

2019 Regular Session

HOUSE BILL NO. 4

BY REPRESENTATIVE DWIGHT

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

PROPERTY/IMMOVABLE: Provides relative to the procedures for sheriff's sales of property

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2334 and R.S. 13:4345, relative to
3 sheriff's sales of property; to provide for alternative procedures for publication of
4 mortgage and other certificates; to provide relative to the failure to read aloud or
5 provide a copy of such certificates; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 2334 is hereby amended and reenacted
8 to read as follows:

9 Art. 2334. Reading of advertisement and certificates

10 A. At the time and place designated for the sale, the sheriff shall read aloud
11 the advertisement describing the property; ~~and. The sheriff shall also~~ read aloud a
12 mortgage certificate and any other certificate required by law; or otherwise provide,
13 at least twenty-four hours prior to the sale, a copy of such certificates to the public
14 by means of public posting, written copies, electronic means, or by any other
15 method.

16 B. The failure of the sheriff to procure, read aloud, or provide a copy of any
17 certificate as required by this Article shall not impact the validity of the sale and
18 shall not give rise to any cause of action against the sheriff, the seizing creditor, or
19 the purchaser arising out of such failure.

- 1 Section 2. R.S. 13:4345 is hereby amended and reenacted to read as follows:
- 2 §4345. Penalty for failure of sheriff to procure and ~~read aloud~~ provide certificates
- 3 required by law
- 4 A sheriff who neglects to procure and ~~read aloud~~ provide the certificates
- 5 required by law before a judicial sale under a writ of fieri facias or of seizure and
- 6 sale shall be fined not less than two hundred and fifty dollars, nor more than five
- 7 hundred dollars, and all costs of court. One half of this fine shall be paid to the
- 8 complainant and the other half shall be retained by the state.
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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)]

HB 4 Engrossed

2019 Regular Session

Dwight

Abstract: Provides for alternative means of publication of mortgage and other certificates at sheriff's sales.

Present law provides procedures for the sale of property to satisfy certain judgments. Requires the sheriff to read the mortgage certificate and other certificates aloud at these sheriff's sales.

Proposed law makes the reading of these certificates optional by adding additional methods of publication which include public posting, written copies, electronic means, or any other method.

Proposed law requires the certificate to be provided at least 24 hours prior to the sale.

Proposed law provides that failure to read aloud, procure, or provide the certificate does not impact the validity of the sale and does not give rise to a cause of action against the sheriff, seizing creditor, or purchaser arising out of such failure.

(Amends C.C.P. Art. 2334 and R.S. 13:4345)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes.
2. Add that the certificate must be provided to the public at least 24 hours prior to the sale.
3. Add that the failure to read aloud, procure, or provide the certificate does not impact the validity of the sale and does not give rise to a cause of action against the sheriff, seizing creditor, or purchaser arising out of such failure.