



LOUISIANA STATE LAW INSTITUTE

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February 15, 2023

Senator Patrick Page Cortez
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: SENATE RESOLUTION NO. 152 OF THE 2022 REGULAR SESSION

Dear Mr. President:

The Louisiana State Law Institute respectfully submits its interim report relative to online judicial sales.

Sincerely,

A handwritten signature in blue ink that reads "Guy Holdridge" with a long horizontal stroke extending to the right.

Guy Holdridge
Director

email cc: Senator Franklin J. Foil

David R. Poynter Legislative Research Library
drplibrary@legis.la.gov

Secretary of State, Mr. R. Kyle Ardoin
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
SECURITY DEVICES COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE
TO SR NO. 152 OF THE 2022 REGULAR SESSION**

Relative to online judicial sales

Prepared for the
Louisiana Legislature on

February 15, 2023

Baton Rouge, Louisiana

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SENATE RESOLUTION NO. 152

BY SENATOR FOIL

A RESOLUTION

To urge and request the Louisiana State Law Institute to study and recommend legislation to implement procedures for conducting online judicial sales.

WHEREAS, the advancement of communication technology has made it possible to conduct online auctions and public sales through the use of the internet; and

WHEREAS, conducting online judicial sales can attract more bidders and potentially higher purchase prices, which would benefit both debtors and creditors in our state; and

WHEREAS, the laws regulating judicial sales have been amended numerous times over the years, and it is important that changes to provide for online judicial sales be carefully crafted to address the detailed procedure involved with conducting judicial sales; and

WHEREAS, it is important that the laws providing for online judicial sales are functional and do not jeopardize the validity of titles to properties conveyed through the judicial sale process; and

WHEREAS, the Louisiana State Law Institute's general duties include examining and studying the civil law and statutes of the state.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby declare that it is the policy of this state that available technology should be used to allow for online judicial sales in the state of Louisiana, with each selling authority having the choice of using such a procedure with the agreement of the seizing creditor.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request that the Security Devices Committee of the Louisiana State Law Institute prepare draft legislation to enact, amend, and repeal laws in order to implement requirements and procedures for conducting online judicial sales by sheriffs, marshals, and constables, and that representatives of the Louisiana Bankers Association, Louisiana Sheriffs' Association, and Louisiana City Marshals and City Constables Association be appointed as special advisors to participate in drafting the legislation.

SR NO. 152

ENROLLED

BE IT FURTHER RESOLVED that recommendations for revising state law in the form of proposed legislation shall be submitted to the Legislature of Louisiana no later than February 15, 2023.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

February 15, 2023

To: Senator Patrick Page Cortez
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SR NO. 152 OF THE 2022 REGULAR SESSION**

Senate Resolution No. 152 of the 2022 Regular Session urges and requests the Louisiana State Law Institute “to study and recommend legislation to implement procedures for conducting online judicial sales.” The resolution does not direct the Law Institute to study the advisability of allowing online judicial sales in Louisiana but instead includes a declaration by the Senate that “it is the policy of this state that available technology should be used to allow for online judicial sales in the state of Louisiana, with each selling authority having the choice of using such a procedure with the agreement of the seizing creditor.” The resolution requests the Law Institute to draft the enabling legislation. The resolution also requests that “representatives of the Louisiana Bankers Association, Louisiana Sheriffs’ Association, and Louisiana City Marshals and City Constables Association be appointed as special advisors to participate in drafting the legislation.”

In accordance with the directives of the resolution, the Law Institute assigned the project to its Security Devices Committee, which operates under the direction of Mr. L. David Cromwell as Reporter. The Committee appointed Mr. Mark C. Landry of the Louisiana Bankers Association, Ms. Billie M. Giroir of the Louisiana Sheriffs’ Association, and Mr. Carl W. Richard of the Louisiana City Marshals and City Constables Association as special advisors for the project.

The Committee has met several times to draft revisions to the Code of Civil Procedure and related provisions of the Revised Statutes to permit Louisiana sheriffs, marshals, and constables to conduct online auctions. Not only has the Committee received very thoughtful guidance and recommendations from the special advisors, but it has also benefited from the experience and suggestions of representatives of several online auction companies. Throughout the course of its work, the Committee has remained mindful of the admonition in the resolution that “changes to provide for online judicial sales [must] be carefully crafted to address the detailed procedure involved with conducting judicial sales.” Accordingly, the Committee has drafted safeguards concerning the consent and presence of the seizing creditor, the publication of notice and other information concerning the auction and bids made during the auction, the ability of the debtor to bid at the online auction, and the use of online auction companies and the fees and requirements associated with doing so.

The Committee plans to conduct one additional meeting to finalize its proposed revisions before presenting them to the Law Institute’s Council in early March. A final report and draft legislation will be submitted to the Legislature once the Committee’s recommendations have been approved by the Council.