

Regular Session, 2012

HOUSE BILL NO. 455

BY REPRESENTATIVE ABRAMSON

DIVORCE: Provides with respect to responsibilities and obligations of certain banks when served with an injunctive or temporary restraining order in domestic matters

1 AN ACT

2 To amend and reenact R.S. 9:371 and Code of Civil Procedure Article 3604(B)(introductory
3 paragraph) and (3) and to enact Code of Civil Procedure Article 3604(D) and (E),
4 relative to injunctions; to provide for service of injunctions, preliminary injunctions,
5 and temporary restraining orders on federally insured financial institutions; to
6 provide for liability of federally insured financial institutions for compliance with
7 injunctions, preliminary injunctions, and temporary restraining orders; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:371 is hereby amended and reenacted to read as follows:

11 §371. Injunction against alienation or encumbrance; spouse's right to demand

12 A. In a proceeding for divorce, a spouse may obtain an injunction restraining
13 or prohibiting the disposition or encumbrance of community property until further
14 order of the court.

15 B. To be effective against a federally insured financial institution, an
16 injunction granted under the provisions of this Section shall be served in accordance
17 with the provisions of R.S. 6:285(C). An injunction granted pursuant to the
18 provisions of this Section shall only be effective against accounts, safe deposit boxes,
19 or other assets listed or held in the name of the following:

20 (1) One or both of the spouses named in the injunction.

(2) Another party or business entity specifically named in the injunction.

C. A federally insured financial institution shall not be liable for loss or
es resulting from its actions to comply with the injunction provided that the
ements of this Section have been met.

Section 2. Code of Civil Procedure Article 3604(B)(introductory paragraph) and (3) are hereby amended and reenacted and 3604(D) and (E) are hereby enacted to read as follows:

Art. 3604. Form, contents, and duration of restraining order

* * *

B. Nevertheless, in a suit for divorce, a temporary restraining order issued in conjunction with a rule to show cause for a preliminary injunction shall remain in force until a hearing is held on the rule for the preliminary injunction prohibiting a spouse from:

(1) Disposing of or encumbering community property;

(2) Harming the other spouse or a child; or

(3) Removing a child from the jurisdiction of the court, ~~in a suit for divorce~~
shall remain in force until a hearing is held on the rule for the preliminary injunction.

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D. To be effective against a federally insured financial institution, a temporary restraining order or preliminary injunction issued in accordance with Paragraph (B)(1) of this Section shall be served in accordance with the provisions of R.S. 6:285(C). A temporary restraining order or preliminary injunction granted pursuant to the provisions of this Section shall only be effective against accounts, safe deposit boxes, or other assets listed or held in the name of the following:

(1) One or both of the spouses named in the injunction.

(2) Another party or business entity specifically named in the injunction.

E. A federally insured financial institution shall not be liable for loss or damages resulting from its actions to comply with a temporary restraining order or preliminary injunction provided that the requirements of this Section have been met.

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)]

Abramson

HB No. 455

Abstract: Provides that banks only have to comply with injunctions, temporary restraining orders, and preliminary injunctions in domestic matters if service is made personally on a registered agent of the bank.

Present law provides for service of citation or other legal process on a bank to be made by personal service on a registered agent.

Present law provides relative to injunctions prohibiting a spouse from disposing of property during divorce proceedings.

Proposed law retains present law and provides that a bank shall only be required to comply with injunctions that are served personally on a registered agent of the bank. Further provides for application only on accounts, safe deposit boxes, or other assets in the name of the one or both of the spouses or any other specifically listed in the injunction. Provides for limited liability of the bank for compliance with an injunction.

Present law provides for the issuance of temporary restraining orders and preliminary injunctions.

Proposed law retains present law and provides that a bank shall only be required to comply with temporary restraining orders and preliminary injunctions that are served personally on a registered agent of the bank. Further provides for application only on accounts, safe deposit boxes, or other assets in the name of the one or both of the spouses or any other specifically listed in the injunction. Provides for limited liability of the bank for compliance with a temporary restraining order or preliminary injunction.

(Amends R.S. 9:371 and C.C.P. Art. 3604(B)(intro. para.) and (3); Adds C.C.P. Art. 3604(D) and (E))