

WFG Informational Bulletin

To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: March 14, 2018
Bulletin No.: LA 2018-03
Subject: 2018 Proposed Legislation

The 2018 Regular Session of the Louisiana Legislature got underway Monday, March 12, and is scheduled to run through June 4. Legislators have introduced a number of bills of interest to the title industry.

HB 171 (Garofalo): Ownership of Immovable Property by a Foreign Partnership

Current law requires foreign partnerships to register with the La. Secretary of State to own property in this state. This bill, supported by the LLTA, amends R.S. 9:3423 to require that the partnership register and file a true copy of its articles of partnership with the Secretary of State, as is required of domestic partnerships. The bill would make a subsequent filing retroactive to the date of acquisition of immovable property, but without prejudice to the rights of third parties acquired in the interim.

HB 172 (Garofalo): Cancellation of Inferior Liens after a Sheriff's Sale

Under Code of Civil Procedure Article 2376, the sheriff must release the mortgage or lien of the seizing creditor and partially release all inferior mortgages and liens in so far as they affect the property sold. This bill, also supported by the LLTA, would amend that Article to require the clerk of court to partially cancel the inscription of an inferior mortgage or lien not included on the sheriff's mortgage certificate upon receipt of an affidavit requesting cancellation from the seizing creditor or a person subsequently acquiring an interest in the property.

HB 173 (Garofalo): Prescription involving succession property

9:5630 currently provides that an action by an unrecognized successor to assert an interest in property formerly owned by a decedent against a third party who acquired by onerous title from a person recognized as an heir or legatee in a judgment of possession is prescribed in two years from the date of the finality of the judgment. This bill, also supported by the LLTA, would change the commencement of prescription to the recording of the judgment of possession in the parish in which the property is located.

9:5632 currently provides for a two-year prescriptive period to challenge defects in the legal procedure used for the alienation, encumbrance or lease of property by a

representative of a succession, minor or interdict, provided that there is a court order authorizing such action. The bill would apply that prescriptive period to an alienation, encumbrance or lease by an independent succession representative, provided that there is a court order authorizing the independent administration.

HB 219 (Jackson): La. Clerk's Remote Access Authority

The LCRAA maintains a statewide portal which provides access to mortgage and conveyance indices of participating clerks. Many but not all offices participate. This bill would require each clerk of court to become a member of the LCRAA by July 1, 2020.

HB 228 (Anders): Hunting Stands

This bill would amend R.S. 56:116.3 to prohibit the placement of deer or turkey stands, whether permanent or mobile, within 50 yards of a property line or within 100 yards of a residence on adjoining property.

HB 545 (Coussan): Manufactured Homes

This bill proposes to change the Manufactured Home Property Act, R.S. 9:1149.1 *et seq.*, to the Factory Built Home Property Act. The bill modifies the definitions of "manufactured home" and "mobile home" and adds a definition for "modular home". Factory built homes are classified by the standards to which they are built – HUD rules for manufactured homes and state building codes for modular homes. The bill retains the existing immobilization and deimmobilization requirements for all factory built homes.

HB 572 (Magee)/SB 358 (Luneau): Electronic and online notarization

The legislature previously tasked the La. State Law Institute to study the need for and feasibility of an electronic notary law. The Law Institute released its interim report last year, noting that further study was needed in light of Louisiana's civilian tradition and the unique role of notaries. The Law Institute has not issued its final report nor authored this pair of bills, which would allow for electronic and online notarizations subject to rules to be promulgated by the Secretary of State.

SB 48 (Lambert): Small Successions

Last year, the legislature raised the maximum gross value of a decedent's estate to \$125,000 (after \$150,000 was initially proposed) for purposes of defining a small succession under Code of Civil Procedure Art. 3421. This bill would double the existing limit to \$250,000.

SB 98 (Morrell): Community Property

This bill in large part provides for technical corrections to marriage laws in light of the rulings by the U.S. Supreme Court in *Obergefell v. Hodges* and the Louisiana Supreme Court in *Costanza v. Caldwell*. Of note here, the bill would enact R.S. 9:2832 to provide that the application of the community property regime to same-sex couples married on or before June 26, 2015, the date of the *Obergefell* decision, shall be without prejudice to the rights of third parties validly acquired before August 1, 2018.

The full text of the bills and their progress can be reviewed [HERE](#). If you have any questions or concerns, please do not hesitate to contact us.

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