
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra R. Bias.

SB 363 Original DIGEST Foil
2022 Regular Session

Proposed law provides that the sheriff or seizing creditor may issue a subpoena duces tecum through the clerk of court to the owner or servicer of an obligation secured by a superior encumbrance, requiring them to produce a document showing the amount due to the owner or servicer of the obligations secured by the superior encumbrances as of the scheduled date of the sheriff's sale.

Proposed law requires the subpoena to be served on the owner or servicer of the superior encumbrance at least 7 days before the response is due, and that the owner or servicer respond to the subpoena at least 7 days prior to the scheduled sheriff's sale and to include in the response the total amount of all obligations secured by the superior encumbrance. Proposed law also provides that if a response is timely made then no personal appearance related to the subpoena is required.

Proposed law provides that the subpoena duces tecum may be served by the sheriff, the seizing creditor, or by the clerk of court, or by certified mail or commercial courier, and may be served within or outside the state. Proposed law also provides for more than one subpoena duces tecum to be issued in connection with a superior encumbrance if there are multiple superior encumbrances.

Proposed law provides that if the sheriff's sale is postponed, or canceled and thereafter rescheduled, then the seizing creditor may request that the owner or servicer of the superior encumbrance update the amounts due. Proposed law further requires that the request be made in writing and served on the owner or servicer of the superior encumbrance at least 7 days before the response is due.

Proposed law provides that nothing in this Article will prohibit the owner or servicer of a superior encumbrance from providing the requested information voluntarily, without the issuance of a subpoena or written request, or from voluntarily waiving or accepting service of the subpoena or written request.

Proposed law provides for the owner or servicer of the superior encumbrance to revise its response to the subpoena duces tecum or written request by providing its revisions to the sheriff or seizing creditor within 24 hours before the scheduled sheriff's sale.

Present law provides exceptions from present law related to prohibiting a bank or its affiliate from disclosing financial records to any person other than the customer to whom the financial records pertain. Proposed law adds Code of Civil Procedure Articles 2336 and 2336.1 to the exceptions. Effective August 1, 2022.

(Amends R.S. 6:333(B); adds C.C.P. Art 2336.1)