

First Extraordinary Session, 2005

HOUSE BILL NO. 90

BY REPRESENTATIVES ANSARDI AND GALLOT AND SENATOR LENTINI

PRESCRIPTION: Provides for the suspension of prescription

1 AN ACT

2 To enact Chapter 1 of Code Title III of Code Book III of Title 9 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 9:2551 through 2565, relative to the effect
4 of obligations during certain emergencies and disasters; to provide relative to
5 suspension of prescription and preemptive periods; to provide for the ratification of
6 Executive Orders KBB 2005-32, 48, and 67; to provide for the effect of suspension;
7 to provide for termination; to provide for retroactive application; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 1 of Code Title III of Code Book III of Title 9 of the Louisiana
11 Revised Statutes of 1950, comprised of R.S. 9:2551 through 2565, is hereby enacted to read
12 as follows:

13 CODE TITLE III—OBLIGATIONS IN GENERAL
14 CHAPTER 1. OF OBLIGATIONS DURING CERTAIN EMERGENCIES AND
15 DISASTERS

16 §2551. Purpose; ratification
17 A. The legislature finds that Hurricanes Katrina and Rita created a statewide
18 emergency disrupting and forcing the closure of certain courts and public offices and
19 further resulting in the displacement of courts, offices, clients, and counsel. This
20 Chapter is enacted for the benefit and protection of the state as a whole and its

1 citizens, and to prevent injustice, inequity, and undue hardship to persons who were
2 prevented by these hurricanes from timely access to courts and offices in the exercise
3 of their legal rights, including the filing of documents and pleadings as authorized
4 or required by law.

5 B. The action of the governor of this state in issuing Executive Orders KBB
6 2005-32, 48, and 67, relative to the suspension of prescriptive and preemptive
7 periods is hereby approved, ratified, and confirmed, subject to the provisions of R.S.
8 9:2552.
9 §2552. Suspension of prescription; exceptions

10 A. All prescriptions, including liberative, acquisitive, and the prescription
11 of nonuse, and all preemptive periods are subject to a limited suspension during the
12 time period of August 26, 2005, until January 1, 2006; however, the suspension of
13 these periods is limited and shall only apply if these periods would have otherwise
14 accrued or lapsed during the time period of August 26, 2005, until January 1, 2006.
15 This limited suspension shall terminate on January 2, 2006, and any right, claim, or
16 action which was suspended during the time period of August 26, 2005, until January
17 1, 2006, shall accrue or lapse on January 2, 2006.

18 B. The provisions of Subsection A shall not apply to any matter concerning
19 the prescription of nonuse applicable to mineral servitudes, mineral royalty interests,
20 and executive rights and shall be governed by the Louisiana Mineral Code and are
21 not subject to the suspension provisions in this Section.

22 C. The provisions of this Section shall preempt and supersede but not repeal
23 any conflicting provision of the Civil Code or any other provision of law to the
24 extent that such provision conflicts with the provisions of this Section.

25 §§2553-2565 (Reserved).

26 Section 2. This Act is declared to be remedial, curative, and procedural and therefore
27 is to be applied retroactively as well as prospectively.

28 Section 3. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Ansardi

HB No. 90

Abstract: Provides for the suspension of prescriptive and preemptive periods and ratifies certain executive orders.

Proposed law ratifies Executive Orders KBB 2005-32, 48, and 67, relating to the suspension of prescriptive and preemptive periods.

Proposed law creates a limited suspension of all prescription and preemptive periods from August 26, 2005, until January 1, 2006, with certain exceptions.

Proposed law provides that this limited suspension of prescription shall apply only to a prescriptive or preemptive period which would have otherwise expired during the period from August 26, 2005, until January 1, 2006.

Proposed law provides that this limited suspension shall terminate on January 2, 2006, and any right, claim, or action which was suspended shall accrue or lapse on January 2, 2006.

Proposed law provides that the mineral code shall govern all matters concerning the prescription of nonuse applicable to mineral servitudes, mineral royalty interests, and executive rights.

Proposed law provides that this Section shall preempt and supersede but not repeal any conflicting provisions of law.

Proposed law provides that this Act is remedial, curative, and procedural and shall be applied retroactively as well as prospectively.

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

(Adds R.S. 9:2551- 2565)