

2017 Regular Session

HOUSE BILL NO. 679 (Substitute for House Bill No. 399 by Representative Garofalo)

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 XXIV of Title 9 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 9:5826 and 5827, relative to prescription;
4 to provide relative to preemptive and prescriptive deadlines; to provide relative to
5 legal deadlines; to provide for applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Part V of Chapter 1 of Code Title XXIV of Title 9 of the Louisiana
8 Revised Statutes of 1950, comprised of R.S. 9:5826 and 5827, is hereby enacted to read as
9 follows:

10 §5826. Purpose

11 In response to the widespread flooding and power outages that occurred in
12 August of 2016, the governor of this state issued Executive Orders JBE 2016-53, 57,
13 and 66, which, among other things, purports to suspend or extend certain prescriptive
14 periods and preemptive periods. The legislature finds that it is necessary to provide
15 for a clear termination of any suspension or extension of prescriptive periods and
16 preemptive periods created by these executive orders in order to preserve a fair and
17 consistent application of the laws of prescription and peremption.

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

1 A. In accordance with Executive Orders JBE 2016-53, 57, and 66, all
2 prescriptive periods, including liberative, acquisitive, and the prescription of nonuse,
3 and all preemptive periods were suspended or extended for a period beginning
4 August 12, 2016, and ending September 30, 2016. To the extent that any
5 prescriptive period or preemptive period would have run on or before September 30,
6 2017, but for the suspension or extension of the period pursuant to the Executive
7 Orders JBE 2016-53, 57, and 66, the prescriptive or preemptive period will be
8 deemed to have run upon the earlier of: (1) the date calculated pursuant to Louisiana
9 Civil Code Article 3472, or (2) September 30, 2017. The suspension and extension
10 of prescriptive periods and preemptive periods contained in Executive Orders JBE
11 2016-53, 57, and 66 shall not apply to any prescriptive period or preemptive period
12 accruing on or after October 1, 2017.

13 B. The provisions of Subsection A of this Section shall not apply to any
14 matter concerning the prescription of nonuse applicable to mineral servitudes,
15 mineral royalty interests, and executive rights as such prescription was not extended
16 or suspended by Executive Orders JBE 2016-53, 57, and 66 and continues to be
17 governed by the Louisiana Mineral Code.

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 679 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. 9:5826-5827) provides for the suspension or extension of preemption, prescription, and certain legal deadlines due to the hardships caused by the floods of 2016. Provides for the suspension or extension of prescriptive periods and preemptive periods for the period of time between Aug. 12, 2016, and Sept. 30, 2016. Further provides that proposed law does not apply to certain matters involving mineral interests.

(Adds R.S. 9:5826-5827)