

Regular Session, 2014

HOUSE BILL NO. 338

BY REPRESENTATIVE ALFRED WILLIAMS

CIVIL/RESTRAINING ORDER: Provides relative to the effective period of a temporary restraining order under certain circumstances

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3606, relative to temporary  
3 restraining orders; to provide relative to the effectiveness of temporary restraining  
4 orders; to extend the effective period of temporary restraining orders when a hearing  
5 is continued due to declared states of emergency; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 3606 is hereby amended and reenacted  
8 to read as follows:

9 Art. 3606. Temporary restraining order; hearing on preliminary injunction

10 A. When a temporary restraining order is granted, the application for a  
11 preliminary injunction shall be assigned for hearing at the earliest possible time,  
12 subject to Article 3602, and shall take precedence over all matters except older  
13 matters of the same character. The party who obtains a temporary restraining order  
14 shall proceed with the application for a preliminary injunction when it comes on for  
15 hearing. Upon his failure to do so, the court shall dissolve the temporary restraining  
16 order.

17 B. In the event that the hearing on the issuance of a preliminary injunction  
18 is continued by the court because of a declared state of emergency made in  
19 accordance with R.S. 29:724, any temporary restraining order issued in the matter  
20 shall remain in force for five days after the date of issuance of the executive order

1        declaring the state of emergency. When a temporary restraining order remains in  
2        force under this Paragraph, the court shall reassign the application for a preliminary  
3        injunction for hearing at the earliest possible time, but no later than five days after  
4        the date of issuance of the executive order declaring the state of emergency. The  
5        reassignment of the application shall take precedence over all matters except older  
6        matters of the same character. The party who obtains a temporary restraining order  
7        shall proceed with the application for a preliminary injunction when it comes on for  
8        hearing. Upon his failure to do so, the court shall dissolve the temporary restraining  
9        order.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Alfred Williams

HB No. 338

**Abstract:** Extends the effective period of a temporary restraining order when the hearing on the issue of a preliminary injunction is continued due to a declared state of emergency.

Present law authorizes the issuance of a temporary restraining order effective for a specific period of time during the pendency of an action for a preliminary injunction.

Proposed law retains present law and provides that in the event that the hearing on the issuance of a preliminary injunction is continued by the court because of a declared state of emergency, any temporary restraining order issued in the matter shall remain in force for five days after the issuance of the executive order declaring the state of emergency and requires the hearing on the issuance of the preliminary injunction to be rescheduled at the earliest possible time, but no later than five days after the date of issuance of the executive order declaring the state of emergency.

(Amends C.C.P. Art. 3606)

#### Summary of Amendments Adopted by House

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

1. Specified that the temporary restraining order will remain in force for five days after the issuance of the executive order declaring the state of emergency, and requires the hearing to be reset within the same five days. Further required the resetting to take precedence over other matters and required the court to dissolve the temporary restraining order if the party who obtained the restraining order does not proceed with the application on the date the matter is reset.