SLS 19RS-147 ORIGINAL

2019 Regular Session

SENATE BILL NO. 28

BY SENATOR PRICE

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

LESSOR/LESSEE. Provides relative to residential leases and eviction requirements. (gov sig)

AN ACT

2	To amend and reenact Civil Code Arts. 2704 and 2728(2), and Code of Civil Procedure
3	Articles 4701 and 4732, relative to leases; to provide relative to residential leases;
4	to provide relative to nonpayment of rent and a grace period for such nonpayment;
5	to provide relative to eviction; to provide for notice of termination; to provide for the
6	notice to vacate; to provide for the judgment of eviction; and to provide for related
7	matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Civil Code Arts. 2704 and 2728(2) are hereby amended and reenacted to
10	read as follows:
11	Art. 2704. Nonpayment of rent
12	If the lessee fails to pay the rent when due, the lessor may, in accordance with
13	the provisions of the Title "Conventional Obligations or Contracts", dissolve the
14	lease and may regain possession in the manner provided by law.
15	Nevertheless, a residential lease shall not be dissolved for the leesee's
16	failure to pay the rent when due unless the rent remains unpaid for a period of
17	at least ten days following the arrival of the term for payment. If the lessee fails

1	to pay the rent by the tenth day, the lessor may immediately dissolve the lease
2	by giving written notice of dissolution to the lessee. If the lessee fails to pay the
3	rent when due on an additional occasion within a six month period, the lessor
4	may immediately dissolve the lease by giving written notice of dissolution to the
5	<u>lessee.</u>
6	* * *
7	Art. 2728. Notice of termination; timing
8	The notice of termination required by the preceding Article shall be given at
9	or before the time specified below:
10	* * *
11	(2) In a month-to-month <u>residential</u> lease, <u>thirty calendar days before the</u>
12	end of that month; in all other month-to-month leases, ten calendar days before
13	the end of that month:
14	* * *
15	Section 2. Code of Civil Procedure Arts. 4701 and 4732 are hereby amended and
16	reenacted to read as follows:
17	TITLE XI. EVICTION OF TENANTS LESSEES AND OCCUPANTS
18	CHAPTER 1. GENERAL DISPOSITIONS
19	Art. 4701. Termination of lease; notice Notice of lessee to vacate; waiver of notice
20	When a lessee's right of occupancy has ceased because of the termination of
21	the lease by expiration of its term, action by the lessor, nonpayment of rent, or for
22	any other reason, and the lessor wishes to obtain possession of the premises, the
23	lessor or his agent shall cause written notice to vacate the premises to be delivered
24	to the lessee. The notice shall allow the lessee not less than five days from the date
25	of its delivery to vacate the leased premises.
26	If the lease has no definite term, the notice required by law for its termination
27	shall be considered as a notice to vacate under this Article. If the lease has a definite
28	term, notice to vacate may be given not more than thirty days before the expiration

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of the term.

In all cases, a notice to vacate shall state the reasons for termination of the lease.

A lessee may waive the notice requirements of this Article by written waiver contained in the lease, in which case, upon termination of the lessee's right of occupancy for any reason, the lessor or his agent may immediately institute eviction proceedings in accordance with Chapter 2 of Title XI of the Louisiana Code of Civil Procedure. Nevertheless, in a residential lease, the notice requirements of this Article may not be waived by the lessee unless the lessee's failure to perform seriously affects the health or safety of the lessor, or any person occupying the premises or adjacent property.

* * *

Art. 4732. Trial of rule; judgment of eviction

A. The court shall make the rule returnable not earlier than the third day after service thereof, at which time the court shall try the rule and hear any defense which is made.

B. If the court finds the lessor or owner entitled to the relief sought, or if the lessee or occupant fails to answer or to appear at the trial, the court shall render immediately a judgment of eviction ordering the lessee or occupant to deliver possession of the premises to the lessor or owner. The judgment of eviction shall be effective for not less than ninety days. Nevertheless, in exceptional circumstances, the rendition of the judgment of eviction of a residential lessee may be delayed for a reasonable time not to exceed seven calendar days to prevent undue hardship on the lessee.

C. The judgement of eviction shall be effective for not less than ninety days.

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

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 Xavier I. Alexander.

DIGEST

SB 28 Original

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2019 Regular Session

Price

<u>Present law</u> relative to residential leases provides for dissolution of lease for lessee's failure to pay.

<u>Proposed law</u> provides that a lessor shall not dissolve the lease for a lessee's failure to pay, unless rent remains unpaid for a period of ten days from the day payment is due.

<u>Proposed law</u> provides that lessor may immediately dissolve the lease by giving written notice, by the 10th day if lessee fails to pay rent.

<u>Proposed law</u> provides that if lessee fails to timely pay the rent on another occasion within a six month period, lessor may immediately dissolve the lease by providing written notice.

<u>Present law</u> provides that notice of termination in a month-to-month lease shall be given at or before ten calendar days before the end of that month.

<u>Proposed law</u> provides that notice of termination in a month-to-month residential lease shall be given at or before 30 calendar days before the end of that month.

Proposed law maintains present law for all other leases.

Present law provides for notice to lessee to vacate.

<u>Proposed law</u> retains <u>present law</u> and further provides that a notice to vacate shall state the reason for termination of lease.

<u>Present law</u> provides that a notice to vacate may be waived by a written waiver provided in a lease.

<u>Proposed law</u> retains <u>present law</u> and further provides that written waiver of notice to vacate shall not apply in a residential lease, unless lessee's failure to perform affects the health and safety of lessor, or any occupant of the premises or adjacent property.

<u>Present law</u> provides that the court shall render an immediate judgment of eviction upon showing that lessor is entitled to relief or occupant fails to answer. Provides that judgment shall be effective for not less than 90 days.

<u>Proposed law</u> provides that in exceptional circumstances the rendition of a judgment of eviction of a residential lessee may be delayed not to exceed seven calendar days.

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

(Amends C.C. Arts. 2704 and 2728(2) and C.C.P. Arts. 4701 and 4732)