



# Bankers Advisory

## COMPLIANCE MONITOR

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### *Louisiana Modifies Provisions Regarding Seizures and Sales*

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In Louisiana, the General Assembly has recently modified its seizure and sale of property provisions. Typically, a court will only grant a writ of seizure and sale after a lender first exhausts all other possible means of compelling payment from the judgment debtor. Once they have taken the appropriate steps, the lender may petition the court to authorize the repossession and auction of the debtor's property. However, the debtor is not without protection. The new provisions focus on:

- 1) the notice to judgment debtors in money judgments after the seizure,
- 2) the type of service and timing of the notice,
- 3) notice of scheduled sale date plus any changes,
- 4) and the information to be included in the notice.

In the event of a property seizure, the elected sheriff shall make three notices, which must contain: the title of the action, docket number and court where the writ was issued, the amount of the judgment, an exact copy of the property description, and the fact that the sheriff is seizing the property. These notices must also provide the judgment debtor with information concerning their range property owner's rights, the availability of housing counseling services, and the initial sheriff's sale date.

The form of the sheriff's written notice of seizure must follow the generic format, or utilize similar context language, provided in Section 1. R.S. 13:3852, B. The supplied form simply has the sheriff input the relevant information relating to the property and seizure, but contains multiple disclosure statements structured to comply with the modified provisions. Disclosures include: possibility of sheriff's sale date change and any new sale date will be posted in the local newspaper, the right to contact the sheriff, possible opportunities to bring account back into good standing with the lender (for residential property), the appropriateness of seeking legal counsel, and information about free foreclosure prevention/loss mitigation services provided by the US Department of Housing and Urban Development. After the seizure, the sheriff must promptly serve the judgment debtor with written notice of the seizure, containing a list of the seized property and housing counseling services information.

Prior to the changes, citizens in Louisiana had no statutory right to personally receive notice from creditors or the sheriff charged with seizing and selling the subject property; creditors needed only to post the notice of foreclosure and auction in the local newspaper. Once the sheriff's sale had concluded, judgment debtors would be forced to vacate the property without a suitable means of contesting the process. In an effort to protect judgment debtors and the Louisiana housing market, the notice requirements, cited as the Louisiana Home Protection Act, now provide homeowners an opportunity to respond to or refute creditor claims, placing a 60 day waiting period from when the court order is issued before the initial sheriff's sale date may be scheduled. During this time debtors are entitled the chance to bring accounts current and encouraged to seek appropriate legal counsel. Homeowners are then directed towards housing counseling services provided free of charge and made aware of their range of property owner's rights. Louisiana hopes to strengthen and stabilize its housing market through educating property owners and instilling confidence that property will not be taken from judgment debtors without due process and appropriate notice.



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