
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)]

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. Further provides that the initial sheriff's sale date shall not be scheduled any earlier than 60 days after the date the order commanding the issuance of the writ is signed.

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

Proposed law requires the sheriff to use the form provided in R.S. 13:3852.

Proposed law adds the following to the present law form:

- (1) Notice that the sheriff's sale date may change, 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.
- (2) Notice 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 the lender, or by paying all past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of his account.
- (3) Notice that the defendant (judgment debtor) is strongly encouraged to seek legal counsel, and that, if he cannot afford to pay an attorney, he may be able to qualify for free legal services.
- (4) Notice that foreclosure prevention counseling services through a housing counselor, including loss mitigation, are provided free of charge. Further includes notice 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 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. Proposed law further provides that the notice of seizure shall include information concerning the availability of housing counseling services, as well as time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B).

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.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.
2. Provides that foreclosure prevention counseling services should be made through a housing counselor.
3. Encourages judgment debtor to seek legal counsel.
4. Makes Bureau note changes.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill.

1. Removed the requirement that the sheriff serve the defendant with written notice at least 45 days prior to the initial scheduled date.
2. Added the prohibition that the initial sheriff's sale date not be scheduled earlier than 60 days after the order commanding issuance of the writ is signed.