

Regular Session, 2012

HOUSE BILL NO. 535

BY REPRESENTATIVE JAY MORRIS

CIVIL/OBLIGATIONS: Provides relative to obligations secured by mortgages or privileges

1 AN ACT

2 To amend and reenact R.S. 9:4422(introductory paragraph) and (3), relative to obligations
3 secured by mortgages or privileges; to provide with the respect to promissory notes;
4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:4422(introductory paragraph) and (3) are hereby amended and
7 reenacted to read as follows:

8 §4422. Obligations secured by mortgages or privileges; signatures and writings
9 deemed authentic for purposes of foreclosure

10 The following shall apply when foreclosure by executory process is instituted
11 by the transferee, assignee, or pledgee of any promissory note, whether negotiable
12 or not, and any negotiable instrument, ~~or instrument that would be negotiable but for~~
13 ~~a limitation of personal liability of the maker or any comaker secured by a mortgage~~
14 ~~or privilege:~~

15 * * *

16 (3) The holder of any promissory note, whether negotiable or not, and any
17 negotiable instrument ~~or instrument that would be negotiable but for a limitation of~~
18 ~~personal liability to the maker or any comaker~~ under this Section may enforce the
19 mortgage or privilege securing such instrument without authentic evidence of the
20 signatures, assignment, pledge, negotiation, or transfer thereof.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Jay Morris

HB No. 535

Abstract: Provides that certain provisions applicable to negotiable instruments or any instrument that would be negotiable but for a limitation of personal liability of the maker, shall also apply to promissory notes.

Present law provides procedures for foreclosure by executory process instituted by the transferee, assignee, or pledge of a negotiable instrument or any instrument that would be negotiable but for a limitation of personal liability of the maker. Provides a presumption that certain signatures are genuine. Further provides that a transfer of an obligation secured by a mortgage can be proven by a private writing. Provides for enforcement of a negotiable instrument by the holder without authentic evidence of the transfer.

Proposed law retains present law and clarifies that present law applies to any promissory note, whether negotiable or not, or any negotiable instrument.

(Amends R.S. 9:4422(intro. para.) and (3))