

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 90 by Representative Ansardi

PRESCRIPTION: Provides for the suspension of prescription

Synopsis of Senate Amendments

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. Authorizes the parishes of Cameron, Orleans, Plaquemines, Jefferson, St. Bernard, and Vermilion to seek an additional limited suspension and/or extension of prescription, peremption and other legal deadlines; however, the suspension and/or extension 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 that in certain parishes a failure to file a motion for an additional suspension or extension shall not preclude a party from using the basis of the motion as a defense to an exception of prescription.
5. Provides that this Act shall apply in all administrative hearings and proceedings.

Digest of Bill as Finally Passed by Senate

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

Proposed law creates a limited suspension of all prescription and preemptive 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 preemptive 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, Jefferson 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 of competent jurisdiction in the state a limited extension or suspension of prescription or peremption 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 provides that in certain parishes the failure to file a motion for an additional suspension or extension shall not preclude a party from using the basis of the motion as a defense to an exception of prescription.

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 shall apply in all administrative hearings and proceedings.

Proposed law provides that this Act is interpretative, 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)