

Regular Session, 2014

HOUSE BILL NO. 539

BY REPRESENTATIVE STOKES

SEIZURES/SALES: Provides relative to time delays and methods of timely submission of notices of repossession

1 AN ACT

2 To amend and reenact R.S. 6:966.1(A)(introductory paragraph), (B), and (C), and to enact
3 R.S. 6:966.1(E) relative to default remedies; to amend the time delay for submission
4 of a notice of repossession; to provide for the methods of submission of the notice;
5 to provide for proof of the notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 6:966.1(A)(introductory paragraph), (B), and (C) and are hereby
8 amended and reenacted and R.S. 6:966.1(E) is hereby enacted to read as follows:

9 §966.1. Notice of repossession; contents; fees

10 A. Within three business days of taking possession of collateral, a secured
11 party who utilizes the additional default remedies provided by this Chapter to obtain
12 possession of collateral shall ~~file~~ deliver in person or send by mail a "Notice of
13 Repossession" ~~with~~ to the recorder of mortgages in the parish where the collateral
14 was located and ~~with~~ to the appropriate official for filing purposes. The "Notice of
15 Repossession" shall contain the debtor's name, last known address, date of birth, and
16 a description of the collateral repossessed. If the "Notice of Repossession" is sent
17 by mail, the timeliness of the mailing shall be shown only by an official United
18 States postmark or by official receipt or certificate from the United States Postal
19 Service. For purposes of this Section, the appropriate official shall be:

20 * * *

21 B. Within three business days of taking possession of collateral, ~~The~~ the
22 secured party shall deliver in person or send by mail a pay ~~payment~~ of seventy-five

1 dollars to the recorder of mortgages and two hundred fifty dollars to the appropriate
 2 official for each "Notice of Repossession" filed. If the payment is sent by mail, the
 3 timeliness of the mailing shall be shown only by an official United States postmark
 4 or by official receipt or certificate from the United States Postal Service.

5 C. If the sheriff is the appropriate official in the parish of Orleans, then there
 6 shall be no fee paid to the sheriff; however, the "Notice of Repossession" shall still
 7 be filed with the sheriff pursuant to the requirement set forth in Subsection A of this
 8 Section.

9 * * *

10 E. If the "Notice of Repossession" is sent by mail pursuant to the provisions
 11 of this Section, the secured party shall retain evidence of proof of receipt by the
 12 recipient in order to prove timely delivery.

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)]

Stokes

HB No. 539

Abstract: Amends the time delay and methods of timely submission relative to a "Notice of Repossession" and payments of certain fees.

Present law requires a secured party utilizing additional default remedies in obtaining possession of collateral to file a "Notice of Repossession" with the recorder of mortgages in the parish where the collateral was located and with the appropriate official within three days of taking possession of collateral.

Proposed law deletes the three-day filing period of present law. Proposed law requires a secured party's "Notice of Repossession" to be delivered in person or sent by mail to the recorder of mortgages and to the appropriate official within three business days of taking possession of the collateral. The timeliness of a notice sent by mail is shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service.

Present law requires a secured party to pay \$75 to the recorder of mortgages and \$250 to the appropriate official for each "Notice of Repossession" filed. Proposed law adds to present law and requires the payments to be delivered in person or sent by mail within three business days of taking possession of the collateral. The timeliness of a payment sent by mail is shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service.

Present law provides that if the sheriff is the appropriate official in Orleans Parish, no fee shall be paid to the sheriff; however, the "Notice of Repossession" shall still be filed with the sheriff. Proposed law adds to present law and provides for the notice to be delivered in person or sent by mail to the sheriff within three business days of taking possession of the

collateral. The timeliness of a notice sent by mail is shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service.

Proposed law requires proof of receipt by the recipient if "Notice of Repossession" is sent by mail.

(Amends R.S. 6:966.1(A)(intro. para.), (B), and (C); Adds R.S. 6:966.1(E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Judiciary to the original bill.

1. Added the requirement that the "Notice of Repossession" shall contain proof of receipt by the recipient if sent by mail.