

2020 Regular Session

HOUSE BILL NO. 593

BY REPRESENTATIVE SEABAUGH

CHILDREN/SUPPORT: Provides relative to the prescriptive period for child support judgments

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

1 prescription. Notwithstanding any other law to the contrary, prescription shall not
2 begin to run against any such judgment until the child reaches the age of majority or
3 the obligation to provide child support ceases.

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

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

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

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

Summary of Amendments Adopted by House

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

1. Remove proposed law provisions related to the contents of the judgment or affidavit.
2. Restore present law relative to the running of prescription.
3. Provide for prescription of the effect of recordation of the judgment or affidavit.
4. Provide for the effect of recordation of affidavits filed on or before the effective date of the Act.
5. Provide for retroactivity.
6. Change the effective date from Jan. 1, 2021, to upon the governor's signature.