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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

SB 140 Original

2023 Regular Session

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Present law (C.C.P. Art. 2293(B)(1)) requires service of notice of seizure to be made by the sheriff upon the judgment debtor and requires the notice of seizure to include the time, date, and place of the sheriff's sale.

Proposed law retains present law and, for sales conducted through an online auction, requires the notice of seizure to state that fact and to provide the date and time and the electronic address of the platform through which bids can be entered. Proposed law also makes technical corrections.

Present law (C.C.P. Art. 2334) sets forth certain procedural requirements applicable to sheriff's sales concerning reading the advertisement and reading or providing a copy of a mortgage certificate or any other certificate.

Proposed law retains present law and, for sales conducted through an online auction, requires the advertisement and mortgage or other certificate to be displayed or made accessible on the electronic platform.

Proposed law (C.C.P. Art. 2344) sets forth the procedures relative to online auctions with respect to providing notice, conducting online auctions, entering bids, displaying the advertisement and mortgage or other certificates, imposing qualifications on bidders, and indicating the presence of the seizing creditor.

Present law (C.C.P. Art. 2375) provides that the purchaser is liable only for the purchase price and shall pay that price to the sheriff.

Proposed law adds an exception to present law for online auctions where the sheriff and seizing creditor agree to impose a buyer's premium, which will be remitted directly to the online auction company.

Present law (C.C.P. Art. 2721) requires service of notice of seizure to be made by the sheriff and requires the notice of seizure to include the time, date, and place of the sheriff's sale.

Proposed law retains present law and, for sales conducted through an online auction, requires the notice of seizure to state that fact and to provide the date and time and the electronic address of the platform through which bids can be entered. Proposed law also makes technical corrections.

Present law (C.C.P. Art. 2724(A)) extends the application of certain provisions relative to writs of fieri facias to writs of seizure and sale.

Present law (R.S. 13:3852) sets forth the requirements applicable to notices of seizure, provides a form, and provides that the sheriff is not required to serve further notice of rescheduled sale dates if the sheriff has not returned the writ.

Proposed law extends the application of present law to online auctions by requiring the form to provide the date and time of the online auction and the electronic address of the platform through which bids can be entered. Proposed law also provides that the sheriff is not required to serve further notice of rescheduled online auction dates if the sheriff has not returned the writ.

Present law (R.S. 13:4341) provides with respect to the time and place of judicial sales and provides for the adjournment of sales to the following legal day.

Proposed law requires online auctions to be conducted on one of the days specified by present law but otherwise exempts online auctions from the requirements set forth by present law.

Proposed law (R.S. 13:4358) provides with respect to the use and compensation of online auction companies, including the assessment and maximum amount of fixed fees and buyer's premiums. Proposed law prohibits the sheriff from delegating certain duties and prohibits online auction companies from collecting additional fees or reimbursements or agreeing to share any monies received with the sheriff. Proposed law further provides for requirements concerning data security and liability insurance in contracts with online auction companies and, if the auction company will receive funds from bidders, requires the auction company to furnish a fidelity bond and hold the funds in a separate escrow or trust account.

Present law (R.S. 13:4360) provides with respect to the reoffering or readvertising of property for which full payment of the adjudication price has not been made.

Proposed law makes technical corrections to present law and further provides that for sales conducted through an online auction, payment is due by 4:30 p.m. on the first day following the sale that is not a legal holiday; otherwise, the property may be adjudicated to the second highest bidder or readvertised.

Proposed law (R.S. 13:4369) prohibits the institution of actions to set aside judicial sales conducted through online auctions for noncompliance with procedural requirements if the sheriff either has filed the proces verbal or has filed the sale for recordation in the conveyance records, for immovables, or has delivered an act of sale, for movables.

Present law (R.S. 13:5530(A)(7)(a)) sets forth the sheriffs' commissions on sales of property and defines "price of adjudication".

Proposed law retains present law and provides that for sales conducted through an online auction, "price of adjudication" does not include the amount of any buyer's premium.

Effective August 1, 2023.

(Amends C.C.P. Arts. 2293(B)(1), 2334, 2375, 2721, and 2724(A) and R.S. 13:3852, 4341, 4360, and 5530(A)(7)(a); adds C.C.P. Art. 2344 and R.S. 13:4358 and 4369)