

2018 Regular Session

HOUSE BILL NO. 172

BY REPRESENTATIVE GAROFALO

MORTGAGES: Provides relative to the cancellation of inferior liens and mortgages

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2376, relative to the cancellation of  
3 liens and mortgages; to provide for the cancellation of inferior mortgages and liens  
4 on property sold at sheriff's sale; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2376 is hereby amended and reenacted  
7 to read as follows:

8 Art. 2376. Release of inferior mortgages

9 A. The sheriff shall give the purchaser a release from the security interest,  
10 mortgage, lien, or privilege of the seizing creditor, and from all inferior security  
11 interests, mortgages, liens, and privileges, and he shall direct the ~~recorder of~~  
12 ~~mortgages or proper filing officer~~ clerk of court to cancel their inscriptions in so far  
13 as they affect the property sold.

14 B. If the inscription of an inferior mortgage, lien, or privilege encumbering  
15 the property sold is not included on a mortgage certificate ordered by the sheriff in  
16 connection with a judicial sale, the clerk of court shall cancel it insofar as it affects  
17 the property sold by the sheriff, upon receipt of an affidavit requesting cancellation  
18 from the seizing creditor or any person subsequently acquiring an interest in the  
19 immovable. The affidavit shall contain a statement that the affiant shall indemnify

1           the clerk of court and sheriff for any losses they may sustain because of incorrect or  
2           false statements contained in the affidavit.

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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)]

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HB 172 Original

2018 Regular Session

Garofalo

**Abstract:** Provides for the cancellation of inferior inscriptions on property sold at sheriff's sale regardless of whether the inscriptions appeared on the mortgage certificate in the foreclosure proceeding.

Present law provides that the property sold at a sheriff's sale shall be sold with a release of the mortgage of the seizing creditor and inferior mortgages and liens, and the sheriff shall direct the recorder of mortgages to cancel those inscriptions in so far as they affect the property sold.

Proposed law provides for the cancellation of inferior inscriptions regardless of whether they appeared on the mortgage certificate in the foreclosure proceeding.

(Amends C.C.P. Art. 2376)