

2015 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVE WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRESCRIPTION: Provides relative to certain prescriptive periods applicable to the reinscription of mortgages

1 AN ACT

2 To amend and reenact R.S. 6:830(F), (G)(4), and (H)(2) and to repeal R.S. 6:830(G)(5),  
3 relative to the recordation of mortgages in favor of savings and loans; to provide  
4 relative to the reinscription of mortgages within certain periods of time; and to  
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 6:830(F), (G)(4), and (H)(2) are hereby amended and reenacted to  
8 read as follows:

9 §830. Security for loan on movable and immovable properties; purchase and sale of  
10 property

11 \* \* \*

12 F. Any mortgage recorded as provided by this Section remains in full force  
13 and effect without the necessity of being reinscribed in the mortgage records for a  
14 ~~period of forty-one years from the date of inscription. The recordation of the~~  
15 ~~authentic act evidencing mortgage on home appliances and equipment in the same~~  
16 ~~manner as the mortgage on immovable property shall be binding on third persons~~  
17 ~~and need not be reinscribed for thirty-one years from the date of inscription.~~  
18 provided by Civil Code Articles 3357 and 3358. This prescription shall be applied  
19 retroactively to existing mortgages that have not yet prescribed, such that these  
20 mortgages shall prescribe as provided in this Section or under the law applicable

1 when these mortgages were recorded, whichever is earlier. The recordation of the  
 2 authentic act evidencing a mortgage on home appliances and equipment in the same  
 3 manner as the mortgage on immovable property shall be binding on third persons  
 4 and need not be reinscribed for five years from the date of inscription; however if a  
 5 mortgage on home appliances and equipment as provided in this Section matures  
 6 more than five years from the date of the instrument, the effect of recordation ceases  
 7 five years after the latest maturity date described in the instrument.

8 G.

9 \* \* \*

10 (4) This act of sale with vendor's privilege and mortgage, if recorded within  
 11 three working days of its execution, when the registry is required to be made in the  
 12 parish where the act was executed, and within five working days, if the registry is  
 13 required to be made in any other parish of this state, shall have the same priority with  
 14 regard to the effective date of recordation as is accorded vendor's privileges under  
 15 the provisions of Louisiana Civil Code Article 3274, without regard to the time for  
 16 recordation as provided therein. ~~The vendor's privilege provided for in this~~  
 17 ~~Subsection shall remain in force for a period of forty-one years from the date of~~  
 18 ~~inscription. Any note secured by a vendor's privilege and mortgage of the kind~~  
 19 ~~authorized by this Subsection shall have the same rights, privileges, priorities, and~~  
 20 ~~exemptions which have previously been had by notes payable to associations and~~  
 21 ~~secured by a vendor's privilege and mortgage set forth in sales of property by the~~  
 22 ~~association to the purchaser.~~

23 \* \* \*

24 H.

25 \* \* \*

26 (2) If any mortgage provided for in this Section is placed on record within  
 27 three working days of its execution, when the registry is required to be made in the  
 28 parish where the act was executed, and within five working days, if the registry is  
 29 required to be made in any other parish of this state, it shall have and enjoy the same

1 priority in regard to the effective date of such recordation as is accorded vendor's  
 2 liens under the provisions of Louisiana Civil Code Article 3274, without regard to  
 3 the time for recordation as provided therein. ~~The mortgages provided for in this~~  
 4 ~~Section shall remain in force for a period of forty-one years from the date of their~~  
 5 ~~filing or for a period of forty-one years from the date of any reinscription.~~

6 \* \* \*

7 Section 2. R.S. 6:830(G)(5) is hereby repealed in its entirety.

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)]

HB 496 Original

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Willmott

**Abstract:** Changes the 41-year period for reinscription of mortgages in favor of savings and loans to a 10-year period as provided by the Civil Code general provisions on registry.

Present law provides provisions for security for loans on movable and immovable property granted by savings and loan associations.

Present law provides that mortgages recorded in favor of savings and loan associations remain in full force and effect without the necessity of being reinscribed in the mortgage records for a period of 41 years from the date of inscription for immovable property and for 31 years for home appliances and equipment.

Proposed law deletes present law and applies the general rules of registry of Civil Code Articles 3357 and 3358 which provide the effect of recordation ceases 10 years after the date of the instrument, and that if the instrument specifies a maturity date nine years or more after the date of the instrument, the effect of recordation ceases six years after the latest described maturity date.

Proposed law provides for retroactive application of the prescriptive period to existing mortgages that have not yet prescribed, so that the mortgages shall prescribe upon the earlier of the application of proposed law or the law applicable when the mortgages were recorded.

Proposed law provides that the recordation of the authentic act evidencing a mortgage on home appliances and equipment shall be binding on third persons and need not be reinscribed for five years from the date of inscription, but if a mortgage on home appliances and equipment matures more than five years from the date of the instrument, the effect of recordation ceases five years after the latest maturity date described in the instrument.

Proposed law deletes present law which provides that the vendor's privilege and mortgages of equal rank to the vendor's privilege shall remain in force for a period of 41 years from the date of inscription.

Provides that present law shall be liberally construed in favor of notes secured by a vendor's privilege and mortgage in favor of an association.

Proposed law repeals present law.

(Amends R.S. 6:830(F), (G)(4), and (H)(2); Repeals R.S. 6:830(G)(5))