

2020 First Extraordinary Session

SENATE BILL NO. 11

BY SENATOR FESI

FRAUD. Provides relative to civil liability and certain actions for nullity involving fraud.
(Item #40)

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AN ACT

To enact Code of Civil Procedure Art. 2004.1, relative to civil actions; to provide relative to nullity of judgments for fraud; to provide for certain terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 2004.1 is hereby enacted to read as follows:

Art. 2004.1. Annulment for vice of fraud

A. A final judgment or compromise settlement obtained by fraud in an action for a delictual or quasi delictual offense may be annulled.

B. An action to annul a judgment or compromise settlement on these grounds must be brought within one year of the discovery by the plaintiff in the nullity action of the fraud.

C. A nullity action pursuant to this Article may be brought by a liability insurer who would have been an interested party in the original action, whether or not named as a party in that action.

D. The court may award reasonable attorney fees incurred by the

1 **prevailing party in the nullity action and, if the judgment or settlement is**
2 **nullified, judicial interest on repayment of the original amount of the award or**
3 **settlement.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 11 Original

2020 First Extraordinary Session

Fesi

Present law provides for nullity of actions on the basis of fraud or ill practices.

Proposed law retains present law and further provides for nullity of a final judgment or compromise settlement obtained by fraud in an action for a delictual or quasi delictual offense.

Proposed law provides for the annulment of a judgment or compromise settlement on the grounds of fraud to be brought within one year of the discovery by the plaintiff in the nullity action of the fraud.

Proposed law provides that a nullity action pursuant to proposed law may be brought by a liability insurer who would have been an interested party in the original action, whether or not named as a party in that action.

Proposed law provides that the court may award reasonable attorney fees incurred by the prevailing party in the nullity action and, if the judgment or settlement is nullified, judicial interest on repayment of the original amount of the award or settlement.

Effective 60 days upon adjournment of the 2020 First Extraordinary Session.

(Adds C.C.P. Art. 2004.1)