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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

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## DIGEST

Broome (SB 27)

Present law provides that, for notices of seizure, the sheriff to whom the writ is directed shall make three notices setting forth the title of the action, its docket number, the court which issued the writ, the amount of the judgment or claim specified in the writ, an exact copy of the description of the immovable property furnished him, the fact that the sheriff is seizing the property, and the date of the first scheduled sale of the property.

Proposed law provides that, in addition to those items, the sheriff's notice of seizure shall provide information concerning the availability of housing counseling services.

Present law provides that the sheriff may use the form set out in R.S. 13:3852 for a notice of seizure.

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Proposed law adds to the form the sheriff shall use for notice of seizure information that the sheriff's sale date may change and that the defendant (judgment debtor) may contact the sheriff's office to find out the new date when the property is scheduled to be sold, and that the new sale date will be published in the local newspaper. Further provides that the notice of seizure shall contain information that, if the seized property is residential property, the defendant may be afforded the opportunity to bring his account in good standing by entering into a loss mitigation agreement with his lender, or by paying all his past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of his account.

Proposed law further provides that the notice of seizure shall also indicate that the defendant (judgment debtor) is strongly encouraged to obtain the services of a housing counselor, bankruptcy attorney or other competent legal counsel. Further includes notice to defendant that, if he cannot afford to pay an attorney, he may be able to qualify for free legal services.

Proposed law further provides that foreclosure prevention counseling services, including loss mitigation, are provided free of charge. Further includes in the form for notice of seizure advice that the U.S. Department of Housing and Urban Development and the Louisiana Housing Corporation provide local housing counseling services.

Present law provides that after seizure of property, the sheriff shall serve promptly upon the judgment debtor a written notice of seizure and list of property seized, in the manner provided for

service of citation. If service cannot be made on the judgment debtor or his attorney of record, the court shall appoint an attorney to serve. The notice of seizure shall be substantially similar to the form provided in R.S. 13:3852.

Proposed law provides that the sheriff's service of the notice of seizure shall be at least 45 days prior to the scheduled sale date, and shall be accomplished by personal or domiciliary service. Proposed law further provides that the notice of seizure shall be in the form provided in R.S. 13:3852, and provides that the form shall include information concerning the availability of housing counseling services, as well as time, date, and place of sheriff's sale.

Present law provides that, in the execution of a writ of seizure and sale, the sheriff shall serve upon the defendant a written notice of the seizure of the property.

Proposed law provides that the sheriff shall serve such written notice upon the defendant by personal or domiciliary service at least 45 days prior to the scheduled sale date. Proposed law further provides that the notice of seizure shall be in accordance with the form provided in R.S. 13:3852, and provides that the form shall include information concerning the availability of housing counseling services, as well as the time, date, and place of the sheriff's sale.

Effective August 1, 2013.

(Amends R.S. 13:3852 and C.C.P. Arts. 2293(B)(1) and 2721(B))

### Summary of Amendments Adopted by Senate

#### Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Removes proposed requirement that the sheriff serve amended notices each time the sheriff's sale date changes.
2. Adds notification in sheriff's form notice that sheriff's sale date may change, that the new sale date may be obtained by contacting the sheriff's office, and that the new sale date will be published in the local newspaper.
3. Adds notification that the judgment debtor is strongly encouraged to obtain the services of a housing counselor, bankruptcy attorney or other competent legal counsel, and that if the judgment debtor cannot afford to pay an attorney, he may be able to qualify for free legal services.
4. Changes the proposed required time period between sheriff's service of the notice of seizure on the judgment debtor and the sheriff's sale date from 90 days to 45 days.