

SENATE FLOOR AMENDMENTS

2020 Regular Session

Amendments proposed by Senator Fields to Engrossed Senate Bill No. 418 by Senator Talbot

1 AMENDMENT NO. 1

2 On page 1, line 13, after "effective date;" insert "to provide relative to expiration of this Act;
3 to provide for applicable post-expiration provisions and effect;"

4 AMENDMENT NO. 2

5 On page 6, delete line 27, and insert the following:

6 "Section 10. Civil Code Article 3492 and 3493.10 are hereby amended and
7 reenacted to read as follows:

8 Art. 3492. Delictual actions

9 Delictual actions are subject to a liberative prescription of one year. This
10 prescription commences to run from the day injury or damage is sustained. It does
11 not run against minors or interdicts in actions involving permanent disability and
12 brought pursuant to the Louisiana Products Liability Act or state law governing
13 product liability actions in effect at the time of the injury or damage.

14 * * *

15 Art. 3493.10. Delictual actions; two-year prescription; criminal act

16 Delictual actions which arise due to damages sustained as a result of an act
17 defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised
18 Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative
19 prescription of two years. This prescription commences to run from the day injury
20 or damage is sustained.

21 Section 11. Code of Civil Procedure Article 1732(1) is hereby amended and
22 reenacted to read as follows:

23 Art. 1732. Limitation upon jury trials

24 A trial by jury shall not be available in:

25 (1) A suit where the amount of no individual petitioner's cause of action
26 exceeds fifty thousand dollars exclusive of interest and costs, except as follows:

27 (a) If an individual petitioner stipulates or otherwise judicially admits sixty
28 days or more prior to trial that the amount of the individual petitioner's cause of
29 action does not exceed fifty thousand dollars exclusive of interest and costs, a
30 defendant shall not be entitled to a trial by jury.

31 (b) If an individual petitioner stipulates or otherwise judicially admits for the
32 first time less than sixty days prior to trial that the amount of the individual
33 petitioner's cause of action does not exceed fifty thousand dollars exclusive of
34 interest and costs, any other party may retain the right to a trial by jury if that party
35 is entitled to a trial by jury pursuant to this Article and has otherwise complied with
36 the procedural requirements for obtaining a trial by jury.

37 (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if,
38 as a result of a compromise or dismissal of one or more claims or parties which
39 occurs less than sixty days prior to trial, an individual petitioner stipulates or
40 otherwise judicially admits that the amount of the individual petitioner's cause of
41 action does not exceed fifty thousand dollars exclusive of interest and costs, a
42 defendant shall not be entitled to a trial by jury.

43 * * *

44 Section 12. R.S. 22:1269(B) is hereby amended and reenacted to read as
45 follows:

46 §1269. Liability policy; insolvency or bankruptcy of insured and inability to effect
47 service of citation or other process; direct action against insurer

48 * * *

49 B.(1) The injured person or his survivors or heirs mentioned in Subsection
50 A of this Section, at their option, shall have a right of direct action against the insurer

1 within the terms and limits of the policy; and, such action may be brought against the
2 insurer alone, or against both the insured and insurer jointly and in solido, in the
3 parish in which the accident or injury occurred or in the parish in which an action
4 could be brought against either the insured or the insurer under the general rules of
5 venue prescribed by Code of Civil Procedure Art. 42 only; however, such action may
6 be brought against the insurer alone only when at least one of the following applies:

7 (a) The insured has been adjudged bankrupt by a court of competent
8 jurisdiction or when proceedings to adjudge an insured bankrupt have been
9 commenced before a court of competent jurisdiction.

10 (b) The insured is insolvent.

11 (c) Service of citation or other process cannot be made on the insured.

12 (d) When the cause of action is for damages as a result of an offense or quasi-
13 offense between children and their parents or between married persons.

14 (e) When the insurer is an uninsured motorist carrier.

15 (f) The insured is deceased.

16 (2) This right of direct action shall exist whether or not the policy of
17 insurance sued upon was written or delivered in the state of Louisiana and whether
18 or not such policy contains a provision forbidding such direct action, provided the
19 accident or injury occurred within the state of Louisiana. Nothing contained in this
20 Section shall be construed to affect the provisions of the policy or contract if such
21 provisions are not in violation of the laws of this state.

22 * * *

23 Section 13. R.S. 22:333(E) is hereby amended and reenacted to read as
24 follows.

25 §333. Conditions of issuance of certificate of authority

26 * * *

27 E. The transacting of business in this state by a foreign or alien insurer
28 pursuant to a certificate of authority issued under this Subpart shall constitute a
29 consent to being sued by the injured person or his or her heirs in a direct action as
30 provided in R.S. 22:1269, whether the policy of insurance sued upon was written or
31 delivered in the state of Louisiana or not, and whether or not such policy contains a
32 provision forbidding such direct action, provided that the accident or injury occurred
33 within the state of Louisiana.

34 * * *

35 Section 14. R.S. 32:295.1(E) is hereby amended and reenacted to read as
36 follows.

37 §295.1. Safety belt use; tags indicating exemption

38 * * *

39 E. In any action to recover damages arising out of the ownership, common
40 maintenance, or operation of a motor vehicle, failure to wear a safety belt in
41 violation of this Section shall not be considered evidence of comparative negligence.
42 Failure to wear a safety belt in violation of this Section shall not be admitted to
43 mitigate damages.

44 * * *

45 Section 15. R.S. 9:2800.25 is hereby repealed in its entirety.

46 Section 16. The provisions of Sections 1 through 10 of this Act shall become
47 effective on January 1, 2021.

48 Section 17. If there is not a reduction of premium rates of at least forty
49 percent to be measured from the date of enactment provided for in Section 16 of this
50 Act and certified by the commissioner of insurance on December 31, 2022, the
51 provisions of Section 11 through 15 of this Act shall become effective on January 1,
52 2023."