
DIGEST

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HB 43 Engrossed

2020 First Extraordinary Session

Garofalo

Abstract: Makes revisions to the Omnibus Premium Reduction Act of 2020 to lower the jury trial threshold from \$10,000 to \$5,000, to require six jurors for tort actions with an amount in controversy between \$5,000 and \$35,000, to require five jurors to render a verdict, to repeal provisions relative to evidence of and the recovery of premiums paid, to provide for the recovery of medical expenses when paid pursuant to the Louisiana Workers' Compensation Law, and to limit the right of direct action against an insurer.

Present law (as provided in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session, effective Jan. 1, 2021) authorizes a jury trial in tort actions where the amount in controversy exceeds \$10,000. Proposed law lowers the threshold to \$5,000.

Proposed law provides that if a suit for a tort action demands between \$5,000 and \$35,000 and a jury is requested by at least one party, a jury shall be selected with six jurors and one alternate, and five jurors must concur to render a verdict, unless the parties stipulate otherwise.

Present law (as provided in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session, effective Jan. 1, 2021) provides that when a plaintiff's medical expenses have been paid by a health insurance company or Medicare, plaintiff's recovery of medical expenses is limited to the amount actually paid to the health care provider by the insurer or Medicare, and not the amount billed. Proposed law retains proposed law.

Proposed law provides that in cases where a plaintiff's medical expenses are paid pursuant to the La. Workers' Compensation Law, the plaintiff's recovery of medical expenses is limited to the amount payable under the medical payments fee schedule of the La. Workers' Compensation Law.

Present law (as provided in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session, effective Jan. 1, 2021) limits the time period for which the court may receive evidence of the amount of insurance premiums paid and applies a multiplier of 1.5 to the amount of premiums as an award of damages.

Present law (as provided in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session, effective Jan. 1, 2021) further provides that in an action where a person suffers injury, death, or loss, the court may receive evidence concerning any amount which has been paid or contributed as of the date it enters judgment, by or on behalf of, the claimant or members of his immediate family to secure his right to any private insurance benefit which he has received as a result of such injury or death.

Proposed law repeals present law related to evidence and award of insurance premiums paid.

Present law (as provided in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session, effective Jan. 1, 2021) permits an action against the insurer alone within the terms and limits of the policy if at least one of the following applies:

- (1) The insured has been adjudged bankrupt by a court of competent jurisdiction or proceedings to adjudge an insured bankrupt have been commenced before a court of competent jurisdiction.
- (2) The insured is insolvent or dissolved.
- (3) Service of citation or other process cannot be made on the insured.
- (4) The cause of action is for damages resulting from an offense or quasi offense between children and parents or between married persons.
- (5) The plaintiff is seeking recovery pursuant to an uninsured or underinsured policy.
- (6) When the tortfeasor's liability insurer has reserved the right to dispute whether the policy at issue provides coverage for some or all of the claims asserted in the action, other than limits of coverage provided by the policy.
- (7) When the tortfeasor's liability insurer has denied coverage to the tortfeasor for some or all of the claims asserted in the action.
- (8) The cause of action is for damages as a result of an offense or quasi offense related to asbestos exposure.
- (9) The insured is deceased.

Proposed law eliminates the right of direct action in the following instances:

- (1) Service of citation or other process cannot be made on the insured.
- (2) When the tortfeasor's liability insurer has reserved the right to dispute whether the policy at issue provides coverage for some or all of the claims asserted in the action, other than limits of coverage provided by the policy.
- (3) When the tortfeasor's liability insurer has denied coverage to the tortfeasor for some or all of the claims asserted in the action.

The provisions of proposed law supersede conflicting provisions in the Act that originated as Senate Bill No. 418 of the 2020 Regular Session.

Effective Jan. 1, 2021.

(Amends C.C.P. Art. 1732(1), R.S. 9:2800.25(C), and R.S. 22:1269(B)(1); Adds C.C.P. Art. 1732.1;
Repeals R.S. 9:2800.25(D))