Regular Session, 2012

HOUSE BILL NO. 451

BY REPRESENTATIVE ABRAMSON

MORTGAGES:  Provides for priority of mortgages

1                                             AN ACT

2   To enact R.S. 9:5396, relative to priority of mortgages; to provide for priority of mortgages

3         on separate property; to provide with respect to false declarations; and to provide for

4         related matters.

5   Be it enacted by the Legislature of Louisiana:

6         Section 1.  R.S. 9:5396 is hereby enacted to read as follows:

7         §5396.  Priority of mortgage on separate property

8              When it is determined in accordance with Civil Code Article 2342 that a

9   declaration contained in an act of acquisition that property acquired with separate

10  funds as the separate property of a spouse is false, any conventional mortgage

11  executed for that separate property by the acquiring spouse shall be superior in rank

12  to any judicial mortgage, lien, or privilege against the non-acquiring spouse.

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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)]

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Abramson                                                                       HB No. 451

**Abstract:**  Provides that a mortgage acquired on the separate property of a spouse has
        priority over a mortgage, lien, or privilege of the other spouse, even when it is
        determined that the separate property was acquired with community assets.

Present law provides procedures by which a declaration in an act of acquisition that things
have been acquired with separate funds as the separate property of a spouse may be
controverted.

Proposed law provides for priority of a mortgage acquired with separate property of a spouse over a mortgage, lien, or privilege of the other spouse, even when it is determined the separate property was acquired with community funds.

(Adds R.S. 9:5396)