

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

PRESCRIPTION. Provides for the suspension of prescription.

DIGEST

Proposed law ratifies Executive Orders KBB 2005-32, 48, and 67.

Proposed law creates a limited suspension of all prescription and peremptive periods from Aug. 26, 2005, until Jan. 3, 2006, with certain exceptions.

Proposed law provides that this limited suspension of prescription shall apply only to a prescriptive or peremptive period which would have otherwise expired during the period from Aug. 26, 2005, through Jan. 3, 2006.

Proposed law provides that this limited suspension shall terminate on Jan. 3, 2006, and any right, claim, or action which was suspended shall accrue or lapse on Jan. 4, 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 a party who is domiciled within the parishes of Cameron, Orleans, Plaquemines, St. Bernard, or Vermilion, or whose cause arose within such parishes or whose attorney is domiciled or has a law office within such parishes may seek in any court in the state a limited extension or suspension of prescription or preemption by contradictory motion or declaratory judgment, when the right, claim, or action would have expired during the time period of January 4, 2006 through May 31, 2006, but in no case shall the period extend beyond June 1, 2006. Further provides that the failure to file the motion shall not preclude a party from using the basis of the motion as a defense to an exception of prescription.

Proposed law further provides that any party seeking such an additional suspension and/or extension shall prove by a preponderance of the evidence that the motion was filed at the earliest time practicable and but for the catastrophic effects of hurricane Katrina or Rita, the legal deadline would have been timely met.

Proposed law creates a limited suspension and/or extension of all legal deadlines from Nov. 25, 2005, through Jan. 3, 2006, if the deadline would have lapsed during this time period.

Proposed law provides that if a legal deadline lapsed during the time period from Oct. 25, 2005, through Nov. 25, 2005, the party may seek an extension by contradictory motion or declaratory judgment, but in no case shall the deadline be extended beyond Jan. 3, 2006.

Proposed law provides that these provisions of this Act shall not apply to landlord-tenant disputes, eviction proceedings, or lease disputes in the proceeding and was done in accordance with Executive Order KBB 2005-67.

Proposed law provides that this Act shall preempt and supersede but not repeal any conflicting provisions of law, but it shall not be construed to supersede HB No. 92 of the 2005 1st E.S.

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)

Summary of Amendments Adopted by House

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

1. Clarifies that Executive Orders KBB 2005-32, 48, and 67 are approved, ratified, and confirmed in their entirety.
2. Changes the time period of the limited suspension from Jan. 1, 2006, to Jan. 3, 2006.
3. Changes the accrual or lapse date for any rights, claims, or actions from Jan. 2, 2006, to Jan. 4, 2006.

House Floor Amendments to the engrossed bill.

1. Provides that this Chapter shall be liberally construed to effect its purposes.
2. Clarifies that Executive Orders KBB 2005-32, 48, and 67 are ratified subject to the provisions of this Chapter.
3. Provides a procedure for attorneys or parties within Cameron, St. Bernard, or Plaquemines parishes to seek a suspension or extension or prescription or peremption periods by contradictory motion or declaratory judgment through June 1, 2006.
4. Provides for the limited suspension or extension of all deadlines in legal proceedings from Nov. 25, 2005, through Jan. 3, 2006, if the deadline would have lapsed during the time period.
5. Provides a procedure for the extension or suspension of a legal deadline which was not suspended by Executive Orders KBB 2005-48 and 67 and which lapsed during the time period of Oct. 25, 2005, through Nov. 25, 2005.
6. Provides that this Chapter shall not apply to landlord-tenant disputes, evictions, or lease disputes regarding immovable property if the proceeding was in accordance with Executive Order KBB 2005-67.
7. Clarifies that this Act shall not supersede HB No. 92 of the 2005 1st E.S.
8. Directs the Louisiana State Law Institute to redesignate the provisions of this Act as Part IV of Code Title XXIV of Title 9 of the Louisiana Revised Statutes of 1950 and to publish Executive Orders KBB 2005-32, 48, and 67 in the notes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill.

1. Eliminates the word "accrue" from provisions relative to lapse of time.
2. Acknowledges that certain parishes and legal communities were extremely devastated by hurricanes Katrina and Rita and therefore may need additional time and access to the courts.
3. Provides that the additional limited suspension and/or extension of prescription, peremption and other legal deadlines for certain parishes shall terminate on June 1, 2006 and any right, claim, or action which would have

expired during the time period of January 4, 2006 through May 31, 2006, shall lapse on June 1, 2006.

4. Provides relative to motions for extensions in the parishes of Cameron, Orleans, Plaquemines, St. Bernard and Vermilion, and that a failure to file a motion for such additional suspension or extension shall not preclude a party from using the basis of the motion as a defense to an exception of prescription.