

Regular Session, 2009

SENATE BILL NO. 60

BY SENATOR KOSTELKA

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRESCRIPTION. Increases the prescriptive period for certain actions for harvesting and sale of timber. (8/15/09)

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AN ACT

To amend and reenact Civil Code Article 3497, and to enact R.S. 3:4278.1(G) and 4278.2(G), relative to liberative prescription; to increase the prescriptive period for an action for damages for the harvesting of timber without the consent of the owner; to provide relative to an action for damages caused by the harvesting and sale of timber without the consent of the owner; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Article 3497 is hereby amended and reenacted to read as follows:

Art. 3497. Actions subject to a five year prescription

The following actions are subject to a liberative prescription of five years:

An action for annulment of a testament;

An action for the reduction of an excessive donation; and

An action for the rescission of a partition and warranty of portions: **;** **and**

An action for damages caused by the harvesting of timber without the consent of the owner.

This prescription is suspended in favor of minors, during minority.

1 Section 2. R.S. 3:4278.1(G) and 4278.2(G) are hereby enacted to read as follows:

2 §4278.1. Trees, cutting without consent; penalty

3 * * *

4 **G. Notwithstanding any other provision of law to the contrary, a civil**
5 **action pursuant to provisions of this Section shall be subject to a liberative**
6 **prescriptive period of five years.**

7 §4278.2. Sale of undivided timber interest; consent of co-owners; theft

8 * * *

9 **G. Notwithstanding any other provision of law to the contrary, a civil**
10 **action pursuant to provisions of this Section shall be subject to a liberative**
11 **prescriptive period of five years.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Camille Sebastien Perry.

DIGEST

Kostelka (SB 60)

Present law provides that a liberative prescription of 5 years is applicable to an action for annulment of a testament, an action for the reduction of an excessive donation, and an action for the rescission of a partition and warranty of portions. Proposed law retains present law, and adds to list an action for damages caused by the harvesting of timber without the consent of the owner.

Present law provides civil and criminal penalties for the cutting of trees without the consent of the owner or legal possessor. Proposed law retains present law and adds that a civil action pursuant to the present law is subject to a liberative prescriptive period of 5 years.

Present law provides certain requirements for the sale and removal of timber from lands with co-owners or co-heirs. Proposed law retains present law and adds that a civil action pursuant to the present law is subject to a liberative prescriptive period of 5 years.

Effective August 15, 2009.

(Amends C.C. Art. 3497; adds R.S. 3:4278.1(G) and 4278.2(G))