

2017 Regular Session

HOUSE BILL NO. 679 (Substitute for House Bill No. 399 by Representative Garofalo)

BY REPRESENTATIVE GAROFALO

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

PRESCRIPTION: Provides relative to suspension or extension of prescription, peremption, and certain legal deadlines

1 AN ACT

2 To enact Part V of Chapter 1 of Code Title XXIV of Title 9 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 9:5826 and 5827, relative to prescription;  
4 to provide relative to preemptive and prescriptive deadlines; to provide relative to  
5 legal deadlines; to provide for applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Part V of Chapter 1 of Code Title XXIV of Title 9 of the Louisiana  
8 Revised Statutes of 1950, comprised of R.S. 9:5826 and 5827, is hereby enacted to read as  
9 follows:

10 §5826. Purpose

11 In response to the widespread flooding and power outages that occurred in  
12 August of 2016, the governor of this state issued Executive Orders JBE 2016-53, 57,  
13 and 66, which, among other things, purports to suspend or extend certain prescriptive  
14 periods and preemptive periods. The legislature finds that it is necessary to provide  
15 for a clear termination of any suspension or extension of prescriptive periods and  
16 preemptive periods created by these executive orders in order to preserve a fair and  
17 consistent application of the laws of prescription and peremption.

18 §5827. Suspension and extension of prescription and peremption; 2016 flooding  
19 disaster

20 In accordance with Executive Orders JBE 2016-53, 57, and 66, all  
21 prescriptive periods, including liberative, acquisitive, and the prescription of nonuse,

1        and all preemptive periods were suspended or extended for a period beginning  
2        August 12, 2016, and ending September 30, 2016. To the extent that any  
3        prescriptive period or preemptive period would have run on or before September 30,  
4        2017, but for the suspension or extension of the period pursuant to the Executive  
5        Orders JBE 2016-53, 57, and 66, the prescriptive or preemptive period will be  
6        deemed to have run upon the earlier of: (1) the date calculated pursuant to Louisiana  
7        Civil Code Article 3472, or (2) September 30, 2017. The suspension and extension  
8        of prescriptive periods and preemptive periods contained in Executive Orders JBE  
9        2016-53, 57, and 66 shall not apply to any prescriptive period or preemptive period  
10       accruing on or after October 1, 2017.

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

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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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HB 679 Reengrossed

2017 Regular Session

Garofalo

**Abstract:** Suspends or extends prescriptive and preemptive periods and certain legal deadlines due to the floods of 2016.

Present law (R.S. 9:5821-5825) provides rules and exceptions for prescription by law and for legal extensions due to the hardships caused by Hurricanes Katrina and Rita.

Proposed law (R.S. 9:5826-5827) provides for the suspension or extension of preemption, prescription, and certain legal deadlines due to the hardships caused by the floods of 2016. Provides for the suspension or extension of prescriptive periods and preemptive periods for the period of time between Aug. 12, 2016, and Sept. 30, 2016.

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

(Adds R.S. 9:5826-5827)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Eliminate all language regarding mineral servitudes.
2. Add an effective date provision.