Louisiana Legislature Ratifies and Extends Governor’s Extension of Legal Deadlines

Article By
Andre Burvant
Cami J. Fergus
Jones Walker LLP
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House Bill 805 of the 2020 Regular Session, currently awaiting signature by Louisiana Governor John Bel Edwards, provides a hard deadline for all legal deadlines and prescription periods extended by proclamation throughout the COVID-19 public health emergency.

On March 13, 2020, Governor Edwards declared a public health emergency in Louisiana, followed by a series of proclamations. In Proclamation Number JBE 2020-30 issued on March 16, 2020, the governor extended all legal deadlines, including liberative prescription and peremptive periods applicable to legal proceedings in all courts, administrative agencies, and boards, through April 13, 2020. These extensions applied to many parts of the Louisiana Civil Code, Louisiana Code of Civil Procedure and Revised Statutes, including Title 47 of the Revised Statutes, Revenue and Taxation. Through additional proclamations, Governor Edwards extended all legal deadlines and prescriptive periods to June 15, 2020.

H.B. 805 broadly approves and ratifies the statewide COVID-19 public health emergency as declared by the governor. This ratification includes the suspension or extension of all prescriptions, including liberative, acquisitive, and the prescription
of nonuse, abandonment periods, and all peremptive periods, as well as all deadlines in a legal proceeding. The bill not only ratifies the governor’s proclamations but also extends the suspension period from March 17, 2020, through July 5, 2020.

The suspension period provided for in H.B. 805 applies only if the period or action would have expired between March 17, 2020, and July 5, 2020, and then a hard deadline of July 6, 2020, applies to all periods or actions that expired within the suspension period. The right to file a pleading or motion or to enforce a right, claim or action that would have expired between March 17, 2020, and July 5, 2020, now expires on July 6, 2020.

Even if a deadline in a legal proceeding was not suspended by the governor’s proclamations, if a deadline in a legal proceeding lapsed between March 17, 2020, and July 5, 2020, H.B. 805 gives a party the right to seek an extension or suspension of that deadline by contradictory motion or declaratory judgment. The party seeking the extension bears the burden of proof to show that either the party or their attorney missed the deadline because they were adversely affected by the COVID-19 public health emergency. If granted, the legal deadline can only be extended to a hard deadline of September 1, 2020.

For tax purposes, the suspension period would include deadlines to appeal assessments and to appeal refund claim denials. H.B. 805 also emphasizes that these provisions apply to all administrative hearings and proceedings, which would include those proceedings at the Louisiana Board of Tax Appeals.

Significantly, the Louisiana Department of Revenue does not interpret the governor’s proclamations to provide an extension of time for the filing of any tax returns. In Revenue Information Bulletin (RIB) No. 20-008, which was released on March 19, 2020, the department provided a short extension of time for filing the February 2020 sales and excise tax returns to May 20, 2020, and further explained that the suspension of prescription of all tax assessments and legal deadlines are separately governed by the governor’s proclamations. The department maintains that the proclamations do not apply to return filing deadlines. State filing and payment deadlines and any extensions thereof due to COVID-19 can be found here, and local return information can be found here.

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