

RÉSUMÉ DIGEST

ACT 174 (HB 164)

2021 Regular Session

Robby Carter

Existing law (C.C.P. Art. 253.3(A)(3)) authorizes the duty judge to hear and sign certain orders and judgments.

New law removes entry of preliminary defaults and confirmation of defaults and adds default judgments.

Existing law (C.C.P. Arts. 284, 928(A), 1002, 1471(A)(3), 1703, 1843, 1913(B) and (C), 2002(A)(2), 4921.1(C), and 5095) includes references to final default judgments.

New law updates terminology and makes other technical corrections.

Prior law (C.C.P. Art. 1001) required the defendant to file his answer within 15 days after service of citation and within 10 days after an exception was overruled or referred to the merits or the amended petition was served.

New law extends the time periods provided under prior law from 15 to 21 days and from 10 to 15 days. New law also provides that if a discovery request is served by the plaintiff with the petition, the defendant shall have 30 days within which to file his answer.

Existing law (C.C.P. Art. 1702.1) provides for the confirmation of preliminary defaults without a hearing in open court.

New law updates terminology and cross-references included in existing law and requires the plaintiff to file a written request for default judgment.

Existing law (C.C.P. Art. 1704) provides for the confirmation of preliminary defaults in suits against the state or a political subdivision.

New law requires the plaintiff to send notice of his intent to obtain a default judgment before the court can render a default judgment against the state or its political subdivisions or any of its instrumentalities. New law also extends the time period within which the answer or other pleading shall be filed under existing law from 15 to 21 days.

Existing law (R.S. 13:3205(intro. para.)) prohibits the rendition of a preliminary default or final default judgment under certain circumstances.

New law updates terminology used in existing law.

Existing law (R.S. 13:4990) requires the plaintiff to make a diligent effort to locate all co-owners of property that is sought to be partitioned upon confirmation of a preliminary default.

New law updates terminology used in existing law.

Prior law (R.S. 23:1316.1(A)) provided with respect to the confirmation of preliminary defaults in workers' compensation cases.

New law provides for the rendition of a default judgment in favor of a plaintiff who establishes a prima facie case when the defendant fails to answer or file other pleadings within the prescribed time.

New law provides that a default judgment may be rendered against the defendant provided that the plaintiff provides notice of his intent to obtain a default judgment if required and unless such notice is waived, pursuant to new law.

New law further requires the plaintiff to provide notice of his intent to obtain a default judgment against the defendant in certain circumstances at least seven days prior to the rendition of the default judgment, unless notice is waived.

New law requires that the plaintiff send notice of his intent to obtain a default judgment against the defendant by certified mail if the defendant is represented by an attorney or counsel of record.

Prior law required notice to be sent by regular mail to the defendant.

New law changes the requirements as it relates to the method of mailing the notice from regular mail to certified mail.

Prior law (C.C.P. Art. 1702) provided with respect to the confirmation of preliminary defaults.

New law provides for the rendition of a default judgment in favor of a plaintiff who establishes a prima facie case when the defendant fails to answer or file other pleadings within the prescribed time.

New law provides that a default judgment may be rendered against the defendant provided that the plaintiff provides notice of his intent to obtain a default judgment if required and unless such notice is waived, pursuant to new law.

New law further requires the plaintiff to provide notice of his intent to obtain a default judgment against the defendant in certain circumstances at least seven days prior to the rendition of the default judgment, unless notice is waived.

New law requires that the plaintiff send notice of his intent to obtain a default judgment against the defendant by certified mail if the defendant is represented by an attorney or counsel of record.

New law provides that in all cases involving delictual actions the plaintiff may send notice of his intent to obtain a default judgment by regular mail at the address where service was obtained, if the defendant is not represented by an attorney or counsel of record.

New law further provides that in cases involving divorce under C.C. Art. 103(1), when the defendant files an affidavit waiving citation, service, all delays, and notice, a default judgment of divorce may be rendered against the defendant two days, exclusive of legal holidays, after the affidavit is filed.

Existing law (C.C.P. Art. 4904) provides for the rendition of final default judgments in parish and city courts.

New law updates terminology used in existing law and provides that notice of the signing of a default judgment shall be given as provided in C.C.P. Art. 1913.

Existing law (C.C.P. Art. 4921) provides for the rendition of final default judgments in justice of the peace courts and district courts with concurrent jurisdiction.

New law updates terminology used in existing law.

Prior law(C.C.P. Art. 1701) provided with respect to the entry of preliminary defaults.

New law repeals prior law.

Prior law (R.S. 23:1316) provided for the rendition of preliminary defaults in workers' compensation cases.

New law repeals prior law.

Effective January 1, 2022.

(Amends C.C.P. Arts. 253.3(A)(3), 284, 928(A), 1001, 1002, 1471(A)(3), 1702, 1702.1, 1703, 1704, 1843, 1913(B) and (C), 2002(A)(2), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205(intro. para.) and 4990, and R.S. 23:1316.1(A); Repeals C.C.P. Art. 1701 and R.S. 23:1316)