

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 24 By Senator Alario

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

CIVIL PROCEDURE. Authorizes uniform cancellation affidavit for cancellation of mortgage and vendor's lien inscriptions. (8/15/11)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Technical amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Alario

SB No. 24

Proposed law creates uniform cancellation affidavit and provides that it may be used to cancel a mortgage or vendor's lien inscription, except for judgments or legal mortgages. Provides that it may be used in lieu of any other affidavit otherwise required by law, and no additional affidavit shall be necessary for cancellation.

Proposed law sets forth contents and requirements for uniform cancellation affidavit, including the statutory authorization for the cancellation, any other recitations as may be required by law for cancellation, and a declaration that the affiant has complied with all requirements of law for the cancellation.

Proposed law provides that the uniform cancellation affidavit must be sworn to and subscribed in the presence of a notary public or other properly authorized official, but shall not be required to be an authentic or witnessed act.

Proposed law provides that the filing with the clerk of court and ex officio recorder of mortgages of a uniform cancellation affidavit containing a request to cancel, together with any additional documents as may otherwise be required by law, shall operate as a release and authorization to the clerk of court and ex officio recorder of mortgages to cancel and erase from the mortgage records any mortgage or vendor's lien inscription described in the uniform cancellation affidavit.

Proposed law further provides that the clerk of court as ex officio recorder of mortgages shall not be liable for any damages resulting to any person or entity as a consequence of canceling a mortgage in reliance upon a uniform cancellation affidavit, and that the affiant shall be liable to and indemnify the clerk of court as ex officio recorder of mortgages and any person relying upon the cancellation for any claims or damages suffered if the uniform cancellation affidavit contains materially false or incorrect statements. Further provides that the preparing, signing, or filing of a uniform cancellation affidavit with the knowledge it contains materially false or incorrect statements shall subject the offender to civil and criminal liability.

Proposed law provides that its provisions shall not be construed to invalidate, prohibit, restrict, or limit the use of any other method or form otherwise authorized by law for the cancellation of a mortgage or vendor's lien inscription.

Proposed law sets forth form for uniform cancellation affidavit, including identification and declarations of affiant, legal description of property, agreement to indemnify clerk of court, and request for cancellation.

Effective August 15, 2011.

(Adds R.S. 9:5166)

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