

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 389

2022 Regular Session

Pressly

PRESCRIPTION: Provides relative to emergency suspension of legal deadlines

Synopsis of Senate Amendments

1. Adds provision providing for a two-year prescription period for injuries sustained during the operation or control of a vehicle.

Digest of Bill as Finally Passed by Senate

Present law (C.C. Art. 3447) provides that liberative prescription is a mode of barring actions as a result of inaction for a period of time.

Present law (C.C. Art. 3458) provides that peremption is a period of time fixed by law for the existence of a right. Present law provides that unless timely exercised, the right is extinguished upon the expiration of the preemptive period.

Present law (C.C. Art. 3467) provides that prescription runs against all persons unless legislation establishes an exception.

Present law (C.C. Art. 3461) provides that peremption may not be renounced, interrupted, or suspended.

Proposed law changes present law and adds that the law may provide exceptions to present law.

Present law (C.C. Art. 3472.1) provides for the emergency suspension of prescription and peremption in the event that the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-772; La. Homeland Security and Emergency Assistance and Disaster Act, National Guard Mutual Assistance Counter-Drug Activities Compact, and La. Health Emergency Powers Act).

Present law provides that if the governor declares a state of emergency or disaster, the La. Supreme Court may suspend all prescriptive and preemptive periods for up to 90 days.

Present law provides for continuing suspensions.

Present law provides that the suspension period will terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster. Present law provides that the right to file any pleading subject to the suspension as provided in present law shall terminate 60 days after the suspension terminates.

Proposed law changes present law and provides that if the governor declares a state of emergency or disaster and issues an order that suspends or extends the liberative prescriptive and peremption periods, the executive order or proclamation shall have the effect of suspending only those liberative prescriptive or preemptive periods that would have otherwise accrued during the time specified in the order or duration of the order's effectiveness.

Proposed law provides that when the suspension period terminates, liberative prescription or peremption commences to run again and accrues upon the earlier of 30 days after the expiration of the period of suspension or in accordance with time as calculated in present law (C.C. Art. 3472).

Present law (C.C. Art. 3492) provides for a one-year liberative prescriptive period for delictual actions.

Proposed law increases the one-year prescriptive period for delictual actions involving vehicles from one year to two years, commencing from the day injury or damage is sustained.

Proposed law provides that prescription does not run against minors or interdicts in actions involving permanent disability and brought pursuant to state law governing product liability actions.

Present law (C.C. Art. 3472) provides that a period of suspension is not counted toward the accrual of prescription. Present law provides that prescription commences to run again upon the termination of the period of suspension.

Proposed law (C.C.P. Art. 196.2) provides that when the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-775), the supreme court, rather than the governor, may suspend or extend deadlines applicable to legal proceedings in court, including abandonment of actions.

Present law (C.C.P. Art. 561) provides that an action is abandoned when the parties fail to take any step in its prosecution or defense in the trial court for three years. An appeal is abandoned when parties fail to take any step in its prosecution or disposition or disposition for the period provided in the rules of the appellate court.

Proposed law (C.C.P. Art. 196.2) provides that the suspension or extension of deadlines applicable to legal proceedings shall only extend deadlines applicable to legal proceedings that would have otherwise accrued during the period of time in the order. After the suspension or extension period has expired, a party shall have an amount of time as specified in the court order to file any pleading affected by the suspension or extension. Proposed law provides that if no amount of time is specified, the parties shall have 30 days after the period has expired.

Present law (C.C.P. Art. 562) provides that when the governor declares a state of emergency or disaster pursuant to present law (R.S. 29:721-775) the supreme court may suspend the period of abandonment for a period of time not to exceed 90 days. Present law provides for continuing suspensions.

Present law provides that the suspension period will terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster. Present law provides that the right to file any pleading subject to the suspension as provided in present law shall terminate 60 days after the suspension terminates.

Proposed law repeals present law.

(Amends C.C. Arts. 3461 and 3472.1; Adds C.C. Art. 3493.11 and C.C.P. Art. 196.2; Repeals C.C.P. Art. 562)