

2017 Regular Session

HOUSE BILL NO. 399

BY REPRESENTATIVE GAROFALO

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

PRESCRIPTION: Provides relative to suspension or extension of prescription, peremption, and certain legal deadlines

1 AN ACT

2 To enact Part V of Chapter 1 of Code Title 24 of Title 9 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 9:5826 through 5828, relative to prescription; to
4 provide relative to preemptive and prescriptive deadlines; to provide relative to legal
5 deadlines; to provide for procedures including a contradictory hearing; to provide for
6 applicability; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part V of Chapter 1 of Code title 24 of Title 9 of the Louisiana Revised
9 Statutes, comprised of R.S. 9:5826 through 5828, is hereby enacted to read as follows:

10 §5826. Purpose; ratification

11 The legislature finds that the widespread flooding and power outages that
12 occurred in August of 2016 disrupted and forced the closure of certain courts and
13 public offices and resulted in the displacement of courts, offices, clients, and counsel
14 in many parishes of the state. The action of the governor of this state in issuing
15 Executive Orders JBE 2016-53, 57, and 66 is hereby approved, ratified, and
16 confirmed subject to the provisions of Articles 5822 through 5825 of this Title.

17 §5827. Suspension and extension of prescription and peremption; 2016 flooding
18 disaster

19 A. All prescriptive periods, including liberative, acquisitive, and the
20 prescription of nonuse, and all preemptive periods shall be subject to a limited

1 suspension or extension during the time period of August 12, 2016, through
2 September 30, 2016; however, the suspension or extension of these periods shall be
3 limited and shall apply only if these periods would have otherwise lapsed during the
4 time period of August 12, 2016, through August 1, 2017. This limited suspension
5 or extension shall terminate on August 1, 2017, and any right, claim, or action which
6 would have expired during the time period of August 12, 2016, through August 1,
7 2017, shall lapse on August 2, 2017.

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

12 §5828. Suspension of legal deadlines; extension of legal deadlines; contradictory
13 hearing; 2016 flooding disaster

14 A. All deadlines in legal proceedings, which were suspended by Executive
15 Orders JBE 2016-53, 57, and 66 shall be subject to a limited suspension or extension
16 during the time period of September 30, 2016, through August 1, 2017; however, the
17 suspension or extension of these deadlines shall be limited and shall apply only if
18 these deadlines would have otherwise lapsed during the time period of September 30,
19 2016, through August 1, 2017. This limited suspension or extension shall terminate
20 on August 1, 2017, and any deadline in legal proceedings which would have expired
21 during the time period of September 30, 2016, through August 1, 2017, shall lapse
22 on August 2, 2017.

23 B. Notwithstanding the provisions of Subsection A and to the extent that
24 deadlines in legal proceedings were not suspended by Executive Orders JBE 2016-
25 53, 57, and 66, if a deadline in a legal proceeding lapsed during the time period of
26 September 30, 2016, through October 30, 2016, a party shall have the right to seek
27 an extension or suspension of that deadline by contradictory motion or declaratory
28 judgment. The party seeking the extension shall bear the burden of proving that
29 either the party or his attorney was adversely affected by the widespread flooding

1 that occurred in August of 2016 and but for the catastrophic effects of the flooding,
2 the legal deadline would have been timely met. For good cause shown, the court
3 shall extend the deadline in the legal proceeding but in no instance shall the
4 extension be later than August 1, 2017.

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 399 Original

2017 Regular Session

Garofalo

Abstract: Suspends or extends prescriptive and preemptive periods and certain legal deadlines due to the floods of 2016.

Present law (R.S. 9:5821-5825) provides rules and exceptions for prescription by law and for legal extensions due to the hardships caused by Hurricanes Katrina and Rita.

Proposed law (R.S. 9:5826-5828) provides for the suspension or extension of preemption, prescription, and certain legal deadlines due to the hardships caused by the floods of 2016.

Requires a contradictory hearing with regard to the suspension or extension of certain legal deadlines.

(Adds R.S. 9:5826-5828)