

Regular Session, 2013

SENATE BILL NO. 27

BY SENATOR BROOME

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

SEIZURES/SALES. Provides for the Louisiana Home Protection Act. (8/1/13)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§3852. Notices of seizure

A. The sheriff to whom the writ is directed shall make three notices setting forth the title of the action or proceeding, 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 in accordance with R.S. 13:3851, ~~and~~ the fact that the sheriff is seizing the described property, in accordance with Code of Civil Procedure Article 2293, **information as provided in Paragraph**

1 Parish of _____

2 By: _____ "

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

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

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

8 * * *

9 B. (1) After the seizure of property, **and at least ninety days prior to the**
10 **scheduled sale date**, the sheriff shall serve promptly upon the judgment debtor a
11 written notice of the seizure and a list of the property seized, ~~in the manner provided~~
12 ~~for service of citation.~~ **Such notice of seizure shall be accomplished by personal**
13 **service or domiciliary service.** ~~If service cannot be made on the judgment debtor~~
14 ~~or his attorney of record, the court shall appoint an attorney upon whom service may~~
15 ~~be made.~~ The notice of seizure shall be substantially similar to **in accordance with**
16 the form provided in R.S. 13:3852, **and, as provided in R.S. 13:3852(B), shall**
17 **include information concerning the property owner's rights and the availability**
18 **of housing counseling services, as well as the time, date, and place of the**
19 **sheriff's sale. In the event of a change to the scheduled sale date, the sheriff**
20 **shall serve upon the judgment debtor an amended written notice of the seizure**
21 **within five days of the schedule change. Such amended notice of seizure shall**
22 **be accomplished by personal service or domiciliary service.**

23 * * *

24 Art. 2721. Seizure of property; notice

25 * * *

26 B. **At least ninety days prior to the scheduled sale date,** ~~The~~ **the** sheriff
27 shall serve upon the defendant a written notice of the seizure of the property. **Such**
28 **notice of seizure shall be accomplished by personal service or domiciliary**
29 **service. The notice of seizure shall be in accordance with the form provided in**

Proposed law provides that the sheriff's service shall be at least 90 days prior to the scheduled sale date, and shall be accomplished by personal or domiciliary service. Removes the option of appointing an attorney for service. Proposed law 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 property owner's rights and availability of housing counseling services, as well as time, date, and place of sheriff's sale. Proposed law provides that, in the event the date of sale changes, the sheriff shall serve upon the judgment debtor by personal or domiciliary service an amended written notice of the seizure within five days of the schedule change.

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 90 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 property owner's rights and the availability of housing counseling services, as well as the time, date, and place of the sheriff's sale. Proposed law further provides that when a scheduled sale date changes, the sheriff shall serve upon the judgment debtor an amended written notice of the seizure within five days of the schedule change.

Effective August 1, 2013.

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