

2020 Regular Session

HOUSE BILL NO. 593

BY REPRESENTATIVES SEABAUGH, ADAMS, AMEDEE, BUTLER, ROBBY CARTER, WILFORD CARTER, CORMIER, COX, DUPLESSIS, FIRMENT, FREEMAN, FREIBERG, FRIEMAN, GADBERRY, GAROFALO, HORTON, JENKINS, MCCORMICK, MCFARLAND, MOORE, PIERRE, PRESSLY, SCHAMERHORN, WHITE, AND EMERSON

1 AN ACT

2 To amend and reenact R.S. 13:4291(A) and (B), relative to judicial and legal mortgages
3 securing child support payments; to provide for a prescriptive period; to provide for
4 the effect of recordation; to provide for retroactivity; to provide an effective date;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:4291(A) and (B) are hereby amended and reenacted to read as
8 follows:

9 §4291. Effect of child support payments; ~~legal~~ judicial mortgage and privilege;
10 affidavit of support owed; prescription

11 A.(1) Each payment of child support that is past due under the provisions of
12 an award for child support rendered in a court of this state, or under a foreign child
13 support order registered under the provisions of the Uniform Interstate Family
14 Support Act shall on and after such payment is due be deemed a judgment by
15 operation of law and shall be executory in all respects except that the court shall, in
16 a summary proceeding, determine the amount actually owed. ~~A judgment rendered~~
17 ~~in such summary proceeding shall not have the effect of a judicial mortgage until it~~
18 ~~is final and has been recorded in the manner provided by law.~~ Each payment of child
19 support made pursuant to the judgment ordering support, including those payments
20 made through income assignment orders, seizures, or tax intercepts, shall interrupt
21 prescription. Notwithstanding any other law to the contrary, prescription shall not

1 begin to run against any such judgment until the child reaches the age of majority or
2 the obligation to provide child support ceases.

3 (2) A judgment rendered in a summary proceeding determining the amount
4 of delinquent child support owed shall become a judicial mortgage when it is final
5 and has been recorded in the manner provided by law. The effect of recordation of
6 the judgment provided in this Subsection shall prescribe ten years from the date of
7 the judgment, unless revived and reinscribed in accordance with law.

8 B.(1) In all cases where the Department of Children and Family Services is
9 enforcing child support services, a judgment created by operation of law pursuant to
10 Subsection A of this Section shall be executory in all respects, without the necessity
11 of a judicial proceeding to determine the amount actually owed. The director of the
12 child support enforcement section, office of children and family services,
13 Department of Children and Family Services, or his designee shall certify the actual
14 amount in an affidavit entitled "Child Support Mortgage and Privilege by Affidavit
15 of DCFS". Such affidavit shall have the effect of a judgment ~~and when filed and~~
16 ~~recorded in the manner provided by law shall create a legal mortgage and privilege~~
17 ~~as provided in R.S. 46:236.16.~~ Notwithstanding any other law to the contrary,
18 prescription shall not begin to run against any such judgment until the child reaches
19 the age of majority or the obligation to provide child support ceases.

20 (2) When filed and recorded in the manner provided by law, the affidavit
21 showing delinquent child support shall create a lien, privilege, and legal mortgage
22 as provided in R.S. 46:236.16. The effect of recordation of the affidavit provided in
23 this Subsection shall prescribe ten years from the date of the affidavit, provided that
24 the filing of a subsequent affidavit pertaining to the same matter shall interrupt
25 prescription and shall maintain the ranking secured by the original filing.

26 (3) Notwithstanding Paragraph (2) of this Subsection, the effect of
27 recordation of any such affidavit that was of record on or before the effective date
28 of this Act shall not cease until August 31, 2022.

1 (~~2~~4) The intentional making of a false statement in an affidavit provided for
 2 in this Subsection shall constitute a false statement as provided for in R.S. 14:125.

3 * * *

4 Section 2. This Act is declared to be interpretative, curative, and procedural and
 5 therefore is to be applied retroactively as well as prospectively to judgments or affidavits
 6 recorded in the manner provided by law.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____