

RÉSUMÉ DIGEST

ACT 419 (HB 439)

2017 Regular Session

Zeringue

Existing law (C.C.P. Arts. 284, 928(A), 1002, 1701-1704, 1843, 1913(B) and (C), 2002(A)(2), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205, and R.S. 23:1316 and 1316.1) uses terms including "default", "default judgment", "judgment by default", and "judgment of default" for both the preliminary default and final default judgment procedures.

New law clarifies existing law by consistently using the terms "preliminary default" and "final default judgment" throughout those provisions.

New law (C.C.P. Art. 74.3.1) provides that a person applying for a marriage license who is unable to provide certain required documents establishing the applicant's identity may seek judicial authorization for waiver of the requirements, and further authorizes the court to grant the waiver and order the issuance of the marriage license if, after hearing and good cause shown, the court finds that such relief is appropriate and that the person has complied with other legal requirements for the marriage license.

New law authorizes the hearing to be conducted in camera, and before a duty judge, and provides that the written order granting the waiver shall be attached to the marriage license application.

New law provides that judicial authorization may be granted by the district court, parish court, family court, or juvenile court, in the parish in which the marriage license application is made, or by the First or Second City Court of the City of New Orleans if such application is made within their territorial jurisdiction, or by a justice of the peace court or city court if the issuing official is located within the justice of the peace or city court's territorial jurisdiction.

New law provides that the provisions of new law are in addition to any other right or remedy provided by law, are notwithstanding any other provision of law to the contrary, and shall supersede and control to the extent of conflict with any other provision of law.

Prior law (C.C.P. Arts. 253.3(A)(4) and 3955(B)) used the term "curator ad hoc".

New law replaces the term "curator ad hoc" with "an attorney appointed by the court" and "an attorney appointed to represent the absentee defendant" in accordance with C.C.P. Art. 5091.

Existing law (C.C.P. Art. 532) permits the court to stay all proceedings in suits brought in a Louisiana court while suit is also pending in another jurisdiction.

New law clarifies that the procedure provided under existing law is accomplished by a motion to stay rather than an exception of lis pendens.

Existing law (C.C.P. Art. 925(A)(3)) sets forth the objections that may be raised as declinatory exceptions.

New law clarifies that the exception of lis pendens under existing law is provided only by C.C.P. Art. 531.

Existing law (C.C.P. Art. 1702(E)) requires that when the plaintiff's demand is for divorce under C.C. Art. 103(1) or (5), the plaintiff must submit an affidavit, proposed final judgment, and certification that service was properly made and the procedural requirements of the preliminary default process were properly followed.

New law adds to existing law the requirement that when the plaintiff's demand is for divorce under C.C. Art. 103(5), the plaintiff shall also submit to the court a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree.

Existing law (C.C.P. Arts. 3861, 3864, 3901, and 3902) provides for the applicability of mandamus and quo warranto proceedings to corporations.

New law adds to existing law that these proceedings shall also be applicable to limited liability companies.

Existing law (C.C.P. Art. 253) provides for the pleadings, documents, and exhibits to be filed with the clerk of court.

New law adds to existing law that the clerk of court shall not refuse to accept any pleading or other document solely on the ground that it was signed by electronic signature.

Existing law (C.C.P. Art. 1067) provides with respect to the barring of all incidental demands by prescription or peremption but appears in the section of the C.C.P. on Reconvention specifically.

New law redesignates existing law as C.C.P. Art. 1041 so it appears in the section of the C.C.P. on General Dispositions of Incidental Actions.

Effective August 1, 2017, except C.C.P. Art. 253(E) becomes effective Jan. 1, 2018.

(Amends C.C.P. Arts. 253.3(A)(4), 284, 532(heading), 925(A)(3), 928(A), 1002, 1701- 1704, 1843, 1913(B) and (C), 2002(A)(2), 3861, 3864, 3901, 3902, 3955(B), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205, and R.S. 23:1316 and 1316.1(A); Adds C.C.P. Art. 74.3.1 and 253(E); Redesignates C.C.P. Art. 1067)