

2016 Regular Session

HOUSE BILL NO. 285

BY REPRESENTATIVE GAROFALO

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 1458, 1462(B)(1), 1465.1(B),
3 1467(A), 2541, 2642, and 2721(B), and R.S. 13:3852(B), and to enact R.S.
4 13:4611(1)(g), relative to civil procedure; to extend the time delays for responding
5 to discovery requests; to provide for the enforcement of foreign and domestic
6 judgments; to provide for commencement of the suspensive appeal delay from an
7 order of seizure and sale; to provide with respect to the notice of seizure of property;
8 to provide for an award of attorney fees in civil contempt of court proceedings; and
9 to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Civil Procedure Articles 1458, 1462(B)(1), 1465.1(B), 1467(A),
12 2541, 2642, and 2721(B) are hereby amended and reenacted to read as follows:

13 Art. 1458. Interrogatories to parties; procedures for use

14 Each interrogatory shall be answered separately and fully in writing under
15 oath, unless it is objected to, in which event the reasons for objection shall be stated
16 in lieu of an answer. The written answer or reasons for objection to each
17 interrogatory shall immediately follow a restatement of the interrogatory to which
18 the answer or objection is responding. The answers are to be signed by the person
19 making them. When interrogatories are served on a specific party, that party shall
20 verify he has read and confirmed the answers and objections. The party upon whom
21 the interrogatories have been served shall serve a copy of the answers, and objections
22 if any, within ~~fifteen~~ thirty days after the service of the interrogatories, ~~except that~~

1 to the provisions of Article 1472, deny the matter or set forth reasons why he cannot
2 admit or deny it.

3 * * *

4 Art. 2541. Execution of foreign judgments

5 A. A party seeking recognition or execution by a Louisiana court of a
6 judgment or decree of a court of the United States or a territory thereof, or of any
7 other state, or of any foreign country may ~~either seek enforcement pursuant to R.S.~~
8 ~~13:4241, et seq., or~~ bring an ordinary proceeding against the judgment debtor in the
9 proper Louisiana court, to have the judgment or decree recognized and made the
10 judgment of the Louisiana court.

11 B. ~~In the latter case, a~~ A duly authenticated copy of the judgment or decree
12 must be annexed to the petition.

13 C. A judgment, decree, or order of a court of the United States or any other
14 court that is entitled to full faith and credit in this state may also be enforced
15 pursuant to R.S. 13:4241.

16 Comment - 2016

17 Article 2541 was amended to clarify that La. R.S. 13:4241 does not authorize
18 ex parte enforcement of the judgments of foreign countries in a Louisiana state court.
19 See *Baker & Mckenzie Advokatbyra v. Thinkstream*, 20 So. 3d 1109 (La. App. 1 Cir.
20 2009).

21 * * *

22 Art. 2642. Assertion of defenses; appeal

23 Defenses and procedural objections to an executory proceeding may be
24 asserted either through an injunction proceeding to arrest the seizure and sale as
25 provided in Articles 2751 through 2754, or a suspensive appeal from the order
26 directing the issuance of the writ of seizure and sale, or both.

27 A suspensive appeal from an order directing the issuance of a writ of seizure
28 and sale shall be taken within fifteen days of ~~the signing of the order~~ service of the
29 notice of seizure as provided in Article 2721. The appeal is governed by the
30 provisions of Articles 2081 through 2086, 2088 through 2122, and 2124 through
31 2167, except that the security therefor shall be for an amount exceeding by one-half

1 the balance due on the debt secured by the mortgage or privilege sought to be
2 enforced, including principal, interest to date of the order of appeal, and ~~attorney's~~
3 ~~fee~~ attorney fees, but exclusive of court costs.

4 * * *

5 Art. 2721. Seizure of property; notice

6 * * *

7 B. The sheriff shall serve upon the defendant a written notice of the seizure
8 of the property. Such notice of seizure shall be accomplished by personal service or
9 domiciliary service. The notice of seizure shall reproduce in full the provisions of
10 Article 2642 and include information concerning the availability of housing
11 counseling services, as well as the time, date, and place of the sheriff's sale, in
12 accordance with the form provided in R.S. 13:3852(B).

13 * * *

14 Section 2. R.S. 13:3852(B) is hereby amended and reenacted and R.S. 13:4611(1)(g)
15 is hereby enacted to read as follows:

16 §3852. Notices of seizure

17 * * *

18 B. The following form shall be used for these notices by the sheriff:

19 "Notice is hereby given that I am this day seizing, in accordance with the
20 provisions of R.S. 13:3851 through 13:3861, the following described immovable
21 property, to wit: _____ as the property of
22 _____, under a writ of _____, issued on the _____ day of
23 _____, _____, by the _____ District Court for the Parish of
24 _____, in the matter entitled _____
25 versus _____, No. _____ of its docket, to satisfy a claim of
26 \$ _____, interest and costs, this _____ day of _____, _____. This matter
27 is scheduled for sheriff's sale on _____ day of _____, _____,
28 at _____ A.M./P.M. Please be aware that the sheriff's sale date may change. You
29 may contact the sheriff's office to find out the new date when the property is
30 scheduled to be sold. The new sale date will also be published in the local newspaper

1 in accordance with R.S. 43:203. If the seized property is residential property, you
 2 may be afforded the opportunity to bring your account in good standing by entering
 3 into a loss mitigation agreement with your lender, or by paying all of your past due
 4 payments plus permitted costs and expenses within the time permitted by law for
 5 reinstatement of your account. You are strongly encouraged to seek legal counsel.
 6 If you cannot afford to pay an attorney, you may be able to qualify for free legal
 7 services. Foreclosure prevention counseling services through a housing counselor,
 8 including loss mitigation, are provided free of charge. To find a local housing
 9 counseling agency approved by the U.S. Department of Housing and Urban
 10 Development, you may contact the U.S. Department of Housing and Urban
 11 Development or the Louisiana Housing Corporation.

12 THE FOLLOWING PARAGRAPH APPLIES ONLY TO PROPERTY
 13 THAT HAS BEEN SEIZED PURSUANT TO A WRIT OF SEIZURE AND SALE
 14 ISSUED IN AN EXECUTORY PROCEEDING: As provided in Louisiana Code of
 15 Civil Procedure Article 2642, defenses and procedural objections to an executory
 16 proceeding may be asserted either through an injunction proceeding to arrest the
 17 seizure and sale as provided in Articles 2751 through 2754, or a suspensive appeal
 18 from the order directing the issuance of the writ of seizure and sale, or both. A
 19 suspensive appeal from an order directing the issuance of a writ of seizure and sale
 20 shall be taken within fifteen days of service of the notice of seizure as provided in
 21 Article 2721. The appeal is governed by the provisions of Articles 2081 through
 22 2086, 2088 through 2122, and 2124 through 2167, except that the security therefor
 23 shall be for an amount exceeding by one-half the balance due on the debt secured by
 24 the mortgage or privilege sought to be enforced, including principal, interest to date
 25 of the order of appeal, and attorney fees, but exclusive of court costs.

26 _____
 27 Sheriff
 28 Parish of _____
 29 By: _____"

30 * * *

1 §4611. Punishment for contempt of court

2 Except as otherwise provided for by law:

3 (1) The supreme court, the courts of appeal, the district courts, family courts,
4 juvenile courts and the city courts may punish a person adjudged guilty of a
5 contempt of court therein, as follows:

6 * * *

7 (g) The court may award attorney fees to the prevailing party in a contempt
8 of court proceeding provided for in this Section.

9 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____