

First Extraordinary Session, 2005

HOUSE BILL NO. 92

BY REPRESENTATIVE GREENE

DIVORCE: Provides relative to the effect of suspension of legal deadlines on judgments of divorce

1 AN ACT

2 To enact R.S. 9:304, relative to legal deadlines affected by Executive Order KBB 2005-32,
3 as amended; to provide for the effect of such legal deadlines on judgments of
4 divorce; to provide for the effect of certain waiting and abandonment periods; to
5 provide for the effect of judgments of divorce; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:304 is hereby enacted to read as follows:

8 §304. Judgment of divorce; waiting periods; accrual of abandonment period

9 A.(1) In the aftermath of Hurricanes Katrina and Rita, the issuance of
10 Executive Orders KBB 2005-32, 48, and 67 shall not affect the calculation of the one
11 hundred eighty-day waiting period required by Civil Code Article 102, the six-month
12 waiting period required by Civil Code Article 103(1), or the one-year, one-year and
13 six months, or two-year waiting periods required by R.S. 9:307.

14 (2) Any judgment of divorce rendered during the time periods affected by
15 Executive Orders KBB 2005-32, 48, and 67 shall be a good and valid judgment if no
16 appeal or request for new trial has been filed in accordance with the provisions of the
17 Code of Civil Procedure or any applicable law or by December 31, 2005, which ever
18 is later.

19 B. Notwithstanding Code of Civil Procedure Article 3954, if the two-year
20 abandonment period would have otherwise accrued during the suspension of all legal

1 deadlines as provided in Executive Orders KBB 2005-32, 48, and 67, the parties
 2 shall have thirty days from the effective date of this Section to file a rule to show
 3 cause as required by Civil Code Article 102.

DIGEST

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

Greene

HB No. 92

Abstract: Clarifies that the issuance of Executive Orders KBB 2005-32, 48, and 67 do not stop the calculation of waiting periods for a judgment of divorce.

Present law (C.C. Art. 102) requires that the spouses live separate and apart for 180 days prior to filing a rule to show cause for a final judgment of divorce.

Present law (C.C. Art. 103(1)) requires that the spouses have been living separate and apart for six months before filing a petition for divorce.

Present law (R.S. 9:307) provides that parties to a covenant marriage may obtain a divorce if the other spouse has abandoned the matrimonial domicile for a period of one year, the spouses have been living separate and apart for two years, or if there are minor children, the spouses have been living separate and apart for one year and six months.

Proposed law provides that the issuance of Executive Orders KBB 2005-32, 48, and 67 do not affect the required waiting periods for obtaining a judgment of divorce in accordance with present law.

Proposed law provides that if a judgment of divorce was rendered during the effect of Executive Orders KBB 2005-32, 48, and 67, it shall be a valid judgment if no appeal or request for new trial has been filed within the delays provided by the C.C.P. or by December 31, 2005.

Present law (C.C.P. Art. 3954) provides that a divorce action is abandoned if the rule to show cause is not filed within two years of the service of the petition or waiver thereof.

Proposed law provides that notwithstanding C.C.P. Art. 3954, if the two-year abandonment period would have accrued during the suspension of all legal deadlines due to Hurricanes Katrina and Rita, the parties shall have 30 days from the effective date of this Act to file a rule to show cause.

(Adds R.S. 9:304)