

Regular Session, 2012

SENATE BILL NO. 393

BY SENATOR MURRAY

CIVIL PROCEDURE. Provides relative to eviction proceedings and motions for new trial.
(gov sig)

1 AN ACT
2 To amend and reenact Code of Civil Procedure Articles 4732 and 4735, relative to eviction
3 of tenants and occupants; to provide relative to a motion for a new trial; to provide
4 certain procedures, time periods, and effects; and to provide for related matters.
5 Be it enacted by the Legislature of Louisiana:
6 Section 1. Code of Civil Procedure Articles 4732 and 4735 are hereby amended and
7 reenacted to read as follows:
8 Art. 4732. Trial of rule; judgment of eviction
9 A. The court shall make the rule returnable not earlier than the third day after
10 service thereof, at which time the court shall try the rule and hear any defense which
11 is made.
12 B. If the court finds the lessor or owner entitled to the relief sought, or if the
13 lessee or occupant fails to answer or to appear at the trial, the court shall render
14 immediately a judgment of eviction ordering the lessee or occupant to deliver
15 possession of the premises to the lessor or owner. The judgment of eviction shall be
16 effective for not less than ninety days. **If the judgment of eviction is rendered**
17 **against an unrepresented defendant appearing at trial, the court shall advise**

1 **him of his right to seek a new trial and to appeal.**

2 **C. A party may make a written request or motion for a new trial on any**
 3 **grounds applicable under Articles 1972 and 1973. A new trial must be applied**
 4 **for within twenty-four hours after the rendition of the judgment of eviction.**

5 * * *

6 Art. 4735. Appeal; bond

7 An appeal does not suspend execution of a judgment of eviction unless the
 8 defendant has answered the rule under oath, pleading an affirmative defense entitling
 9 him to retain possession of the premises, and the appeal has been applied for and the
 10 appeal bond filed within twenty-four hours after the rendition of the judgment of
 11 eviction **or within twenty-four hours after the denial of a motion for a new trial**
 12 **if such motion was made.** The amount of the suspensive appeal bond shall be
 13 determined by the court in an amount sufficient to protect the appellee against all
 14 such damage as he may sustain as a result of the appeal.

15 Section 2. This Act shall become effective upon signature by the governor or, if not
 16 signed by the governor, upon expiration of the time for bills to become law without signature
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 19 effective on the day following such approval.

The original instrument was prepared by Jerry G. Jones. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Julie J. Baxter.

DIGEST

Murray (SB 393)

Present law in Code of Civil Procedure sets forth judicial procedures relative to evictions of tenants and occupants. Provides for trial by rule and rendition of a judgment of eviction. Further provides that an appeal may be taken under certain circumstances if the appeal is applied for within 24 hours after the rendition of the judgment of eviction.

Proposed law adds that a party may make a written request or motion for a new trial on certain grounds, if the new trial is applied for within 24 hours after the rendition of the judgment of eviction. Provides that an appeal under present law may be taken if applied for within 24 hours after the rendition of the judgment of eviction, or within 24 hours after the denial of a motion for new trial if such motion is made.

Proposed law requires, in the case of a judgment of eviction rendered against an

unrepresented defendant appearing at trial, that the court shall advise him of his right to seek a new trial and to appeal.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.C.P. Arts. 4732 and 4735)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Adds requirement that the court advise unrepresented defendants of the right to seek a new trial and appeal.