

2026 Regular Session

HOUSE RESOLUTION NO. 335

BY REPRESENTATIVE MUSCARELLO

LOCAL GOVERNMENT: Directs the Louisiana State Law Institute to study the prescription of actions to enforce zoning restrictions, building restrictions, and subdivision regulations

1 A RESOLUTION

2 To direct the Louisiana State Law Institute to study the prescription of actions to enforce  
3 zoning restrictions, building restrictions, and subdivision regulations by parishes and  
4 municipalities and to submit recommendations for proposed legislation to the House  
5 of Representatives no later than March 1, 2027.

6 WHEREAS, parishes and municipalities regulate land use through zoning,  
7 comprehensive plans, building codes, environmental regulations, and development approvals  
8 to ensure the orderly growth of the area included within their respective jurisdictions and to  
9 preserve the public health, safety, and welfare of their citizens; and

10 WHEREAS, parishes and municipalities are authorized to adopt master plans for the  
11 physical development of their respective jurisdictions, including the adoption of zoning  
12 restrictions and subdivision regulations; and

13 WHEREAS, zoning restrictions divide land into zones or districts, specifying  
14 permitted uses such as residential, commercial, industrial, or agricultural and these  
15 restrictions further set density limits, building heights, and lot sizes; and

16 WHEREAS, subdivision regulations govern how land is divided into smaller lots,  
17 addressing street layouts, infrastructure, and utility requirements and may require site plan  
18 approvals, design standards, and development review procedures to ensure that new projects  
19 comply with zoning and comprehensive plan objectives; and

1           WHEREAS, parishes and municipalities are also authorized to adopt building  
2 restrictions to establish minimal standards for building design, construction, and  
3 maintenance, which are essential for preventing accidents, injuries, and fatalities and these  
4 restrictions also address risks from natural disasters by ensuring that structures are sound and  
5 have properly functioning systems; and

6           WHEREAS, parishes and municipalities are authorized to enforce compliance with  
7 zoning restrictions, building restrictions, and subdivision regulations and to bring civil or  
8 criminal actions for the violations of such restrictions and regulations; and

9           WHEREAS, R.S. 9:5625 requires parishes and municipalities to bring such actions  
10 for violations within five years from the first act constituting the commission of the  
11 violation; and

12           WHEREAS, R.S. 9:5625 further provides that once prescription has accrued, the  
13 particular property involved in the violation of the zoning restriction, building restriction,  
14 or subdivision regulation shall enjoy the same legal status as land uses and construction  
15 features of buildings or subdivisions made nonconforming by the adoption of any zoning  
16 restriction, building restriction, or subdivision regulation; and

17           WHEREAS, there has been disagreement as to which activity is the first act that  
18 constitutes the commission of a violation and thus the commencement of the prescriptive  
19 period; and

20           WHEREAS, the issue was recently litigated in the La. Supreme Court case  
21 *McCormick v. Ford* (La. 5/9/2025), 408 So.3d 932 in which property owners filed a  
22 mandamus action seeking a court order requiring the Bossier Parish police jury to issue a  
23 building permit to allow owners to build a new residence on their property after the parish  
24 denied the building permit in part due to the property's violation of the parish's subdivision  
25 code; and

26           WHEREAS, the property owners acquired the property in question in 2014 from the  
27 previous owner who sold them a split-out tract which included approximately one hundred  
28 and twenty eight acres; and

1           WHEREAS, the deed for split-out to the property owners was recorded in the  
2 conveyance records of the parish in 2014 and failed to satisfy the subdivision regulations  
3 enacted by the police jury; and

4           WHEREAS, no action was taken by the parish to address the violation of the  
5 subdivision regulations until more than five years later when the property owners sought a  
6 building permit for a new residence on the property; and

7           WHEREAS, the property owners argued that the violation of the subdivision  
8 regulations occurred at the time the deed for split-out to the property owners was recorded  
9 in the conveyance records of the parish and that any action to address the violation of  
10 subdivision regulations had prescribed; and

11           WHEREAS, the police jury questioned whether the recording of the deed was the  
12 first act that constituted the commencement of the prescriptive period, and a local parish  
13 official testified during the trial that because the local parish office is small, local officials  
14 do not normally receive notice that a subdivision has been illegally split-out until the  
15 property owner seeks a building permit; and

16           WHEREAS, the police jury argued that the court of appeal incorrectly applied the  
17 public records doctrine and the theory of constructive knowledge to hold that the five-year  
18 prescriptive period commenced on the date that the deed was recorded in the conveyance  
19 records; and

20           WHEREAS, the police jury also argued that it was entitled to rely on the property  
21 owners, the notary public who notarized the property owner's deed, and the parish clerk of  
22 court to comply with R.S. 33:5051 and 5052 as R.S. 33:5052 expressly charges clerks of  
23 court and notaries public with the legal obligation not to record deeds that fail to comply  
24 with R.S. 33:5051; and

25           WHEREAS, the La. Supreme Court sided with the property owners and held that the  
26 violation of the subdivision regulations occurred when the property owners filed the deed  
27 in the conveyance records of the parish and that any action to enforce the subdivision  
28 regulations had prescribed and as such the property enjoyed a non-conforming status by  
29 operation of R.S. 9:5625; and

1           WHEREAS, the issue of prescription was also litigated in the La. Second Circuit  
2 Court of Appeal case *Bossier Parish Policy Jury v. Hicks*, (*La. App. 2 Cir.*, 11/19/2025), 425  
3 *So.3d* 252 in which the Bossier Parish police jury filed a petition for injunctive relief in 2021  
4 alleging that a property owner constructed a concrete driveway on parish property without  
5 the knowledge or consent of the parish, in violation of a parish ordinance that required the  
6 property owner to request a driveway permit; and

7           WHEREAS, counsel for the property owner stated that the affidavits of the previous  
8 owners of the property showed a historical use of the driveway, that a prior owner  
9 constructed it pursuant to a 1979 servitude, and that the current property owner resurfaced  
10 it in March 2021; and

11           WHEREAS, the property owner argued that the district court failed to apply the  
12 five-year prescriptive period provided in R.S. 9:5625, and that the accrual of prescription had  
13 extinguished any enforcement action brought after 1984, when the driveway had already  
14 existed for five years without challenge and thus the driveway became a statutorily lawful,  
15 vested nonconforming improvement; and

16           WHEREAS, the police jury argued that the five-year prescriptive period did not  
17 apply because the particular ordinance at issue was not a zoning restriction, building  
18 restriction, or subdivision regulation but, rather, a condition on the use of public property  
19 and that applying R.S. 9:5625 would undermine fundamental principles of public ownership;  
20 and

21           WHEREAS, the court held that the prescriptive period set forth in R.S. 9:5625 was  
22 applicable to the case as the ordinance at issue was a building restriction and that the first  
23 act constituting the commission of the violation was the original construction of the  
24 driveway in 1979 without a permit and thus the driveway enjoyed nonconforming status; and

25           WHEREAS, local government officials possess a substantial and legitimate stake in  
26 the outcome of cases involving the prescriptive period for the enforcement of zoning  
27 restrictions, building restrictions, and subdivision regulations; and

28           WHEREAS, there is a need for updated legislation regarding the prescription of  
29 actions to enforce zoning restrictions, building restrictions, and subdivision regulations that

1 balances the public purpose of regulating land use and the right of property owners not to  
2 be deprived of property without due process of law and just compensation.

3           THEREFORE, BE IT RESOLVED that the House of Representatives of the  
4 Legislature of Louisiana does hereby direct the Louisiana State Law Institute to study the  
5 prescription of actions to enforce zoning restrictions, building restrictions, and subdivision  
6 regulations by parishes and municipalities and to submit recommendations for proposed  
7 legislation to the House of Representatives no later than March 1, 2027.

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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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HR 335 Original

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