

2017 Regular Session

SENATE BILL NO. 109

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRESCRIPTION. Provides for the suspension of prescription. (gov sig)

1 AN ACT

2 To enact Part V of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of the

3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:5836, relative to the

4 effect of obligations during certain emergencies and disasters; to provide relative to

5 suspension of prescription and preemptive periods and other legal deadlines; to

6 provide relative to the extension of prescription and preemptive periods and other

7 legal deadlines; to provide relative to the ratification of Executive Orders JBE

8 2016-53, 2016-57, and 2016-66; to provide certain terms, conditions, procedures,

9 and requirements; to provide for retroactive application; and to provide for related

10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part V of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of
13 the Louisiana Revised Statutes of 1950, comprised of R.S. 9:5836, is hereby enacted to read
14 as follows:

15 **PART V. SUSPENSION OR EXTENSION OF PRESCRIPTION, PEREMPTION,**
16 **AND OTHER LEGAL DEADLINES DURING 2016 FLOODING**

17 **§5836. Purpose; approval and ratification; application and procedures; effect**

1 A. The legislature finds that in 2016 the state of Louisiana experienced
2 a flooding disaster that, as shown and declared by the governor of this state in
3 Proclamation No. 111 JBE 2016, created a statewide emergency disrupting and
4 forcing the closure of certain courts and public offices and further resulting in
5 the displacement of courts, offices, clients, and counsel. The legislature further
6 finds that there is a compelling governmental interest in the enactment of this
7 Part for the benefit and protection of the state as a whole and its citizens, and
8 to prevent injustice, inequity, and undue hardship to persons who were
9 prevented by this disaster from timely access to courts, offices, and proceedings
10 in the exercise of their legal rights, including the filing of documents and
11 pleadings as authorized or required by law. Therefore, this Section shall be
12 liberally construed to effect its purposes.

13 B. The actions of the governor of this state in issuing Executive Orders
14 JBE Nos. 2016-53, 2016-57, and 2016-66, and the suspension of deadlines and
15 liberative prescriptive and preemptive periods as set forth in such executive
16 orders, are hereby approved, ratified, confirmed, and enacted as provided in
17 this Section.

18 C. Liberative prescription and preemptive periods are suspended
19 throughout the state beginning August 12, 2016, until and through September
20 30, 2016.

21 D.(1) Deadlines in legal proceedings in courts, administrative agencies
22 and boards affected by the flooding event, defined as the following parishes:
23 Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East
24 Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston,
25 Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St.
26 Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West
27 Baton Rouge, and West Feliciana, shall be suspended upon certification by any
28 litigant, interested party, or attorney that they are unable to meet a legal
29 deadline due to the declared disaster.

1 **(2) Once the inability to meet a legal deadline is certified as provided in**
2 **Paragraph (1) of this Subsection, the applicable legal deadline shall be**
3 **suspended until and through September 30, 2016. Any such suspension shall**
4 **apply to legal deadlines, including but not limited to nonconstitutionally**
5 **mandated deadlines in criminal proceedings and any such deadlines as provided**
6 **in the Louisiana Civil Code; Louisiana Code of Civil Procedure; Title 9 of**
7 **Louisiana Revised Statutes, Civil Code Ancillaries; Title 13 of Louisiana**
8 **Revised Statutes, Courts and Judicial Procedure; Chapter 11 of Title 18 of**
9 **Louisiana Revised Statutes, Election Campaign Financing; Chapter 10 of Title**
10 **23 of Louisiana Revised Statutes, Workers' Compensation; Chapter 5, Part**
11 **XXI-A, of Title 40 of Louisiana Revised Statutes, Malpractice Liability for State**
12 **Services; Chapter 5, Part XXIII, of Title 40 of Louisiana Revised Statutes,**
13 **Medical Malpractice; Chapter 15 of Title 42 of Louisiana Revised Statutes;**
14 **Title 47 of Louisiana Revised Statutes, Revenue and Taxation; and Title 49,**
15 **Chapter 13, Administrative Procedure.**

16 **E. Additionally, courts, administrative agencies, and boards throughout**
17 **the state shall use due diligence in accommodating requests for delays or**
18 **continuances from any litigant, interested party, or attorney who may have been**
19 **impacted by the flooding disaster declared in Proclamation No. 111 JBE 2016.**

20 **F. The provisions of Subsection D of this Section shall not be interpreted**
21 **so as to prohibit an owner of immovable property from reclaiming leased**
22 **property if abandoned as provided by law, or entering leased property to make**
23 **necessary repairs as provided by law.**

24 **G. The provisions of this Section shall supersede and control to the extent**
25 **of conflict with any other provision of law.**

26 **H. It is the express intent of the Legislature of Louisiana that the**
27 **provisions of this Section shall be given retroactive application.**

28 **I. The Louisiana State Law Institute shall include as notes to this Section**
29 **Executive Orders JBE Nos. 2016-53, 2016-57, and 2016-66.**

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 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 Nancy Vicknair.

DIGEST

SB 109 Reengrossed

2017 Regular Session

Claitor

Proposed law ratifies and enacts Executive Orders JBE 2016-53, 2016-57, and 2016-66, which due to flooding created a limited suspension of all prescription and preemptive periods from August 12, 2016, until September 30, 2016, and extended deadlines in legal proceedings in courts, administrative agencies, and boards, both with certain exceptions.

Proposed law provides that it shall supersede and control to the extent of conflict with any other provision of law. Further provides that it is the express intent of the Legislature of Louisiana that the provisions of the proposed law shall be given retroactive application.

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

(Adds R.S. 9:5836)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.