

GREEN SHEET REDIGEST

HB 164

2021 Regular Session

Robby Carter

JUDGMENTS: Provides relative to default judgments

DIGEST

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

Proposed law retains present law but removes entry of preliminary defaults and confirmation of defaults and adds default judgments.

Present 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.

Proposed law retains present law but updates terminology and makes other technical corrections.

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

Proposed law extends the time periods provided under present law from 15 to 21 days and from 10 to 15 days. Proposed 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.

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

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

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

Proposed 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. Proposed law also extends the time period within which the answer or other pleading shall be filed under present law from 15 to 21 days.

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

Proposed law updates terminology used in present law.

Present 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.

Proposed law updates terminology used in present law.

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

Proposed 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.

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

Proposed 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.

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

Present law requires notice to be sent by regular mail to the defendant.

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

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

Proposed 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.

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

Proposed 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.

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

Proposed 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.

Proposed 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.

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

Proposed law updates terminology used in present law and provides that notice of the signing of a default judgment shall be given as provided in Art. 1913.

Present 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.

Proposed law updates terminology used in present law.

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

Proposed law repeals present law.

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

Proposed law repeals present law.

Proposed law is contingent upon HB 152 being enacted.

(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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. With respect to default judgments in parish and city courts, specify that the plaintiff must establish a prima facie case by competent and admissible evidence.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Require the plaintiff to send notice of intent to obtain a default judgment by regular mail to the party who fails to answer at the address where service was obtained.
2. Provide that default judgment may be rendered seven days after notice of intent to obtain a default judgment is sent.
3. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Makes technical changes.
2. Requires notice be sent seven days prior to a default judgement being rendered.
3. Changes provisions related to mailing of notice of intent to seek a default judgement.