

2018 Regular Session

HOUSE BILL NO. 5

BY REPRESENTATIVE CONNICK

PRESCRIPTION: Provides relative to the interruption of prescription

1 AN ACT

2 To amend and reenact Civil Code Article 3463, relative to prescription; to provide for the
3 effect of dismissal of a party in certain circumstances; and to provide for related
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Civil Code Article 3463 is hereby amended and reenacted to read as
7 follows:

8 Art. 3463. Duration of interruption; abandonment or discontinuance of suit

9 An interruption of prescription resulting from the filing of a suit in a
10 competent court and in the proper venue or from service of process within the
11 prescriptive period continues as long as the suit is pending. Interruption is
12 considered never to have occurred if the plaintiff abandons, voluntarily dismisses the
13 action at any time either before the defendant has made any appearance of record or
14 thereafter, or fails to prosecute the suit at the trial.

15 A settlement and subsequent dismissal of a defendant pursuant to a
16 transaction and compromise shall not qualify as a voluntary dismissal pursuant to
17 this Article.

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 5 Engrossed

2018 Regular Session

Connick

Abstract: Provides for the continued suspension of prescription upon the dismissal of a defendant under certain circumstances.

Present law provides that the filing of a suit in a competent court and in the proper venue or from service of process interrupts prescription as long as the suit is pending.

Present law provides that interruption is considered never to have occurred if the plaintiff abandons, voluntarily dismisses the action at any time either before the defendant has made any appearance of record or thereafter, or fails to prosecute the suit at the trial.

Proposed law specifies that a settlement and subsequent dismissal of a defendant does not qualify as a voluntary dismissal.

The provisions of proposed law are intended to codify the ruling of the court in *Pierce v. Foster Wheeler Constructors, Inc.*, 906 So.2d 605 (La.App. 1st Cir. 2005).

(Amends C.C. Art. 3463)