

Regular Session, 2011

HOUSE BILL NO. 262

BY REPRESENTATIVES RICHARDSON AND TIM BURNS

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

CIVIL/PROCEDURE: Provides relative to executory process

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2636(5), relative to authentic
3 evidence for executory proceedings; to provide for certain documentary evidence
4 deemed to be authentic; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2636(5) is hereby amended and reenacted
7 to read as follows:

8 Art. 2636. Authentic evidence

9 The following documentary evidence shall be deemed to be authentic for
10 purposes of executory process:

11 * * *

12 (5)(a) A security agreement subject to Chapter 9 of the Louisiana
13 Commercial Laws, which need not be executed or acknowledged before a notary;
14 or

15 (b) A reproduction of a security agreement described in Subsubparagraph (a)
16 of this Subparagraph that is certified by a representative of a financial institution in
17 the manner provided for in R.S. 13:3733.1(E).

18 * * *

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)]

Richardson

HB No. 262

Abstract: Provides that a certified reproduction of a security agreement shall be deemed as authentic evidence in an action for executory process.

Present law provides a listing of documentary evidence that shall be deemed as authentic evidence in an action for executory process, which includes:

- (1) The note, bond, or other instrument evidencing the obligation secured by the mortgage, security agreement, or privilege, paraphed for identification with the act of mortgage or privilege by the notary or other officer before whom it is executed, with the exception that a paraph is not necessary in connection with a note secured by a security agreement subject to Chapter 9 of the La. Commercial Laws or a copy of the note, bond, or other instrument evidencing the obligation certified as such by the notary before whom the act of mortgage, security agreement, or privilege was executed.
- (2) A certified copy or a duplicate original of an authentic act.
- (3) A certified copy of any judgment, judicial letters, or order of court.
- (4) A copy of a resolution of the board of directors, or other governing board of a corporation, authorizing or ratifying the execution of a mortgage on its property, certified in accordance with the provisions of R.S. 13:4103.
- (5) A security agreement subject to Chapter 9 of the La. Commercial Laws, which need not be executed or acknowledged before a notary.
- (6) A certified copy of the limited liability company's articles of organization filed with the secretary of state or a written consent or extract of minutes of a meeting of the persons specified in R.S. 13:4103.1, in each case authorizing or ratifying the execution of an act of mortgage on its property and in the form required by R.S. 13:4103.1, certified as provided in R.S. 12:1317(C).
- (7) A certified copy of the contract of partnership authorizing the execution of an act of mortgage filed for registry with the secretary of state.
- (8) All other documentary evidence recognized by law as authentic.

Present law (R.S. 13:3733.1(E)) provides a form for certification of duplicates of financial institution records.

Proposed law retains present law, and includes a certified reproduction of a security agreement as authentic evidence in an action for executory process.

(Amends C.C.P. Art. 2636(5))