2016 Regular Session

HOUSE BILL NO. 285

1

BY REPRESENTATIVE GAROFALO

(On Recommendation of the Louisiana State Law Institute)

AN ACT

2 To amend and reenact Code of Civil Procedure Articles 1458, 1462(B)(1), 1465.1(B), 3 1467(A), 2541, 2642, and 2721(B), and R.S. 13:3852(B), and to enact R.S. 4 13:4611(1)(g), relative to civil procedure; to extend the time delays for responding 5 to discovery requests; to provide for the enforcement of foreign and domestic 6 judgments; to provide for commencement of the suspensive appeal delay from an 7 order of seizure and sale; to provide with respect to the notice of seizure of property; 8 to provide for an award of attorney fees in civil contempt of court proceedings; and 9 to provide for related matters. 10 Be it enacted by the Legislature of Louisiana: 11 Section 1. Code of Civil Procedure Articles 1458, 1462(B)(1), 1465.1(B), 1467(A), 12 2541, 2642, and 2721(B) are hereby amended and reenacted to read as follows: 13 Art. 1458. Interrogatories to parties; procedures for use 14 Each interrogatory shall be answered separately and fully in writing under 15 oath, unless it is objected to, in which event the reasons for objection shall be stated 16 in lieu of an answer. The written answer or reasons for objection to each 17 interrogatory shall immediately follow a restatement of the interrogatory to which 18 the answer or objection is responding. The answers are to be signed by the person 19 making them. When interrogatories are served on a specific party, that party shall 20 verify he has read and confirmed the answers and objections. The party upon whom 21 the interrogatories have been served shall serve a copy of the answers, and objections 22 if any, within fifteen thirty days after the service of the interrogatories, except that

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

a defendant may serve answers or objections within thirty days after service of the petition upon that defendant and the state and its political subdivisions may serve a copy of the answers or objections within thirty days after service of the interrogatories. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Article 1469 with respect to any objection to or other failure to answer an interrogatory.

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Art. 1462. Production of documents and things; entry upon land; procedure

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B.(1) The party upon whom the request is served shall serve a written response within fifteen thirty days after service of the request, except that a defendant may serve a response within thirty days after service of the petition upon that defendant, and except that the state and its political subdivisions may serve a response within thirty days after service of the request. The court may allow a shorter or longer time. With respect to each item or category, the response shall state that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The written answer or reasons for objection to each request for production of documents shall immediately follow a restatement of the request for production of documents to which the answer or objection is responding. The party submitting the request may move for an order under Article 1469 with respect to any objection to or other failure to respond to the request, or any part thereof, or any failure to permit inspection as requested. If objection is made to the requested form or forms for producing information, including electronically stored information, or if no form was specified in the request, the responding party shall state in its response the form or forms it intends to use.

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Art. 1465.1. Requests for release of medical records

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B. The party upon whom the request is served, within fifteen thirty days after service of the request, shall provide to the requesting party releases signed by the plaintiff or other authorized person unless the request is objected to, in which event the reasons for the objection shall be stated. The party requesting the release of medical records may move for an order under Article 1469 with respect to any objection or other failure to respond to the request.

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Art. 1467. Requests for admission; answers and objections

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A. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within fifteen thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of thirty days after service of the petition upon him. The written answer or reasons for objection to each request for admission shall immediately follow a restatement of the request for admission to which the answer or objection is responding. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject

to the provisions of Article 1472, deny the matter or set forth reasons why he cannot admit or deny it.

3 * * *

Art. 2541. Execution of foreign judgments

A. A party seeking recognition or execution by a Louisiana court of a judgment or decree of a court of the United States or a territory thereof, or of any other state, or of any foreign country may either seek enforcement pursuant to R.S. 13:4241, et seq., or bring an ordinary proceeding against the judgment debtor in the proper Louisiana court, to have the judgment or decree recognized and made the judgment of the Louisiana court.

B. In the latter case, a \underline{A} duly authenticated copy of the judgment or decree must be annexed to the petition.

C. A judgment, decree, or order of a court of the United States or any other court that is entitled to full faith and credit in this state may also be enforced pursuant to R.S. 13:4241.

Comment - 2016

Article 2541 was amended to clarify that La. R.S. 13:4241 does not authorize ex parte enforcement of the judgments of foreign countries in a Louisiana state court. See *Baker & Mckenzie Advokatbyra v. Thinkstream*, 20 So. 3d 1109 (La. App. 1 Cir. 2009).

* * *

Art. 2642. Assertion of defenses; appeal

Defenses and procedural objections to an executory proceeding may be asserted either through an injunction proceeding to arrest the seizure and sale as provided in Articles 2751 through 2754, or a suspensive appeal from the order directing the issuance of the writ of seizure and sale, or both.

A suspensive appeal from an order directing the issuance of a writ of seizure and sale shall be taken within fifteen days of the signing of the order service of the notice of seizure as provided in Article 2721. The appeal is governed by the provisions of Articles 2081 through 2086, 2088 through 2122, and 2124 through 2167, except that the security therefor shall be for an amount exceeding by one-half

1	the balance due on the debt secured by the mortgage of privilege sought to be					
2	enforced, including principal, interest to date of the order of appeal, and attorney's					
3	fee attorney fees, but exclusive of court costs.					
4	* * *					
5	Art. 2721. Seizure of property; notice					
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7	B. The sheriff shall serve upon the defendant a written notice of the seizure					
8	of the property. Such notice of seizure shall be accomplished by personal service or					
9	domiciliary service. The notice of seizure shall reproduce in full the provisions of					
10	Article 2642 and include information concerning the availability of housing					
1	counseling services, as well as the time, date, and place of the sheriff's sale, in					
12	accordance with the form provided in R.S. 13:3852(B).					
13	* * *					
14	Section 2. R.S. 13:3852(B) is hereby amended and reenacted and R.S. 13:4611(1)(g)					
15	is hereby enacted to read as follows:					
16	§3852. Notices of seizure					
17	* * *					
18	B. The following form shall be used for these notices by the sheriff:					
19	"Notice is hereby given that I am this day seizing, in accordance with the					
20	provisions of R.S. 13:3851 through 13:3861, the following described immovable					
21	property, to wit: as the property of					
22	, under a writ of, issued on the day of					
23	, by the District Court for the Parish of					
24	, in the matter entitled					
25	versus, No of its docket, to satisfy a claim of					
26	\$, interest and costs, this day of, This matter					
27	is scheduled for sheriff's sale onday of,,					
28	atA.M./P.M. Please be aware that the sheriff's sale date may change. You					
29	may contact the sheriff's office to find out the new date when the property is					
30	scheduled to be sold. The new sale date will also be published in the local newspaper					

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in accordance with R.S. 43:203. If the seized property is residential property, you may be afforded the opportunity to bring your account in good standing by entering into a loss mitigation agreement with your lender, or by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. You are strongly encouraged to seek legal counsel. If you cannot afford to pay an attorney, you may be able to qualify for free legal services. Foreclosure prevention counseling services through a housing counselor, including loss mitigation, are provided free of charge. To find a local housing counseling agency approved by the U.S. Department of Housing and Urban Development, you may contact the U.S. Department of Housing and Urban Development or the Louisiana Housing Corporation.

THE FOLLOWING PARAGRAPH APPLIES ONLY TO PROPERTY
THAT HAS BEEN SEIZED PURSUANT TO A WRIT OF SEIZURE AND SALE
ISSUED IN AN EXECUTORY PROCEEDING: As provided in Louisiana Code of
Civil Procedure Article 2642, defenses and procedural objections to an executory
proceeding may be asserted either through an injunction proceeding to arrest the
seizure and sale as provided in Articles 2751 through 2754, or a suspensive appeal
from the order directing the issuance of the writ of seizure and sale, or both. A
suspensive appeal from an order directing the issuance of a writ of seizure and sale
shall be taken within fifteen days of service of the notice of seizure as provided in
Article 2721. The appeal is governed by the provisions of Articles 2081 through
2086, 2088 through 2122, and 2124 through 2167, except that the security therefor
shall be for an amount exceeding by one-half the balance due on the debt secured by
the mortgage or privilege sought to be enforced, including principal, interest to date
of the order of appeal, and attorney fees, but exclusive of court costs.

26 27					Sheriff
28				Parish of	
29				By:	
30	*	*	*		

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1 §4611. Punishment for contempt of court 2 Except as otherwise provided for by law: 3 (1) The supreme court, the courts of appeal, the district courts, family courts, 4 juvenile courts and the city courts may punish a person adjudged guilty of a 5 contempt of court therein, as follows: 6 7 (g) The court may award attorney fees to the prevailing party in a contempt 8 of court proceeding provided for in this Section. 9 SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ENROLLED

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