

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, peremptive, and abandonment periods  
6 and other legal deadlines; to provide relative to the extension of prescription and  
7 peremptive periods and other legal deadlines; to provide relative to the ratification  
8 of Proclamation JBE 2020-30; to provide for applicability; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

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

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

16 §5828. Purpose; ratification

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

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

6 B. The action of the governor of this state in issuing Proclamation Number  
7 JBE 2020-30 is hereby approved, ratified, and confirmed subject to the provisions  
8 of this Part.

9 §5829. Suspension and extension of prescription and peremption; exceptions

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

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

24 §5830. Suspension of legal deadlines; extension of legal deadlines; contradictory  
25 hearing

26 A. All deadlines in legal proceedings that were suspended by Proclamation  
27 Number JBE 2020-30 shall be subject to a limited suspension or extension after July  
28 15, 2020; however, the suspension or extension of these deadlines shall be limited  
29 and shall apply only if these deadlines would have otherwise expired during the time

1 period of March 17, 2020, through May 15, 2020. This limited suspension or  
2 extension shall terminate on May 14, 2020, and any deadline in legal proceedings  
3 which would have expired during the time period of March 17, 2020, through May  
4 15, 2020, shall expire on July 15, 2020.

5 B. Notwithstanding the provisions of Subsection A of this Section and to the  
6 extent that deadlines in legal proceedings were not suspended by Proclamation  
7 Number JBE 2020-30, if a deadline in a legal proceeding lapsed during the time  
8 period of March 17, 2020, through May 15, 2020, a party shall have the right to seek  
9 an extension or suspension of that deadline by contradictory motion or declaratory  
10 judgment. The party seeking the extension shall bear the burden of proving that  
11 either the party or his attorney was adversely affected by the COVID-19 public  
12 health emergency and, but for the adverse effects of the COVID-19 public health  
13 emergency, the legal deadline would have been timely met. For good cause shown,  
14 the court shall extend the deadline in the legal proceeding, but in no instance shall  
15 the extension be later than September 15, 2020.

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

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

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

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

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

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**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)]

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HB 805 Reengrossed

2020 Regular Session

Pressly

**Abstract:** Suspends prescriptive and preemptive periods accruing from March 17, 2020, through May 15, 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 May 15, 2020.

Proposed law creates a limited suspension of all prescription and preemptive periods from March 17, 2020, through May 15, 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 expired during the period from March 17, 2020, through May 15, 2020.

Proposed law provides that this limited suspension shall terminate on May 14, 2020, and any right, claim, or action which was suspended shall expire on July 15, 2020.

Proposed law creates a limited suspension and extension of all legal deadlines from March 17, 2020, through May 15, 2020.

Proposed law provides that if a legal deadline lapsed during the time period from March 17, 2020, through May 15, 2020, the party may seek an extension by contradictory motion or declaratory judgment, but in no case shall the deadline be extended beyond September 15, 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)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Extend the termination date of the COVID-19 public health emergency suspension from April 14, 2020, to May 15, 2020.
2. Provide that any right or claim that would have expired during the time period of March 17, 2020, through May 15, 2020, will expire on July 15, 2020.

3. Extend the legal deadline for parties seeking an extension by contradictory motion or declaratory judgment from August 14, 2020, to September 15, 2020.
4. Make technical changes.