

2020 Regular Session

HOUSE BILL NO. 805

BY REPRESENTATIVE PRESSLY

PRESCRIPTION: Provides for the suspension of prescription

1 AN ACT

2 To enact Part VI of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:5828 through 5830,
4 relative to the effect of obligations during certain emergencies and disasters; to
5 provide relative to suspension of prescription and preemptive periods and other legal
6 deadlines; to provide relative to the extension of prescription and preemptive periods
7 and other legal deadlines; to provide relative to the ratification of Proclamation JBE
8 2020-30; to provide for applicability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part VI of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of
11 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:5828 through 5830, is
12 hereby enacted to read as follows:

13 PART VI. SUSPENSION OR EXTENSION OF PRESCRIPTION AND
14 PEREMPTION DURING 2020 COVID-19 PUBLIC HEALTH EMERGENCY

15 §5828. Purpose; ratification

16 A. The legislature finds that the COVID-19 public health emergency created
17 a statewide emergency disrupting and forcing the closure of certain courts and public
18 offices and further resulting in the displacement of courts, offices, clients, and
19 counsel. This Chapter is enacted for the benefit and protection of the state as a

1 whole and its citizens, and to prevent injustice, inequity, and undue hardship to
2 persons who were prevented by the COVID-19 public health emergency from timely
3 access to courts and offices in the exercise of their legal rights, including the filing
4 of documents and pleadings as authorized or required by law. Therefore, this
5 Chapter shall be liberally construed to effect its purposes.

6 B. The action of the governor of this state in issuing Proclamation JBE 2020-
7 30 is hereby approved, ratified, and confirmed subject to the provisions of this Part.
8 §5829. Suspension and extension of prescription and peremption; exceptions

9 A. All prescriptions, including liberative, acquisitive, and the prescription
10 of nonuse, and all preemptive periods shall be subject to a limited suspension and/or
11 extension during the time period of March 17, 2020, through April 13, 2020;
12 however, the suspension and/or extension of these periods shall be limited and shall
13 apply only if these periods would have otherwise expired during the time period of
14 March 17, 2020, through April 13, 2020. This limited suspension and/or extension
15 shall terminate on April 14, 2020, and any right, claim, or action which would have
16 expired during the time period of March 17, 2020, through April 13, 2020, shall
17 expire on June 14, 2020.

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

22 §5830. Suspension of legal deadlines; extension of legal deadlines; contradictory
23 hearing

24 A. All deadlines in legal proceedings, which were suspended by
25 Proclamation JBE 2020-30, shall be subject to a limited suspension and/or extension
26 after June 14, 2020; however, the suspension and/or extension of these deadlines
27 shall be limited and shall apply only if these deadlines would have otherwise expired
28 during the time period of March 17, 2020, through April 13, 2020. This limited
29 suspension and/or extension shall terminate on April 14, 2020, and any deadline in

1 legal proceedings which would have expired during the time period of March 17,
2 2020 through April 13, 2020, shall expire on to June 14, 2020.

3 B. Notwithstanding the provisions of Subsection A and to the extent that
4 deadlines in legal proceedings were not suspended by Proclamation JBE 2020-30,
5 if a deadline in a legal proceeding lapsed during the time period of March 17, 2020
6 through April 13, 2020, a party shall have the right to seek an extension or
7 suspension of that deadline by contradictory motion or declaratory judgment. The
8 party seeking the extension shall bear the burden of proving that either the party or
9 his attorney was adversely affected by the COVID-19 public health emergency and,
10 but for the adverse effects of the COVID-19 public health emergency, the legal
11 deadline would have been timely met. For good cause shown, the court shall extend
12 the deadline in the legal proceeding, but in no instance shall the extension be later
13 than August 14, 2020.

14 Section 2. The provisions of this Act shall preempt and supersede but not repeal any
15 conflicting provision of the Civil Code or any other provision of law to the extent that such
16 provision conflicts with the provisions of this Act.

17 Section 3. This Act is declared to be interpretative, curative, and procedural and
18 therefore is to be applied retroactively as well as prospectively.

19 Section 4. The Louisiana State Law Institute shall include as notes to this Act
20 Proclamation JBE 2020-30.

21 Section 5. The provisions of R.S. 9:5829 and 5830 as enacted by this Act shall
22 specifically apply in all administrative hearings and proceedings.

23 Section 6. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

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 805 Original

2020 Regular Session

Pressly

Abstract: Suspends prescriptive and preemptive periods accruing from March 17, 2020 through April 13, 2020.

Present law provides various prescriptive and preemptive periods. C.C. Art. 3472 provides that a period of suspension is not counted towards the accrual of prescription. Prescription commences to run again upon the termination of the period of suspension. Proposed law does not alter present law.

Proposed law ratifies Proclamation JBE 2020-30, which due to the COVID-19 public health emergency created a limited suspension of all prescription and preemptive periods from March 17, 2020, through April 13, 2020.

Proposed law creates a limited suspension of all prescription and preemptive periods from March 17, 2020, through April 13, 2020, with certain exceptions.

Proposed law provides that this limited suspension of prescription shall apply only to a prescriptive or preemptive period which would have otherwise expire during the period from March 17, 2020, through April 13, 2020.

Proposed law provides that this limited suspension shall terminate on April 14, 2020, and any right, claim, or action which was suspended shall expire on June 14, 2020.

Proposed law creates a limited suspension and/or extension of all legal deadlines from March 17, 2020, through April 13, 2020.

Proposed law provides that if a legal deadline lapsed during the time period from March 17, 2020, through April 13, 2020, the party may seek an extension by contradictory motion or declaratory judgment, but in no case shall the deadline be extended beyond August 14, 2020.

Proposed law provides that this Act shall preempt and supersede but not repeal any conflicting provisions of law.

Proposed law provides that this Act is interpretative, curative, and procedural and shall be applied retroactively as well as prospectively.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 9:5828-5830)