

Regular Session, 2014

# ACT No. 440

HOUSE BILL NO. 1259 (Substitute for House Bill No. 661 by Representative Price)

BY REPRESENTATIVE PRICE

1 AN ACT

2 To amend and reenact R.S. 6:667.3, R.S. 13:3733.1(A)(1), (E), and (G), and Code of Civil  
3 Procedure Articles 2636 and 2637(A) and (C) and to enact R.S. 13:3733.1(K) and  
4 Code of Civil Procedure Article 2637(F), relative to reproductions of records  
5 retained by financial institutions and usage thereof; to provide for the recognition of  
6 reproductions as authentic evidence; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 6:667.3 is hereby amended and reenacted to read as follows:

9 §667.3. Records as evidence

10 A. An official record of a member's account in a credit union doing business  
11 in this state, or an entry therein, when admissible for any purpose, may be evidenced  
12 by a copy attested by the officer having legal custody of the member's records.

13 B. Notwithstanding any law or provision to the contrary, with respect to any  
14 power exercised by credit unions, each reproduction, as defined in R.S.  
15 13:3733.1(A)(4), shall be an original as defined in Article 1001(3) of the Louisiana  
16 Code of Evidence, and under any other similar codes of evidence or other evidentiary  
17 laws or rules of any other jurisdiction.

18 Section 2. R.S. 13:3733.1(A)(1), (E), and (G) are hereby amended and reenacted and  
19 R.S. 13:3733.1(K) is hereby enacted to read as follows:

20 §3733.1. Financial institution records; reproductions; recordkeeping; admissibility  
21 into evidence; definitions

22 A. As used in this Section the following terms shall have the following  
23 meanings:

1 (1) "Financial institution" means any mortgage or loan servicer or any every  
 2 entity organized to engage in the business of banking pursuant to the laws of the  
 3 United States, the state of Louisiana, any other state, or the District of Columbia,  
 4 including state banks, national banks, savings and loan associations, and all other  
 5 entities which lend money or otherwise extend credit and which are supervised by  
 6 any department, board, agency, or corporation of the United States, the state of  
 7 Louisiana, any other state, or the District of Columbia.

8 \* \* \*

9 E. Whenever any counterpart, duplicate, or copy or group of counterparts,  
 10 duplicates, or copies shall be certified with a certificate reading substantially as  
 11 follows, each such counterpart, duplicate, or copy shall be a reproduction as defined  
 12 in this Section and shall be admissible into evidence as the original record. Except  
 13 as prohibited in Subsection G of this Section, if the original record would be deemed  
 14 to be authentic evidence, the reproduction, so certified, shall also be deemed  
 15 authentic evidence for all purposes including but not limited to for purposes of  
 16 Louisiana Code of Civil Procedure Articles 2631 et seq.

17 STATE OF \_\_\_\_\_

18 PARISH/COUNTY OF \_\_\_\_\_

19 CITY OF \_\_\_\_\_

20 I, \_\_\_\_\_, a representative of \_\_\_\_\_ (the  
 21 Financial Institution ~~financial institution~~) do hereby certify ~~that~~ the following:

22 (a) The document(s) attached to this certificate, consisting of \_\_\_ page(s) is  
 23 (are each) a true and correct reproduction of the original thereof, being a  
 24 reproduction made from the records maintained by the Financial Institution  
 25 ~~(financial institution)~~ in the course of its business activities and made in accordance  
 26 with the provisions of R.S. 13:3733.1.

27 (b) If the document(s) attached to this certificate is (are each) an obligation  
 28 sought to be enforced, including a promissory note, the Financial Institution does  
 29 certify that the Financial Institution is a person or entity entitled to enforce the  
 30 obligation(s) evidenced by the document(s) attached to this certificate.

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NAME

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TITLE

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ADDRESS

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G.(1) A reproduction of a ~~promissory note, negotiable instrument,~~ letter of credit, certificated security, document of title, or a certificate of title pertaining to a motor vehicle shall not be deemed to be an original of such record for the following purposes:

~~(a) Use of the record in executory proceedings as provided in Chapter I of Title II of Book V of the Louisiana Code of Civil Procedure, Article 2631 et seq., except as otherwise provided by Article 2636.~~

~~(b)~~(a) Transferring the record.

~~(c)~~(b) Presenting the record for payment, acceptance, or honor.

~~(d)~~(c) Use of the record in a judicial proceeding or action involving a claim based on such record, unless the original has been lost, stolen, or inadvertently destroyed, or unless the reproduction is certified in accordance with the provision of this Section.

(2) ~~However,~~ a A reproduction of a check, as defined in R.S. 10:3-104, that has been destroyed by a financial institution in the regular course of its business activities shall be deemed to be an original of such check in a judicial proceeding or action involving a claim based on or involving such check. ~~However,~~ a A substitute check, as defined in the federal Check Clearing for the 21st Century Act and Regulation CC, 12 CFR 229.2~~(zz)~~(aaa), ~~may~~ shall be deemed to be an original of such check in a judicial proceeding or action involving a claim based on or involving such check.

1           (2)(3) A reproduction of an original record bearing a signature shall not be  
2           admissible into evidence as the original record itself if the signature on the original  
3           is omitted from the reproduction.

4   \*           \*           \*

5           K. Except as provided in Subsection H of this Section, the provisions of this  
6           Section that authorize the use of a reproduction shall not apply to a collateral  
7           mortgage note as defined in R.S. 10:9-102(d)(3).

8           Section 3. Code of Civil Procedure Articles 2636 and 2637(A) and (C) are hereby  
9           amended and reenacted and Code of Civil Procedure Article 2637(F) is hereby enacted to  
10          read as follows:

11          Art. 2636. Authentic evidence

12                        The following documentary evidence shall be deemed to be authentic for  
13                        purposes of executory process:

14                        (1) The note, bond, or other instrument evidencing the obligation secured by  
15                        the mortgage, security agreement, or privilege, paraphed for identification with the  
16                        act of mortgage or privilege by the notary or other officer before whom it is  
17                        executed, with the exception that a paraph is not necessary in connection with a note  
18                        secured by a security agreement subject to Chapter 9 of the Uniform Commercial  
19                        Code Louisiana Commercial Laws or a copy of the note, bond, or other instrument  
20                        evidencing the obligation certified as such by the notary before whom the act of  
21                        mortgage, security agreement, or privilege was executed;\_

22                        (2) A certified copy or a duplicate original of an authentic act;\_

23                        (3) A certified copy of any judgment, judicial letters, or order of court;\_

24                        (4) A copy of a resolution of the board of directors, or other governing board  
25                        of a corporation, authorizing or ratifying the execution of a mortgage on its property,  
26                        certified in accordance with the provisions of R.S. 13:4103;\_

27                        (5)(a) A security agreement subject to Chapter 9 of the Uniform Commercial  
28                        Code Louisiana Commercial Laws, which need not be executed or acknowledged  
29                        before a notary;\_or\_

1 (b) A reproduction of a security agreement described in Subsubparagraph (a)  
2 of this Subparagraph or a reproduction of a single writing that evidences both an  
3 obligation to pay and a security agreement described in Subsubparagraph (a) of this  
4 Subparagraph, that is certified by a representative of a financial institution in the  
5 manner provided for in R.S. 13:3733.1(E).

6 (6) A certified copy of the limited liability company's articles of organization  
7 filed with the secretary of state or a written consent or extract of minutes of a  
8 meeting of the persons specified in R.S. 13:4103.1, in each case authorizing or  
9 ratifying the execution of an act of mortgage on its property and in the form required  
10 by R.S. 13:4103.1, certified as provided in R.S. 12:1317(C).

11 (7) A certified copy of the contract of partnership authorizing the execution  
12 of an act of mortgage filed for registry with the secretary of state.

13 (8) All other documentary evidence recognized by law as authentic evidence,  
14 including R.S. 9:5555, R.S. 10:9-629, and R.S. 13:3733.1.

15 Art. 2637. Evidence which need not be authentic

16 A. Evidence as to the proper party defendant, or as to the necessity for  
17 appointing an attorney at law to represent an unrepresented defendant, or of any  
18 agreement to extend or modify the obligation to pay or of written notification of  
19 default, or of the breach or occurrence of a condition of the act of mortgage, or of the  
20 security agreement, or privilege securing the obligation, or of advances made by the  
21 holder of a collateral mortgage note or note for future advances, or of an obligation  
22 secured under Chapter 9 of the Uniform Commercial Code Louisiana Commercial  
23 Laws, need not be submitted in authentic form. These facts may be proved by the  
24 verified petition, or supplemental petition, or by affidavits submitted therewith.

25 \* \* \*

26 C. If a mortgage sought to be enforced is a collateral mortgage ~~on movable~~  
27 ~~or immovable property~~, or if the conventional mortgage or security agreement sought  
28 to be enforced secures ~~secured~~ multiple or ~~other~~ and future indebtedness of the  
29 debtor, the existence of the actual indebtedness may be proved by verified original  
30 or supplemental petition, or by an affidavit submitted with the original or

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           supplemental petition, along with the original or reproduction of the note, bond,  
 2           handnote, or other evidence representing the actual indebtedness, attached as an  
 3           exhibit. A reproduction of the note, bond, handnote, or other evidence representing  
 4           the actual indebtedness shall be certified by a representative of a financial institution  
 5           pursuant to the provisions of R.S. 13:3733.1(E). ~~the verified petition or supplemental~~  
 6           ~~petition, with the handnote, handnotes, or other evidence representing the actual~~  
 7           ~~indebtedness attached as an exhibit to the petition.~~

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9           F. Evidence as to the proper party plaintiff entitled to enforce the obligation  
 10          secured by the note, bond, handnote, or other instrument evidencing the obligation  
 11          of which a copy or reproduction is submitted in accordance with Article 2636(8) or  
 12          Paragraph C of this Article, may be proved by verified original or supplemental  
 13          petition, or by an affidavit submitted therewith.

14          Section 4. This Act shall become effective on July 1, 2014; if vetoed by the  
 15          governor and subsequently approved by the legislature, this Act shall become effective on  
 16          July 1, 2014, or on the day following such approval by the legislature, whichever is later.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_