

Present law authorizes the filing of an affidavit of distinction to establish the fact that the affiant is not the same person as named in a recorded judgment and the filing of the affidavit will render the judgment invalid and shall not thereafter affect title to any property the affiant may own or acquire. The affidavit is transmitted to the judgment creditor who has 10 days from receipt of the affidavit to sign and return an acknowledgment contained in the affidavit which states that the affiant is not the debtor as set forth in the affidavit. In order to file an affidavit of distinction, the person must go before a notary or an attorney to prepare the affidavit.

Present law further provides if the judgment creditor cannot be located or does not comply with the request for acknowledgment, a person may execute and file an affidavit of identity in the mortgage records so as to establish that he is not the same person identified as the debtor in certain recorded judgments, liens, privileges, or mortgages. Again, the person must go to a notary or an attorney to prepare the documents.

Proposed law makes statutory one prescribed form as delineated in present law and authorizes the clerk, or his employee to provide the form, and authorizes a notary public or authorized employee of the clerk's office to notarize and to file the form. Proposed law retains present law relative to all requirements as to proof of mailing and penalties for fraud or misrepresentation.

Present law provides for a maximum filing fee of \$1. Proposed law authorizes the clerk of court or the recorder of mortgages to charge up to \$15 to provide and file the affidavit.

Proposed law provides civil and criminal immunity for a notary public, the clerk of court, and his employees for providing and filing the affidavit form.

(Amends R.S. 9:5501 and 5503; adds R.S. 9:5501.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Clarifies that the recorder of mortgages, in addition to the clerk of court, shall also establish a fee for notarizing and recording the form.

Senate Floor Amendments to engrossed bill.

1. Clarifies that notaries public may notarize affidavits of distinction and identity.
2. Clarifies that notaries public are immune from liability related to affidavits of distinction.
3. Adds language to affidavits of distinction form which provides that the property of the affiant is not subject to the judicial mortgage.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Judiciary
to the reengrossed bill.

1. Changes from requiring the judgment creditor to sign the acknowledgment in the affidavit of distinction within 15 days after the date of receipt of the affidavit to within 10 days.