

Regular Session, 2014

SENATE BILL NO. 576

BY SENATOR LONG

EXECUTORY PROCESS. Provides relative to a deficiency judgment in a short sale.  
(8/1/14)

1 AN ACT

2 To enact R.S. 13:4106.1, relative to executory process and deficiency judgments; to provide  
3 relative to short sales; to provide for a waiver of deficiency judgment; to provide for  
4 terms, definitions, procedures and conditions; to provide relative to eligibility for  
5 participation; to provide relative to disclosure; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:4106.1 is hereby enacted to read as follows:

8 **§4106.1. Deficiency Judgment; short sale exception**

9 **A. For the purposes of this Section, the following terms shall have the**  
10 **following meanings:**

11 **(1) "Short sale" means any real property sale in which the funds**  
12 **collected as a result of the sale are less than the amount due to the creditor.**

13 **(2) "Deficiency balance" means any amount remaining due to the**  
14 **creditor after the payment of proceeds from the real property sale.**

15 **(3) "Waiver of deficiency" means the agreement of the creditor to forego**  
16 **the pursuit of the balance due by the property owner after the real property**  
17 **sale.**

1            **B. This Section shall only apply to primary creditors and the real**  
2            **property owner who is considered to be an owner occupant under the terms of**  
3            **the financial obligation.**

4            **(1) A real property owner who has not yet received a notice of seizure**  
5            **may enter into negotiations with the primary creditor for the purpose of a short**  
6            **sale.**

7            **(2) Upon a determination by the creditor of eligibility based on**  
8            **applicable federal and state statutes, the creditor may forego executory**  
9            **proceedings and permit the real property owner to proceed with the short sale.**

10           **C. The real property owner shall be represented by the creditor. When**  
11           **placing the real property on the market for sale pursuant to this Section, the**  
12           **real property owner may be represented only by a real estate licensee who has**  
13           **completed training in the short sale process or earned the Short Sales**  
14           **Foreclosure Resource designation or by an attorney in good standing with the**  
15           **Louisiana State Bar Association.**

16           **D. In addition to any lender required documentation disclosing that the**  
17           **real property will be sold through the short sale process, an addendum shall be**  
18           **included with the Louisiana Real Estate Commission's mandatory purchase**  
19           **agreement. Such form shall be approved and available for use within thirty days**  
20           **of the effective date of this Section by the Louisiana Real Estate Commission**  
21           **and the Office of Financial Institutions. The form shall include information**  
22           **related to the notice of the short sale, warranties, extensions, termination of**  
23           **agreement, and references to any applicable provisions of law.**

24           **E. A deficiency judgment shall not be sought by the creditor if all of the**  
25           **terms and conditions of the creditor are met at the act of sale.**

26           **F. The creditor may proceed with executory process and seizure of the**  
27           **real property if the real property owner has not met all of the requirements of**  
28           **the creditor at the act of sale.**

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

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DIGEST

Long (SB 576)

Proposed law provides that for the purposes of proposed law, the following terms shall have the following meanings:

- (1) "Short sale" means any real property sale in which the funds collected as a result of the sale are less than the amount due to the creditor.
- (2) "Deficiency balance" means any amount remaining due to the creditor after the payment of proceeds from the real property sale.
- (3) "Waiver of deficiency" means the agreement of the creditor to forego the pursuit of the balance due by the property owner after the real property sale.

Proposed law provides that proposed law shall only apply to primary creditors and the real property owner who is considered to be an owner occupant under the terms of the financial obligation.

Proposed law provides that a real property owner who has not yet received a notice of seizure may enter into negotiations with the primary creditor for the purpose of a short sale.

Proposed law provides that upon a determination by the creditor of eligibility based on applicable federal and state statutes, the creditor may forego executory proceedings and permit the real property owner to proceed with the short sale.

Proposed law provides that the real property owner shall be represented by the creditor. The real property owner may be represented only by a real estate licensee who has completed training in the short sale process or earned the Short Sales Foreclosure Resource designation or by an attorney in good standing with the Louisiana State Bar Association when placing the real property on the market for sale pursuant to proposed law.

Proposed law provides that in addition to any lender required documentation disclosing that the real property will be sold through the short sale process, an addendum shall be included with the Louisiana Real Estate Commission's mandatory purchase agreement. Such form shall be approved and available for use within 30 days of the effective date of proposed law by the Louisiana Real Estate Commission and the Office of Financial Institutions. The form shall include information related to the notice of the short sale, warranties, extensions, termination of agreement, and references to any applicable provisions of law.

Proposed law provides that a deficiency judgment shall not be sought by the creditor if all of the terms and conditions of the creditor are met at the act of sale.

Proposed law provides that the creditor may proceed with executory process and seizure of the real property if the real property owner has not met all of the requirements of the creditor at the act of sale.

Effective August 1, 2014.

(Adds R.S. 13:4106.1)