

Regular Session, 2005  
HOUSE BILL NO. 318

# ACT No. 216

BY REPRESENTATIVE BADON AND SENATOR MURRAY

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

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2293(B), relative to notice of seizure  
3 of property; to provide for giving additional notice of seizure to occupants and  
4 tenants; to provide relative to the validity of the sheriff's sale for failure to serve  
5 additional notices; to provide for an optional method of giving notice when the  
6 property consists of more than ten units; to provide for filing of an affidavit in the  
7 foreclosure proceeding records and the effect thereof; to provide for the  
8 inapplicability of additional notice provisions to certain property; to provide for the  
9 validity of foreclosure proceedings deemed not in compliance with Act No. 877 of  
10 the 2004 Regular Session; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Civil Procedure Article 2293(B) is hereby amended and  
13 reenacted to read as follows:

14 Art. 2293. Notice to judgment debtor; appointment of attorney

15 \* \* \*

16 B.(1) After the seizure of property, the sheriff shall serve promptly upon the  
17 judgment debtor a written notice of the seizure and a list of the property seized, in  
18 the manner provided for service of citation. If service cannot be made on the  
19 judgment debtor or his attorney of record, the court shall appoint an attorney upon  
20 whom service may be made.

21 (2) In addition to the written notice of seizure to be served on the judgment  
22 debtor as provided ~~herein in Subparagraph (1) of this Paragraph~~, the sheriff shall also  
23 serve upon ~~any~~ the occupants ~~or tenants~~ of the seized property a written notice  
24 ~~indicating~~ stating that the subject property has been seized. Such service shall be

1           accomplished by directing the notice to "occupants" of the seized premises and if the  
 2           ~~service notice~~ cannot be served personally or by domiciliary service upon the  
 3           occupants, such service shall be accomplished by posting the notice upon the  
 4           ~~principal main~~ entrance to the seized premises. The failure to serve the notices as  
 5           provided herein shall not invalidate the sheriff's sale; however, such failure shall  
 6           prevent the purchaser at the sheriff's sale from availing himself of the provisions of  
 7           R.S. 13:4346 as it applies to the ejectment or eviction of any occupants of the seized  
 8           premises other than the judgment debtor. The failure to serve the notices required  
 9           in this Paragraph shall not affect the rights of the foreclosing creditor or of the  
 10          purchaser at the sheriff's sale under Code of Civil Procedure Articles 4701 through  
 11          4749.

12                     (3)(a) If the premises foreclosed upon consists of more than ten units, instead  
 13                     of giving notice as provided in Subparagraph (2) of this Paragraph, the foreclosing  
 14                     creditor shall have the option of causing a sign or signs to be posted by the sheriff  
 15                     measuring not less than two feet high and three feet wide posted in such a manner  
 16                     as to notify residents of the building containing the following language or words to  
 17                     this effect: " \_\_\_\_\_ JUDICIAL DISTRICT COURT FOR THE PARISH OF  
 18                     \_\_\_\_\_, DOCKET NUMBER \_\_\_\_\_ . THIS PROPERTY HAS BEEN SEIZED  
 19                     AND SHALL BE SOLD IN ACCORDANCE WITH LAW ON OR AFTER  
 20                     \_\_\_\_\_, 200 /s/ SHERIFF \_\_\_\_\_ , PARISH. Any person who removes  
 21                     or damages this notice is subject to prosecution in accordance with R.S. 14:56." The  
 22                     cost of preparation of such sign shall be borne by the foreclosing creditor and the fee  
 23                     of the sheriff in connection with the posting of such sign shall be determined in  
 24                     accordance with the provisions of R.S. 33:1428(A)(14).

25                     (b) An affidavit of the creditor shall be filed of record in the foreclosure  
 26                     proceeding stating that such sign was posted, which affidavit shall be prima facie  
 27                     evidence that the sign was posted in accordance with this Subparagraph.

28                     (4) The provisions of Subparagraphs (2) and (3) of this Paragraph shall apply  
 29                     only to foreclosure proceedings on immovable property which is occupied or  
 30                     intended for occupancy as a residence and shall not apply to foreclosure proceedings

