

Regular Session, 2014

SENATE BILL NO. 559

BY SENATOR CLAITOR

MALPRACTICE. Provides relative to continuous representation of a client in action for legal malpractice. (8/1/14)

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AN ACT

To enact R.S. 9:5605(F) and (G), relative to actions for legal malpractice; to provide relative to the continuous representation of a client by an attorney regarding a specific subject matter; to provide with respect to the interruption of prescription or running of the peremptive period; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:5605(F) and (G) are hereby enacted to read as follows:

§5605. Actions for legal malpractice

* * *

F. The continuous representation of a client, by an attorney regarding a specific subject matter, who has a claim under this Section for malpractice for the alleged act, omission, or neglect does interrupt prescription and the running of the peremptive period for the alleged wrongful act, omission, or neglect upon which the claim is based.

G. The provisions of this Section shall supercede and control to the extent of conflict with judicial decisions applying continuous representation.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Claitor (SB 559)

Present law provides that no action for damages against any attorney at law duly admitted to practice in this state, any partnership of such attorneys at law, or any professional corporation, company, organization, association, enterprise, or other commercial business or professional combination authorized by the laws of this state to engage in the practice of law, whether based upon tort, or breach of contract, or otherwise, arising out of an engagement to provide legal services shall be brought unless filed in a court of competent jurisdiction and proper venue within one year from the date of the alleged act, omission, or neglect, or within one year from the date that the alleged act, omission, or neglect is discovered or should have been discovered; however, even as to actions filed within one year from the date of such discovery, in all events such actions shall be filed at the latest within three years from the date of the alleged act, omission, or neglect.

Present law provides that the provisions of present law are remedial and apply to all causes of action without regard to the date when the alleged act, omission, or neglect occurred. However, with respect to any alleged act, omission, or neglect occurring prior to September 7, 1990, actions must, in all events, be filed in a court of competent jurisdiction and proper venue on or before September 7, 1993, without regard to the date of discovery of the alleged act, omission, or neglect.

Present law provides that the one-year and three-year periods of limitation provided in present law are preemptive periods within the meaning of present law and may not be renounced, interrupted, or suspended.

Proposed law provides that the continuous representation of a client, by an attorney regarding a specific subject matter, who has a claim under proposed law for malpractice for the alleged wrongful act or omission does interrupt prescription and the running of the preemptive period for the alleged wrongful act, omission, or neglect upon which the claim is based.

Proposed law provides that the provisions of proposed law shall supercede and control to the extent of conflict with judicial decisions applying continuous representation.

Effective August 1, 2014.

(Adds R.S. 9:5605 (F) and (G))