

2026 Regular Session

HOUSE RESOLUTION NO. 335

BY REPRESENTATIVE MUSCARELLO

A RESOLUTION

To direct the Louisiana State Law Institute to study the prescription of actions to enforce zoning restrictions, building restrictions, and subdivision regulations by parishes and municipalities and to submit recommendations for proposed legislation to the House of Representatives no later than March 1, 2027.

WHEREAS, parishes and municipalities regulate land use through zoning, comprehensive plans, building codes, environmental regulations, and development approvals to ensure the orderly growth of the area included within their respective jurisdictions and to preserve the public health, safety, and welfare of their citizens; and

WHEREAS, parishes and municipalities are authorized to adopt master plans for the physical development of their respective jurisdictions, including the adoption of zoning restrictions and subdivision regulations; and

WHEREAS, zoning restrictions divide land into zones or districts, specifying permitted uses such as residential, commercial, industrial, or agricultural and these restrictions further set density limits, building heights, and lot sizes; and

WHEREAS, subdivision regulations govern how land is divided into smaller lots, addressing street layouts, infrastructure, and utility requirements and may require site plan approvals, design standards, and development review procedures to ensure that new projects comply with zoning and comprehensive plan objectives; and

WHEREAS, parishes and municipalities are also authorized to adopt building restrictions to establish minimal standards for building design, construction, and maintenance, which are essential for preventing accidents, injuries, and fatalities and these restrictions also address risks from natural disasters by ensuring that structures are sound and have properly functioning systems; and

WHEREAS, parishes and municipalities are authorized to enforce compliance with zoning restrictions, building restrictions, and subdivision regulations and to bring civil or criminal actions for the violations of such restrictions and regulations; and

WHEREAS, R.S. 9:5625 requires parishes and municipalities to bring such actions for violations within five years from the first act constituting the commission of the violation; and

WHEREAS, R.S. 9:5625 further provides that once prescription has accrued, the particular property involved in the violation of the zoning restriction, building restriction, or subdivision regulation shall enjoy the same legal status as land uses and construction features of buildings or subdivisions made nonconforming by the adoption of any zoning restriction, building restriction, or subdivision regulation; and

WHEREAS, there has been disagreement as to which activity is the first act that constitutes the commission of a violation and thus the commencement of the prescriptive period; and

WHEREAS, the issue was recently litigated in the La. Supreme Court case *McCormick v. Ford* (La. 5/9/2025), 408 So.3d 932 in which property owners filed a mandamus action seeking a court order requiring the Bossier Parish police jury to issue a building permit to allow owners to build a new residence on their property after the parish denied the building permit in part due to the property's violation of the parish's subdivision code; and

WHEREAS, the property owners acquired the property in question in 2014 from the previous owner who sold them a split-out tract which included approximately one hundred and twenty eight acres; and

WHEREAS, the deed for split-out to the property owners was recorded in the conveyance records of the parish in 2014 and failed to satisfy the subdivision regulations enacted by the police jury; and

WHEREAS, no action was taken by the parish to address the violation of the subdivision regulations until more than five years later when the property owners sought a building permit for a new residence on the property; and

WHEREAS, the property owners argued that the violation of the subdivision regulations occurred at the time the deed for split-out to the property owners was recorded in the conveyance records of the parish and that any action to address the violation of subdivision regulations had prescribed; and

WHEREAS, the police jury questioned whether the recording of the deed was the first act that constituted the commencement of the prescriptive period, and a local parish official testified during the trial that because the local parish office is small, local officials do not normally receive notice that a subdivision has been illegally split-out until the property owner seeks a building permit; and

WHEREAS, the police jury argued that the court of appeal incorrectly applied the public records doctrine and the theory of constructive knowledge to hold that the five-year prescriptive period commenced on the date that the deed was recorded in the conveyance records; and

WHEREAS, the police jury also argued that it was entitled to rely on the property owners, the notary public who notarized the property owner's deed, and the parish clerk of court to comply with R.S. 33:5051 and 5052 as R.S. 33:5052 expressly charges clerks of court and notaries public with the legal obligation not to record deeds that fail to comply with R.S. 33:5051; and

WHEREAS, the La. Supreme Court sided with the property owners and held that the violation of the subdivision regulations occurred when the property owners filed the deed in the conveyance records of the parish and that any action to enforce the subdivision regulations had prescribed and as such the property enjoyed a non-conforming status by operation of R.S. 9:5625; and

WHEREAS, the issue of prescription was also litigated in the La. Second Circuit Court of Appeal case *Bossier Parish Policy Jury v. Hicks*, (*La. App. 2 Cir., 11/19/2025*), 425 *So.3d* 252 in which the Bossier Parish police jury filed a petition for injunctive relief in 2021 alleging that a property owner constructed a concrete driveway on parish property without the knowledge or consent of the parish, in violation of a parish ordinance that required the property owner to request a driveway permit; and

WHEREAS, counsel for the property owner stated that the affidavits of the previous owners of the property showed a historical use of the driveway, that a prior owner constructed it pursuant to a 1979 servitude, and that the current property owner resurfaced it in March 2021; and

WHEREAS, the property owner argued that the district court failed to apply the five-year prescriptive period provided in R.S. 9:5625, and that the accrual of prescription had extinguished any enforcement action brought after 1984, when the driveway had already existed for five years without challenge and thus the driveway became a statutorily lawful, vested nonconforming improvement; and

WHEREAS, the police jury argued that the five-year prescriptive period did not apply because the particular ordinance at issue was not a zoning restriction, building restriction, or subdivision regulation but, rather, a condition on the use of public property and that applying R.S. 9:5625 would undermine fundamental principles of public ownership; and

WHEREAS, the court held that the prescriptive period set forth in R.S. 9:5625 was applicable to the case as the ordinance at issue was a building restriction and that the first act constituting the commission of the violation was the original construction of the driveway in 1979 without a permit and thus the driveway enjoyed nonconforming status; and

WHEREAS, local government officials possess a substantial and legitimate stake in the outcome of cases involving the prescriptive period for the enforcement of zoning restrictions, building restrictions, and subdivision regulations; and

WHEREAS, there is a need for updated legislation regarding the prescription of actions to enforce zoning restrictions, building restrictions, and subdivision regulations that balances the public purpose of regulating land use and the right of property owners not to be deprived of property without due process of law and just compensation.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby direct the Louisiana State Law Institute to study the prescription of actions to enforce zoning restrictions, building restrictions, and subdivision regulations by parishes and municipalities and to submit recommendations for proposed legislation to the House of Representatives no later than March 1, 2027.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES