

2019 Regular Session

HOUSE BILL NO. 252

BY REPRESENTATIVE GAINES

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTRACTS: Provides relative to aleatory contracts

1 AN ACT

2 To amend and reenact Civil Code Article 1968 and to repeal Title XIV of Book III of the  
3 Civil Code, comprised of Civil Code Articles 2982 through 2984, relative to aleatory  
4 contracts; to provide with respect to unlawful cause; to provide with respect to  
5 gaming, gambling, and wagering; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 1968 is hereby amended and reenacted to read as  
8 follows:

9 Art. 1968. Unlawful cause

10 The cause of an obligation is unlawful when the enforcement of the  
11 obligation would produce a result prohibited by law or against public policy.

12 Examples of obligations with unlawful causes include those that arise from  
13 gaming, gambling, and wagering not authorized by law.

14 Revision Comments - 2019

15 (a) The second paragraph of this Article restates the principles of prior law  
16 contained in former Articles 2983 and 2984. It does not significantly change the law.  
17 The language creating exceptions of permissible gaming contracts under former  
18 Article 2983, which involved "games tending to promote skill in the use of arms,  
19 such as the exercise of the gun and foot, horse and chariot racing" has been deleted  
20 as anachronistic. The Constitution of Louisiana generally discourages "gaming,  
21 gambling, and wagering." See, e.g., La. Const. Art. XII, Sec. 6. The Louisiana  
22 Criminal Code also defines and prohibits gambling. See, e.g., R.S. 14:90. For  
23 specific examples of allowable games of chance, see, e.g., La. Const. Art. XII, Sec.  
24 6(A); R.S. 27:1 et seq.; R.S. 27:502. This Article does not affect the existing  
25 jurisprudence holding that casino markers extended to patrons are enforceable  
26 extensions of credit. See, e.g., *Strong v. Eldorado Casino Shreveport Joint Venture*,

1 73 So. 3d 967 (La. App. 2 Cir. 2011); *Players Lake Charles, LLC v. Tribble*, 779 So.  
2 2d 1058 (La. App. 3 Cir. 2001); *TeleRecovery of Louisiana v. Major*, 734 So. 2d 947  
3 (La. App. 1 Cir. 1999); *TeleRecovery of Louisiana v. Gaulon*, 738 So. 2d 662 (La.  
4 App. 5 Cir. 1999).

5 (b) The provision in former Article 2984, which refused an action for  
6 recovery by a loser in a gaming or wagering contract in the absence of "fraud, deceit,  
7 or swindling," has also been deleted in light of Article 2033, which denies recovery  
8 of performance on an absolutely null contract except "in exceptional situations when,  
9 in the discretion of the court, that recovery would further the interest of justice."

10 (c) The definition of an aleatory contract contained in former Article 2982  
11 has been deleted as unnecessary in light of existing Article 1912.

12 Section 2. Title XIV of Book III of the Civil Code, comprised of Civil Code Articles  
13 2982 through 2984, is hereby repealed in its entirety.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 252 Original

2019 Regular Session

Gaines

**Abstract:** Provides relative to aleatory contracts.

Present law (C.C. Art. 1968) provides for the unlawful cause of an obligation.

Proposed law retains present law but further provides that obligations arising from gaming, gambling, and wagering not authorized by law are examples of obligations with unlawful causes.

Present law (C.C. Arts. 2982-2984) provides for the definition of an aleatory contract and prohibits actions for the payment of gaming debts and bets with the exception of games tending to promote skill in the use of arms. Present law further prohibits actions for the recovery of payments made on gaming debts and bets except in cases of fraud, deceit, or swindling.

Proposed law repeals present law.

(Amends C.C. Art. 1968; Repeals C.C. Arts. 2982-2984)