

House Committee on Civil Law and Procedure

Minutes of Meeting
2017 Regular Session
April 18, 2017

I. CALL TO ORDER

Representative Raymond E. Garofalo, Jr., chairman of the House Committee on Civil Law and Procedure, called the meeting to order at 9:39 a.m. in Room 4, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Raymond E. Garofalo, Jr., chairman
Representative Robby Carter
Representative Gregory Cromer
Representative Julie Emerson
Representative Randal L. Gaines, vice chairman
Representative Sam L. Jenkins, Jr.
Representative Tanner D. Magee
Representative Gregory A. Miller

MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Robert A. Singletary, attorney
Steve Kogos, attorney
Diane Merritt, secretary

ADDITIONAL ATTENDEES PRESENT:

Myrtis Jarrell, sergeant at arms
Danny Leming, sergeant at arms

III. DISCUSSION OF LEGISLATION

House Bill No. 560 by Representative Hunter

Representative Hunter presented House Bill No. 560, which provides with respect to legislative continuance.

Judge Bob Morrison, Louisiana District Judges Association, P.O. Box 788, Amite, LA 70422, no telephone provided, spoke in opposition to House Bill No. 560.

Representative Cromer offered a motion to report House Bill No. 560 favorably. Without objection, House Bill No. 560 was reported favorably by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

House Bill No. 340 by Representative Jay Morris

On behalf of the author, Representative Garofalo offered a motion to voluntarily defer action on House Bill No. 340, which provides relative to the availability of attorney fees in suits on open accounts. Without objection, action on House Bill No. 340 was voluntarily deferred by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

House Bill No. 115 by Representative Cromer

Representative Cromer presented House Bill No. 115, which provides for the continuous revision of community property laws.

Professor Andrea Carroll, representing the Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803-1016, testified for information only on House Bill No. 115.

Representative Garofalo offered an amendment to eliminate the provision regarding the duty to preserve and manage prudently a former community enterprise, providing that the duty applies to all former community property of a spouse under his control. Representative Garofalo offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Representative Garofalo offered a motion to report House Bill No. 115 with amendments. Without objection, House Bill No. 115 was reported with amendments by a vote of 7 yeas, 0 nays, and 1

abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

House Bill No. 121 by Representative Gregory Miller

Representative Gregory Miller presented House Bill No. 121, which provides relative to a detailed descriptive list in an independent administration of estates.

Professor Ronald Scalise, representing the Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803-1016, no telephone number provided, spoke for information only on House Bill No. 121.

Representative Gregory Miller offered a motion to report House Bill No. 121 favorably, to which Representative Robby Carter objected. The secretary called the roll, and House Bill No. 121 was reported favorably by a vote of 7 yeas and 1 nays. Representatives Garofalo, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Robby Carter voted nay.

House Bill No. 439 by Representative Zeringue

Representative Zeringue presented House Bill No. 439, which provides for continuous revisions to the Code of Civil Procedure and related provisions of the Revised Statutes.

Professor Bill Forrester, representing the Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803-1016, no telephone number provided, spoke for information only on House Bill No. 439.

Representative Garofalo offered amendments to change additional references from "default judgment" to "preliminary default" and specify that a final judgment is a final default judgment. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Representative Magee offered a motion to report House Bill No. 439 with amendments. Without objection, House Bill No. 439 was reported with amendments by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 1 for information only. Witness cards are included in the committee records.

House Bill No. 136 by Representative Jefferson

Representative Jefferson presented House Bill No. 136, which provides for the time periods for no-fault divorce and interim spousal support.

Professor Andrea Carroll, representing the Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803-1016, no telephone number provided, spoke for information only on House Bill No. 136.

Katherine Spaht, 2184 Kleinert Avenue, Baton Rouge, LA, (225) 806-8889, testified in opposition to House Bill No. 136.

Professor Randy Trahan, 1925 Candlewood Avenue, Baton Rouge, LA. (225) 205-0042, spoke in opposition to House Bill No. 136.

Professor Michelle Ghetti, 18531 Lake Tulip Avenue, Baton Rouge, LA 70817, (225) 933-9029, spoke in opposition to House Bill No. 136.

Gene Mills, representing Louisiana Family Forum, 655 St. Ferdinand, Baton Rouge, LA, (225) 344-8533, spoke in opposition to House Bill No. 136.

Judge Lisa Woodruff-White, representing the Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803-1016, spoke for information only on House Bill No. 136.

Representative Cromer offered a motion to involuntarily defer action on House Bill No. 136, to which Representative Jenkins objected. The secretary called the roll, and the motion failed to pass by a vote of 3 yeas and 5 nays. Representatives Garofalo, Cromer, and Emerson voted yea. Representatives Robby Carter, Gaines, Jenkins, Magee, and Gregory Miller voted nay.

Representative Jenkins offered a motion to report House Bill No. 136 favorably. Without objection, House Bill No. 136 was reported favorably by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 2 in support and 5 in opposition. Witness cards are included in the committee record.

House Bill No. 244 by Representative Hilferty

Representative Hilferty presented House Bill No. 244, which allows certain business records to be self-authenticated.

Judge Bob Morrison, representing the Louisiana District Judges Association, P.O. Box 788, Amite, LA 70422, (985) 748-9445, spoke in support of House Bill No. 244.

Juan Howard, 507 Oak Point Drive, no city provided, (504) 788-9735, spoke in support of House Bill No. 244.

Representative Magee offered a motion to report House Bill No. 244 favorably. Without objection, House Bill No. 244 was reported favorably by a vote of 6 yeas, 0 nays, and 1 abstention. Representatives Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 3 in support. Witness cards are included in the committee record.

House Bill No. 525 by Representative Seabaugh

Representative Seabaugh presented House Bill No. 525, which provides for liability for violation of certain federal detainer orders under certain circumstances.

Representative Garofalo offered an amendment on behalf of the Louisiana Sheriff's Association to add provisions specifying that the violation of the detainer must be intentional. Representative Garofalo offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 5 yeas, 0 nays, and 1 abstention. Representatives Cromer, Emerson, Gaines, Jenkins, and Gregory Miller voted yea. Representative Garofalo abstained.

Representative Gregory Miller offered a motion to report House Bill No. 525 with amendments. Without objection, House Bill No. 525 was reported with amendments by a vote of 6 yeas, 0 nays, and 1 abstention. Representatives Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 2 in support. Witness cards are included in the committee record.

House Bill No. 227 by Representative Shadoin

On behalf of Representative Shadoin, Kevin Hayes, representing Verbatim Court Reporters, 412 N. 4th Street, Baton Rouge, LA 70807, (225) 268-2725, presented House Bill No. 227, which provides relative to sealing and delivering depositions.

Representative Garofalo offered amendments to reorganize the order of the provisions so that the procedures for sealing paper and electronic depositions appear together in the same Subparagraph and specify that copies of the electronic deposition are promptly and simultaneously delivered to all

parties attending the deposition. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Judge Bob Morrison, representing the Louisiana District Judges Association, P.O. Box 788, Amite, LA, (985) 748-9445, spoke in support of House Bill No. 227.

Representative Robby Carter offered a motion to report House Bill No. 227 with amendments. Without objection, House Bill No. 227 was reported with amendments by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 5 in support. Witness cards are included in the committee record.

House Bill No. 400 by Representative Garofalo

Representative Garofalo presented House Bill No. 400, which provides for certain form requirements imposed on financial institutions relative to the cancellation of mortgages.

Mr. David Boneno, Louisiana Bankers Association, 5555 Bankers Avenue, Baton Rouge, LA 70808, (225) 214-4836, spoke in support of House Bill No. 400.

Representative Garofalo offered amendments to (1) specify that the financial institution be represented by one of its officers; (2) change "any act" that is self-proving to "any form" that is self-proving; (3) add various technical changes to the form for a mortgage cancellation; and (4) add a new form for the partial cancellation of a mortgage. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Representative Garofalo offered a motion to report House Bill No. 400 with amendments. Without objection, House Bill No. 400 was reported with amendments by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

Witness cards submitted by individuals who did not wish to speak are as follows: 3 in support. Witness cards are included in the committee record.

House Bill No. 129 by Representative Davis

On behalf of Representative Davis, Representative Magee offered a motion to voluntarily defer action on House Bill No. 129, which provides relative to small successions. Without objection, action on House Bill No. 129 was voluntarily deferred by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

House Bill No. 328 by Representative Coussan

On behalf of Representative Coussan, Representative Garofalo offered a motion to voluntarily defer action on House Bill No. 328, which provides relative to extinction of rights relating to immovable property. Without objection, action on House Bill No. 328 was voluntarily deferred by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

House Bill No. 399 by Representative Garofalo

Representative Garofalo offered a motion to voluntarily defer action on House Bill No. 399, which provides relative to suspension or extension of prescription, peremption, and certain legal deadlines. Without objection, action on House Bill No. 399 was voluntarily deferred by a vote of 7 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, Cromer, Emerson, Gaines, Jenkins, Magee, and Gregory Miller voted yea. Representative Garofalo abstained.

IV. OTHER BUSINESS

There was no other business.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

The meeting was adjourned at 1:09 p.m.

Respectfully submitted,

Chairman Raymond E. Garofalo, Jr.
House Committee on Civil Law and Procedure

Date adopted: