

First Extraordinary Session, 2005

HOUSE BILL NO. 90

BY REPRESENTATIVES ANSARDI AND GALLOT AND SENATORS LENTINI,
MARIONNEAUX, AND MURRAY

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 and other legal deadlines; to
6 provide relative to the extension of prescription and preemptive periods and other
7 legal deadlines; to provide relative to the ratification of Executive Orders KBB 2005-
8 32, 48, and 67; to provide for retroactive application; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

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

14 CODE TITLE III—OBLIGATIONS IN GENERAL

15 CHAPTER 1. OF OBLIGATIONS DURING CERTAIN

16 EMERGENCIES AND DISASTERS

17 §2551. Purpose; ratification

18 A. The legislature finds that Hurricanes Katrina and Rita created a statewide
19 emergency disrupting and forcing the closure of certain courts and public offices and
20 further resulting in the displacement of courts, offices, clients, and counsel. This

1 Chapter is enacted for the benefit and protection of the state as a whole and its
 2 citizens, and to prevent injustice, inequity, and undue hardship to persons who were
 3 prevented by these hurricanes from timely access to courts and offices in the exercise
 4 of their legal rights, including the filing of documents and pleadings as authorized
 5 or required by law. Therefore, this Chapter shall be liberally construed to effect its
 6 purposes.

7 B. The action of the governor of this state in issuing Executive Orders KBB
 8 2005-32, 48, and 67 is hereby approved, ratified, and confirmed subject to the
 9 provisions of R.S. 9:2552 through 2555.

10 §2552. Suspension and extension of prescription and peremption; exceptions

11 A. All prescriptions, including liberative, acquisitive, and the prescription
 12 of nonuse, and all preemptive periods shall be subject to a limited suspension and/or
 13 extension during the time period of August 26, 2005, through January 3, 2006;
 14 however, the suspension and/or extension of these periods shall be limited and shall
 15 apply only if these periods would have otherwise lapsed during the time period of
 16 August 26, 2005, through January 3, 2006. This limited suspension and/or extension
 17 shall terminate on January 3, 2006, and any right, claim, or action which would have
 18 expired during the time period of August 26, 2005, through January 3, 2006, shall
 19 lapse on January 4, 2006.

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

24 §2553. Suspension of legal deadlines; extension of legal deadlines; contradictory
 25 hearing

26 A. All deadlines in legal proceedings, which were suspended by Executive
 27 Orders KBB 2005-32, 48, and 67, shall be subject to a limited suspension and/or
 28 extension during the time period of November 25, 2005, through January 3, 2006;

1 however, the suspension and/or extension of these deadlines shall be limited and
2 shall apply only if these deadlines would have otherwise lapsed during the time
3 period of November 25, 2005, through January 3, 2006. This limited suspension
4 and/or extension shall terminate on January 3, 2006, and any deadline in legal
5 proceedings which would have expired during the time period of November 25,
6 2005, through January 3, 2006, shall lapse on to January 4, 2006.

7 B. Notwithstanding the provisions of Subsection A and to the extent that
8 deadlines in legal proceedings were not suspended by Executive Orders KBB 2005-
9 48 and 67, if a deadline in a legal proceeding lapsed during the time period of
10 October 25, 2005, through November 25, 2005, a party shall have the right to seek
11 an extension or suspension of that deadline by contradictory motion or declaratory
12 judgment. The party seeking the extension shall bear the burden of proving that
13 either the party or his attorney was adversely affected by Hurricane Katrina or Rita
14 and but for the catastrophic effects of Hurricane Katrina or Rita, the legal deadline
15 would have been timely met. For good cause shown, the court shall extend the
16 deadline in the legal proceeding, but in no instance shall the extension be later than
17 January 3, 2006.

18 §2554. Purpose; certain courts; suspension and extension of prescription and
19 peremption and other legal deadlines

20 A. The legislature finds that Hurricanes Katrina and Rita created a statewide
21 emergency which affected the entire judicial system in this state and all legal
22 communities, and prohibited the court system from functioning as required by law.
23 The legislature acknowledges that the proper functioning of this state's judicial
24 system is essential to the administration of justice for all citizens. The legislature
25 also recognizes that the courts in Cameron, Orleans, Plaquemines, St. Bernard,
26 Jefferson, and Vermilion, the legal communities, and the citizens were so severely
27 devastated and although the courts may be open on a limited basis, the massive
28 destruction of these areas continues to endanger and infringe upon the normal

1 functioning of the judicial system, the ability of persons to avail themselves of the
2 judicial system and the ability of litigants or others to have access to the courts or to
3 meet schedules or time deadlines imposed by court order or rule or statute. The
4 majority of residents and attorneys domiciled in these areas have been displaced and
5 numerous client files, witnesses, evidence, records and documents have been lost,
6 damaged, or destroyed. The legislature hereby declares that there is a compelling
7 governmental interest in protecting the rights, claims, or actions of parties and the
8 attorneys who represent them by granting additional time and access to these courts
9 provided in this Section.

10 B.(1) Notwithstanding the provisions of R.S. 9:2552 or 2553, a party who
11 is domiciled within the parishes of Cameron, Orleans, Plaquemines, St. Bernard,
12 Jefferson, or Vermilion, or whose cause of action arose within such parishes or
13 whose attorney is domiciled within or has a law office within such parishes, may
14 seek in any court of competent jurisdiction in this state a limited suspension and/or
15 extension of prescription or peremption periods or other legal deadlines, beyond the
16 termination dates provided in R.S. 9:2552 and 2553, by contradictory motion or
17 declaratory judgment. The party seeking an additional suspension and/or extension,
18 in accordance with the provisions of this Section, shall bear the burden of proving
19 by a preponderance of the evidence that the motion was filed at the earliest time
20 practicable and but for the catastrophic effects of Hurricane Katrina or Rita, the legal
21 deadline would have been timely met. If the court grants the motion, the prescription
22 or preemptive period or other legal deadline shall be suspended or extended for a
23 period not to exceed thirty days from the date of the granting of the motion. This
24 limited suspension or extension shall terminate on June 1, 2006, and any right, claim,
25 or action which would have expired during the time period of January 4, 2006,
26 through May 31, 2006, shall lapse on June 1, 2006.

27 (2) The failure to file the motion authorized in Paragraph (1) of this
28 Subsection shall not preclude a party from using the basis of the motion as a defense
29 to an exception of prescription.

1 §2555. Applicability

2 Notwithstanding any other provision of law, R.S. 9:2552 through 2554 shall
3 not apply to landlord-tenant disputes, evictions proceedings, and lease disputes
4 regarding immovable property, provided the proceedings are carried out in
5 accordance with Executive Order KBB 2005-67.

6 §§2556-2565 (Reserved).

7 Section 2. (A) The provisions of this Act shall preempt and supersede but not repeal
8 any conflicting provision of the Civil Code or any other provision of law to the extent that
9 such provision conflicts with the provisions of this Act.

10 (B) However, notwithstanding the provisions of Paragraph A of this Section, nothing
11 contained in this Act shall be construed as to invalidate, supersede, or modify the provisions
12 of House Bill No. 92 of this 2005 First Extraordinary Session if it is subsequently enacted
13 into law.

14 Section 3. The Louisiana State Law Institute is hereby directed to redesignate and
15 renumber the provisions of this Act as follows:

16 A. Chapter 1 of Code Title III of Code Book III of Title 9, as enacted by this Act,
17 shall be redesignated as Part IV of Chapter 1 of Code Title XXIV of Code Book III of Title
18 9 of the Louisiana Revised Statutes of 1950, and shall be renumbered sequentially,
19 beginning with R.S. 9:5821.

20 B. Part IV of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of the
21 Louisiana Revised Statutes of 1950, as created by the provisions of this Act, shall be entitled
22 "Suspension or Extension of Prescription, Peremption, and other legal deadlines during
23 Hurricanes Katrina and Rita."

24 Section 4. This Act is declared to be interpretative, curative, and procedural and
25 therefore is to be applied retroactively as well as prospectively.

26 Section 5. The Louisiana State Law Institute shall include as notes to this Act
27 Executive Orders KBB 2005-32, 48, and 67.

28 Section 6. The provisions of R.S. 9:2554 as amended by this Act shall specifically
29 apply in all administrative hearings and proceedings.

1 Section 7. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____