

LOUISIANA STATE LAW INSTITUTE

MEETING OF THE COUNCIL

January 31, 2025

Friday, January 31, 2025

Persons Present:

Alpandinar, Erin N.
Belanger, Kathryn (Katie)
Boneno, David
Crigler, James C., Jr.
Crochet, Anne J.
Cromwell, L. David
Darensburg, June Berry
Davrados, Nikolaos A.
Fontana, Annette
Forrester, William R., Jr.
Freel, Angelique D.
Futrell, Dylan M.
Gregorie, Isaac M. "Mack"
Grochowski, Mateusz F.
Guice, Jon K.
Hamilton, Leo C.
Hampton, Bruce
Hawthorne, George "Trippe"
Hayes, Thomas M., III
Johnson, Rachael
Kunkel, Nick
Koch, Patricia E.
Lonegrass, Melissa T.
Lovett, John A.
Manning, C. Wendell
Meyer, Julia A.
Miller, Gregory A.
O'Connell, Caleb

Payer, Julie Baxter
Penzato, Allison H.
Philips, Harry "Skip", Jr.
Price, Donald W.
Procell, Christopher A.
Procopio, Sarah M.
Ramsey, Regina
Reeves, Ruth A.
Richard, Herschel, E., Jr.
Riviere, Christopher H.
Roussel, Randy
Rubin, Mike
Saloom, Douglas J.
Schimmel, Kathryn E.
Smith, Kenya J.H.
Talluto, John
Thibaut, Martha A.
Thibeaux, Robert P.
Title, Peter S.
Tucker, Zelda W.
Vance, Shawn D.
Voss, David
Waller, Mallory C.
Weems, Charles S., III
White, H. Aubrey, III
Woodruff-White, Lisa
Zachary, Chelsea S.
Ziober, John David

President L. David Cromwell called the second January 2025 Council meeting to order at 10:00 a.m. on Friday, January 31 at the Lod Cook Alumni Center in Baton Rouge. After asking Council members to briefly introduce themselves, the President took the podium to begin his presentation of materials on behalf of the Security Devices Committee, with Vice President Leo C. Hamilton presiding.

Security Devices Committee

Mr. Cromwell began his presentation by informing the Council that the proposed revisions and draft report that would be discussed today were prepared in response to House Concurrent Resolution No. 80 of the 2024 Regular Session. He reminded the Council that it had previously approved a comprehensive revision to the Private Works Act, which was enacted by the legislature in 2019, and provided a brief history of updates that had been made to the Private Works Act prior to that revision. For example, he explained that the owner was personally liable to first-party claimants in direct privity of contract with him but that more remote claimants, such as laborers, suppliers, lessors, and subsubcontractors, among others, were also given a personal claim against the owner and contractor as well as a privilege against the immovable. The Reporter then noted that in 2004, the Law Institute received a study resolution that is very similar to the resolution from the 2024 Regular Session asking the Law Institute to study potential protections for homeowners under the Private Works Act. Mr. Cromwell discussed the contents of the Law Institute's response to that resolution and potential avenues that were considered, such as implementing additional education, exempting residential work under

a certain threshold, limiting recovery to the remaining contract funds or to claimants who contracted directly with the owner, before the ultimate recommendation was formed that no changes should be made.

Continuing his history of the Law Institute's work on the Private Works Act, Mr. Cromwell noted that the resolution that prompted the 2019 comprehensive revision did not contain a specific directive to consider homeowner protections, but the Committee nonetheless considered this during the course of its work. One potential course of action was to eliminate claims and privileges under the Act unless the owner is given notice in accordance with the Residential Truth in Construction Act (RTICA), at least as to the general contractor if not as to all claimants who do not verify that the owner was provided notice as required, but the Committee ultimately rejected all of these ideas. The Committee did, however, draft a proposed R.S. 9:4805 that was included in the original bill and would have provided the owner with the ability to force the contractor to provide a list of potential claimants for purposes of allowing the owner, and the contractor in some cases, to inquire of these claimants as to any amounts that may be due to them. If such a claimant failed to timely respond to one of these requests, then the claimant would lose his claim and privilege to the extent of any damage suffered by the owner or contractor making the request. For example, if the owner owed the contractor \$50,000 and had already paid \$40,000 but would have withheld the additional \$10,000 had the owner known that the claimant was owed that amount, the claimant would lose his right to the \$10,000 at issue. This provision, however, was not included in the version of the Act that was ultimately adopted by the legislature. Mr. Cromwell also noted that the owner is supposed to require the contractor to post a payment bond to protect claimants who contract with the contractor but recognized that the posting of a bond is rare in situations involving residential work.

After noting that a bill was filed during the 2024 Regular Session that would have completely upended the basic tenets of the Private Works Act – that those who contribute to the improvement of an immovable should be paid for their work and that the owner continues to bear some responsibility for ensuring that these individuals are paid – Mr. Cromwell explained that the members and special advisors of the Committee unanimously agreed that these basic principles should be preserved because they represent a delicate but fair balancing of interests. The Reporter also noted that a claimant who is not in privity of contract with the owner will have a claim and privilege under the Private Works Act, whereas a claimant who is in privity of contract with the owner will have an additional contractual claim. He then explained the goals of the Committee's proposed revisions to the RTICA, which appear on pages 8 and 9 of the draft report, before directing the Council's attention to the proposed revisions themselves.

Beginning with the proposed revisions to R.S. 9:4851, on page 1 of the materials, Mr. Cromwell explained that the RTICA predated the 1981 revision of the Private Works Act, and therefore there are several instances in which terminology and phraseology needed to be updated. Additionally, on line 12 of page 1, the Reporter noted that the RTICA had been expanded to include "double-family" dwellings since these are included in the Private Works Act in R.S. 9:4810. A motion was made and seconded to adopt the proposed revisions to R.S. 9:4851, at which time the Council discussed that "residential home improvements" encompasses "work, materials, equipment, or services" performed by claimants under R.S. 9:4802. The Council also discussed that these provisions had been reviewed by several interest groups represented by special advisors serving on the Committee, including the Associated General Contractors, as well as the type of "work" that is required to be performed, which is defined by the Private Works Act, and the prompt payment requirements and criminal repercussions under existing law. After a brief discussion about whether to recommend any changes at all, the motion to adopt R.S. 9:4851 as presented passed without objection. The adopted proposal reads as follows:

R.S. 9:4851. Scope; definition

A. The provisions of this Subpart and the notice required to be given ~~herein in this Subpart~~ shall be nonwaivable, and shall be applicable to all residential home improvements, and shall be read and construed in pari materia with the other provisions of this Part.

B. For the purposes of this Subpart, residential home improvements shall include all improvements or construction ~~which that~~ enhance the value or enjoyment of any ~~real property~~ immovable occupied by the owner thereof principally as a single-family or double-family dwelling or residence if ~~such works the improvements would entitle any a person to lien rights against a claim against the owner or a privilege upon the property immovable~~ under the provisions of ~~R.S. 9:4801 through 9:4842~~ this Part.

Turning to R.S. 9:4852, on page 1 of the materials, Mr. Cromwell first noted that at the behest of Committee member Mike Rubin, the notice required by the RTICA had been changed during the 2019 revision to eliminate legalese and use plain language that would be more easily understood by the average homeowner. The Reporter then explained that the language on lines 7 through 11 of page 2 had been added to inform the owner of two rights under the RTICA – to require the contractor to provide the names and contact information of those who worked on the owner's home and to request a statement of amounts owed to these claimants from the contractor and directly from the claimant. A motion was made and seconded to adopt the proposed changes to R.S. 9:4852, at which time one Council member questioned whether the intent of these revisions is to provide an alternative remedy to homeowners in the absence of a bond having been filed. Members of the Council then discussed the practical difficulties in obtaining a bond for residential work, the effect of which is that the owner is absolved of liability and the privileges of remote claimants, namely that a bond may not even be available for all commercial contractors, much less for residential work. One Council member questioned whether the statement of amounts owed should include some sort of temporal element, and after noting that the substantive provision contains such language, the Council agreed to add "then" before "owed" on line 9 of page 2. Another Council member then questioned whether this notice could be sent at any time, and the Reporter clarified that the notice required by R.S. 9:4852 must be sent at the inception of the work but that the requests contemplated by lines 7 through 11 of page 2 could be sent at any time. After additional discussion with respect to this point, the Council agreed to add "At any time" before "you" at the beginning of line 7 of page 2.

The Council continued its discussion of the proposed revisions to R.S. 9:4852, with one Council member questioning whether requiring the contractor to provide the information of "all persons" places an unnecessarily onerous burden upon them, and the Council then discussing that the possibility that the owner will have to pay twice will still exist under this proposal, but hopefully the instances of that occurring will be far fewer. Members of the Council also discussed that the lien rights of a claimant whose identity is not disclosed by the contractor to the owner will be unaffected, and both the owner and the contractor will remain liable, but laborers who are working as part of a crew in the manner that is contemplated rarely file liens under the Private Works Act anyway. The motion to adopt R.S. 9:4852 as amended then passed without objection.

Next, the Council considered R.S. 9:4853, on pages 2 and 3 of the materials, and members of the Council again discussed whether laborers should be included within the scope of these requests. Mr. Cromwell also explained that this provision had been modeled on the Law Institute's original draft of R.S. 9:4805 as submitted to the legislature, and the Council quickly adopted Subsections A through E without change. With respect to Subsection F, members of the Council suggested that "An agreement" on line 18 of page 3 be changed to something else, since the entire agreement itself should not be nullified but rather the offending clause that prohibits the disclosure. Ultimately, the Council agreed to replace "An agreement" with "Any contractual provision," and the motion to adopt R.S. 9:4853 then passed without objection. The adopted proposal reads as follows:

R.S. 9:4853. Requests for information

A. Within ten days after receipt of a written request from the owner or his authorized agent, the contractor shall deliver to the owner or agent a list of the names, addresses, and other contact information of all persons who may be entitled under R.S. 9:4802 to a claim against the owner or a privilege upon the owner's property for work, materials, equipment, or

services furnished in connection with residential home improvements, along with a statement of all amounts then owed to each of them.

B. Notwithstanding any agreement to the contrary, an owner who has made a request under Subsection A of this Section may withhold payment otherwise due to the contractor until the contractor delivers the requested information.

C. Within ten days after receipt of a written request from the owner, a person who is granted a claim and privilege under R.S. 9:4802 for work, materials, equipment, or services furnished in connection with residential home improvements shall provide to the owner a statement of all amounts then owed to the person.

D. Notwithstanding R.S. 9:4844, the period within which a person is required to respond to a request made under Subsection A or C of this Section shall not commence to run until the person's actual receipt of the request.

E. For purposes of this Section, an amount is considered to be owed to a person when his right of payment of the amount has been earned by his performance, regardless of whether the person has rendered an invoice or billing for the amount.

F. Any contractual provision prohibiting the disclosure to the owner of information requested under this Section, or requiring the consent of another person to such disclosure, is absolutely null.

The Reporter then directed the Council's attention to R.S. 9:4854, on page 3 of the materials, explaining that stylistic changes had been made to the provision's initial paragraph and that additional provisions had been added to provide consequences for those who fail to comply with the provisions of the RTICA. Pursuant to Subsection B, a contractor who fails to give the required notice of lien rights will not be entitled to a privilege under the Private Works Act and will only be able to pursue his contractual claim. The Council briefly discussed the consequences for making an inaccurate disclosure under R.S. 9:4853(A) before Mr. Cromwell explained that Subsection C points the owner to the provision of the Private Works Act that allows the owner to have an improper statement of claim and privilege cancelled and sets forth statutory damages in addition to actual damages and attorney fees. One Council member questioned whether the Private Works Act sets forth other statutory damages, and the Reporter answered in the negative but noted that there are prompt pay statutes as well as other provisions of law that set forth statutory damages, such as in Chapter 9 of the UCC with respect to consumer transactions. Mr. Cromwell then explained that Subsection D provides the consequence with respect to a more remote claimant who fails to respond to a request for statements of amounts owed, noting that this is not a per se loss but rather to the extent of any damages suffered by the owner as a result, such as if the owner could have withheld from the contractor the amount owed to the claimant but did not because he was not informed that it was owed. One Council member suggested adding "under R.S. 9:4802" after "privilege" on line 41 of page 3, and the Reporter accepted this change. A motion to adopt R.S. 9:4854 as amended was then made, seconded, and passed without objection, and the adopted proposal reads as follows:

R.S. 9:4854. ~~Lien rights unaffected~~ Effect on claims and privileges of persons other than contractor

A. Except as otherwise provided in this Section, nothing ~~Nothing~~ contained in this Subpart shall abrogate or ~~interfere with the lien rights~~ ~~extinguish the claim or privilege arising in favor of any person otherwise entitled thereto pursuant to~~ under the provisions of this Part.

B. A contractor who fails to deliver to the owner or his authorized agent the notice required by R.S. 9:4852 in a timely manner shall not enjoy

any privilege arising under this Part and shall not be entitled to file a statement of claim or privilege for any amounts due him.

C. If a contractor who is deprived of a privilege by Subsection B of this Section files a statement of claim or privilege and thereafter fails without reasonable cause to deliver a written request for cancellation of the statement within the time provided by R.S. 9:4833(A), the owner shall be entitled to recover from the contractor statutory damages in an amount equal to the greater of one thousand dollars or ten percent of the price of the contract in addition to actual damages and attorney fees recoverable under R.S. 9:4833(B).

D. The failure of a person who receives a request under R.S. 9:4853(C) to provide a timely and accurate response to the request shall extinguish the person's claim and privilege under R.S. 9:4802 to the extent of any damages suffered by the owner as a result of the failure or inaccuracy.

Next, the Council considered R.S. 9:4855, on page 4 of the materials, and the Reporter explained that the amendments to this provision were simply stylistic in nature to make the language consistent with the more recent amendments to the Private Works Act. A motion was made and seconded to adopt these proposed revisions as presented, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 9:4855. ~~Penalty for violation~~ Damages and attorney fees

In the event ~~any liens are perfected that a statement of claim or privilege is filed~~ under the provisions of this Part against any immovable property for work, ~~or improvements covered under the provisions of this Subpart~~ materials, equipment, or services furnished in connection with residential home improvements and the contractor has failed to comply with the provisions of this Subpart; or, if having technically complied with this Subpart, has willfully, knowingly, and unlawfully falsified any statements or fraudulently obtained the signature of the owner or his agent, ~~such the owner shall have a civil cause of action therefor, and shall be entitled to reasonable~~ have the right to recover from the contractor damages and reasonable attorney fees. The penalty recovery provided for herein in this Section shall not apply if the contractor or a subcontractor obtains a bond from a good and solvent surety in favor of the owner of the property on which the lien is placed pursuant to R.S. 9:4841, causes the claim against the owner and the privilege securing it to be extinguished by depositing security in accordance with R.S. 9:4835 or reimburses the property owner in an amount sufficient to satisfy the lien claim and privilege, either in the form of a deduction from the original contract price or other refund, and the owner so acknowledges receipt in writing.

At this time, a motion was made and seconded to reconsider R.S. 9:4852 for purposes of adding "or services" after "materials or equipment" throughout for purposes of consistency with other amendments. This change would be made on page 1, line 30 and page 2, lines 3, 5, and 8. A motion was also made and seconded to replace "further" with "any" on line 13 of page 2. Both motions passed without objection, and R.S. 9:4852 as finally adopted by the Council reads as follows:

R.S. 9:4852. Notice

A. Prior to or at the time of entering into a contract for residential home improvements under the provision of this Subpart, the contractor shall deliver to the owner or his authorized agent, for ~~such the~~ the owner's or agent's signature, written notice in substantially the following form:

NOTICE OF LIEN RIGHTS

Delivered this _____ day of _____, 20____, by _____, Contractor.

You are having work done on your home. Under Louisiana law, all those who work on your home, including the contractor, any subcontractors, and their employees, as well as all those who supply materials, ~~or~~ equipment, or services for the work, can file a lien against your home if they are not paid. They can also recover from you personally the amounts they are owed. This can occur even if you pay the contractor all amounts that you agreed to pay for the work.

You might protect yourself if you do one of the following:

(a) Before the work begins, have a written and signed contract with your contractor and have a payment bond issued. Before the work begins, make sure a notice of your contract and the bond are properly recorded in the parish mortgage records.

(b) When your contractor is paid, make sure that all those who worked on your home or supplied materials, ~~or~~ equipment, or services have been paid in full. To do this, you might want to require the contractor to give you written lien waivers signed by all those who worked on your home or supplied materials, ~~or~~ equipment, or services acknowledging that they have been paid.

At any time, you have the right to request, in writing, that the contractor provide you the names, addresses, and other contact information of all persons who worked on your home or supplied materials, equipment, or services, along with a statement of the amounts then owed to each of them. You also have the right to make a written request directly to any of those persons for a statement of the amount owed to them.

If you have further any questions, contact a lawyer.

By signing below, you acknowledge that you have been provided with this notice.

Owner or Agent

Date

B. The notice ~~herein~~ required by this Section shall not be considered a condition of the construction contract.

~~R.S. 9:4853. Copies of notice~~

A. ~~C.~~ A copy of the signed notice shall be given to the owner or agent ~~who has affixed his signature thereto.~~

B. ~~D. Every~~ Upon request, the contractor shall furnish a copy of the signed notice to any person who may be entitled to lien rights against the residential a claim against the owner or a privilege upon the owner's property for work, to be done or material materials, equipment, or services to be furnished pursuant to this Subpart shall be furnished a copy of the signed notice by the contractor upon request in connection with residential home improvements.

Finally, Mr. Cromwell asked the Council to turn to the draft report in response to House Concurrent Resolution No. 80. After the correction of one grammatical error – the deletion of the comma after “contractors” on line 23 of page 1 – one Council member suggested substituting “is never” for “generally is not” on line 34 of page 3, noting that the owner can still technically be liable under certain circumstances, such as if the surety fails to be solvent or if there is a change order and the surety bond is not increased accordingly. The Reporter agreed, and a motion to adopt the report as amended was made, seconded, and passed with no objection.

There being no additional business on behalf of the Security Devices Committee, Mr. Cromwell then concluded his presentation, at which time the Council adjourned for lunch.

Tax Sales

After lunch, the President called on Mr. Nick Kunkel, one of the Law Institute staff attorneys, to begin his presentation on Tax Sales.

Mr. Kunkel began his presentation by reminding the Council that at its December meeting, it had begun approving revisions proposed with respect to tax sales in response to the request that the Law Institute review Act No. 774 of the 2024 Regular Session and recommend technical and other changes to clarify, modify, or eliminate antiquated provisions of law. Turning to R.S. 47:2127, on page 3 of the materials, Mr. Kunkel reminded the Council that Subsections B through D had been recommitted at the December meeting for purposes of determining its applicability to both movables and immovables. A motion was made and seconded to adopt Subsection B and include the bracketed language on lines 22 and 23 of page 3, and the motion passed with all in favor. Turning to Subsection C, Mr. Kunkel explained that the reference to R.S. 47:2267 on line 37 of page 3 concerns the seizing creditor, and the Council discussed the expectation that the tax liens would rank in inverse order based upon when the taxes were due as opposed to concurrently, as is the case for privileges under the Private Works Act for example. One Council member suggested adding “irrespective of when the statutory impositions become due or the tax lien certificates are recorded” at the end of line 37, and the Council agreed. A motion was then made and seconded to adopt Subsection C as amended, and the motion passed with no objection. With respect to Subsection D, Mr. Kunkel explained that a clarification regarding statutory impositions on movable property had been added, and that the bracketed language on line 39 is consistent with provisions appearing elsewhere that provide for a ninety-day grace period. A motion was made and seconded to adopt Subsection D, at which time one Council member suggested deleting the first sentence of this provision on line 38 of page 3, and the Council agreed. The Council also agreed that the bracketed language on line 39 should be included and that the “(1)” on line 38 should be deleted since there is no Paragraph (2). A vote was then taken on the motion to adopt Subsection D as amended, which passed without objection. R.S. 47:2127(B) through (D) as approved by the Council read as follows:

R.S. 47:2127. Time for payment; interest and penalty; notification

* * *

B. Interest and penalty.

(1)(a) All delinquent statutory impositions, whether levied on movable or immovable property, shall bear interest from the day after the taxes were due ~~until paid~~, at the rate of one percent per month or any part thereof, calculated on a noncompounding basis.

(b) Interest shall continue to accrue on the statutory impositions as provided in Subparagraph (a) of this Paragraph until either of the following occurs:

(i) The statutory impositions are paid.

(ii) A tax lien certificate is issued for the delinquent obligation or, for statutory impositions levied on movable property, the property is sold pursuant to the provisions of Subpart A of Part III of this Chapter, R.S. 47:2141 et seq.

(2) If the delinquent obligation tax lien is offered for sale at tax lien auction, a five percent penalty calculated on the statutory impositions shall be assessed. Interest shall not accrue on the penalty. In the event of a tax lien auction of immovable property, the interest rate may be reduced.

(3) In the event of an erroneous assessment and adjustment by the tax commission, the tax debtor shall have fifteen days after the date of receipt of notice of the revised assessment in which to pay the adjusted amount without interest or penalty. If the address provided by the tax assessor on the tax roll proves to be incorrect and the tax debtor does not receive a timely notice, the tax collector may extend to the tax debtor a fifteen-day notice in which to pay without interest or penalty.

C. Tax lien. The delinquent obligation shall be secured by a lien and privilege in accordance with the provisions of R.S. 47:1993(G). The lien and privilege shall have priority over all other mortgages, liens, privileges, and other encumbrances. Except as otherwise provided in R.S. 47:2267, all tax liens shall rank concurrently, irrespective of when the statutory impositions become due or the tax lien certificates are recorded.

D. Failure to pay. All statutory impositions shall be paid. Failure to pay If the total statutory impositions, interest, and costs due on immovable property remain unpaid ninety days after becoming delinquent, shall subject the tax lien to shall be offered for sale at a tax lien auction in accordance with R.S. 47:2154. In the case of unpaid statutory impositions due on movable property, the movable property shall be subject to seizure and sale in accordance with the provisions of Subpart A of Part III of this Chapter, R.S. 47:2141 et seq. The tax lien shall have priority over all mortgages, liens, and other privileges encumbering the property. All tax liens issued by the tax collector or other tax collectors shall be ranked in pari passu.

* * *

The Council then considered R.S. 47:2154, on page 12 of the materials, Subsections A and B of which had been approved at the December Council meeting. A motion was quickly made and seconded to adopt Subsection C as presented, and the motion passed with no objection. Turning to Subsection D, one Council member suggested replacing the "will be assessed" language on lines 36 and 37 of page 12 with "will accrue on the face value of the tax lien certificate following its issuance," and the Council agreed. In Paragraph (D)(2), which sets forth the procedure of bidding and includes clarifying language, the Council agreed to change "not less than" to "of" on line 42 of page 12 and to add "or an integral multiple thereof" after "percent" on the same line to ensure that bids are being made in increments of tenths of a percent as opposed to 0.11 for example. Motions were then made and seconded to adopt Subsection D as amended and Subsections E and F as presented, and these motions passed with no objection. R.S. 47:2154(C) through (F) as adopted by the Council read as follows:

R.S. 47:2154. Tax lien auctions; time of auction; price

* * *

C. The auction price shall be the face value of the tax lien certificate.

D.(1) The auction shall be conducted by competitive bid. The subject of the competitive bidding shall be the monthly rate at which interest will accrue on the face value of the tax lien certificate following its issuance.

~~(2)(a) Subject to a maximum opening bid shall be for the statutory impositions due on the property, together with any applicable costs and interest at the rate of one percent per month, on a noncompounding basis from the day after the due date until the date of the auction. The bidders may submit bids reducing the amount of monthly interest rate to be assessed on the amount paid at the tax lien auction in increments not less than of one-tenth of a one percent or an integral multiple thereof. However, the lowest interest rate that can be bid is seven-tenths of one percent per month on a noncompounding basis. The winning bid shall be that which requires the assessment of interest at the lowest rate interest to be assessed against the amount paid at the tax lien auction shall be declared the winner. If multiple bidders offer submit the same lowest interest, then bid, the winner shall be the first in time to submit the bid.~~

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, no bid shall be accepted that purports to reduce the rate of monthly interest below seven-tenths of one percent.

~~D. The E.(1) No later than thirty days after the conclusion of the tax lien auction, the tax collector shall issue and file in the mortgage records of the parish in which the property is situated a tax lien certificate in favor of the winning bidder, or, if there is no bidder, the tax collector shall issue and record the tax lien certificate in favor of the political subdivision. The recording cost due to the clerk of court shall be included in the the price paid at the tax lien auction and the face value of the tax lien certificate. The tax collector shall also deliver a certified copy of the tax lien certificate to the winning bidder.~~

(2) The tax lien certificate shall be prima facie evidence of the validity of the tax lien and the assignment to the person named thereon.

~~E. The amount owed to the tax lien certificate holder for the delinquent obligation shall be secured by a tax lien on the immovable property described in the tax lien certificate. This lien shall have priority over all mortgages, liens, and privileges encumbering the property, but all tax lien certificates issued by the tax collector or other tax collectors shall be ranked equally with each other.~~

~~F. The tax lien certificate shall be filed no later than thirty days after the conclusion of the tax lien auction. The recording cost due to the clerk of court shall be included in the opening bid.~~

F. Upon the issuance of a tax lien certificate, interest shall accrue on the face value of the tax lien certificate at the monthly rate established by the winning bid at the tax lien auction. If the tax lien certificate is issued in favor of the political subdivision, interest shall accrue on the face value of the tax lien certificate at the rate of one percent per month. In both cases, interest shall be calculated on a noncompounding basis.

Next, Mr. Kunkel directed the Council's attention to R.S. 47:2155, on pages 13 through 15 of the materials. With respect to Subsection A, the Council agreed to add clarifying language ", or, if no bidder, the name of the political subdivision" after "bidder" on line 42 of page 13. The Council also corrected the spelling of "extinguished" on line 24 of page 14 and quickly approved Subsection B as presented. In Subsection C, which provides for peremption, the Council agreed to add "written" before "request" on line 11 of page 15 and "period" before "provided" on line 18 of the same page, to delete "Paragraph (1) of" on line 19, and to change "are" to "is" at the end of the same line. The Council also discussed Civil Code Article 3461, which provides that peremption may not be suspended except as otherwise provided by law, before a motion was made and seconded to adopt R.S. 47:2155 as amended. The motion passed with no objection, and the adopted proposal reads as follows:

R.S. 47:2155. Tax lien certificate

A. The tax collector shall authenticate and file in accordance with law, in person or by deputy, in the political subdivision's name, a tax lien certificate ~~to in favor of the winning bidder or, in the event of if no bidder, to in favor of the political subdivision,~~ in which the tax collector shall relate in substance a brief history of the proceedings ~~had,~~ describe the property, and state the face value of the tax lien certificate, including the amount of the statutory impositions, interest, and costs included in the auction price, the monthly interest rate, the penalty assessed at auction, and, if applicable, the payment made to him in cash, cashier's check, certified check, money order, credit card, or wire transfer, or other payment method. The tax collector shall deliver a tax lien certificate to the winning bidder or, if no bidder, the political subdivision and shall conclude the auction with the statement that the statutory impositions, together with interest, penalties, and costs, may be paid at any time prior to the expiration of thirty days after service of a petition to enforce the tax lien ~~certificate.~~ The tax lien certificate shall contain the full name and address of the ~~tax lien certificate holder winning bidder, or, if no bidder, the name of the political subdivision.~~ The certificate shall be sufficient if it is in the following form:

"Tax Lien Certificate
[Name of Political Subdivision]
v.
[Name of Tax Debtor]

State of Louisiana
Parish of _____
City of _____
To: _____

On this day of 20____, I, [Name of tax collector], Tax Collector in and for the [Name of political subdivision], in the name of the [name of political subdivision], and by virtue of the authority in me vested by the constitution and laws of the state of Louisiana and in pursuance of the requirements of those laws, having mailed and published the notice required by law and having strictly complied with each and every requirement of the laws relating to delinquent statutory impositions, did sell by public auction the tax lien, evidenced by this tax lien certificate, ~~for~~ encumbering the property described below.

To-wit:	
Ward _____	Section No. _____
	<u>Taxes Statutory Impositions</u>
	\$ _____
Assessment No. _____	Interest _____
	<u>Penalties</u>
	<u>Costs</u>
	<u>Total Face Value</u>
	<u>Penalty (if applicable)</u>

Property description:

[Name and address of Purchaser] being the winning bidder, and having bid the interest rate of ____%, and having complied with the terms of the auction, is issued a tax lien certificate for the property, which shall be prima facie evidence of the validity of the lien, and the assignment to [Name of Purchaser]. This tax lien certificate entitles him or his successors or assigns to be paid the termination price. He or his successors or assigns shall also

be entitled to amounts paid by the certificate purchaser subsequent to the auction as provided by law.

NOW, THEREFORE, all of the formalities of the law having been complied with, I [Name of Tax Collector], Tax Collector for the [Name of Political Subdivision], by virtue of the authority in me vested by the laws of the state of Louisiana, do by these presents issue and transfer unto [Name and Address of Purchaser] this tax lien certificate to the above-described property with all the improvements thereon. Any person may cause the tax lien certificate to be terminated extinguished by paying the termination price.

IN TESTIMONY WHEREOF, I have hereunto signed my name
officially at _____, Parish of
_____, in the presence
of the two undersigned competent witnesses, who also signed
on this _____ day of _____, 2_____.

Witnesses:

Printed Name:

[Name of Tax
Collector]

[Name of Political Subdivision]

Printed
Name:

By: _____

B. A certified copy of the tax lien certificate is shall be prima facie evidence of the regularity of all matters regarding the tax lien auction and the validity of the tax lien auction.

~~C.(1) The lien and privilege evidenced by the tax lien certificate shall prescribe An action to enforce the tax lien pursuant to R.S. 47:2266.1 shall be brought no later than seven years from the date that the tax lien certificate is recorded in the mortgage records of the parish in which the property is located. Prescription shall be suspended during any period in which the tax lien certificate is issued to and held by a political subdivision. A tax lien certificate holder may cause prescription to be suspended while enforcement of the tax lien certificate is prohibited by a bankruptcy stay by recording notice of the pendency of the bankruptcy action in the mortgage records in the parish in which the property is located. Upon the expiration of this time period, the tax lien shall be extinguished and, upon written request of an interested party, the recorder of mortgages shall cancel the inscription of the tax lien certificate from the records upon request of an interested party. No action to collect the delinquent obligation or enforce the lien and privilege may be instituted more than seven years after the recordation of the tax lien certificate.~~

(2) This The period provided for in this Subsection shall be peremptive. An action to enforce the tax lien that is instituted after the expiration of the peremptive period may be dismissed on the court's own motion.

(3) Notwithstanding the provisions of Paragraph (2) of this Subsection, the period provided for in this Subsection shall be suspended while either of the following conditions is satisfied:

(a) The tax lien certificate is held by the political subdivision.

(b) A bankruptcy stay prohibiting enforcement of the tax lien is pending, and a notice of pendency of the bankruptcy action is recorded in the mortgage records of the parish in which the property is located.

Turning to R.S. 47:2156, on pages 15 and 16 of the materials, the Council quickly approved Subsection A before discussing the six-month window during which notice is required to be provided. Ultimately, the Council agreed to replace line 31 and the beginning of line 32 on page 15 with "At least six months but no more than one year before..." In Subsection C, the Council discussed the stylistic changes made to the form, including the fact that the brackets should remain, and agreed to replace "Sender" with "The tax lien certificate holder" on line 9 of page 16. A motion was then made and seconded to adopt R.S. 47:2156 as amended, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 47:2156. Post-tax-lien-auction notice

A. The tax lien certificate holder shall use reasonable diligence to determine the name and current address of each tax auction party whose interest will be terminated by an action brought pursuant to the provisions of R.S. 47:2266.1.

B. ~~(1) No more than three hundred sixty five days but no fewer than one hundred eighty days~~ At least six months but no more than one year before bringing an action pursuant to R.S. 47:2266.1, the certificate holder shall send notice to each tax auction party discovered pursuant to Subsection A of this Section. If the tax auction party is a mortgage holder, notice shall be provided by certified or registered mail or commercial courier, as defined in Code of Civil Procedure Article 1313.

(2) Nothing in this Subsection shall be construed as prohibiting additional notice prior or subsequent to the timeframe specified in Paragraph (1) of this Subsection.

C. The notice required pursuant to Subsection B of this Section shall be sufficient if in the following or a substantially similar form:

"[Date]
[Name Tax Debtor]
Property No. _____
Ward _____ Section No. _____ Assessment
No. _____
Subbed. _____
Lot _____

RE:

THIS IS AN IMPORTANT NOTICE. This is to advise you that a tax lien certificate for the above property was issued to _____ who paid the tax collector ad valorem taxes, other statutory impositions, and costs due and owing for the year(s) _____.

Research indicates that you may have an ownership interest in, or mortgage, lien, privilege, or other interest in, the property described above. ~~Sender~~ The tax lien certificate holder intends to bring an action to enforce its rights as a certificate holder that may result in the seizure and sale of the property including and termination of your interest.

The tax lien certificate was issued to the tax lien certificate holder, who by law is entitled to receive payment of the lien amount on the property. At the expiration of three years from recordation of the tax lien certificate, the tax lien certificate holder may ~~bring an action under ordinary process~~ file suit to recognize and enforce the ~~delinquent obligation evidenced by the tax lien.~~ Thereafter, the tax lien certificate holder may seek through the seizure and sale of the property described above. The delinquent obligations Once suit has been filed, the delinquent obligation will include reasonable court costs and attorney fees incurred by the tax lien certificate holder, and you will

have only thirty days to terminate the lien once you are after being served with the citation and petition in the suit in which to pay the debt and extinguish the lien. Thereafter, the tax lien certificate may be ~~terminated~~ extinguished only by voluntary action of the tax lien certificate holder or by order of the court.

The tax lien ~~certificate and the debt that it secures~~ may be ~~terminated~~ extinguished by delivering the termination ~~payment price~~ price to the tax collector. As of [insert date no more than 15 days prior to the notice], the termination ~~payment price~~ price is [insert termination ~~payment price~~ price before addition of notice costs pursuant to R.S. 47:2156] plus the costs and fees incurred by the tax lien certificate holder related to delivery of notice pursuant to R.S. 47:2156, ~~which costs and fees shall not exceed up to \$500.~~ The termination payment ~~Interest~~ will continue to accrue ~~interest~~ until the debt is paid in full.

[It is recommended that a schedule of reasonable estimates of termination payments for each of the next six months be included.]

D. ~~Upon issuance of the notices required by this Section, the~~ The tax lien certificate holder shall be entitled to recover all reasonable and customary costs actually incurred in complying with the requirements of this Section, as established by submit an affidavit of costs and fees submitted by the tax lien certificate holder to the tax collector attesting to the costs incurred including title research fees, postage, and administrative fees, which ~~The costs recoverable pursuant to this Section shall not exceed five hundred dollars.~~

Mr. Kunkel then asked that the Council skip over R.S. 47:2158 and 2158.1 and noted that R.S. 47:2159 would be omitted from the report because no changes were being recommended. Turning to R.S. 47:2160 on page 18 of the materials, one Council member suggested replacing "to property" with "for the delinquent obligation due on a property" on line 26 of page 18, and the Council agreed. A motion was then made and seconded to adopt R.S. 47:2160 as amended, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 47:2160. Tax lien certificate; effect on other statutory impositions

A The issuance of a tax lien certificate to for the delinquent obligation due on a property shall not affect, invalidate, or extinguish the claim of another political subdivision for the statutory impositions due on the property that were not included in the bid auction price.

With respect to R.S. 47:2160.1, on pages 18 and 19 of the materials, the Council first agreed to delete "a tax lien auction and" on line 32 of page 18 before engaging in a great deal of discussion concerning Subsection B, specifically the mechanics of how the five percent penalty is assessed and whether it can be imposed twice for the same year, which Mr. Kunkel assured is not possible. The Council agreed that all of the bracketed language should be included in Paragraph (2) and that "pursuant to this Subsection" should be added after "paid" on line 41 of page 18. Mr. Kunkel also explained that the reference to R.S. 47:2127 had been removed because a different calculation of interest is set forth in that provision. The Council then agreed to add "by payment" after "extinguished" in Paragraph (3) on line 45 of page 18 before approving R.S. 47:2160.1 as amended. The adopted proposal reads as follows:

R.S. 47:2160.1. Subsequent statutory impositions

A. ~~After a tax lien auction and the~~ issuance of a tax lien certificate, all subsequent statutory impositions on the property shall continue to be assessed to and paid by the tax debtor.

B. (1) If the subsequent statutory impositions remain unpaid ~~by the tax debtor~~ by the date on which the statutory impositions become

delinquent, the tax lien certificate holder may pay the statutory impositions. Upon request, the tax collector shall provide a copy of the tax bill to the tax lien certificate holder unless the tax amount due is available online.

(2) ~~A tax lien certificate holder who pays statutory~~ Statutory impositions paid by a tax lien certificate holder on behalf of a tax debtor pursuant to this Subsection shall be entitled to collect become part of the delinquent obligation owed to the tax lien certificate holder, together with a five percent penalty on the statutory impositions and interest on the total amount paid pursuant to this Subsection at the rate of one percent per month, computed on a noncompounding basis in accordance with the provisions of R.S. 47:2127.

(3) ~~If a subsequent statutory imposition is~~ impositions are paid by the tax lien certificate holder after the tax lien is ~~terminated~~ extinguished by payment, the tax collector shall ~~issue a refund of the subsequent statutory imposition the payment to the tax lien certificate holder~~ within thirty days of written demand being made by the tax lien certificate holder.

Turning to R.S. 47:2162, on page 19 of the materials, a motion was quickly made and seconded to approve the proposed changes as presented. The motion passed without objection, and the adopted proposal reads as follows:

R.S. 47:2162. Purchase Acquisition of tax lien by tax collectors and assessors at tax lien auction forbidden

The tax collector ~~or~~ and tax assessor for the political subdivision, ~~or~~ and any other person acting on behalf of the political subdivision whose duties are to assess or collect ad valorem taxes for the political subdivision, shall not ~~buy~~ acquire, either directly or indirectly, any tax lien delinquent obligation. ~~The~~ Any tax lien auction of a tax lien acquired in violation of this Section shall be subject to an action for nullity, except that the violation of this Section shall not be a cause for annulling the tax lien auction if the property or tax lien certificate has been sold by the violator, his successor, or assigns offending tax lien certificate holder to a person who purchased the property tax lien in good faith by onerous title. In addition to any other penalties provided by law for violation of this Section, the violator In any case, a tax lien certificate holder who violates the provisions of this Section shall forfeit the price paid at the tax lien auction in favor of the tax debtor and shall disgorge any profits that the violator has made, either directly or indirectly, to the tax debtor.

Next, the Council considered R.S. 47:2163, on page 19 of the materials, concerning co-owners who "purchase" the lien and the fact that this will be treated as a payment of the delinquent obligation rather than providing the co-owner with any sort of benefit as the holder of the tax lien certificate. A motion was made and seconded to adopt the proposed revisions to this provision, at which time discussion ensued with respect to the fact that practically speaking, a tax lien certificate will still be issued to the co-owner because the sheriff will not be able to make these sorts of determinations at the auction. The Council generally agreed with this assessment and accordingly decided to restore the stricken text at lines 24 through 26 and, correspondingly, omit the inserted language "operate to extinguish the lien" at lines 26 and 27. The Council then considered undoing all of the proposed revisions to R.S. 47:2163, but Mr. Kunkel urged that some form of temporal clarification was necessary to make clear whether and to what extent the Section was intended to modify the default tax lien auction procedures, as opposed to merely modifying the auction's effect. After further discussion, the Council ultimately agreed to omit the phrase "without regard for the bidding process" in favor of replacing "the time of the tax lien auction" at lines 21-22 with "any time prior to commencement of the tax lien auction". In the interest of further clarifying the thrust of this change, the Council finally inserted the phrase "of the tax lien encumbering the property" following "the tax lien auction" at line 22. After a subsequent motion and second, proposed R.S. 47:2153 was adopted to read as follows:

R.S. 47:2163. Purchase by co-owners

An owner or co-owner may pay the statutory impositions plus interest and costs due at ~~the any time of prior to commencement of~~ the tax lien auction ~~of the tax lien encumbering the property~~. The purchase of a tax lien by an owner or other person holding an interest in the property, other than a tax lien certificate holder, shall be deemed a payment to the tax collector of the delinquent obligation. A tax lien certificate issued in the name of the owner or a person holding an interest in the property, other than a tax lien certificate holder, shall not constitute a lien and privilege on the property.

Mr. Kunkel then directed the Council's attention to R.S. 47:2164, on page 19 of the materials, concerning the assignment of a tax lien. A motion was made and seconded to adopt the proposed revisions to this provision, at which time one Council member noted that the last sentence as presently drafted had become an obligation to file when there is not one and suggested the following replacement language: "The assignment of a tax lien shall become effective against third persons upon filing the act of assignment in the mortgage records. Notice of the assignment shall be given to the tax collector." The Council agreed with this proposal, and the Council also agreed to delete the bracketed "certificate" language throughout this provision, as well as to add "evidenced by a tax lien certificate" after "tax lien" on line 34 of page 19. A vote was then taken on the motion to adopt R.S. 47:2164 as amended, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 47:2164. Tax lien ~~certificates~~ assignable; recordation

A tax lien ~~certificate~~ may be assigned by the tax lien certificate holder to any person who is not prohibited from purchasing acquiring the ~~delinquent obligation by tax lien pursuant to R.S. 47:2162~~. The assignment of a ~~certificate~~ tax lien evidenced by a tax lien certificate issued to in favor of a political subdivision for less than the full amount of the delinquent obligation shall not be considered a donation of public property. ~~Each The~~ assignment of a tax lien ~~certificate~~ shall ~~be filed with the recorder of mortgages and notice delivered~~ become effective against third persons upon filing the act of assignment in the mortgage records. Notice of the assignment shall be given to the tax collector.

At this time, the Council skipped over the provisions concerning adjudicated property, turning instead to R.S. 47:2241 on page 30 of the materials. Members of the Council quickly agreed that this provision should be omitted from the report since it did not contain any proposed amendments and that "TERMINATION" should be changed to "EXTINGUISHMENT" in the Part heading on line 27 of page 30. Considering R.S. 47:2241.1, the Council initially approved the proposed revisions as presented but later revised this provision to include language from a subsequent Section for review at a future meeting. Turning to R.S. 47:2242, on pages 30 and 31 of the materials, a motion was quickly made and seconded to approve the proposed revisions to this provision as presented, which passed without objection. The adopted proposal reads as follows:

R.S. 47:2242. Person entitled to ~~terminate~~ extinguish

Any person may cause a tax lien ~~certificate~~ to be ~~terminated~~ extinguished. Except as necessary to allow the termination price to be considered a debt of the bankruptcy estate, neither a tax lien certificate holder nor a person causing a tax lien ~~certificate~~ to be ~~terminated~~ extinguished shall qualify as a creditor in the tax debtor's succession or business reorganization, liquidation, or receivership.

Next, the Council considered R.S. 47:2243, on page 31 of the materials, concerning termination payments and agreed to replace "no more than thirty days later" on lines 14 and 15 with "within thirty days." The Council also agreed to redesignate Subparagraphs (e), (f), and (g) on lines 23, 24, and 29 respectively as Subparagraphs

(c), (d), and (e) due to earlier deletions, as well as to include all of the bracketed language on line 36 of page 31. Members of the Council further agreed to include the bracketed language on line 3 of page 32 and to delete "extinguishable" on line 11 of the same page as redundant. A motion was then made and seconded to adopt R.S. 47:2243 as amended, which passed without objection, and the adopted proposal reads as follows:

R.S. 47:2243. Termination payments

A. ~~If no action has been brought pursuant to R.S. 47:2266.1, the following rules shall apply:~~

(1) ~~Any person may cause~~ Except as otherwise provided in Subsection C of this Section, a tax lien certificate to shall be terminated extinguished by paying payment of the termination price to the tax collector of the appropriate political subdivision.

(2) The Upon receipt of the termination price, the tax collector shall do each of the following:

(a) Notify the terminating party of the existence of any additional tax lien certificates within the tax collector's authority that remain outstanding on the property.

(b) remit Remit the termination price to the tax lien certificate holder ~~no later than within~~ thirty days after receipt of the termination price.

B.(1) The termination price shall include all of the following:

(a) ~~The statutory impositions together with interest at a rate of one percent per month from the day after the due date to the date of the tax lien auction. The face value of the tax lien certificate.~~

(b) A Any penalty ~~at the rate of five percent calculated on the statutory impositions assessed in accordance with the provisions of R.S. 47:2127.~~

(c) ~~The costs related to the auction and required notices incurred by the tax collector.~~

(d) ~~The cost of preparing and recording the tax lien certificate.~~

(e) (c) The cost of preparing and recording the termination certificate.

(f) (d) Interest calculated on the amount paid at the tax lien auction face value of the tax lien certificate in accordance with the provisions of R.S. 47:2154(F). ~~at the rate established at auction or, in the case of a tax lien certificate issued in the name of the political subdivision, interest calculated on the amount that would have been due at the tax lien auction at the rate of one percent per month on a noncompounding basis.~~

(g) (e) The costs incurred by the tax lien certificate holder related to post-auction notices in an amount not to exceed five hundred dollars, provided that an affidavit was submitted to the tax collector in accordance with R.S. 47:2156 prior to the termination payment being made.

(2) ~~If the certificate holder has paid subsequent statutory impositions for the subject property, the termination price shall also include the amount of the subsequent statutory impositions, together with any applicable penalty, interest, and costs that may have accrued pursuant to this Part.~~

(f) Any amounts owed to the tax lien certificate holder pursuant to R.S. 47:2160.1 for subsequent parish or municipal statutory impositions, interest, and penalty.

~~(3)~~ (2)(a) If the certificate holder has caused any tax lien ~~certificates~~ liens outstanding on the subject property to be ~~terminated~~ extinguished and ~~the tax lien such terminated tax lien certificate~~ would not be preempted pursuant to R.S. 47:2155(C), the amount of ~~such~~ the termination payments shall be included in the termination price, together with interest on the amount of the termination payments at the rate stated in the certificate calculated on a noncompounding basis.

(b) A certificate holder who ~~terminates~~ extinguishes a tax lien ~~certificate~~ in accordance with Subparagraph (a) of this Paragraph shall notify the tax collector at the time of the termination of his status as the certificate holder. ~~Interest shall not accrue pursuant to Subparagraph (a) of this Paragraph if~~ If the certificate holder fails to satisfy the requirements of this Subparagraph the certificate holder shall not be entitled to recover as part of the termination price the amounts specified in Subparagraph (a) of this Paragraph.

~~(4)~~ (3)(a) The tax collector shall not be required to accept partial payment of the termination price due for a given tax lien certificate.

~~(b)~~ The Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the tax collector shall not refuse to accept payment of the termination price due for an outstanding tax lien on the basis that one or more additional tax lien certificates or unsold statutory impositions remain outstanding with respect to the subject property.

~~(b)~~ (c) If there are multiple tax lien certificates outstanding with respect to the subject property and the amount paid to terminate is less than the amount necessary to ~~terminate~~ extinguish all terminable tax lien ~~certificates~~ liens outstanding, the tax collector shall apply the amount paid as directed by the payor or, if not directed by the payor, to the oldest terminable tax lien ~~certificate~~ outstanding.

C. If an action has been brought pursuant to R.S. 47:2266.1, termination shall be made in accordance with the provisions of that Section.

Turning to R.S. 47:2244, on page 32 of the materials, the Council agreed to delete "total" on line 21 and to add "pursuant to this Section" after "costs" on the same line. A motion was then made and seconded to adopt the proposed revisions as amended, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 47:2244. Additional payments to political subdivision

The termination payment shall include the actual costs incurred by the political subdivision for preparation of the tax lien certificate, provision of the notice of the auction, provision of any post-auction notice, and recording costs. However, the ~~total~~ reimbursable costs pursuant to this Section shall not exceed three hundred dollars, exclusive of filing and recording fees.

With respect to R.S. 47:2245, on pages 32 and 33 of the materials, the Council deleted "of tax lien" in the heading of the provision on line 25 of page 32 but otherwise adopted the proposed changes to this Section as presented. The adopted proposal reads as follows:

R.S. 47:2245. Termination ~~of tax lien~~ certificate

Upon payment of all amounts due to extinguish a tax lien pursuant to R.S. 47:2243 and 2244, the tax collector shall issue a termination certificate in the name of the tax debtor and file the termination certificate in the appropriate mortgage records. Upon receipt of the termination certificate, the recorder of mortgages shall mark the tax lien certificate or

tax lien certificates cancelled. The termination certificate shall be sufficient if it is in the following form:

"CERTIFICATE OF TERMINATION
STATE OF LOUISIANA

PARISH OF _____
CITY OF _____

On this day, the undersigned received from _____ the full amount due under that certain tax lien certificate(s) related to delinquent statutory impositions to [name of political subdivision] for years _____ affecting the property described on Exhibit A, attached hereto and incorporated herein by reference.

NOW THEREFORE, I, under the authority conferred on me by R.S. 47:2245, hereby terminate each tax lien certificate hereinafter listed and direct and request the Clerk of Court and the Recorder of Mortgages for the Parish of _____ to cancel the following inscriptions:

Recorded in Mortgage Book _____, Page _____, Instrument No. _____, Registry No. _____.

Recorded in Mortgage Book _____, Page _____, Instrument No. _____, Registry No. _____.

Recorded in Mortgage Book _____, Page _____, Instrument No. _____, Registry No. _____.

Recorded in Mortgage Book _____, Page _____, Instrument No. _____, Registry No. _____.

DONE AND SIGNED at my office in _____, Louisiana this _____ day of _____, _____, ATTEST:

Printed Name:

[Name of tax collector] and Ex Officio Tax Collector

Printed Name: "

Next, Mr. Kunkel directed the Council to R.S. 47:2246, on page 33 of the materials, and after a motion was made and seconded to adopt the proposed revisions, one Council member questioned the characterization of this provision as setting out a "right to purchase" and wagered that the attachment of "terms and conditions established by the political subdivision" suggested that the provision was in fact intended to recognize the political subdivision's right to sell. To this end, the member queried rhetorically whether the political subdivision has the right to do so even without this language. Mr. Kunkel responded by noting the difficulties associated with selling adjudicated properties and explaining that this provision sets forth the explicit authority without much formality. The Council then agreed to change the heading of this provision to "Right to sell tax liens held by political subdivisions" before adopting the proposed revisions as amended. The adopted proposal reads as follows:

R.S. 47:2246. Right to purchase a sell tax ~~restore~~ certificate issued to the held by political subdivision subdivisions

~~For property receiving no bid~~ On the terms and conditions established by the political subdivision, any person may purchase from a political subdivision the tax lien evidenced by a tax certificate issued to in favor of the political subdivision ~~from the political subdivision and on the terms and conditions established by the political subdivision and file an action as a certificate holder pursuant to R.S. 47:2266.1. A person who~~

purchases a tax lien pursuant to this Section shall have the same rights as any other tax lien certificate holder pursuant to this Chapter.

The Council then considered R.S. 47:2247, on page 33 of the materials, and agreed that Subsection B of this provision should be redesignated as Paragraph (B)(2) of R.S. 47:2241.1 on page 30 of the materials. The Council also requested that it be clarified that this redemption may be done at any time, and Mr. Kunkel agreed to present these changes for the Council's review at a future meeting. The Council then determined that the heading of R.S. 47:2247 should be "Extinguishment of tax liens held by political subdivisions" and that similar language should be used on line 14 of page 33. A motion was made and seconded to adopt R.S. 47:2247 as amended, and the motion passed with no objection. The adopted proposal reads as follows:

R.S. 47:2247. Termination Extinguishment of tax lien ~~certificate issued to held by~~ political subdivisions; ~~additional payments~~

A. The person ~~terminating~~ extinguishing a tax lien ~~certificate issued to held by~~ a political subdivision shall pay the termination price and actual costs incurred by the political subdivision for all certified mail or commercial carrier, publication of notice, or personal services of notices in complying with the applicable provisions of law, including, without limitation, determination of tax auction parties and the notification of such persons of the subsequent transaction as allowed by law.

~~B. For property adjudicated to the state for nonpayment of taxes for years 1880 through 1973, any person may redeem the property in the name of the tax debtor, subject to any encumbrances placed on the property by the state, until such time as the state transfers the property.~~

Returning to page 20 of the materials, the Council briefly considered the inclusion of R.S. 47:2201.1 and agreed to delete "judicial" before "sales" on line 31 of page 20 when the issue of nonjudicial sales was raised. A motion was then made and seconded, and the January 31 Council meeting was adjourned.



Nick Kunkel



Mallory C. Waller