

2022 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVES LANDRY, AMEDEE, FONTENOT, MAGEE, ORGERON,
AND ZERINGUE

LESSOR/LESSEE: Provides relative to abandonment of a rental premises following the
declaration of a federally declared disaster

1 AN ACT

2 To enact Code of Civil Procedure Article 4731(C), relative to leases; to provide relative to
3 federally declared national disasters; to provide relative to abandonment; to provide
4 for repossession of the premises; to provide for an exception; to provide for
5 damages; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 4731(C) is hereby enacted to read as
8 follows:

9 Art. 4731. Rule to show cause why possession should not be delivered;
10 abandonment of premises; federally declared disasters

11 * * *

12 C.(1) In parishes subject to a federal disaster declaration, cessation of
13 residential occupancy shall not be deemed evidence of abandonment pursuant to
14 Paragraph B of this Article for thirty days following the initial declaration of a
15 federally declared disaster.

16 (2) Failure of the lessor to comply with this Article shall give a residential
17 lessee the right to recover five hundred dollars or twice the amount of the monthly
18 rent, whichever is greater, from the lessor or owner, or from the lessor's successor

1 in interest. A residential lessee may obtain a restraining order or a preliminary
2 injunction to enforce the provisions of this Article.

3 (3) The court may award costs and attorney fees to the prevailing party for
4 actions brought pursuant to this Article.

5 (4) In parishes subject to a federally declared disaster, a court shall not
6 require a residential lessee bringing an action for a temporary restraining order or
7 preliminary injunction under this Article to furnish security, as required by Code of
8 Civil Procedure Article 3610 for the thirty days following the initial declaration of
9 a federally declared disaster.

10 (5) Nothing in Paragraph C of this Article shall preempt the rights afforded
11 to a lessor in Civil Code Article 2693.

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)]

HB 160 Reengrossed

2022 Regular Session

Landry

Abstract: Provides that cessation of residential occupancy shall not be deemed evidence of abandonment for 30 days in parishes subject to an initial declaration of a federally declared disaster.

Present law (C.C.P. Art. 4701) provides that when the lessor wishes to obtain possession of the premises from the lessee, the lessor or his agent shall have a written notice to vacate delivered to the lessee. The notice shall allow the lessee five days from the date of its delivery to vacate the premises. A lessee may waive the notice requirements by written waiver.

Present law (C.C.P. Art. 4731(A)) provides that if the lessee or occupant fails to comply with or has waived the notice to vacate, the lessor or owner may cause the lessee or occupant to show cause why they should not be ordered to deliver possession of the premises to the lessor or owner.

Present law (C.C.P. Art. 4731(B)) provides that after notice has been given, the lessor or owner may lawfully take possession of the premises without further judicial process upon the reasonable belief that the lessee or occupant has abandoned the premises.

Proposed law provides an exception to abandonment as provided in C.C.P. Art. 4731(B), whereby cessation of residential occupancy shall not be deemed evidence of abandonment for 30 days in parishes subject to the initial declaration of a federally declared disaster.

Proposed law provides that a residential lessee may recover the greater of \$500 or twice the amount of monthly rent from the lessor or owner for failure to comply with C.C.P. Art. 4731.

Proposed law provides that the court may award costs and attorney fees to the prevailing party for actions brought pursuant to proposed law.

Proposed law provides that a residential may enforce proposed law by obtaining a restraining order or a preliminary injunction.

Present law (C.C.P. Art. 3610) requires an applicant for a temporary restraining order or preliminary injunction provide security, except where security is dispensed with by law.

Proposed law provides that court shall not require a lessee bringing an action for a temporary restraining order or preliminary injunction to furnish security in parishes subject to a federally declared disaster for the 30 days following the declaration of the federally declared disaster.

Present law (C.C. Art. 2693) provides for the lessor's right to make repairs.

Proposed law provides that nothing in proposed law shall preempt the rights of the lessor to repair as provided in present law.

(Adds C.C.P. Art. 4731(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Specify that in parishes where there is a federally declared disaster, cessation of residential occupancy for the 30 days following the initial federal disaster declaration shall not be admitted as evidence.
2. Remove provisions requiring the application of R.S. 9:3252 and R.S. 9:3253.
3. Specify that in parishes where there is a federally declared disaster, a residential lessee does not have to provide security for temporary restraining orders or preliminary injunctions for the 30 days following the initial federal disaster declaration.
4. Provide that nothing in proposed law shall preempt the lessor's right to make repairs as provided in C.C. Art. 2693.

The House Floor Amendments to the engrossed bill:

1. Clarify that the lessor's failure to comply with proposed law shall give the residential lessee the right to recover.
2. Add that a residential lessee may obtain a restraining order or preliminary injunction to enforce proposed law.