
HOUSE COMMITTEE AMENDMENTS

2020 Regular Session

Amendments proposed by House Committee on Civil Law and Procedure to Original House Bill No. 9 by Representative Garofalo

AMENDMENT NO. 1

On page 1, line 2, after "Civil Code" and before "3493.10" delete "Article" and insert "Articles 3492 and"

AMENDMENT NO. 2

On page 1, delete lines 3 through 9 in their entirety and insert the following:

"and R.S. 22:1269(B), to enact R.S. 9:2800.25, and to repeal R.S. 22:333(E) and 32:295.1(E), relative to liability; to provide relative to civil liability and to motor vehicle liability coverage; to extend the general prescriptive period for delictual actions involving motor vehicle accidents; to prohibit the court from awarding a plaintiff the amount of medical expenses reduced or paid by a collateral source; to provide for definitions; to provide with respect to a jury trial in a lawsuit arising from a motor vehicle accident; to limit the right of direct action against an insurer; to provide relative to the requirement to wear safety belts while operating a motor vehicle; to provide for the introduction of evidence of the failure to wear a safety belt; to require certain annual rate filings with the commissioner of insurance; to provide for a mandatory rate reduction under certain circumstances; to provide for prospective application; to provide for an effective date; and to provide for related matters."

AMENDMENT NO. 3

On page 1, line 16, after "vehicle" and before "insurance" insert "accidents and"

AMENDMENT NO. 4

On page 2, line 4, after "Civil Code" and before "hereby" delete "Article 3493.10 is" and insert "Articles 3492 and 3493.10 are"

AMENDMENT NO. 5

On page 2, between lines 5 and 6, insert the following:

"Art. 3492. Delictual actions

~~Delictual~~ Except as otherwise provided, delictual actions are subject to a liberative prescription of one year. This prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

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AMENDMENT NO. 6

On page 2, at the end of line 6, insert a semicolon ";" and "operation or control of a motor vehicle"

1 AMENDMENT NO. 7

2 On page 2 line 7, after "actions" insert the following:

3 "for injury or damage arising from the operation or control of any motor vehicle,
 4 aircraft, watercraft, or other means of conveyance or which arise due to damages
 5 sustained as a result of an act defined as a crime of violence under Chapter 1 of Title
 6 14 of the Louisiana Revised Statutes of 1950"

7 AMENDMENT NO. 8

8 On page 3, delete lines 12 through 21 in their entirety and insert the following:

9 "A. For the purposes of this Section, the following terms shall have the
 10 following meanings:

11 (1) "Health insurance issuer" means any health insurance coverage through
 12 a policy or certificate of insurance subject to regulation of insurance under state law,
 13 health maintenance organization, employer sponsored health plan, the office of group
 14 benefits, or an equivalent federal or state health plan.

15 (2) "Medical provider" means any healthcare provider, hospital, ambulance
 16 service, or their heirs or assigns.

17 B. In cases where a plaintiff's medical expenses have been paid, in whole or
 18 in part, by a health insurance issuer, Medicaid, or Medicare to a contracted or
 19 participating medical provider, the plaintiff's recovery of medical expenses is limited
 20 to the amount actually paid to the medical provider by the health insurance issuer,
 21 Medicaid, or Medicare and any applicable cost sharing amount, and not the amount
 22 billed."

23 AMENDMENT NO. 9

24 On page 3, at the beginning of line 22, change "B.(1)" to "C."

25 AMENDMENT NO. 10

26 On page 3, delete lines 26 through 29 in their entirety and on page 4, delete lines 1 and 2 in
 27 their entirety and insert the following:

28 "D.(1) In an action for damages where a person suffers injury, death, or loss,
 29 the court may receive evidence concerning any amount which has been paid or
 30 contributed as of the date the court enters judgment by or on behalf of the claimant
 31 or members of his immediate family to secure the claimant's right to any private
 32 insurance benefit which he has received as a result of such injury, death, or loss.

33 (2) In an action for damages where a person suffers injury, death, or loss, the
 34 court may receive evidence concerning the amount the health insurance issuer would
 35 have paid if the medical bills would have been submitted by the claimant to his
 36 health insurance issuer, Medicare, or Medicaid provider."

37 AMENDMENT NO. 11

38 On page 4, line 3, after "R.S." change "22:1269" to "22:1269(B)"

39 AMENDMENT NO. 12

40 On page 4, delete lines 6 through 14 in their entirety and insert the following:

41 ** * *
 42 B.(1) The injured person or his survivors or heirs mentioned in Subsection
 43 A of this Section, ~~at their option,~~ shall have a right of direct action against the insurer
 44 ~~within the terms and limits of the policy; and, such action may be brought against the~~

1 insurer alone, or against both the insured and insurer jointly and in solido, in the
2 parish in which the accident or injury occurred or in the parish in which an action
3 could be brought against either the insured or the insurer under the general rules of
4 venue prescribed by Code of Civil Procedure Art. 42 only; however, such action may
5 be brought against the insurer alone only when at least one of the following applies:

6 (a) The insured has been adjudged bankrupt by a court of competent
7 jurisdiction or when proceedings to adjudge an insured bankrupt have been
8 commenced before a court of competent jurisdiction.

9 (b) ~~The insured is insolvent.~~

10 (c) ~~Service of citation or other process cannot be made on the insured.~~

11 (d)(b) ~~When the~~ The cause of action is for damages as a result of an offense
12 or quasi-offense between children and their parents or between married persons.

13 (e) ~~When the insurer is an uninsured motorist carrier.~~

14 (f)(c) The insured is deceased.

15 (2) ~~This right of direct action shall exist whether or not the policy of~~
16 ~~insurance sued upon was written or delivered in the state of Louisiana and whether~~
17 ~~or not such policy contains a provision forbidding such direct action, provided the~~
18 ~~accident or injury occurred within the state of Louisiana.~~ may be brought against the
19 insurer alone in the parish in which the accident or injury occurred or in the parish
20 in which an action could be brought against either the insured or the insurer under
21 the general rules of venue prescribed by Code of Civil Procedure Article 42 only.
22 Nothing contained in this Section shall be construed to affect the provisions of the
23 policy or contract if such provisions are not in violation of the laws of this state.

24 (3) When the circumstances enumerated in Paragraph (1) of this Subsection
25 do not apply, neither the injured person nor the survivors or heirs mentioned in
26 Subsection A of this Section shall have a right of direct action against the insurer.
27 The injured person or his survivor or heirs shall bring an action against the insured,
28 wherein a court of competent jurisdiction may render a finding of liability and
29 damages against the insured. Nothing contained in this Section shall be construed to
30 affect the insured's right to enforce the provisions of the policy or contract against
31 the insurer.

32 * * *

33 Section 6. R.S. 22:333(E) and R.S. 32:295.1(E) are hereby repealed in their"

34 AMENDMENT NO. 13

35 On page 5, delete lines 14 through 20 in their entirety

36 AMENDMENT NO. 14

37 On page 5, between lines 26 and 27, insert the following:

38 "Section 8. For policies of personal private passenger automobile insurance
39 issued or renewed one year following the effective date of this Act, each insurer shall
40 file with the commissioner of insurance for approval premium rates which actuarially
41 reflect the savings it anticipates as a result of this Act, which is presumed to be ten
42 percent lower for each impacted coverage, when compared to the premium rates in
43 effect for that coverage on the date of enactment. Each such insurer shall have the
44 right to request all or partial relief from the presumed roll-back amount of ten
45 percent on each impacted coverage, if it can demonstrate to the commissioner of
46 insurance that it has not experienced a sufficient reduction in loss costs to actuarially
47 justify the full amount of presumed savings of ten percent. Any filing with premium
48 rates that provides for the ten percent reduction or more for each impacted coverage
49 shall be deemed approved, if not disapproved, thirty days after filing. This Section
50 does not prohibit an increase for any individual insurance policy premium if the
51 increase results from an increase in the risk of loss."

52 AMENDMENT NO. 15

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 On page 5, at the beginning of line 27, change "Section 8." to "Section 9. (A)"

2 AMENDMENT NO. 16

3 On page 5, after line 27, insert the following:

4 "(B) The provisions of Section 3 of this Act shall apply only to new causes
5 of action that arise on or after the effective date of this Act."