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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

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## DIGEST

Present law creates the Louisiana Blighted Property Reclamation Revolving Loan Fund and allows any parish or municipality to obtain funding from the fund for the purposes of maintenance, repair, removal, or demolition of dangerous structures pursuant to the law governing the removal of dangerous structures in the parishes and municipalities.

Proposed law retains present law and allows parishes and municipalities who are directed by the state fire marshal to demolish or remove buildings or structures to receive funding from the fund.

Present law provides for duties of the state fire marshal.

Proposed law provides that the state fire marshal may condemn and cause to be demolished or removed any building or structure within a parish or municipality when it is in a dilapidated and dangerous condition that endangers the public welfare.

Proposed law provides that before the state fire marshal may condemn any building or structure, there shall be a written report recommending the demolition or removal of the building or structure signed by the state fire marshal or other person authorized to act in such matters for the office of the state fire marshal.

Proposed law requires that service of the notice of a hearing to be conducted by the state fire marshal must be made upon the owner of the building or structure and provides for methods of service upon the owner.

Proposed law provides that if the owner is absent from the state or unrepresented therein, then the notice shall be served upon the occupant of the condemned building or structure, if any, and also upon an attorney at law appointed by the state fire marshal where the property is located to represent the absentee.

Proposed law provides for an expedited procedure when the condition of the building may cause possible immediate loss or damage to person or property.

Proposed law provides that any notice served must be filed by the state fire marshal with the recorder of mortgages where the property is located. Once the notice is filed, it is considered notice to all subsequent transferees.

Proposed law states that for the purposes of funding assistance sought by the owner of the building or structure, the notice served pursuant to proposed law shall be de facto proof that the building or structure is more than 50 % damaged.

Proposed law provides that after the hearing, if the state fire marshal finds that the facts justify condemnation of a building or structure, an order shall be entered condemning the building and ordering that it be demolished or removed by the owner or the parish or municipal governing authority within a certain delay.

Proposed law requires that such findings of the state fire marshal must be in writing and will be final unless appealed within five days as provided by proposed law.

Proposed law gives the owner, occupant, agent, or other representative of the owner five days to appeal from the decision of the state fire marshal. Such appeal must be made in the district court having jurisdiction over the property. The appeal must be made by filing the suit against the state fire marshal and must set forth the reasons why the decision or order of the state fire marshal is illegal or improper.

Proposed law gives the owner, occupant, agent, or other representative of the owner of the building or structure 48 hours to appeal the decision of the state fire marshal when such decision is based on the declaration of a grave public emergency. The petitioner must furnish a bond, set by the district judge, to cover any damage that may be caused by the condition of the building.

Proposed law provides that in the event the owner or occupant of the building or structure fails to appeal within the legal delays, the owner or the parish or municipal governing authority will demolish or remove the condemned building or structure. Neither the state fire marshal, the parish president, police jury, or mayor nor the parish or municipality shall be liable for damages.

Proposed law provides that the parish or municipal governing authority will have 180 days to demolish or remove the condemned building or structure.

Proposed law provides that the parish or municipal governing authority must serve notice on the owner, or his agent, and the occupant of the building or structure, if any, or on the attorney appointed to represent the minor, interdict, or absentee owner, giving the time when work shall begin upon the demolition or removal of the building or structure.

Proposed law provides that the parish or municipal governing authority and the state fire marshal may request, under limited circumstances, and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal or demolition of the condemned building or structure.

Proposed law provides that if all procedural protections are followed and substantive restraints are adhered to by the governing authority and the national guard, the governing authority and the national guard shall not be liable for any damages sustained from the demolition of the building or structure.

Proposed law provides that the parish or municipality or the state fire marshal may have a privilege and lien upon an immovable and its improvements, and the owner is personally liable to the parish or municipal governing authority or the state fire marshal for certain cost.

Proposed law provides that the privilege shall be preserved and enforced only after the owner has failed to pay the costs and fees incurred by the parish or municipality or state fire marshal within 90 days.

Proposed law provides that the privilege and lien shall be preserved by the filing and recording of an affidavit signed by the parish president or his designee, the police jury, or the mayor of the municipality or his designee, in the mortgage office of the parish in which the immovable is situated. The affidavit shall include a description of the property sufficient to reasonably identify the immovable and a statement of facts listing the approximate cost or costs incurred by the parish or municipality.

Proposed law provides that after the 90 day period provided for in proposed law has lapsed, the privilege and lien shall be enforced by ordinary process in the district court having jurisdiction of the immovable within three years after it is perfected.

Proposed law provides that the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable, being collected as a tax against the immovable, being collected as any ordinary property tax lien to be assessed against the property; the lien and privilege may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies.

Proposed law provides that after the parish or municipality or state fire marshal has incurred such costs as constitute the lien and privilege on the property, the parish president, police jury, mayor, or the state fire marshal may send the attested bill of the costs and expenses which constitute the lien and privilege to the director of administration or tax assessor of the parish in which the property is located, who shall add the amount of the bill to the next tax bill of the owner. The lien obtained by the parish or municipality or state fire marshal pursuant to proper notification and filing shall include not only the costs provided for proposed law but shall include all attorney fees and all costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements.

Proposed law provides that if authorized by law, the parish or municipality may also recover interest on the amounts secured by the lien. The interest shall not exceed the rate of legal interest and shall be computed from the date of recordation of the lien until paid.

Proposed law mandates that privilege and lien of the parish or municipality or state fire marshal prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages, regardless of the date on which the lien and privilege of the parish or municipality is perfected, except that the lien and privilege of the parish or municipality or state fire marshal will not prime other tax liens against the property.

Proposed law prohibits cancellation of the lien of the parish or municipality or state fire marshal until after payments of all amounts, including costs, attorney fees, and interest are paid.

Proposed law provides in addition to the lien and enforcement procedures provided for in proposed law, the parish or municipality or state fire marshal has a cause of action against the owner personally for the costs incurred by the parish or municipality, if such owner is not indigent and has the ability to pay a judgment obtained by the state. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.

Proposed law provides for procedure if the condemned building or structure is owned in indivision.

Proposed law provides that an attorney must be appointed if certain circumstances exist and such appointed shall be made by the parish president, police jury, or mayor. Proposed law provides that the appointed attorney shall be paid a reasonable fee to be taxed as costs.

Proposed law provides that notwithstanding any other provision of law to the contrary, the governing authority for the parish or municipality or state fire marshal may, as an alternative to demolition or removal, make the necessary repairs to correct the defects in a condemned building or structure within its jurisdiction within a certain time delay. Proposed law authorizes the state fire marshal, upon request from the governing authority, to grant one 60 day extension and one 30 day emergency extension.

Effective August 1, 2012.

(Amends R.S. 33:4769; adds R.S. 40:1563(L) and 1651-1658)