular Session Broome

Requests the Louisiana State Law Institute to study and make recommendations regarding whether an assignment or transfer of a mortgage loan on residential real property should be required to be recorded in the appropriate mortgage or conveyance records in order to be effective as to third parties.