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## DIGEST

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HB 580 Original

2024 Regular Session

Muscarello

**Abstract:** Provides procedures for bankruptcy orders of discharge and sale of property.

Present law (R.S. 9:5175.1) provides that any person whose rights are or could be affected by a bankruptcy order discharging a judgment debtor may bring an action against the recorder of mortgages to extinguish and cancel the judgment creating the judicial mortgage.

Present law also provides that the court shall declare a judicial mortgage extinguished upon proof of the order of discharge and that the judgment is for a claim that has been discharged.

Proposed law retains present law but only requires proof that the judgment for a claim was filed or scheduled in the bankruptcy proceeding.

Present law authorizes a judgment debtor to obtain a partial cancellation of an inscription of a judgment affecting property not owned by him on the date of his filing of a petition under Chapter 7 or Chapter 13 of the U.S. Bankruptcy Code upon the filing of an affidavit that meets the requirements of present law.

Proposed law retains present law but removes the requirement that a judgment debtor had to file his petition for bankruptcy under Chapter 7 or Chapter 13 and allows the judgment debtor to obtain a partial cancellation if he filed under the U.S. Bankruptcy Code generally.

Proposed law also requires a statement in the affidavit that the affiant is liable to and shall indemnify the clerk or recorder and any of his or her employees or agents relying on the affidavit for any damages they may suffer through their reliance of that affidavit.

Proposed law authorizes any interested person of a particular property subject to a bankruptcy order to specify by affidavit the discharged judgments, mortgages, or privileges to be cancelled if the order does not provide that information. The affidavit must contain the information required by proposed law and be filed with a Request to Cancel and a certified copy of the bankruptcy court order in the mortgage records of the parish in which the property is situated.

(Amends R.S. 9:5175(B) and (C)(1), (2)(a), (f), and (g), and (3); Adds R.S. 9:5175(C)(2)(h) and 5175.1)