

Regular Session, 2005

HOUSE BILL NO. 214

BY REPRESENTATIVE GALLOT

(On Recommendation of the Louisiana State Law Institute)

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

RECORDS/RECORDATION: Provides for the recordation of documents in the mortgage and conveyance records

1 AN ACT

2 To enact Title XXII-A of Book III of the Civil Code, consisting of Civil Code Articles 3338
3 through 3368; and R.S. 44:77 through 80, 111 through 119, 171 and 172; to amend
4 and reenact Civil Code Articles 517, 1554, 2021, 2035, 2442, and 3337; Code of
5 Civil Procedure Articles 3752 and 4362; R.S. 9:4833 and 4834; R.S. 13:901; and
6 R.S. 44:71 through 75 and 131; to repeal Civil Code Articles 3308, 3309, 3310,
7 3314, 3320(A) and (B), 3321 through 3324, and 3327 through 3336; R.S. 9:2371(A)
8 and (B), 2721(A), 2721.1, 2722, 2728, 2733, 2741 through 2757, 5141, 5161, 5162,
9 5165, 5166, 5167(A) through (D), 5168 through 5207, 5214 through 5216, 5502, and
10 5556; R.S. 13:752 through 755, 913, and 3727; R.S. 35:17; and R.S. 44:76, 101
11 through 103, 132 through 136, 138, 162, 163, 202, 203, 232, 232.1, 233, and 268;
12 and to redesignate R.S. 9:2731 as R.S. 31:216 and R.S. 9:2732 as R.S. 31:217, all
13 relative to the recordation of documents in the mortgage and conveyance records and
14 the consolidation of the laws affecting the recordation of documents; to provide for
15 the rules relative to the recordation of documents affecting immovable property; to
16 provide for the duties and liability of the recorders; to provide for the effect of
17 recordation as to third persons; to provide the limits to the effect of recordation and
18 for matters not of record; to provide for the recordation of duplicate documents; to
19 provide for the place of recordation; to provide for the stamping of documents by the
20 recorder, the failure to endorse, and the presumption as to time of filing; to provide

1 for the effect of ancient documents; to provide for information required to be in
2 recorded acts and the effect of omissions; to provide for the cancellation of
3 mortgages and liability for incorrect or false requests for cancellation; to provide for
4 the recordation of transfers, amendments, and releases; to provide for the method and
5 duration of the recordation of mortgages and the method of reinscription; to provide
6 for the vendor's privilege and mortgage protecting the interest of a minor; to provide
7 for the reinscription of notices of contract; to provide for the requirements for
8 indexing names by the recorders; to provide for the office of mortgages and
9 conveyances and for the establishment of branch offices; to provide for limitations
10 of liability of the clerk and for insurance against liability; to provide for certified
11 copies of records and their effect, recordation of notice of lease, certificate of
12 encumbrances, and recordation of military discharge papers; to provide for the effect
13 of an order of discharge in bankruptcy on recorded acts; to provide for the method
14 of establishing the authenticity of documents; to provide for actions against the
15 recorder; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Title XXII-A of Book III of the Civil Code, comprised of Civil Code
18 Articles 3338 through 3368, is hereby enacted to read as follows:

19 TITLE XXII-A-OF REGISTRY

20 CHAPTER I. GENERAL PROVISIONS

21 Art. 3338. Instruments creating real rights in immovables; recordation required to
22 affect third persons

23 The rights and obligations established or created by the following written
24 instruments are without effect as to a third person unless the instrument is registered
25 by recording it in the appropriate mortgage or conveyance records pursuant to the
26 provisions of this Title:

27 (1) An instrument that transfers an immovable or establishes a real right in
28 or over an immovable.

29 (2) The lease of an immovable.

1 (3) An option or right of first refusal, or a contract to buy, sell, or lease an
2 immovable or to establish a real right in or over an immovable.

3 (4) An instrument that modifies, terminates, or transfers the rights created
4 or evidenced by the instruments described in Subparagraphs (1) through (3) of this
5 Article.

6 Art. 3339. Matters not of record

7 A matter of capacity or authority, the occurrence of a suspensive or a
8 resolutive condition, the exercise of an option or right of first refusal, a tacit
9 acceptance, a termination of rights that depends upon the occurrence of a condition,
10 and a similar matter pertaining to rights and obligations evidenced by a recorded
11 instrument are effective as to a third person although not evidenced of record.

12 Art. 3340. Effect of recording other documents

13 If the law or a recorded instrument expressly makes the recordation of an act
14 or instrument a condition to the creation, extinction, or modification of rights or
15 obligations, such act or instrument is not effective as to a third person until it is
16 recorded.

17 The recordation of a document, other than an instrument described in Article
18 3338, that is required by law to be registered, filed, or otherwise recorded with the
19 clerk of court or recorder of conveyances or of mortgages or in the conveyance or
20 mortgage records shall have only the effect provided for by such law.

21 Art. 3341. Limits on the effect of recordation

22 The recordation of an instrument:

23 (1) Does not create a presumption that the instrument is valid or genuine.

24 (2) Does not create a presumption as to the capacity or status of the parties.

25 (3) Has no effect unless the law expressly provides for its recordation.

26 (4) Is effective only with respect to immovables located in the parish where
27 the instrument is recorded.

1 Art. 3342. Parties to an instrument are precluded from raising certain matters

2 A party to a recorded instrument may not contradict the terms of the
3 instrument or statements of fact it contains to the prejudice of a third person who
4 after its recordation acquires an interest in or over the immovable to which the
5 instrument relates.

6 Art. 3343. Third person defined

7 A third person is a person who is not a party to or personally bound by an
8 instrument.

9 A witness to an act is a third person with respect to it.

10 A person who by contract assumes an obligation or is bound by contract to
11 recognize a right is not a third person with respect to the obligation or right or to the
12 instrument creating or establishing it.

13 Art. 3344. Original to be recorded; form required; proof of signature; erroneous
14 recordation of a duplicate

15 A. The recorder shall refuse to record:

16 (1) An instrument that does not bear the original signature of a party.

17 (2) A judgment, administrative decree, or other act of a governmental agency
18 that is not properly certified in a manner provided by law.

19 B. Recordation does not dispense with the necessity of proving that the
20 signatures are genuine unless they are authenticated in the manner provided by law.

21 Art. 3345. Recordation of a duplicate

22 The recordation of a duplicate of an instrument, as defined in Code of
23 Evidence Article 1001(5), that does not bear the original signature of a party, shall
24 nonetheless have the same effect as recordation of the original instrument.
25 Recordation does not dispense with proving that the recorded instrument is a
26 duplicate.

27 Art. 3346. Place of recordation; duty of the recorder

28 A. An instrument creating, establishing, or relating to a mortgage or
29 privilege over an immovable is recorded in the mortgage records of the parish in

1 which the immovable is located. All other instruments are recorded in the
2 conveyance records of that parish.

3 B. The recorder shall maintain in the manner prescribed by law all
4 instruments that are recorded with him.

5 Art. 3347. Effect of recordation arises upon filing

6 The effect of recordation arises when an instrument is filed with the recorder
7 and is unaffected by subsequent errors or omissions of the recorder. An instrument
8 is filed with a recorder when he accepts it for recordation in his office.

9 Art. 3348. Time of filing; determination

10 Upon acceptance of an instrument the recorder shall immediately write upon
11 or stamp it with the date and time it is filed and the registry number assigned to it.

12 Art. 3349. Failure to endorse; effect

13 If the recorder fails to endorse an instrument with the date and time of filing
14 or if it bears the same date and time of filing as another instrument, it is presumed
15 that the instrument was filed with respect to other instruments in the order indicated
16 by their registry numbers and that the filing of the instrument occurred immediately
17 before an instrument bearing the next consecutive registry number.

18 Art. 3350. Presumption as to time of filing

19 When the date and time of filing cannot be determined under Articles 3348
20 and 3349, it is presumed that the instrument was filed at the first determinable date
21 and time that it appears in the records of the recorder.

22 Art. 3351. Ancient documents; presumptions

23 An instrument that has been recorded for at least ten years is presumed to
24 have been signed by all persons whose purported signatures are affixed thereto, and,
25 if a judgment, that it was rendered by a court of competent jurisdiction.

26 Art. 3352. Recorded acts; required information

27 An instrument shall contain the following information when appropriate for
28 its type and nature:

29 (1) The full name, domicile, and permanent mailing address of the parties.

1 (2) The marital status of all of the parties who are individuals, including the
2 full name of the present spouse or a declaration that the party is unmarried.

3 (3) A declaration as to whether there has been a change in the marital status
4 of any party who is a transferor of the immovable or interest or right since he
5 acquired it, and if so, when and in what manner the change occurred.

6 (4) The municipal number or postal address of the property, if it has one.

7 (5) The last four digits of the social security number or the taxpayer
8 identification number of the mortgagor, whichever is applicable.

9 (6) The notary's identification number or the attorney's bar roll number and
10 the typed, printed, or stamped name of the notary and witnesses if the instrument is
11 an authentic act of, or an authenticated act by, a notary.

12 The recorder shall not refuse to record an instrument because it does not
13 contain the information required by this Article. The omission of that information
14 does not impair the validity of an instrument or the effect given to its recordation.

15 Art. 3353. Effect of indefinite or incomplete name

16 A recorded instrument is effective with respect to a third person if the name
17 of a party is not so indefinite, incomplete, or erroneous as to be misleading and the
18 instrument as a whole reasonably alerts a person examining the records that the
19 instrument may be that of the party.

20 CHAPTER 2. MORTGAGE RECORDS

21 SECTION 1. GENERAL PROVISIONS

22 Art. 3354. Applicability

23 The provisions of this Chapter apply only to the mortgage records.

24 Art. 3355. Mortgage or privilege affecting property in several parishes

25 An act of mortgage, instrument evidencing a privilege, or other instrument
26 that affects property located in more than one parish may be executed in multiple
27 originals for recordation in each of the several parishes. An original that is filed with
28 a recorder need only describe property that is within the parish in which it is filed.

1 A certified copy of an instrument that is recorded in the records of a parish
2 need only describe property that is within the parish in which it is filed.

3 Art. 3356. Transfers, amendments, and releases

4 A. A transferee of an obligation secured by a mortgage is not bound by any
5 unrecorded act releasing, amending, or otherwise modifying the mortgage if he is a
6 third person with respect to that unrecorded act.

7 B. A recorded transfer, modification, amendment, or release of a mortgage
8 or privilege made by the obligee of record is effective as to a third person
9 notwithstanding that the obligation secured by the mortgage or privilege has been
10 transferred to another.

11 C. For the purpose of this Chapter, the obligee of record of a mortgage or
12 privilege is the person identified by the mortgage records as the obligee of the
13 secured obligation.

14 SECTION 2. METHOD AND DURATION OF RECORDATION

15 Art. 3357. Duration; general rule

16 Except as otherwise expressly provided by law, the effect of recordation of
17 an instrument creating a mortgage or evidencing a privilege ceases ten years after the
18 date of the instrument.

19 Art. 3358. Duration of recordation of certain mortgages and vendor's privileges

20 If an instrument creating a mortgage or evidencing a vendor's privilege
21 describes the maturity of any obligation secured by the mortgage or privilege and if
22 any part of the described obligation matures nine years or more after the date of the
23 instrument, the effect of recordation ceases six years after the latest maturity date
24 described in the instrument.

25 Art. 3359. Duration of recordation of judicial mortgage

26 The effect of recordation of a judgment creating a judicial mortgage ceases
27 ten years after the date of the judgment.

1 Art. 3360. Duration of recordation of mortgage given by tutor, curator, or
2 succession representative

3 A. The effect of recordation of a legal mortgage over the property of a
4 natural tutor, or of a special mortgage given for the faithful performance of his duties
5 by a tutor or a curator of an interdict, ceases four years after the tutorship or
6 curatorship terminates, or, if the tutor or curator resigns or is removed, four years
7 after the judgment that authorizes the resignation or removal.

8 B. The effect of recordation of a special mortgage given for the faithful
9 performance of his duties by a curator of an absent person or by a succession
10 representative ceases four years after homologation of his final account, or, if the
11 curator or representative resigns or is removed, four years after the judgment that
12 authorizes that resignation or removal. In any event, the effect of recordation ceases
13 ten years after the date of the act of mortgage.

14 Art. 3361. Effect of amendment

15 If before the effect of recordation ceases an instrument is recorded that
16 amends a recorded mortgage or privilege to describe or modify the maturity of a
17 particular obligation that it secures, then the time of cessation of the effect of the
18 recordation is determined by reference to the maturity of the obligation last
19 becoming due described in the mortgage or privilege as amended.

20 Art. 3362. Method of reinscription

21 A person may reinscribe a recorded instrument creating a mortgage or
22 evidencing a vendor's privilege by recording a signed written notice of reinscription.
23 The notice shall state the name of the mortgagor or obligor of the debt secured by the
24 privilege as it appears in the recorded instrument and registry number or other
25 appropriate recordation information of the instrument or of a prior notice of
26 reinscription, and shall declare that the instrument is reinscribed.

27 Art. 3363. Method of reinscription exclusive

28 The method of reinscription provided in this Chapter is exclusive. Neither
29 an amendment of an instrument creating a mortgage or evidencing a privilege nor an

1 acknowledgment of the existence of a mortgage or privilege by the mortgagor or the
2 obligor constitutes a reinscription of the instrument.

3 Art. 3364. Effect of timely recordation of notice of reinscription

4 A notice of reinscription that is recorded before the effect of recordation
5 ceases continues that effect for ten years from the date the notice is recorded.

6 Art. 3365. Effect of request recorded after cessation of effect of recordation

7 A. A notice of reinscription that is recorded after the effect of recordation of
8 the instrument sought to be reinscribed has ceased, again produces the effects of
9 recordation, but only from the time the notice of reinscription is recorded. The effect
10 of recordation pursuant to this Paragraph shall continue for ten years from the date
11 on which the notice of reinscription is recorded, and the instrument may be
12 reinscribed thereafter from time to time as provided by Article 3362.

13 B. Reinscription pursuant to Paragraph A of this Article does not require that
14 the mortgage or evidence of privilege be again recorded, even if the original
15 recordation is cancelled.

16 SECTION 3. CANCELLATION

17 Art. 3366. Cancellation upon written request; form and content

18 The recorder of mortgages shall cancel, in whole or in part and in the manner
19 prescribed by law, the recordation of a mortgage or privilege upon receipt of a
20 written request for cancellation in a form prescribed by law and that:

21 (1) Identifies the mortgage or privilege by reference to the place in the
22 records where it is recorded; and

23 (2) Is signed by the person requesting the cancellation.

24 The effect of recordation of the instrument ceases upon cancellation by the
25 recorder pursuant to the provisions of this Article.

26 Art. 3367. Cancellation of recordation after effect of recordation has ceased

27 If the effect of recordation of a mortgage or privilege has ceased for lack of
28 reinscription, the recorder upon receipt of a written signed application shall cancel
29 its recordation.

1 Art. 3368. Cancellation of prescribed judicial mortgage

2 The recorder shall cancel from his records a judicial mortgage created by the
3 filing of a judgment of a court of this state that has been reinscribed, upon the written
4 request of any person to which is attached a certificate from the clerk of the court
5 rendering the judgment that no suit or motion has been filed for its revival within the
6 time required by Article 3501 or of a certified copy of a final judgment of the court
7 rejecting the demands of the plaintiff in a suit or motion to revive the judgment.

8 Section 2. Civil Code Articles 517, 1554, 2021, 2035, 2442, and 3337 are hereby
9 amended and reenacted to read as follows:

10 Art. 517. Voluntary transfer of ownership of an immovable

11 The ownership of an immovable is voluntarily transferred by a contract
12 between the owner and the transferee that purports to transfer the ownership of the
13 immovable. The transfer of ownership takes place between the parties by the effect
14 of the agreement and is not effective against third persons ~~when~~ until the contract is
15 filed for registry in the conveyance records of the parish in which the immovable is
16 located.

17 * * *

18 Art. 1554. Recordation of donation and acceptance of immovable property

19 When the donation ~~comprehends immovables~~ affects an immovable or rights
20 thereto, the act of donation, as well as the act of acceptance, whether the acceptance
21 be made by the same or a separate act, must be ~~registered within the time prescribed~~
22 ~~for the registry of mortgages~~ filed for registry in the ~~register of conveyances~~
23 conveyance records of the parish in which the immovable is ~~situated~~ located.

24 * * *

25 Art. 2021. Rights of third party in good faith

26 Dissolution of a contract does not impair the rights acquired through an
27 onerous contract by a third party in good faith.

1 If the contract involves immovable property, the principles of recordation
2 apply to a third person acquiring an interest in the property whether by onerous or
3 gratuitous title.

4 * * *

5 Art. 2035. Rights of third party in good faith

6 Nullity of a contract does not impair the rights acquired through an onerous
7 contract by a third party in good faith.

8 If the contract involves immovable property, the principles of recordation
9 apply to a third person acquiring an interest in the property whether by onerous or
10 gratuitous title.

11 * * *

12 Art. 2442. Recordation of sale of immovable to affect third parties

13 The parties to an act of sale or promise of sale of immovable property are
14 bound from the time the act is made, but such an act is not effective against third
15 parties ~~only from the time~~ until it is filed for ~~recordation~~ registry according to the
16 laws of registry.

17 * * *

18 Art. 3337. Cancellation ~~or erasure~~ of mortgages and privileges from the records

19 The recorder shall cancel ~~or erase~~ a mortgage or privilege from his records
20 as in the manner prescribed by ~~legislation when:~~ law.

21 ~~(1) Proper evidence that the mortgage or privilege is extinguished is filed~~
22 ~~with him.~~

23 ~~(2) He is directed to do so by the mortgagee.~~

24 ~~(3) The effect of registry ceases as provided by Articles 3328 through 3331~~
25 ~~and the recorder is directed to cancel the mortgage or privilege.~~

26 ~~(4) The cancellation or erasure is ordered by a judgment.~~

27 Section 3. Code of Civil Procedure Articles 3752 and 4362 are hereby amended and
28 reenacted to read as follows:

Art. 3752. Requirements of notice; recordation

The notice referred to in Article 3751 shall be in writing, signed by the plaintiff, defendant, or other party to the action or proceeding who desires to have the notice recorded, or by a counsel of record for such party; showing the name of the persons against whom it is to be effective, the name of the court in which the action or proceeding has been filed, the title, docket number, date of filing, and object thereof, and the description of the property sought to be affected thereby.

This notice shall be recorded in the mortgage office of the parish where the property to be affected is situated, and has effect from the time of the filing for recordation.

* * *

Art. 4362. Recordation of judgment; mortgage in favor of minor

A. A judgment adjudicating immovable property shall be effective only after it is recorded in the ~~mortgage~~ conveyance records of the parish where the property is situated. ~~The recordation shall operate as a mortgage and vendor's privilege against the property adjudicated in favor of the minor, for the price of the adjudication. If the price of the adjudication has not been paid, the minor shall have a vendor's privilege against the property adjudicated for the unpaid price, and the judgment of adjudication shall also be recorded in the mortgage records of such~~ parish.

B. The provisions of this Article shall apply only to adjudications made six months from and after the effective date of this Act. Those made before such time shall continue to be regulated by the provisions of this Article as it existed prior to the effective date of this Act.

* * *

Section 4. R.S. 9:4833 and 4834 are hereby amended and reenacted to read as follows:

1 §4833. ~~Authorization~~ Request to cancel the inscription of claims and privileges;
2 cancellation; lis pendens

3 A. If a statement of claim or privilege is improperly filed or if the claim or
4 privilege preserved by the filing of a statement of claim or privilege is extinguished,
5 an owner or other interested person may require the person who has filed a statement
6 of the claim or privilege to give a written ~~authorization request~~ request for cancellation in the
7 manner provided by law directing the recorder of mortgages to cancel the statement
8 of claim or privilege from his records. The ~~authorization request~~ shall be ~~given~~
9 delivered within ten days after a written request for ~~authorization has been~~ it is
10 received by the person filing the statement of claim or privilege ~~from a person~~
11 ~~entitled to demand it.~~

12 B. One who, without reasonable cause, fails to deliver a written ~~authorization~~
13 request for cancellation in proper form to cancel a ~~statement of the~~ claim or privilege
14 as required by Subsection A of this Section shall be liable for damages suffered by
15 the owner or person requesting the authorization as a consequence of the failure and
16 for reasonable ~~attorney's~~ attorney fees incurred in causing the statement to be
17 cancelled.

18 C. A person who has properly requested a written ~~authorization request~~ for
19 cancellation shall have an action pursuant to R.S. 44:119 against the person required
20 to deliver the ~~authorization written request~~ to obtain a judgment declaring the claim
21 or the privilege extinguished and directing the recorder of mortgages to cancel the
22 statement of claim or privilege if the person required to give the ~~authorization written~~
23 request fails or refuses to do so within the time required by Subsection A of this
24 Section. The plaintiff may also seek recovery of the damages and ~~attorney's~~ attorney
25 fees to which he may be entitled under this Section.

26 ~~D. The action authorized by this Section may be by summary proceeding and~~
27 ~~may be brought in the parish where the statement of claim or privilege is filed.~~

28 ~~E. D.~~ D. The recorder of mortgages shall cancel a statement of a claim or
29 privilege from his records ~~by making an appropriate notation in the margin of the~~

1 ~~recorded statement~~ upon the filing with him by any person of ~~:(1) A~~ a written
2 request for cancellation ~~to which is attached a written authorization for cancellation~~
3 ~~given by the person who filed it; or in proper form or when he is ordered to do so by~~
4 judgment of the court.

5 ~~(2) A certified copy of an executory judgment declaring the claim or the~~
6 ~~privilege extinguished and directing the cancellation.~~

7 F. E. The effect of filing for recordation of a statement of claim or privilege
8 and the privilege preserved by it shall cease as to third persons unless a notice of lis
9 pendens identifying the suit required to be filed by R.S. 9:4823 is filed within one
10 year after the date of filing the claim or privilege. In addition to the requirements of
11 Article 3752 of the Code of Civil Procedure, the notice of lis pendens shall contain
12 a reference to the notice of contract, if one is filed, or a reference to the recorded
13 statement of claim or privilege if a notice of contract is not filed.

14 §4834. Notice of contract; cessation of effect, reinscription

15 ~~A.~~ The effect of filing a notice of contract ceases five years after it is filed,
16 unless a written request for its reinscription, in the manner provided for the
17 reinscription of mortgages, is properly and timely made by an interested person to
18 the recorder of mortgages in whose office the notice of contract is filed. A request
19 for reinscription may not be made after the effect of the filing of the notice of the
20 contract has ceased. The effect of reinscription shall cease five years after the
21 request for reinscription is filed.

22 ~~B. The recorder shall not record a request for reinscription of a notice of~~
23 ~~contract but shall reinscribe the notice of contract and make an appropriate notation~~
24 ~~on the reinscribed notice of the request as the cause for the reinscription. He shall~~
25 ~~also note the date of the request on the reinscribed notice.~~

26 Section 5. R.S. 13:901 is hereby amended and reenacted to read as follows:

27 §901. Requirements for indexing names ~~contained in notarial acts~~

28 ~~The clerks of the various courts, including the~~ The recorder of mortgages and
29 ~~the register of conveyances for the parish of Orleans,~~ shall index any ~~notarial act~~

1 required to be recorded in the names of the natural persons as recited in the act,
2 including the ~~christian~~ full name, including middle name or middle initial, and
3 family name of such natural person. In addition, if a woman is a party to a an
4 ~~notarial act, such act~~ it shall also be indexed in her married-name family name and
5 all other names recited in the act.

6 Section 6. R.S. 44:71 through 75 and 131 are hereby amended and reenacted and
7 R.S. 44:77 through 119, 171, and 172 are hereby enacted to read as follows:

8 CHAPTER 2. RECORDERS AND RECORDATION;

9 ~~PARISHES OTHER THAN PARISH OF ORLEANS~~

10 PART 1. RECORDERS AND DEPUTIES

11 §71. ~~Clerks of court are ex officio recorders~~ Offices for recording mortgages and
12 conveyances

13 A. There is established in each parish an office for the recording of
14 mortgages and privileges and one for the recordation of conveyances and transfer of
15 immovables.

16 B. The clerks of the several district courts throughout the state, the parish of
17 Orleans excepted, are ex officio parish recorders of conveyances, mortgages, and
18 other acts.

19 C. In the parish of Orleans, the recording of mortgages and privileges is done
20 by the parish recorder of mortgages, and the recording of conveyances is done by the
21 parish register of conveyances.

22 §72. Seal

23 Each recorder shall have an official seal, which he shall attach to all acts,
24 certificates, and other instruments, executed or granted by him. Failure to affix the
25 seal does not affect the validity or effect of the instruments.

26 §73. ~~Office~~ Location of office

27 The ~~recorder~~ recorders shall ~~keep~~ maintain ~~his~~ their ~~office~~ offices ~~in the room~~
28 ~~which is appropriated for that purpose at the seat of justice, in the parish for which~~
29 ~~he was elected~~ seat where the permanent records of the office shall be maintained.

1 The recorders may also establish branch or ancillary offices in the parish to accept
2 documents and to provide those services that the recorders may from time to time
3 find convenient or useful.

4 * * *

5 §75. Deputies

6 ~~The~~ Except in the parish of Orleans, the recorder may appoint deputies whose
7 duties shall be the same as those of the recorder; ~~provided that the recorder and his~~
8 ~~sureties shall be responsible for the official acts of the deputy.~~ Before entering upon
9 the duties of his office the deputy shall take the oath ~~which~~ that the law prescribes
10 for the recorder.

11 * * *

12 §77. Recorder as proper party; payment of judgments and compromises; obligation
13 to maintain insurance

14 A.(1) A judicial or administrative action or other proceeding shall be brought
15 by or instituted against the recorder in his official capacity.

16 (2) A judgment or order shall be rendered in favor of or against the recorder
17 in such capacity.

18 B. The recorder may pay a judgment or compromise out of the salary funds
19 of the office.

20 C. Each recorder shall keep in effect at all times insurance insuring the
21 recorder, his deputies, and employees against any liability arising out of his failure
22 to perform properly the duties and obligations of his office.

23 §78. Limitation of liability

24 A. The recorder is not liable personally or in his official capacity for:

25 (1) Complying with a judgment or court order.

26 (2) Recording a document that is not authorized by law to be recorded.

27 B. The liability of the recorder, both personally and in his official capacity,
28 as well as that of his deputies and employees is regulated by the provisions of R.S.
29 13:750 and 750.1.

1 §79. Recorder not required to pay costs or give security in judicial proceedings

2 The recorder is not required to advance or pay the costs of the court, the fees
3 of the sheriff or other officers, or any other charges in any suit or other judicial
4 proceeding instituted either by or against him in his official capacity. Neither shall
5 he be required to provide security, whether for appeal or otherwise as a consequence
6 of the proceeding.

7 §80. Fees

8 The recorder may charge and collect such fees as are permitted or prescribed
9 by law.

10 * * *

11 PART II. ~~POWERS AND DUTIES OF RECORDERS~~ RECORDATION

12 §111. Certified copies and their effect

13 A. The recorder, upon proper request, shall issue to any person a copy of a
14 recorded instrument and certify upon it, or in a separate certificate attached to it, that
15 it is a true and correct copy of the instrument, the time and date the instrument was
16 recorded, and its registration number or of the place in the records where it may be
17 found.

18 B. A copy of a recorded instrument certified by the recorder is entitled to the
19 same faith and credit as the recorded instrument. It may be recorded in the mortgage
20 or conveyance records of other parishes with the same effect as if it were the
21 recorded instrument.

22 C. Certification by a recorder of a copy of an instrument that is not in
23 authentic form or duly authenticated does not dispense with the necessity of proving
24 the signatures of the parties.

25 §112. Notice of lease; requirements and effect

26 A.(1) In lieu of recording a written lease or sublease or any amendment or
27 modification thereof, as provided by Civil Code Article 3338, a party may record a
28 notice of lease or sublease, signed by the lessor and lessee of the lease or sublease.

1 (2) Recordation of a notice makes the lease or sublease and any subsequent
2 amendment or modification thereof effective as to third persons to the same extent
3 as would recordation of the instrument evidencing it.

4 (3) The notice of lease must contain the following:

5 (a) A declaration that the property is leased, and the names and addresses of
6 the lessor and lessee.

7 (b) A description of the leased property.

8 (c) The date of the lease, its term, and the provisions of any extensions and
9 renewals of the term provided for in the lease.

10 (d) A reference to the existence of an option, right of first refusal, or other
11 agreement of the lessor to transfer all or any part of the leased premises.

12 (e) If of a sublease, the notice shall also contain reference to the recordation
13 information of the primary lease or notice of lease that is subleased; however, the
14 omission of this information does not affect the efficacy of the notice.

15 B. A notice of lease may also designate a person authorized to certify in
16 writing on behalf of a party the terms of the lease, whether it is in full force and
17 effect, and the extent to which the obligations of the lease have been performed. The
18 certification shall have the same effect that it would have if it were signed by the
19 person on whose behalf it is made.

20 C.(1) A change in a lease with respect to any matter that is required to be
21 included in a notice of lease is not effective as to a third person unless the parties
22 record a signed amendment to the notice that describes the change.

23 (2) If the amendment is of a transfer of a party's rights, the notice shall be
24 signed by the transferor and transferee.

25 (3) If the amendment only designates a different person to certify the matters
26 described in Subsection B of this Section, the amendment need only be signed by the
27 person on behalf of whom the certification is to be made.

28 D. The effect of recordation of a notice of lease ceases:

1 (1) Upon recordation of an instrument signed by the parties to the lease or
2 their successors declaring that the lease has terminated; or

3 (2) On the date that the lease may finally terminate as set forth in the notice
4 of lease.

5 E. This Section does not apply to mineral leases that are subject to the
6 provisions of the Louisiana Mineral Code.

7 §113. Certificate of encumbrances; procedure; content; liability

8 A. The recorder shall deliver a certificate of encumbrances to any person
9 who requests it in writing.

10 B. The certificate shall list all the uncanceled mortgages and instruments
11 evidencing privileges, in the order of their recordation, that appear in the mortgage
12 records and that identify the persons designated in the request as the mortgagor or
13 obligor of the debt secured by the privilege. The certificate shall list all instruments
14 that may reasonably be construed to be that of the person in whose name the
15 certificate is sought unless the recorder is supplied with evidence satisfactory to him
16 that such instruments are in fact not those of the person in whose name the certificate
17 is sought.

18 C.(1) If no uncanceled mortgage or instrument evidencing a privilege exists,
19 the certificate shall declare that fact.

20 (2) The certificate shall not list mortgages or privileges arising from the
21 recordation of the ad valorem tax rolls nor shall it list the notices of tax sales filed
22 pursuant to R.S. 47:2180.

23 D.(1) The recorder is not liable personally or in his official capacity for
24 listing in his certificate an encumbrance in the name of a person who reasonably may
25 be construed to be the person in whose name the certificate is sought.

26 (2) The recorder is liable in his official capacity for any loss caused by the
27 failure to list a mortgage or privilege in the certificate or by listing a mortgage or
28 privilege that has been cancelled from his records unless the error proceeds from a

1 want of exactness in the description of the property or the name of the mortgagor or
2 obligor of the debt secured by the privilege given to the recorder in the request.

3 §114. Cancellation upon written request; form and content

4 A. If a mortgage or privilege does not secure a note or other written
5 obligation that is paraphed for identification with it, the request for cancellation shall
6 have attached to it an act in authentic or authenticated form signed by the obligee of
7 record of the mortgage or privilege that acknowledges the satisfaction or extinction
8 of the secured obligation, releases or acknowledges the extinction of the mortgage
9 or privilege, or directs the recorder to cancel its recordation.

10 B. If a mortgage or privilege secures a note or other written obligation
11 paraphed for identification with it, there shall be attached to the request for
12 cancellation:

13 (1) The paraphed obligation duly marked "paid" or "cancelled"; or

14 (2) An authentic act describing the paraphed obligation with sufficient
15 particularity to reasonably identify it as the one paraphed for identification with the
16 act of mortgage or privilege and containing:

17 (a) The appearer's declaration that he is the holder and owner of the paraphed
18 obligation and that he releases or acknowledges extinction of the mortgage or
19 privilege or directs the recorder to cancel its recordation; and

20 (b) A declaration by the notary that the appearer presented him with the
21 paraphed obligation and that he paraphed it for identification with his act.

22 C. A request for cancellation by an assignee must also provide the name of
23 the mortgagor or obligor of the privilege as it appears in the recorded instrument and
24 registry number or other appropriate recordation information of the instrument.

25 D. When a person requests cancellation and the original paraphed obligation
26 is attached to the request or is presented to the recorder with it, the recorder shall,
27 upon that person's request, make a duplicate of the original paraphed obligation,
28 attach it to the request for cancellation, and note upon it that it is a duplicate of the
29 paraphed obligation that was presented. The recorder shall then paraph the original

1 obligation for identification with the request for cancellation and return it to the
2 person presenting the request.

3 E. If a cancellation is to be effected pursuant to a certificate by a sheriff,
4 marshal, or other officer as a consequence of a judicial sale, or other decree or action,
5 the request for cancellation shall have attached to it a certified copy of the order,
6 decree, or other instrument evidencing the extinction or directing the cancellation.

7 F.(1) In lieu of complying with the provisions of this Section, a request for
8 cancellation may have attached to it the signed, written act, in authentic or
9 authenticated form, of a licensed financial institution that:

10 (a) Declares that the institution was the obligee or the authorized agent of the
11 obligee of the obligation secured by the mortgage or privilege when the obligation
12 was extinguished and that the secured obligation has been paid or otherwise satisfied
13 or extinguished; or

14 (b) Declares that the institution is the obligee or authorized agent of the
15 obligee of the secured obligation and that it releases the mortgage or privilege or
16 directs the recorder to cancel its recordation.

17 (c) Contains a statement identifying the type of institution and its licensing
18 or regulatory authority.

19 (2) When a request for cancellation is made by the licensed financial
20 institution, the request may include the information required by this Section if the
21 request is in authentic or authenticated form.

22 G. For purposes of this Section, a "licensed financial institution" is any
23 person licensed or regulated by the Louisiana Office of Financial Institutions, or any
24 bank, credit union, lending agency, or other person conducting such a business that
25 is licensed or regulated by another state or the United States.

26 §115. Liability for incorrect or false request for cancellation

27 A. A person requesting the recorder to cancel recordation of a mortgage or
28 privilege and who provides the recorder with an act or declaration pursuant to this
29 Chapter that contains materially false or incorrect statements that cause the recorder

1 to incorrectly cancel the recordation of a mortgage or privilege is personally liable
2 to and shall indemnify the recorder and any person relying upon the cancellation for
3 any damages that they may suffer as a consequence of such reliance.

4 B. A person who knowingly provides the materially false or incorrect
5 statement is also guilty of false swearing under the provisions of R.S. 14:125.

6 §116. Order of discharge in bankruptcy; effect

7 A. A judgment debtor in whose favor a United States Bankruptcy Court has
8 entered an order of discharge, or any person whose rights are or may be affected by
9 the order, may bring an action in accordance with the provisions of R.S. 44:119,
10 against the recorder of mortgages of a parish in which the judgment is recorded to
11 declare the judicial mortgage created by its recordation extinguished and order the
12 recordation of the judgment cancelled from the records of the parish and any other
13 parish in which the judgment is recorded.

14 B. Upon proof of the order of discharge, and that the judgment is for a claim
15 that has been discharged, the court shall declare extinguished the judicial mortgage
16 evidenced by the recordation of the judgment and order the recordation of the
17 judgment cancelled unless the judgment creditor, or any other party to the action
18 whose rights are or may be adversely affected by the cancellation, proves that the
19 judgment creditor or such other person possesses equity in property as a result of the
20 judicial mortgage over and above superior liens, in which case the order of
21 cancellation shall expressly exclude its effect as to that property.

22 C.(1) A judgment debtor may obtain a partial cancellation of the inscription
23 of a judgment as it affects property not owned by the judgment debtor on the date of
24 his filing a petition under Chapter 7 of the United States Bankruptcy Code upon the
25 filing of an affidavit in accordance with this Subsection.

26 (2) The affidavit shall contain all of the following:

27 (a) A statement that the judgment debtor filed a petition under Chapter 7 of
28 the United States Bankruptcy Code.

29 (b) The name of the court where the bankruptcy proceeding was filed.

1 (c) The date on which the petition was filed.

2 (d) A statement that the debt or debts upon which the judgment is based were
3 listed in the bankruptcy proceeding and that the debtor was subsequently released
4 from personal liability on the debt or debts by virtue of a discharge in bankruptcy.

5 (e) A description of any particular property to be partially released and a
6 statement that the property was not owned by the debtor at the time of filing the
7 bankruptcy proceeding.

8 (f) A copy of the schedule or schedules listing the debt.

9 (g) A copy of the discharge order.

10 (3) Upon the filing of an affidavit in compliance with this Subsection, the
11 recorder shall partially cancel the judgment insofar as it affects the property
12 described in the affidavit and any property that may have been acquired after the date
13 stated in Subparagraph (2)(c) of this Subsection that the debtor filed his petition for
14 bankruptcy.

15 (4) For purposes of this Subsection, a debtor is deemed to own inherited
16 property as of the date of death of the decedent from whom he inherited the property.
17 §117. Extinction of certain rights; acknowledgment by owner or holder

18 A. Within thirty days after receipt of a written request from the owner of an
19 immovable to do so, the following persons shall deliver to the owner a written
20 instrument, in proper form, acknowledging that the rights of that person are
21 extinguished:

22 (1) The lessee of an immovable or the owner of a predial or personal
23 servitude, servitude of right-of-use, or usufruct of an immovable whose rights have
24 become extinguished by the expiration of their term, from the happening of a
25 resolatory or other condition, or from the failure to timely renew, extend, or
26 otherwise modify them according to their terms.

27 (2) A person who had an option, right of first refusal, or other contractual or
28 legal right to acquire an immovable, a right in or over it, or the lease of an
29 immovable and whose rights have become extinguished by virtue of the expiration

1 of their term, the failure to exercise them timely, or the happening of a condition or
2 other occurrence.

3 B. If the person required to deliver an acknowledgment fails or refuses to do
4 so, or if he cannot be located after diligent effort, the owner of the immovable may
5 bring an action to declare that the rights are extinguished or ineffective and to direct
6 the recorder to record in his records the judgment so rendered.

7 C. A return receipt showing delivery by registered or certified mail of a letter
8 addressed to the person required to give the acknowledgment shall be presumptive
9 evidence of receipt of the notice. Proof that the person to whom the notice is to be
10 given could not be located after a diligent search shall suffice in lieu of the giving
11 of the notice and an attorney shall be appointed to represent the absent defendant.

12 D. The prevailing party in an action pursuant to this Section may be awarded
13 reasonable attorney fees in addition to the costs of the action from the person who
14 demanding or refused delivery of the written acknowledgment.

15 E. This Section shall not apply to mineral rights or to a petitory or possessory
16 action.

17 §118. Establishing authenticity

18 A. Any interested person may bring an action to:

19 (1) Establish that a document is an original instrument or that it is a duplicate
20 of an original instrument; or

21 (2) Obtain the cancellation of a document from the records because it does
22 not bear an original signature and it is not a duplicate of an original instrument.

23 B. A party who asserts that a recorded document is not an original or a
24 duplicate of an instrument bears the burden of proof.

25 C.(1) If the court determines that a recorded document is an original
26 instrument or a duplicate of such an instrument, it shall enter a judgment to that
27 effect.

28 (2) In all other cases, the court shall declare the recordation is without effect
29 and order it cancelled from the records.

1 §119. Actions against the recorder

2 A. Any interested person may bring an action against the recorder in his
3 official capacity to:

4 (1) Compel the recordation of any instrument or document authorized or
5 permitted to be recorded.

6 (2) Compel the cancellation from the records of any instrument or document
7 authorized or permitted to be cancelled.

8 (3) Cancel from the records any improperly recorded instrument or
9 document.

10 (4) Declare, pursuant to R.S. 44:117, the extinction of rights.

11 (5) Correct any error or omission in the records.

12 (6) Issue any certificate or perform any other duty required of the recorder
13 by this Chapter.

14 (7) Take any action that is otherwise expressly authorized by the provisions
15 of this Chapter.

16 B. The action may be instituted by writ of mandamus directed to the recorder
17 in his official capacity.

18 C. The action shall be filed in any parish where the records to be affected are
19 located or the action of the recorder is to be taken.

20 D. All persons whose rights will be directly affected by the relief sought
21 shall be joined in the action.

22 E. The recorder is not liable personally or in his official capacity for the costs
23 of any action instituted pursuant to the provisions of this Section.

24 * * *

25 ~~§131. Notarial acts of conveyance and mortgage~~ Photographic reproduction of

26 acts

27 ~~A. The acts of notaries, when deposited in the office of the recorder, shall~~
28 ~~form a part of the archives of the recorder's office and shall be immediately recorded~~
29 ~~by him as provided in this Section. If the act contains a conveyance of real estate~~

1 ~~without a mortgage, it shall be recorded in a book of conveyances, if it contains a~~
2 ~~conveyance with a mortgage, it must be recorded also in the mortgage books; or if~~
3 ~~it contains only a mortgage without a conveyance, it shall be recorded in the~~
4 ~~mortgage books. However, the~~ The recorder, at his option and in his discretion, may
5 record acts by means of photorecording, photocopying, microfilming, or other
6 photographic methods of reproduction. The film stock used in making photographic
7 or microphotographic copies and the processing of the copies shall comply with the
8 standards of the American National Standard Institute for permanent record
9 photographic microcopying film. The ~~Clerk of Court~~ clerk of court in East Baton
10 Rouge Parish will make available to the ~~Assessor~~ assessor a copy of the original
11 document files under provision of the aforementioned ~~Sections~~ sections, excluding
12 holidays within forty-eight hours.

13 ~~B. The authority granted to the recorder by Subsection A hereof to record~~
14 ~~acts by photographic methods of reproduction shall not authorize the recorder to~~
15 ~~destroy or fail to retain as a part of the archives of his office the original acts or~~
16 ~~instruments.~~

17 * * *

18 PART III. ~~RECORDATION~~ INDEXES

19 * * *

20 PART IV. OTHER DUTIES OF THE RECORDER

21 §171. Recordation of discharge from armed forces

22 Upon presentation of the discharge certificate or other evidence, the register
23 of conveyances shall record in his records, without charge, each discharge certificate
24 or other evidence of honorable separation from the armed forces of the United States
25 of men and women who have served in the forces.

26 §172. Recordation book for acts of incorporation

27 Recorders shall keep a separate book in the mortgage office for the
28 recordation of all acts of incorporation of corporations domiciled in the parish.

1 Section 7. The Louisiana State Law Institute is hereby directed to redesignate R.S.
2 9:2731 as R.S. 31:216 and R.S. 9:2732 as R.S. 31:217.

3 Section 8. Civil Code Articles 3308, 3309, 3310, 3314, 3320(A) and (B), 3321
4 through 3324, and 3327 through 3336; R.S. 9:2371(A) and (B), 2721(A), 2721.1, 2722,
5 2728, 2733, 2741 through 2757, 5141, 5161, 5162, 5165, 5166, 5167(A) through (D), 5168
6 through 5207, 5214 through 5216, 5502, and 5556; R.S. 13:752 through 755, 913, and 3727;
7 R.S. 35:17 and R.S. 44:76, 101 through 103, 132 through 136, 138, 162, 163, 202, 203, 232,
8 232.1, 233, and 268 are hereby repealed in their entirety.

9 Section 9. Nothing in this Act shall be deemed to diminish the effect of, or render
10 ineffective, the recordation of any instrument that was filed, registered, or recorded in the
11 conveyance or mortgage records of any parish before the effective date of this Act. Any
12 instrument that is filed, registered, or recorded before the effective date of this Act, that is
13 not given the effect of recordation by virtue of existing law, shall be given such effect on the
14 effective date of this Act that it would have if it were first filed on that effective date.

15 Section 10. The provisions of this Act shall become effective on January 1, 2006.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Gallot

HB No. 214

Abstract: Consolidates and expands the provisions of Louisiana law that are presently located in the Civil Code Titles on Obligations, Mortgages and Privileges as well as the Code of Civil Procedure and Titles 9, 35, and 44 of the Revised Statutes relative to the recordation of instruments in the mortgage and conveyance records. Provides no significant substantive changes in the existing law except as follows:

MAJOR CHANGES

Present law (e.g. C.C. Arts. 3320 and 3321) requires an original instrument to be recorded. This requirement is continued in proposed law (C.C. Art. 3344).

Proposed law (C.C. Art. 3345) is new and provides that the inadvertent recordation of a "Xerox" or similar facsimile will be given effect if it is proven to be a genuine copy of the original. Proposed law (R.S. 44:118) is also new and provides a procedure by which its validity can be established.

Proposed law (C.C. Arts. 3349 and 3350) is new and establishes a presumption as to the time and order in which instruments are filed if the recorder fails to properly endorse them at time of filing.

Present law (C.C.P. Art. 3752) regulates notices of lis pendens. Proposed law amends present law to add a requirement that the notice state the name of the person against whom it is filed.

Present law (C.C.P. Art. 4362) requires a judgment adjudicating an immovable to a minor be recorded in the mortgage records. Proposed law amends present law to require that the judgment be recorded in the conveyance records and in the mortgage records if the adjudication results in a vendors privilege.

Present practice is ambiguous as to the proper party in a suit against the recorder arising out of performance of his official duties. Proposed law (R.S. 44:77) expressly provides that such actions are to be brought against the recorder in his "official capacity". Proposed law (R.S. 44:78) also incorporates R.S. 13:750 and 750.1, enacted in 2004, as the basis for determining the nature and extent of the recorder's liability. This has the effect of extending those provisions to the recorders of Orleans Parish who do not appear to be presently affected by them.

Present law (R.S. 9:2721.1) provides for the recordation of an "Extract of Lease" in lieu of recording the actual contract.

Proposed law (R.S. 44:112) continues the procedure but expressly declares it to be inapplicable to mineral leases, as to which present law is silent.

Present law regulating the cancellation of recordation of mortgages does not in all cases require identification of the person presenting the documents or evidence necessary for the cancellation.

Proposed law (C.C. Art. 3366) requires in every case a request be in writing and signed by the person requesting it.

Present law (e.g. R.S. 9:5167, 5168, and 5169.1) contains a number of statutes permitting cancellation of mortgages when signed by "the last holder" of the note secured by the mortgage.

Proposed law (R.S. 44:114(C)) supersedes present law and provides that a mortgage may be cancelled upon the simple request of a licensed financial institution that certifies it is the obligee of the debt secured by the mortgage, or was the obligee when the debt was extinguished.

Proposed law (R.S. 44:115) is new. It provides that a person requesting the recorder to cancel the recordation of a mortgage on the basis of a materially false statement is liable to anyone relying on the cancellation statement. A person who knowingly provides a false statement is also guilty of false swearing.

Proposed law (R.S. 44:117) is new. It requires lessees and other holders of terminable rights in an immovable, such as rights of first refusal and options, that have become extinguished to provide a release of such rights. If such a release is not given, the owner may secure cancellation by summary process.

Present practice permits a mortgagor to secure cancellation or correction of the recordation of a mortgage by summary process through action of mandamus.

Proposed law (R.S. 44:119) clarifies and expands the remedy to include virtually all cases where a correction of the mortgage or conveyance records is required to accurately reflect their status or to require the recorder to perform particular duties with respect to records which the law specifically requires.

DETAILED DIGEST

Civil Code

Present law (C.C. Art. 517) provides that a contract voluntarily transfers ownership of an immovable is effective against third persons when filed for registry.

Proposed law does not change present law but merely restates the "effectiveness" language in the negative.

Present law (C.C. Art. 1554) provides that a donation affecting immovables must be registered within the time prescribed for mortgages in the conveyance records.

Proposed law retains present law but deletes the requirement for registering within a certain time.

Present law (C.C. Art. 2021) provides that the principles of recordation apply to the dissolution of a contract involving immovable property.

Proposed law retains present law and clarifies that the recordation principles apply to third persons who acquire immovable property by onerous or gratuitous title.

Present law (C.C. Art. 2035) provides that the principles of recordation apply to the nullity of a contract involving immovable property.

Proposed law retains present law but clarifies that the principles apply to third persons who acquire immovable property by onerous or gratuitous title.

Present law (C.C. Art. 2442) provides that the sale of immovable property is effective against third persons only from the time of its recordation.

Proposed law retains present law but restates the effectiveness language in the negative.

Present law (C.C. Art. 3337) provides for the requirements to cancel a mortgage or privilege.

Proposed law deletes from present law (C.C. Art. 3337) the specific requirements for cancellation and provides for cancellation in the manner prescribed by general law, which is provided for in proposed law (R.S. 44:114).

Present law (C.C. Arts. 1839, 2442, 2629, and 3308 and R.S. 9:2721(A)) recites that certain transactions affecting immovables (transfer, sale, lease option, right of first refusal, or contract to sell), must be recorded to affect a third person.

Proposed law (C.C. Art. 3338); although proposed law repeals C.C. Art. 3308 and R.S. 9:2721(A) it does not change present law but merely recites that policy in one location.

Proposed law (C.C. Art. 3339) is new and codifies the jurisprudence and provides for things that are effective against a third person although not of record. Provides that if a law or a recorded instrument makes recordation of an act or instrument a condition to the creation or modification of rights then recordation is necessary to affect third persons.

Present law (C.C. Art. 3320(C)) provides that recordation has only the effect given it by legislation.

Proposed law (C.C. Art. 3340) retains present law, specifies where the recordation is to take place, and adds that if the law or a recorded instrument requires certain instruments to be recorded then recordation is necessary to be effective against third persons.

Present law (C.C. Arts. 1820 and 3320(B)) provides that recordation is effective only with respect to the immovable property within the parish of recordation. Present law (C.C. Art. 3320(C)) provides that recordation is not evidence of validity.

Proposed law (C.C. Art. 3341); although proposed law repeals C.C. Art. 3320(B) it retains present law and provides that recordation creates no presumption as to the parties' status or capacity.

Present law (R.S. 35:11(B)) creates a presumption that the marital status as declared in an acquisition of immovable property is correct.

Proposed law (C.C. Art. 3342); proposed law retains present law and reflects the jurisprudence in this area and provides that the parties to a recorded instrument may not contradict its terms to the detriment of a third person who acquires an interest in an immovable to which the instrument relates.

Present law (C.C. Arts. 3309, and 3310, and R.S. 9:2722) defines third persons.

Proposed law (C.C. Art. 3343); although proposed law repeals present law, proposed law retains the principles of present law and provides that a person who by contract assumes an obligation or is bound by contract to recognize a right is not a third person with respect to the right or instrument creating it.

Present law (C.C. Art. 3321) requires that a judgment filed to create a judicial mortgage must be certified by the clerk of the rendering court to be given the effect of recordation.

Proposed law (C.C. Art. 3344) repeals present law but makes no change and incorporates that principle and jurisprudence and requires a party's original signatures, and proposed law makes no change on certification of an instrument. Proposed law further provides that recordation does not dispense with proving unauthenticated signatures.

Proposed law (C.C. Art. 3345) is new and provides that recordation of a duplicate of an instrument, as defined in C.E. Art. 1001(5), shall have the same effect as recordation of the original.

Present law (C.C. Arts. 1839, 2332, 2629, 3272, and 3274) all recite the established principle that the proper place to record an instrument effecting an immovable is the parish where the immovable is located.

Proposed law (C.C. Art. 3346) retains present law and also requires the recorder to properly maintain his records.

Present law (C.C. Art. 3320(A)) provides that a mortgage is effective against third persons when filed.

Proposed law (C.C. Art. 3347) although proposed law repeals present law, it retains the principle of present law and further provides that the instrument must be filed at the recorders' office, and once filed, the effect of recordation is not affected by subsequent error of the recorder.

Present law (C.C. Art. 3324 and R.S. 9:5141(A)) requires the recorder to stamp an instrument, upon acceptance, with the date and time.

Proposed law (C.C. Art. 3348) although proposed law repeals present law it retains present law.

Proposed law (C.C. Art. 3349) is new and provides a vehicle to determine when an instrument is filed when it bears no date or time information or bears the same information on another instrument.

Proposed law (C.C. Art. 3350) is new and provides a presumption when date and time of filing may not be determined by C.C. Arts. 3348 and 3349.

Present law (R.S. 13:3727) provides that certain judgments and documents having been recorded in the conveyance records for not less than 10 years, are presumed to bear genuine signatures of the maker.

Proposed law (C.C. Art. 3351); although proposed law repeals present law it retains the essence of present law but does not restrict its application to the conveyance records.

Present law (R.S. 35:11(A)) requires that acts passed by notaries declare marital status; (R.S. 35:12(A)(1)) requires full names; and (R.S. 35:12(B)) requires either the notary's identification number or attorney's bar roll number; (R.S. 35:12(D)(1)) requires the name of the notary and witnesses; (R.S. 9:5181) requires the use of Christian names.

Proposed law (C.C. Art. 3352) retains all present law above but repeals R.S. 9:5181.

Present law (R.S. 9:5141(C)) requires that filed instruments dealing with mortgages or privileges contain the last four digits of the SSN or taxpayer's ID.

Proposed law (C.C. Art. 3352) repeals present law but retains the requirements.

Present law (R.S. 9:2728) provides that a reasonable variation of a mortgagor's name is sufficient.

Proposed law (C.C. Art. 3353) retains the principle of present law, and applies it to all recorded instruments, and uses the principle that the instrument as a whole alerts someone examining the records.

Proposed law (C.C. Art. 3354) is new and provides that Chapter 2 applies to mortgage records.

Present law (C.C. Art. 3323) provides that a mortgage or privilege need only describe immovable property listed in the parish of recordation, and if the document describes property in more than one parish, it may be executed in multiple originals for recording in the various parishes.

Proposed law (C.C. Art. 3355) although proposed law repeals present law, proposed law retains the principles of present law.

Present law (C.C. Art. 3322) provides that a document certified by the recorder may be recorded in another parish and needs only to describe property in that parish.

Proposed law (C.C. Art. 3355) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3314) provides that a transferee of an obligation secured by a mortgage, who is a third person, is not bound by an unrecorded act releasing or modifying the mortgage.

Proposed law (C.C. Art. 3356) although proposed law repeals present law, proposed law incorporates the principle of present law. Proposed law further provides that a recorded transfer, release, or modification of a mortgage or privilege by the obligee of record is

effective against a third person even if the secured obligation has been transferred. Proposed law defines "obligee of record".

Present law (C.C. Art. 3328) provides that the effect of recordation of an instrument evidencing a mortgage or privilege ceases 10 years after the date of the instrument.

Proposed law (C.C. Art. 3357); although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3329) provides that if a document creating a mortgage or evidencing a vendor's privilege describes a maturity date of a secured obligation and if any part of that obligation matures at least nine years after the date of the document, then the effect of recordation ceases six years after the described maturity date.

Proposed law (C.C. Art. 3358); although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3330) provides that the effect of recordation of a judgment creating a judicial mortgage ceases 10 years after the date of judgment.

Proposed law (C.C. Art. 3359) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3331) provides for the duration of the effect of recordation of a mortgage given by a tutor, curator, or succession representative.

Proposed law (C.C. Art. 3360) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3332) provides that if before the effect of recordation ceases an amendment to a recorded mortgage or privilege is recorded to describe or modify the maturity of the secured obligation then the duration of the effect of recordation is determined by reference to maturity to described obligation last becoming due.

Proposed law (C.C. Art. 3361) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3333) provides for the method of reinscription.

Proposed law (C.C. Art. 3362) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (C.C. Art. 3336) provides that the method of reinscription in present law (C.C. Art. 3333) is exclusive.

Proposed law (C.C. Art. 3363) although proposed law repeals present law, it retains the principle of present law.

Present law (C.C. Art. 3334) provides that a recorded notice of reinscription filed before its expiration, continues the effect of recordation 10 years from the day of recordation.

Proposed law (C.C. Art. 3364) although proposed law repeals present law, it retains the principle of present law and provides that the reinscription is effective for 10 years from the date of recordation rather than the day.

Present law (C.C. Art. 3335) provides when the effect of recordation has ceased, reinscription becomes effective only from the time of recordation.

Proposed law (C.C. Art. 3365) although proposed law repeals present law, it retains the principle of present law. Proposed law makes the reinscription effective from the "time" of reinscription rather than the "day", and also provides that it is effective for 10 years and may again be reinscribed. Proposed law further provides that under this Article the mortgage or privilege need not be again recorded.

Proposed law (C.C. Art. 3366) is new and it sets out the general requirements for a request to cancel a mortgage or privilege. Proposed law requires that the request be written and signed by the person requesting cancellation.

Present law (R.S. 9:5161) provides for cancellation for failure to reinscribe.

Proposed law (C.C. Art. 3367) although proposed law repeals present law, proposed law retains the principle of present law.

Present law (R.S. 9:5502(B)) provides for the cancellation of a prescribed judicial mortgage.

Proposed law (C.C. Art. 3368) although proposed law repeals present law, it retains the principle of present law.

Present law (C.C.P. Art. 3752) provides for information required to record a lis pendens.

Proposed law retains present law and adds the name of the person against whom it is to be effective to the required information.

Present law (C.C.P. Art. 4362) provides that a judgment adjudicating a minor's share of immovable property, owned in common with a parent, to the parent is effective only when recorded in the mortgage records and that recordation acts as a mortgage and vendor's privilege in favor of the minor for the price of the adjudication.

Proposed law requires that the judgment be recorded in the conveyance records rather than the mortgage records, but also provides that if the full price is not paid, then the minor will have a vendor's privilege for the unpaid price, and the judgment shall be recorded in the mortgage records.

Proposed law further provides that proposed law applies only to adjudications made six months from and after the effective date of the act.

Present law (R.S. 9:4833(A)) provides that when a statement of claim or privilege is improperly filed or if the claim or privilege is extinguished, an owner or interested person may request the filer of the statement give the recorder a written request to cancel the statement.

Proposed law retains present law and merely uses more precise language and requires that the request be in proper form.

Present law (R.S. 9:4833(B)) provides sanctions for the failure to comply with R.S. 9:4833(A).

Proposed law makes no change and requires that the request be in proper form.

Present law (R.S. 9:4833(C)) authorizes a remedy if the person fails to request cancellation.

Proposed law retains present law and permits the aggrieved party to file suit pursuant to R.S. 44:119.

Present law (R.S. 9:4833(D)) provides for the use of summary proceedings.

Proposed law repeals present law but retains the use of summary proceedings pursuant to R.S. 44:119.

Present law (R.S. 9:4833(E)) provides for cancellation by the recorder.

Proposed law (R.S. 9:4833(D)) does not change present law but merely eliminates excess verbiage.

Present law (R.S. 9:4833(F)) provides for the cessation of the effect of recordation.

Proposed law (R.S. 9:4833(E)) retains present law.

Present law (R.S. 9:4834(A)) provides for cessation of effect and reinscription of a contract.

Proposed law (R.S. 9:4834) retains present law but clarifies that reinscription is in the manner for reinscription of mortgages.

Present law (R.S. 9:4834(B)) provides for the procedure to record a request for reinscription of a notice of contract.

Proposed law deletes present law.

Present law (R.S. 13:901) provides under which names the recorder shall index the name of each natural person recited in the act.

Proposed law retains present law but changes "Christian" name to "full" name, and for a woman, changes "married name" to "family name" and adds "all other names recited in the act".

Present law (R.S. 9:5206 and 44:71) provides that the clerks of court, except in Orleans Parish, serve as parish records of mortgages, conveyances, and other acts, and present law (R.S. 9:5207 and R.S. 44:201 and 231) provides for Orleans Parish.

Proposed law (R.S. 44:71); although proposed law repeals R.S. 9:5206 and 5207, it retains the essence of those statutes. Proposed law also provides for the establishment of the offices.

Present law (R.S. 44:72) provides that the recorder shall have a seal to affix to acts, instruments, etc. of the office.

Proposed law (R.S. 44:72) retains present law and also provides that failure to affix the seal does not affect the validity of effect of the instrument.

Present law (R.S. 44:73) provides that the recorders shall have their offices at the parish seat.

Proposed law (R.S. 44:73) retains present law and also provides that the recorder may establish branch offices.

Present law (R.S. 44:75) provides that the recorder may appoint deputies. It also requires that the recorder and his sureties are responsible for the deputies' official acts.

Proposed law (R.S. 44:75) retains the essence of present law but deletes reference to the sureties and recorders being responsible for the deputies' official acts and it also excepts Orleans Parish from its scope.

Proposed law (R.S. 44:77) is new and provides that the recorder is the proper party in legal proceedings, that the recorder may pay a judgment or compromise from the office's salary funds, and that the recorder shall maintain liability insurance.

Present law (R.S. 13:750 and 750.1) regulate the recorders' liability.

Proposed law (R.S. 44:78) clarifies that present law governs clerks' liability and also provides that present law will include the recorder of mortgages and register of conveyances for Orleans Parish. Proposed law provides that the recorder is not liable for complying with a court order or for recording a document authorized by law to be recorded.

Present law (R.S. 44:232 and 233) provides that the recorder of mortgages need not post bond in any judicial proceeding including appeal.

Proposed law (R.S. 44:79); although proposed law repeals present law, proposed law retains its essence.

Present law (R.S. 13:844 and R.S. 44:206 and 234) regulate the clerks' and recorders' fee schedule.

Proposed law (R.S. 44:80) makes no changes and confirms that fees are prescribed by law.

Present law (R.S. 9:2757 and R.S. 44:136) provides that the recorder shall issue certified copies and that the certified copy is entitled to the same faith and credit as the original. Present law (C.C. Art. 3224 and R.S. 44:138) provides that certified copies of instruments affecting immovables in more than one parish may be recorded in the other parishes.

Proposed law (R.S. 44:111) repeals present law but retains the principles therein, and also provides that certification of an instrument not in authentic form or duly authenticated does not dispense with the necessity of proving the signatures.

Present law (R.S. 9:2721.1) provides for the filing of an extract of a lease in lieu of filing the entire lease.

Proposed law (R.S. 44:112) repeals present law but retains the option to file a notice of lease in lieu of the lease. Proposed law also provides the required form, that its recordation is of the same effect as to third persons as would recordation of the lease, that the notice of lease may designate a person to certify the terms and status of the lease, and that proposed law does not apply to mineral leases.

Present law (C.C. Art. 3327) provides that the recorder shall issue a certificate of encumbrances, what it shall include and exclude and provides for the recorder's liability.

Proposed law (R.S. 44:113) although proposed law repeals present law, proposed law retains its essence.

Present law (R.S. 9:5167(A)-(D)) provides for the cancellation of mortgages or privileges upon presentation of the original note.

Proposed law (R.S. 44:114) although proposed law repeals present law, it retains the essence of the procedure in present law.

Present law (R.S. 9:5167, 5168, and 5169.1) permits cancellation of mortgages, absent the note, when signed by "the last holder" of the note secured by the mortgage.

Proposed law (R.S. 44:114) repeals and supersedes present law and provides that a mortgage may be cancelled upon the simple request of a licensed financial institution that certifies it is the obligee of the debt secured by the mortgage, or was the obligee when the debt was extinguished. Proposed law further provides a procedure for retaining an original paraphed obligation presented with the request for cancellation.

Proposed law (R.S. 44:115) is new and provides for both civil and criminal liability for providing the recorder with false and incorrect information in the request for cancellation.

Present law (R.S. 9:5166) provides a procedure for the cancellation of the inscription of a dischargeable judgment and provides an alternative procedure for a partial cancellation of a judgment as it affects property not owned by the judgment debtor on the date of filing his Chapter 7 petition.

Proposed law (R.S. 44:116); although proposed law repeals present law, proposed law retains the essence of the procedure provided in present law.

Proposed law (R.S. 44:117) is new and provides a procedure to obtain an acknowledgment that certain terminable rights relating to an immovable are extinguished, provides a procedure for when the acknowledgment is not forthcoming and when the person requested to provide the acknowledgment is an absent person, provides for the awarding of costs and attorney fees, and provides that proposed law is not applicable to mineral rights or to a petitory or possessory action.

Proposed law (R.S. 44:118) is new and provides a judicial procedure to establish that an instrument is an original or a duplicate of the original, and a procedure to have cancelled from the records an instrument that does not bear original signatures or is not a duplicate.

Proposed law (R.S. 44:119) is new. It provides a procedure to compel the recorder to take certain actions to modify the mortgage and conveyance records, permits the use of mandamus, provides the proper venue, provides for the proper parties, and provides that the recorder is not liable for costs of any action under proposed law.

Present law (R.S. 44:131) provides that acts of notaries are part of the recorder's archives and further provides that the recorder may use different means of recording acts and does not authorize the recorder to destroy certain originals.

Proposed law (R.S. 44:131) repeals most of present law but retains the authority to select a photographic method of recordation.

Present law (R.S. 44:132) provides that the register of conveyances shall record, at no charge, armed forces discharge certificates.

Proposed law (R.S. 44:171) repeals present law, but proposed law retains its essence.

Present law (R.S. 44:134) requires that recorders shall maintain a separate book in the mortgage office for acts of incorporation and that recordation has the same effect as if recorded in the mortgage books.

Proposed law (R.S. 44:172) repeals present law but retains the essence of present law; however, proposed law deletes the reference to having the same effect as recordation in the mortgage records.

Present law (R.S. 9:2371(A) and (B)) provides for the recordation of donations of immovables.

Proposed law (C.C. Arts. 3338 and 3346) repeals present law but provides for recordation of donations.

Present law (R.S. 9:2733) provides for the recordation of agreements for the exploration of mineral rights (R.S. 9:2731 and 2732).

Proposed law repeals present law, but proposed law transfers R.S. 9:2731 and 2732 to the Louisiana Mineral Code.

Present law (R.S. 9:2741) provides for the registry of acts passed by a notary outside New Orleans.

Proposed law repeals present law.

Present law (R.S. 9:2742) provides for the place of recordation of notarial acts by the recorder.

Proposed law (C.C. Art. 3346) repeals present law but retains the principles of present law.

Present law (R.S. 9:2743) provides for the effect of the recordation of an act under private signature.

Proposed law (C.C. Art. 3338) repeals present law but retains its principle.

Present law (R.S. 9:2744) provides for the recorder to properly place the registry information or any act tendered to him in order to have effect against third persons.

Proposed law (C.C. Arts. 3347 and 3348); although proposed law repeals present law, it retains its essence.

Present law (R.S. 9:2745) provides that New Orleans notaries shall register all acts dealing with immovable property.

Proposed law repeals present law.

Present law (R.S. 9:2746) requires the register of conveyances to affix a certificate to all acts.

Proposed law (C.C. Art. 3348 and R.S. 44:72) repeals present law but retains its principle.

Present law (R.S. 9:2747) provides that the register of conveyances shall maintain his records in a brick house and provides for certificates of inscriptions.

Proposed law (C.C. Art. 3347 and R.S. 44:73) repeals present law but retains its principle.

Present law (R.S. 9:2748) authorizes the register of conveyances to open as many records as necessary and to register acts of transfer of immovable property.

Proposed law repeals present law.

Present law (R.S. 9:2749) provides for the information required on an act of transfer of property.

Proposed law (C.C. Art. 3352) repeals present law but provides for the required information.

Present law (R.S. 9:2750) provides for the registry of an act of transfer under private signature.

Proposed law repeals present law.

Present law (R.S. 9:2751) provides for acknowledgment by the register of signatures to a private act.

Proposed law repeals present law.

Present law (R.S. 9:2752) provides for the effect of recorded acts against third persons.

Proposed law (C.C. Art. 3338) repeals present law but retains its principle.

Present law (R.S. 9:2753) provides for the recordation of an extract of a notarial act.

Proposed law repeals present law.

Present law (R.S. 9:2754) provides that acts affecting immovables do not affect third persons until recorded.

Proposed law (C.C. Art. 3338) repeals present law but retains its principle.

Present law (R.S. 9:2755) provides for the place of recordation of instruments affecting immovables.

Proposed law (C.C. Art. 3346) repeals present law but retains its principle.

Present law (R.S. 9:2756) provides for the effect of recordation.

Proposed law (C.C. Art. 3347) repeals present law but retains its principle.

Present law (R.S. 9:5162) provides for the cancellation of unenforceable encumbrances.

Proposed law (C.C. Art. 3368 and R.S. 44:119) repeals present law but retains its principle.

Present law (R.S. 9:5165) provides for immunity from liability for cancellation as per court order.

Proposed law (R.S. 44:78) repeals present law but retains its principle.

The following are from Subpart B. Erasure and Cancellation of Part II of Chapter 1 of Code Title XXII.

Present law (R.S. 9:5169) provides for erasure by consent of the parties.

Present law (R.S. 9:5169.1) provides for erasure upon presentation of release.

Present law (R.S. 9:5170) provides for erasure by judgment.

Present law (R.S. 9:5171) provides for the proof required for erasure.

Present law (R.S. 9:5172) provides for erasure on notary's certificate of release.

Present law (R.S. 9:5173) provides for erasure on release under private signature.

Present law (R.S. 9:5174) provides that the debtor is entitled to a release upon payment.

Present law (R.S. 9:5175) provides for a partial release.

Present law (R.S. 9:5176) provides that in the case of partial releases the whole property shall remain burdened until the entire debt is discharged.

Present law (R.S. 9:5177) provides for the judicial release when creditor is absent.

Present law (R.S. 9:5178) provides for the appointment of a person to represent an absent creditor.

Present law (R.S. 9:5179) provides for the modification after appeal of a judicial mortgage.

Present law (R.S. 9:5180) provides for a partial release of a mortgage at the instance of the holder of a paraphed note.

Present law (R.S. 9:5180.1) provides for a partial release requested by the drawer of a paraphed note.

Present law (R.S. 9:5180.3) provides that the recorder shall note partial releases in his records.

Present law (R.S. 9:5180.4) provides for alternative methods of cancelling or partially releasing.

R.S. 9:5170-5180 were originally in the Civil Code. Subsequently they were temporarily placed in Title 9 pending this revision. Proposed law now reincorporates their essence into the Civil Code and Title 44.

Proposed law repeals all the above cancellation provisions from Subpart B (Erasure or Cancellation) of Part II of Chapter 1 of Code Title XXII. Proposed law (C.C. Arts. 3366 and 3367 and R.S. 44:114) now provide the vehicle for cancellation.

Present law (R.S. 9:5181) requires that recorded instruments use Christian names and that the recorder shall refuse to record an instrument lacking such name.

Proposed law (C.C. Art. 3352) repeals present law but provides for required information.

Present law (R.S. 9:5214) provides for recorder's liability.

Proposed law (R.S. 44:77) repeals present law but provides for the recorder's liability.

Present law (R.S. 9:5215) provides that the register of mortgages shall provide a bond.

Proposed law repeals present law.

Present law (R.S. 9:5216) provides that the recorder's fees are regulated by law.

Proposed law (R.S. 44:80) repeals present law but confirms that fees are regulated by law.

Present law (R.S. 9:5502) provides for the effect of the filing of notice of reinscription of a judicial mortgage and for the cancellation of a prescribed judicial mortgage.

Proposed law repeals present law. Proposed law (C.C. Art. 3359) provides for determination of recordation of a judicial mortgage, and proposed law (C.C. Art. 3368) provides for cancellation of a prescribed judicial mortgage.

Present law (R.S. 9:5556) provides for the amendment or cancellation of a mortgage securing future or other obligations not paraphed therewith.

Proposed law repeals present law.

Present law (R.S. 13:752) requires the clerk to provide bond.

Proposed law repeals present law.

Present law (R.S. 13:753) provides for the recordation of the affidavit of the sureties on the bond and provides that the clerks record an affidavit that the bond has been recorded.

Proposed law repeals present law.

Present law (R.S. 13:754) provides that where the clerk has furnished bond signed by an authorized surety it need not be recorded.

Proposed law repeals present law.

Present law (R.S. 13:755) provides that R.S. 13:754 shall not affect the clerk's liability under his bond.

Proposed law repeals present law.

Present law (R.S. 13:913) provides that the clerks shall record all bonds.

Proposed law repeals present law.

Present law (R.S. 35:17) provides that notaries shall include in any act affecting immovable property, the address, and the last four digits of the SSN or employee identification number.

Proposed law (C.C. Art. 3352) repeals present law, retains the SSN requirement but not the employee identification number.

Present law (R.S. 44:76) requires consent of the recorder's sureties.

Proposed law (R.S. 44:77 and 78) repeals present law, but proposed law requires the recorder to maintain insurance and regulates his liability.

Present law (R.S. 44:101) provides for the general power of recorders.

Proposed law (R.S. 44:71) repeals present law but retains those powers.

Present law (R.S. 44:102) provides that the recorder shall provide a receipt and provides that whoever issues a false receipt is subject to a fine.

Proposed law repeals present law.

Present law (R.S. 44:103) provides that the recorder shall retain private acts affecting real estate.

Proposed law repeals present law.

Present law (R.S. 44:133) provides that the recorder shall maintain a separate book for the recordation of liens, privileges, and pledges on crops.

Proposed law repeals present law.

Present law (R.S. 44:135) provides that all real estate acts contain marital status.

Proposed law (C.C. Art. 3352) repeals present law but retains that requirement.

Present law (R.S. 44:162) provides for liability for failing to keep correct indexes.

Proposed law (R.S. 44:78) repeals present law but regulates liability.

Present law (R.S. 44:163) provides a civil penalty for failure to comply with R.S. 44:161.

Proposed law (R.S. 44:78) repeals present law and provides for liability.

Present law (R.S. 44:202) provides for the recordation of an honorable discharge.

Proposed law (R.S. 44:171) repeals present law but retains its essence.

Present law (R.S. 44:203) prohibits the register of conveyances from performing the duties of the recorder of mortgages.

Proposed law repeals present law.

Present law (R.S. 44:232.1) provides for the awarding of attorney fees in any action involving the recorder of mortgages.

Proposed law (R.S. 44:117) repeals present law but provides for awarding attorney fees under proposed law.

Present law (R.S. 44:268) provides for the employment of clerks and assistants to perform certain duties.

Proposed law repeals present law.

(Amends C.C. Arts. 517, 1554, 2021, 2035, 2442, and 3337; C.C.P. Arts. 3752 and 4362; R.S. 9:4833 and 4834; R.S. 13:901; R.S. 44:71, 72, 73, 75, and 131; Adds C.C. Arts. 3338-3368; R.S. 44:77-80, 111-119, 171, and 172; Repeals C.C. Arts. 3308, 3309, 3310, 3314, 3320(A) and (B), 3321 - 3324, 3327-3336; R.S. 9:2371(A) and (B), 2721(A), 2721.1, 2722, 2728, 2733, 2741-2757, 5141, 5161, 5162, 5165, 5166, 5167(A)-(D), 5168-5207, 5214, 5215, 5216, 5502, and 5556; R.S. 13:752-755, 913, and 3727; R.S. 35:17 and R.S. 44:76, 101, 102, 103, 132-136, 138, 162, 163, 202, 203, 232, 232.1, 233, and 268; Redesignates R.S. 9:2731 as R.S. 31:216 and R.S. 9:2732 as R.S. 31:217)