

RÉSUMÉ DIGEST

ACT 469 (HB 389)

2022 Regular Session

Pressly

Existing 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.

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

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

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

New law changes existing law and adds that the law may provide exceptions to existing law.

Existing 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 existing 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).

Existing 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.

Existing law provides for continuing suspensions as deemed necessary and appropriate.

Existing 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. Existing law provides that the right to file any pleading subject to the suspension as provided in existing law shall terminate 60 days after the suspension terminates.

New law changes existing 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.

New 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 existing law (C.C. Art. 3472).

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

New law (C.C.P. Art. 196.2) provides that when the governor declares a state of emergency or disaster pursuant to existing 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.

Existing 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 for the period provided in the rules of the appellate court.

New 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. New law provides that if no amount of time is specified, the parties shall have 30 days after the period has expired.

Prior law (C.C.P. Art. 562) provided that when the governor declared a state of emergency or disaster pursuant to prior law (R.S. 29:721-775), the supreme court was authorized to suspend the period of abandonment for a period of time not to exceed 90 days. Prior law provided for continuing suspensions.

Prior law provided that the suspension period would terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster. Prior law provided that the right to file any pleading subject to the suspension as provided in prior law terminated 60 days after the suspension terminated.

New law repeals prior law.

Effective August 1, 2022.

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