

2015 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVE WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRESCRIPTION: Provides relative to certain prescriptive periods applicable to the reinscription of mortgages

1 AN ACT

2 To amend and reenact R.S. 6:830(A), (F), (G)(4), and (H)(2) and to repeal R.S. 6:830(B),
3 (D)(3), and (G)(5), relative to the recordation of mortgages in favor of savings and
4 loans; to provide relative to the reinscription of mortgages within certain periods of
5 time; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 6:830(A), (F), (G)(4), and (H)(2) are hereby amended and reenacted
8 to read as follows:

9 §830. Security for loan on ~~movable and~~ immovable properties; purchase and sale of
10 property

11 A. Except as otherwise provided in this Chapter, every loan on immovable
12 property shall be secured by a mortgage upon the property, ~~accompanied by a~~
13 ~~certificate of the attorney of the association to that effect~~, and also, where applicable,
14 accompanied by a pledge to the association of any shares or savings accounts
15 borrowed upon. Such mortgage shall provide specifically for full protection to the
16 association with respect to the loan and additional advances, and the usual insurance
17 risks, taxes, assessments, other governmental levies, maintenances, and repairs. The
18 mortgage may provide for ~~an assignment of rents, and if such assignment is made,~~
19 ~~any such assignment shall become absolute upon the mortgagor's default, becoming~~

1 ~~operative upon written demand by the association~~ a pledge of leases and rents. A
 2 declaration of the pledge creates a valid and complete pledge of the shares or savings
 3 accounts and of all future payments or credits thereon.

4 * * *

5 F. ~~Any mortgage recorded as provided by this Section remains in full force~~
 6 ~~and effect without the necessity of being reinscribed in the mortgage records for a~~
 7 ~~period of forty-one years from the date of inscription. The recordation of the~~
 8 ~~authentic act evidencing mortgage on home appliances and equipment in the same~~
 9 ~~manner as the mortgage on immovable property shall be binding on third persons~~
 10 ~~and need not be reinscribed for thirty-one years from the date of inscription.~~ A
 11 mortgage granted in favor of a savings and loan association and a vendor's privilege
 12 created in favor of a savings and loan association shall be subject to the rules
 13 provided by Chapter 2 of Title XXII-A of Book III of the Louisiana Civil Code.

14 G.

15 * * *

16 (4) This act of sale with vendor's privilege and mortgage, if recorded within
 17 three working days of its execution, when the registry is required to be made in the
 18 parish where the act was executed, and within five working days, if the registry is
 19 required to be made in any other parish of this state, shall have the same priority with
 20 regard to the effective date of recordation as is accorded vendor's privileges under
 21 the provisions of Louisiana Civil Code Article 3274, without regard to the time for
 22 recordation as provided therein. ~~The vendor's privilege provided for in this~~
 23 ~~Subsection shall remain in force for a period of forty-one years from the date of~~
 24 ~~inscription. Any note secured by a vendor's privilege and mortgage of the kind~~
 25 ~~authorized by this Subsection shall have the same rights, privileges, priorities, and~~
 26 ~~exemptions which have previously been had by notes payable to associations and~~
 27 ~~secured by a vendor's privilege and mortgage set forth in sales of property by the~~
 28 ~~association to the purchaser.~~

29 * * *

1 H.

2 * * *

3 (2) If any mortgage provided for in this Section is placed on record within
4 three working days of its execution, when the registry is required to be made in the
5 parish where the act was executed, and within five working days, if the registry is
6 required to be made in any other parish of this state, it shall have and enjoy the same
7 priority in regard to the effective date of such recordation as is accorded vendor's
8 liens under the provisions of Louisiana Civil Code Article 3274, without regard to
9 the time for recordation as provided therein. ~~The mortgages provided for in this~~
10 ~~Section shall remain in force for a period of forty-one years from the date of their~~
11 ~~filing or for a period of forty-one years from the date of any reinscription.~~

12 * * *

13 Section 2. R.S. 6:830(B), (D)(3), and (G)(5) are hereby repealed in their entirety.

14 Section 3. This Act shall become effective on January 1, 2016 and shall apply to all
15 mortgages and vendor's privileges governed by R.S. 6:830 in existence and effective on that
16 date, and shall apply to all such mortgages and vendor's privileges arising after that date.
17 Nevertheless, if the application of this Act to such a mortgage or vendor's privilege that is
18 effective against third parties at the time this Act takes effect would cause the effect of
19 recordation of the mortgage or vendor's privilege to cease before January 1, 2019, the effect
20 of recordation of the mortgage or vendor's privilege shall continue until January 1, 2019, or
21 until the date on which filing of a notice of reinscription would have been required by the
22 law in effect immediately before this Act becomes effective, whichever first occurs. On that
23 date, the effect of recordation of the mortgage or vendor's privilege shall cease unless a
24 notice of reinscription has been filed as provided by Article 3362 of the Civil Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 496 Reengrossed

2015 Regular Session

Willmott

Abstract: Changes the 41-year period for reinscription of mortgages in favor of savings and loans to a 10-year period as provided by the Civil Code general provisions on registry.

Present law provides for security of loans on movable and immovable property granted by savings and loan associations.

Proposed law deletes the requirement that every loan on immovable property be accompanied by a certificate of the attorney of the association and deletes the authority for the mortgage to contain an assignment of rents.

Present law provides that every loan on home appliances and equipment shall be secured by a mortgage.

Proposed law repeals present law.

Present law authorizes the vendee to waive the three-day notice required by the Code of Civil Procedure in obtaining orders of seizure and sale by executory process.

Proposed law repeals present law.

Present law provides that mortgages recorded in favor of savings and loan associations remain in full force and effect without the necessity of being reinscribed in the mortgage records for a period of 41 years from the date of inscription for immovable property and for 31 years for home appliances and equipment.

Proposed law deletes present law and provides that a mortgage granted in favor of a savings and loan association and a vendor's privilege created in favor of a savings and loan association shall be subject to the general rules on mortgage records.

Present law provides that the vendor's privilege and mortgage provided by present law shall remain in force for a period of forty-one years from the date of inscription.

Proposed law deletes present law.

Provides that present law shall be liberally construed in favor of notes secured by a vendor's privilege and mortgage in favor of an association.

Proposed law repeals present law.

Proposed law provided for applicability to all mortgages and vendor's privileges governed by R.S. 6:830 in existence and effective on Jan. 1, 2016, and provides a period of repose through Jan. 1, 2019.

Effective January 1, 2016.

(Amends R.S. 6:830(A), (F), (G)(4), and (H)(2); Repeals R.S. 6:830(B), (D)(3), and (G)(5))

Summary of Amendments Adopted by House

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

1. Add technical amendments.
2. Repeal present law provisions relative to mortgages on home appliances and equipment and the waiver of the three-day notice of seizure and sale in executory process proceedings.
3. Remove provisions relative to the requirement of an accompanying certificate of the attorney of the association and provisions relative to the assignment of rent.
4. Change proposed provisions relative to reinscription as provided by C.C. Arts. 3357 and 3358 to making such mortgages subject to Chapter 2 of Title XXII-A of the Civil Code.
5. Add an effective date of January 1, 2016.
6. Add provisions regarding the applicability to existing mortgages.

The House Floor Amendments to the engrossed bill:

1. Add technical amendments.