

Regular Session, 2013

HOUSE BILL NO. 306

BY REPRESENTATIVE JAY MORRIS

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

SEIZURES/SALES: Provides relative to the bidding process in judicial sales

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2339 and to enact R.S. 13:4342,  
3 relative to public sales; to require acceptance of written bids under certain  
4 circumstances; to provide procedures for the bidding process; to provide relative to  
5 liability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 2339 is hereby amended and reenacted  
8 to read as follows:

9 Art. 2339. Judgment debtor and creditor may bid

10 The judgment debtor and the seizing creditor may bid for the property. The  
11 seizing creditor may bid for the property in writing as provided by R.S. 13:4342.

12 Section 2. R.S. 13:4342 is hereby enacted to read as follows:

13 §4342. Sheriff sales; submission of written bids

14 A. Pursuant to the authority of the sheriff to conduct public sales, the sheriff  
15 shall establish procedures for the acceptance of bids in writing from the seizing  
16 creditor holding a security interest in the property to be sold. Such bid may be  
17 submitted by United States Postal Service, e-mail, facsimile, or by other electronic  
18 submission, but the bid shall be received at least one hour prior to the time scheduled  
19 for the sale. No written bid submitted pursuant to this Section shall be accepted by  
20 the sheriff unless it is received by the sheriff at least one hour prior to the time

1 designated for the sale. All bids validly submitted prior to the public sale shall be  
2 deemed sealed and not opened publicly until after the time designated by the sheriff  
3 as the time for opening such bids. Once written bids are opened and read, the public  
4 auction may commence pursuant to the bidding process established by the sheriff.

5 B. The written bids submitted pursuant to this Section may contain an offer  
6 to exceed each bid by third parties and the debtor at public auction by any  
7 incremental, whole-dollar amount up to a maximum bid. Such maximum bid shall  
8 remain confidential and not be made known to the public until the bidding is  
9 complete. If the maximum authorized bid exceeds the balance of the debt due to that  
10 creditor, the creditor shall submit with the written bid certified funds sufficient to  
11 satisfy the amount exceeding the balance of the debt due to that creditor.

12 C. If a written bid is timely submitted by the seizing creditor to the sheriff  
13 pursuant to this Section and the sheriff fails to offer or consider the bid at public  
14 auction, the creditor may demand that the sheriff reset the public sale pursuant to the  
15 provisions of this Part at no additional cost to any of the creditors. The sheriff shall  
16 not be liable for any other damages arising from the failure to consider the written  
17 bid submitted pursuant to this Section.

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#### 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)]

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Jay Morris

HB No. 306

**Abstract:** Provides for the submission of written bids by the seizing creditor at public auction.

Present law provides for the requirements and procedures for conducting public sales by auction, including the requirement of advertising the time and location of the sale.

Proposed law requires the sheriff to establish procedures for the acceptance of bids in writing from the seizing creditor holding a security interest in the property to be sold.

Proposed law authorizes the written bids to be submitted by U.S. Postal Service, e-mail, facsimile, or by other electronic submission, but requires the bid to be received at least one hour prior to the time scheduled for the sale.

Proposed law provides that written bids shall be deemed sealed until after the time designated by the sheriff as the time for opening such bids, and that no written bid submitted

pursuant to proposed law shall be accepted by the sheriff unless it is received by the sheriff at least one hour prior to the time designated for the sale.

Proposed law provides that written bids may contain an offer to exceed each bid by third parties and the debtor at public auction by any incremental, whole-dollar amount up to a maximum bid, which maximum bid shall remain confidential.

Proposed law provides that if the maximum authorized bid exceeds the balance of the debt due to that creditor, the creditor shall submit with the written bid certified funds sufficient to satisfy the amount exceeding the balance of the debt due to that creditor.

Proposed law provides that if the sheriff fails to offer or consider a validly submitted bid at public auction, the creditor may demand that the sheriff reset the public sale at no additional cost to any of the creditors but that the sheriff shall not be liable for any other damages.

(Amends C.C.P. Art. 2339; Adds R.S. 13:4342)