SLS 17RS-7

ORIGINAL

2017 Regular Session

SENATE BILL NO. 109

BY SENATOR CLAITOR

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

PRESCRIPTION. Provides for the suspension of prescription. (gov sig)

1	AN ACT
2	To enact Part V 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. 9:5836, relative to the
4	effect of obligations during certain emergencies and disasters; to provide relative to
5	suspension of prescription and peremptive periods and other legal deadlines; to
6	provide relative to the extension of prescription and peremptive periods and other
7	legal deadlines; to provide relative to the ratification of Executive Orders JBE
8	2016-53, 2016-57, and 2016-66; to provide certain terms, conditions, procedures,
9	and requirements; to provide for retroactive application; and to provide for related
10	matters.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. Part V of Chapter 1 of Code Title XXIV of Code Book III of Title 9 of
13	the Louisiana Revised Statutes of 1950, comprised of R.S. 9:5836, is hereby enacted to read
14	as follows:
15	PART V. SUSPENSION OR EXTENSION OF PRESCRIPTION, PEREMPTION,
16	AND OTHER LEGAL DEADLINES DURING 2016 FLOODING
17	§5836. Purpose; approval and ratification; application and procedures; effect

Page 1 of 4 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

ORIGINAL SB NO. 109

1	A. The legislature finds that in 2016 the state of Louisiana experienced
2	a flooding disaster that, as shown and declared by the governor of this state in
3	Proclamation No. 111 JBE 2016, created a statewide emergency disrupting and
4	forcing the closure of certain courts and public offices and further resulting in
5	the displacement of courts, offices, clients, and counsel. The legislature further
6	finds that there is a compelling governmental interest in the enactment of this
7	Part for the benefit and protection of the state as a whole and its citizens, and
8	to prevent injustice, inequity, and undue hardship to persons who were
9	prevented by this disaster from timely access to courts, offices, and proceedings
10	in the exercise of their legal rights, including the filing of documents and
11	pleadings as authorized or required by law. Therefore, this Section shall be
12	liberally construed to effect its purposes.
13	B. The actions of the governor of this state in issuing Executive Orders
14	JBE Nos. 2016-53, 2016-57, and 2016-66, and the suspension of deadlines and
15	liberative prescriptive and peremptive periods as set forth in such executive
16	orders, are hereby approved, ratified, confirmed, and enacted as provided in
17	this Section.
18	C. Liberative prescription and peremptive periods are suspended
19	throughout the state beginning August 12, 2016, until and through September
20	<u>30, 2016.</u>
21	D.(1) Deadlines in legal proceedings in courts, administrative agencies
22	and boards affected by the flooding event, defined as the following parishes:
23	Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East
24	<u>Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston,</u>
25	Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St.
26	Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West
27	Baton Rouge, and West Feliciana, shall be suspended upon certification by any
28	litigant, interested party, or attorney that they are unable to meet a legal
29	deadline due to the declared disaster.

1	(2) Once the inability to meet a legal deadline is certified as provided
2	above in this Subsection, the applicable legal deadline shall be suspended until
3	and through September 30, 2016. Any such suspension shall apply to legal
4	deadlines, including but not limited to, non-constitutionally mandated deadlines
5	in criminal proceedings and any such deadlines as provided in the Louisiana
6	Civil Code; Louisiana Code of Civil Procedure; Title 9 of Louisiana Revised
7	Statutes, Civil Code Ancillaries; Title 13 of Louisiana Revised Statutes, Courts
8	and Judicial Procedure; Chapter 11 of Title 18 of Louisiana Revised Statutes,
9	Election Campaign Financing; Chapter 10 of Title 23 of Louisiana Revised
10	Statutes, Worker's Compensation; Chapter 5, Part XXI-A, of Title 40 of
11	Louisiana Revised Statutes, Malpractice Liability for State Services; Chapter
12	5, Part XXIII, of Title 40 of Louisiana Revised Statutes, Medical Malpractice;
13	Chapter 15 of Title 42 of Louisiana Revised Statutes; Title 47 of Louisiana
14	Revised Statutes, Revenue and Taxation; and Title 49, Chapter 13,
15	Administrative Procedure.
16	E. Additionally, courts, administrative agencies, and boards throughout
17	the state shall use due diligence in accommodating requests for delays or
18	<u>continuances from any litigant, interested party, or attorney who may have been</u>
19	impacted by the flooding disaster declared in Proclamation No. 111 JBE 2016.
20	F. The provisions of Subsection D of this Section shall not be interpreted
21	so as to prohibit an owner of immovable property from reclaiming leased
22	property if abandoned as provided by law, or entering leased property to make
23	necessary repairs as provided by law.
24	G. The provisions of this Section shall supersede and control to the extent
25	of conflict with any other provision of law.
26	H. It is the express intent of the Legislature of Louisiana that the
27	provisions of this Section shall be given retroactive application.
28	I. The Louisiana State Law Institute shall include as notes to this Section
29	Executive Orders JBE Nos. 2016-53, 2016-57, and 2016-66.

SLS 17RS-7

ORIGINAL SB NO. 109

1 Section 2. This Act shall become effective upon signature by the governor or, if not 2 signed by the governor, upon expiration of the time for bills to become law without signature 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become 5 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST 2017 Regular Session

Claitor

<u>Proposed law</u> ratifies and enacts Executive Orders JBE 2016-53, 2016-57, and 2016-66, which due to flooding created a limited suspension of all prescription and peremptive periods from August 15, 2016, until September 30, 2016, and extended deadlines in legal proceedings in courts, administrative agencies, and boards, both with certain exceptions.

<u>Proposed law</u> provides that it shall supersede and control to the extent of conflict with any other provision of law. Further provides that it is the express intent of the Legislature of Louisiana that the provisions of the <u>proposed law</u> shall be given retroactive application.

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

(Adds R.S. 9:5836)

SB 109 Original