

2015 Regular Session

HOUSE BILL NO. 504

BY REPRESENTATIVE JAY MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY: Provides relative to donations inter vivos

1 AN ACT

2 To enact R.S. 9:2371.1, relative to donations inter vivos; to provide for the effect of
3 donations in authentic form as to certain third persons; to provide for applicability
4 of donations inter vivos recorded during certain time periods; to provide for
5 legislative intent; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2371.1 is hereby enacted to read as follows:

8 §2371.1. Form required for donation inter vivos; effect

9 No party may contradict on the basis of lack of authentic form a donation
10 inter vivos that on its face is in authentic form to the prejudice of a bona fide third
11 party in good faith who after its recordation acquires an interest in or over the
12 immovable property to which the donation relates. The provisions of this Section
13 shall apply to all donations of immovable property made prior to and on or after July
14 1, 2015, and any cause of action to assert the nullity of such a donation for lack of
15 authentic form against a bona fide third party in good faith who acquired an interest
16 after its recordation shall be brought no later than July 1, 2016, or one year from the
17 recordation of the act of donation, whichever is later, or be forever barred.

18 Section 2. The provisions of this Act are intended to legislatively address the ruling
19 of the court in the case of *Eschete v. Eschete*, 2012-CA-2059 (La. App. 1st Cir. 2/27/2014),
20 142 So.3d 985, in order to reemphasize the policy of enforcing the public records doctrine

1 and to protect the rights of a bona fide third party who relies in good faith on recorded acts
2 of donation which appear to be in authentic form as filed in the mortgage or conveyance
3 records.

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)]

HB 504 Reengrossed

2015 Regular Session

Jay Morris

Abstract: Prohibits the contradiction, under certain circumstances, of a donation inter vivos made in authentic form.

Proposed law provides that a donation inter vivos in authentic form may not be contradicted on the basis of lack of authentic form to the prejudice of a bona fide third party in good faith who after its recordation acquires an interest in or over the immovable property to which the donation relates.

Provides that proposed law shall apply to all donations of immovable property made prior to and on or after July 1, 2015, and any cause of action to assert the nullity of such a donation shall be brought no later than July 1, 2016, or one year from the recordation of the act of donation, whichever is later.

Proposed law emphasizes the intent of the legislature in response to the case of *Eschete v. Eschete*, 2012-CA-2059 (La. App. 1st Cir. 2/27/2014), 142 So.3d 985, in order to enforce the public records doctrine and to protect bona fide third parties who rely on such records in good faith.

(Adds R.S. 9:2371.1)

Summary of Amendments Adopted by House

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

1. Add a technical amendment.

The House Floor Amendments to the engrossed bill:

1. Prohibit a party from contradicting a donation inter vivos on the basis of lack of authentic form.
2. Require the action to assert a nullity to be brought no later than July 1, 2016, or one year from the recordation of the act of donation, whichever is later.