

SENATE BILL NO. 27

BY SENATOR BROOME AND REPRESENTATIVES WESLEY BISHOP AND LEGER

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

1 AN ACT

2 To amend and reenact R.S. 13:3852 and Code of Civil Procedure Articles 2293(B)(1) and
3 2721(B), relative to seizure and sale of property; to provide relative to notice to
4 judgment debtors in money judgments after seizure of property; to provide for the
5 type of service and timing of notice of seizure of property; to provide for the timing
6 of the sheriff's sale date; to provide for notice of the possibility of a change in
7 scheduled sale dates of seized property; to provide for the information to be included
8 in notice of seizure of property and applicable sale dates; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 13:3852 is hereby amended and reenacted to read as follows:

12 §3852. Notices of seizure

13 A. The sheriff to whom the writ is directed shall make three notices setting
14 forth the title of the action or proceeding, its docket number, the court which issued
15 the writ, the amount of the judgment or claim specified in the writ, an exact copy of
16 the description of the immovable property furnished him in accordance with R.S.
17 13:3851, ~~and~~ the fact that the sheriff is seizing the described property; in accordance
18 with Code of Civil Procedure Article 2293, **information as provided in Paragraph**
19 **B concerning the property owner's rights and the availability of housing**

1 counseling services, and, if applicable, the date of the first scheduled sale of the
 2 property. The initial sheriff's sale date shall not be scheduled any earlier than
 3 sixty days after the date of the signed court order commanding the issuance of
 4 the writ. If the immovable property to be seized is owned by more than one party,
 5 the sheriff shall make an additional notice for each additional party. No other notice
 6 of seizure shall be required.

7 B. The following form ~~may~~ shall be used for these notices by the sheriff:

8 "Notice is hereby given that I am this day seizing, in accordance with the
 9 provisions of R.S. 13:3851 through 13:3861, the following described immovable
 10 property, to wit: _____ as the property of
 11 _____, under a writ of _____, issued on the _____ day of
 12 _____, _____, by the _____ District Court for the Parish of
 13 _____, in the matter entitled _____
 14 versus _____, No. _____ of its docket, to satisfy a claim of
 15 \$_____, interest and costs, this _____ day of _____, _____. This matter
 16 is scheduled for sheriff's sale on _____ day of _____, _____,
 17 at _____ A.M./P.M., ~~or any day thereafter as scheduled by the sheriff.~~ Please be
 18 aware that the sheriff's sale date may change. You may contact the sheriff's
 19 office to find out the new date when the property is scheduled to be sold. The
 20 new sale date will also be published in the local newspaper in accordance with
 21 R.S. 43:203. If the seized property is residential property, you may be afforded
 22 the opportunity to bring your account in good standing by entering into a loss
 23 mitigation agreement with your lender, or by paying all of your past due
 24 payments plus permitted costs and expenses within the time permitted by law
 25 for reinstatement of your account. You are strongly encouraged to seek legal
 26 counsel. If you cannot afford to pay an attorney, you may be able to qualify for
 27 free legal services. Foreclosure prevention counseling services through a
 28 housing counselor, including loss mitigation, are provided free of charge. To
 29 find a local housing counseling agency approved by the U.S. Department of
 30 Housing and Urban Development, you may contact the U.S. Department of

Housing and Urban Development or the Louisiana Housing Corporation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Sheriff

Parish of _____

By: _____"

C. The sheriff shall not be required to serve any further notice of rescheduled sale dates provided he has not returned the writ to the clerk of court.

Section 2. Code of Civil Procedure Articles 2293(B)(1) and 2721(B) are hereby amended and reenacted to read as follows:

Art. 2293. Notice to judgment debtor; appointment of attorney

* * *

B.(1) After the seizure of property, the sheriff shall serve promptly upon the judgment debtor a written notice of the seizure and a list of the property seized, in the manner provided for service of citation. **Such notice of seizure shall be accomplished by personal service or domiciliary service.** If service cannot be made on the judgment debtor or his attorney of record, the court shall appoint an attorney upon whom service may be made. The notice of seizure shall be ~~substantially similar to~~ **include information concerning the availability of housing counseling services, as well as the time, date, and place of the sheriff's sale, in accordance with** the form provided in R.S. 13:3852(B).

* * *

Art. 2721. Seizure of property; notice

* * *

B. The sheriff shall serve upon the defendant a written notice of the seizure of the property. **Such notice of seizure shall be accomplished by personal service or domiciliary service. The notice of seizure shall include information concerning the availability of housing counseling services, as well as the time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B).**

1

* * *

2

Section 3. The provisions of this Act shall be known and may be cited as the

3

Louisiana Home Protection Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____