

2022 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVE LANDRY

LESSOR/LESSEE: Provides relative to abandonment of a rental premises following the declaration of a federally declared disaster

1 AN ACT

2 To enact Code of Civil Procedure Article 4731(C), relative to leases; to provide relative to
3 federally declared national disasters; to provide relative to abandonment; to provide
4 for repossession of the premises; to provide for an exception; to provide for
5 damages; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 4731(C) is hereby enacted to read as
8 follows:

9 Art. 4731. Rule to show cause why possession should not be delivered;
10 abandonment of premises; federally declared disasters

11 * * *

12 C.(1) Paragraph B of this Article shall not apply for thirty days following the
13 declaration of a federally declared disaster that caused the residential premises to be
14 abandoned, to the extent that a lessor's or owner's belief that a lessee or occupant has
15 abandoned the premises is based on the cessation of residential occupancy.

16 (2) Failure to comply with this Article shall give a residential lessee the right
17 to recover five hundred dollars or twice the amount of the monthly rent, whichever
18 is greater, from the lessor or owner, or from the lessor's successor in interest.

19 (3) R.S. 9:3252 and R.S. 9:3253 shall apply to any civil action brought
20 pursuant to this Paragraph.

1 (4) For the thirty days following the declaration of a federally declared
 2 disaster, a court shall not require a residential lessee bringing an action for a
 3 temporary restraining order or preliminary injunction under this Article to furnish
 4 security, as required by Code of Civil Procedure Article 3610.

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)]

HB 160 Original

2022 Regular Session

Landry

Abstract: Prohibits a lessor or owner from bringing an action for possession of a residential property on the basis of abandonment for 30 days following the declaration of a federally declared disaster if the federally declared disaster caused the residential premises to be abandoned.

Present law (C.C.P. Art. 4701) provides that when the lessor wishes to obtain possession of the premises from the lessee, the lessor or his agent shall have a written notice to vacate delivered to the lessee. The notice shall allow the lessee five days from the date of its delivery to vacate the premises. A lessee may waive the notice requirements by written waiver.

Present law (C.C.P. Art. 4731(A)) provides that if the lessee or occupant fails to comply with or has waived the notice to vacate, the lessor or owner may cause the lessee or occupant to show cause why they should not be ordered to deliver possession of the premises to the lessor or owner.

Present law (C.C.P. Art. 4731(B)) provides that after notice has been given, the lessor or owner may lawfully take possession of the premises without further judicial process upon the reasonable belief that the lessee or occupant has abandoned the premises.

Proposed law provides an exception to abandonment as provided in C.C.P. Art. 4731(B), whereby C.C.P. Art. 4731(B) does not apply for the 30 days following the declaration of a federally declared disaster that caused the residential premises to be abandoned, to the extent that a lessor's or owner's belief that an occupant has abandoned the premises based on the cessation of residential occupancy.

Proposed law provides that a residential lessee may recover the greater of \$500 or twice the amount of monthly rent from the lessor or owner for failure to comply with C.C.P. Art. 4731.

Present law (R.S. 9:3252) provides that a lessee may recover any portion of a security deposit wrongfully retained and the greater of \$300 or twice the amount of the portion of the security deposit wrongfully retained by the lessor.

Proposed law provides that present law shall apply to civil actions brought pursuant to proposed law.

Present law (R.S. 9:3253) provides for the awarding of costs and attorney fees to the prevailing party for actions brought under R.S. 9:3252.

Proposed law provides that present law shall apply to civil actions brought pursuant to proposed law.

Present law (C.C.P. Art. 3610) requires an applicant for a temporary restraining order or preliminary injunction provide security, except where security is dispensed with by law.

Proposed law provides that for the 30 days following the declaration of a federally declared disaster, a court shall not require a lessee bringing an action for a temporary restraining order or preliminary injunction to furnish security.

(Adds C.C.P. Art. 4731(C))