

2018 Regular Session

HOUSE BILL NO. 173

BY REPRESENTATIVE GAROFALO

SUCCESSIONS: Provides relative to an heir's interests in succession property

1 AN ACT

2 To amend and reenact R.S. 9:5630(A) and 5632, relative to successions; to provide relative  
3 to actions by successors; to provide relative to prescription; and to provide for related  
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:5630(A) and 5632 are hereby amended and reenacted to read as  
7 follows:

8 §5630. Actions by unrecognized successor against third persons

9 A. An action by a person who is a successor of a deceased person, and who  
10 has not been recognized as such in the judgment of possession rendered by a court  
11 of competent jurisdiction, to assert an interest in an immovable formerly owned by  
12 the deceased, against a third person, or his successors, who has acquired an interest  
13 in the immovable by onerous title from a person recognized as an heir or legatee of  
14 the deceased in the judgment of possession, ~~or his successors~~, is prescribed in two  
15 years from the date of the rendering of the judgment of possession ~~of the finality of~~  
16 ~~the judgment of possession.~~

17 \* \* \*

18 §5632. Actions against succession representatives, tutors, and curators; defect in  
19 alienations, encumbrances, or leases ~~private sales or mortgages~~

20 A. When the legal procedure is defective or does not comply with the  
21 requisites of law in the alienation, encumbrance, or lease of movable or immovable  
22 property made by a legal representative of a succession, minor, or interdict, provided

1 an order of court has been entered authorizing such alienation, encumbrance, or  
 2 lease, any action shall be prescribed against by those claiming such defect or lack of  
 3 compliance after the lapse of two years from the time of making such alienation,  
 4 encumbrance, or lease.

5 B. This prescriptive period shall also apply to an alienation, encumbrance or  
 6 lease of movable or immovable property by an independent succession representative  
 7 provided an order of court has been entered authorizing independent administration.

8 C. This Section shall be applied both retrospectively and prospectively,  
 9 however, any person whose rights would be adversely affected by this Section, shall  
 10 have six months from July 10, 1990, within which to assert the action described in  
 11 Subsection A of this Section and if no such action is instituted within that time, such  
 12 claim shall be forever barred.

#### 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 173 Engrossed

2018 Regular Session

Garofalo

**Abstract:** Modifies the prescriptive period for certain successors of decedents and adds a prescriptive period for actions by independent succession representatives.

Present law (R.S. 9:5630) provides that an action by a successor of a decedent not recognized in a judgment of possession against a third person who acquired an interest in immovable property by onerous title is prescribed in two years from the *finality* of the judgment of possession.

Proposed law provides that the action is prescribed in two years from the *rendering* of the judgment of possession.

Present law (R.S. 9:5632) provides that any action against succession representatives, tutors, and curators claiming defective legal procedure or noncompliance with the law in the alienation, encumbrance, or lease of movable or immovable property is prescribed two years from the making of the alienation, encumbrance, or lease.

Proposed law maintains present law but provides that the prescriptive period also applies to actions by independent succession representatives.

(Amends R.S. 9:5630(A) and 5632)

Summary of Amendments Adopted by House

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

1. Change the trigger for prescription from the recording of the judgment of possession in the conveyance records of the parish in which the property is located to the rendering of the judgment of possession.