

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. The provisions of this Act shall be known as the "Citizens' Premium
3 Reduction Act".

4 Section 2. Code of Civil Procedure Articles 1732(1) and 1761(A) are hereby
5 amended and reenacted and Code of Civil Procedure Article 1733(D) is hereby enacted to
6 read as follows:

7 Art. 1732. Limitation upon jury trials

8 A trial by jury shall not be available in:

9 (1) A suit, other than one brought pursuant to Chapter 3 of Title V of Book
10 III of the Civil Code, where the amount of no individual petitioner's cause of action
11 exceeds ~~fifty~~ thirty-five thousand dollars exclusive of interest and costs, except as
12 follows:

13 (a) If an individual petitioner stipulates or otherwise judicially admits sixty
14 days or more prior to trial that the amount of the individual petitioner's cause of
15 action does not exceed ~~fifty~~ thirty-five thousand dollars exclusive of interest and
16 costs, a defendant shall not be entitled to a trial by jury.

17 (b) If an individual petitioner stipulates or otherwise judicially admits for the
18 first time less than sixty days prior to trial that the amount of the individual
19 petitioner's cause of action does not exceed ~~fifty~~ thirty-five thousand dollars
20 exclusive of interest and costs, any other party may retain the right to a trial by jury
21 if that party is entitled to a trial by jury pursuant to this Article and has otherwise
22 complied with the procedural requirements for obtaining a trial by jury.

23 (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if,
24 as a result of a compromise or dismissal of one or more claims or parties which
25 occurs less than sixty days prior to trial, an individual petitioner stipulates or
26 otherwise judicially admits that the amount of the individual petitioner's cause of
27 action does not exceed ~~fifty~~ thirty-five thousand dollars exclusive of interest and
28 costs, a defendant shall not be entitled to a trial by jury.

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 1733. Demand for jury trial; bond for costs

2 * * *

3 D. After a jury trial is demanded by a party, if another party requests an
4 increase in the number of jurors from six to twelve, the requesting party shall be
5 responsible for half of the total jury bond or deposit.

6 * * *

7 Art. 1761. Procedure in general

8 A. In cases to be tried by jury, ~~twelve~~ six jurors summoned in accordance
9 with law shall be chosen by lot to try the issues specified unless ~~the parties stipulate~~
10 a party requests that the case shall be tried by ~~six~~ twelve jurors. The method of
11 calling and drawing by lot shall be at the discretion of the court.

12 * * *

13 Section 3. The heading of Section 1-A of Chapter 4 of Title XXIV of Book III of the
14 Civil Code and Civil Code Article 3493.10 are hereby amended and reenacted and Civil
15 Code Article 2323(D) is hereby enacted to read as follows:

16 Art. 2323. Comparative fault

17 * * *

18 D. Notwithstanding the provisions of Paragraph A, B, or C of this Section,
19 a person suffering injury, death, or loss shall be barred from recovering damages if
20 his percentage of fault is greater than the combined percentage of fault of all other
21 persons found to have contributed to the injury, death, or loss.

22 * * *

23 SECTION ~~1-A~~ 1. TWO-YEAR PRESCRIPTION

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

25 Delictual actions ~~which arise due to damages sustained as a result of an act~~
26 ~~defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised~~
27 ~~Statutes of 1950~~, except as provided in Article 3496.2, are subject to a liberative
28 prescription of two years. This prescription commences to run from the day injury
29 or damage is sustained. It does not run against minors or interdicts in actions

1 involving permanent disability and brought pursuant to the Louisiana Products
2 Liability Act or state law governing product liability actions in effect at the time of
3 the injury or damage.

4 When damage is caused to immovable property, the two-year prescription
5 commences to run from the day the owner of the immovable acquired, or should
6 have acquired, knowledge of the damage.

7 Section 4. Code of Evidence Article 411 is hereby amended and reenacted to read
8 as follows:

9 Art. 411. Liability insurance

10 ~~Although a policy of insurance may be admissible, the amount of coverage~~
11 ~~under the policy shall not be communicated to the jury unless the amount of~~
12 ~~coverage is a disputed issue which the jury will decide. Evidence that a person was~~
13 ~~or was not insured against liability shall not be admissible to prove whether the~~
14 ~~person acted negligently or otherwise wrongfully. However, such evidence may be~~
15 ~~admissible for another purpose, such as proving a witness's bias or prejudice or~~
16 ~~proving agency, ownership, or control.~~

17 Section 5. R.S. 9:2800.27 is hereby enacted to read as follows:

18 §2800.27. Recoverable medical expenses; collateral sources; limitations

19 A. Amounts written down or discounted from billed medical expenses shall
20 not be considered a benefit from a collateral source and shall not be recoverable as
21 damages. Recovery for past medical expenses shall be limited to amounts actually
22 paid or required to be paid to a healthcare provider, and not the amount billed.

23 B. Any party receiving a discount or write-down to billed medical expenses
24 as a result of an insurance contract may introduce into evidence and may be
25 reimbursed for the premiums paid by the party or their immediate family member to
26 obtain such insurance from the date of the injury through treatment for a period not
27 to exceed one year. However, any recovery for past premiums shall not exceed the
28 amount written down or discounted from billed medical expenses as a result of the
29 insurance contract.

1 Section 6. R.S. 22:1454(A) is hereby amended and reenacted and R.S. 22:1269(B)(3)
2 and (4) are hereby enacted to read as follows:

3 §1269. Liability policy; insolvency or bankruptcy of insured and inability to effect
4 service of citation or other process; direct action against insurer

5 * * *

6 B.

7 * * *

8 (3) The caption of any suit brought pursuant to this Section shall not include
9 the name of or reference to an insurer.

10 (4) In an action brought pursuant to this Section, only the court may receive
11 evidence of the insurance contract between the insurer and the insured for the
12 purpose of establishing the right of direct action.

13 * * *

14 §1454. Rating standards and methods

15 A. Rates shall not be inadequate or unfairly discriminatory in a competitive
16 market. Rates shall not be excessive, inadequate, or unfairly discriminatory in a
17 noncompetitive market. Risks may be classified using any criteria except that no
18 risk shall be classified on the basis of race, gender of an insured over the age of
19 twenty-five, color, creed, or national origin.

20 * * *

21 Section 7. Section 1 of Chapter 4 of Title XXIV of Book III of the Civil Code is
22 hereby repealed in its entirety.

23 Section 8. The heading of Section 1 of Chapter 4 of Title XXIV of Book III of the
24 Civil Code and Civil Code Article 3493.10 are hereby amended and reenacted and Section
25 1 of Chapter 4 of Title XXIV of Book III of the Civil Code, comprised of Civil Code
26 Articles 3492 through 3493, is hereby enacted to read as follows:

1 SECTION 1. ONE-YEAR PRESCRIPTION2 Art. 3492. Delictual actions

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

8 Art. 3493. Damage to immovable property; commencement and accrual of
9 prescription

10 When damage is caused to immovable property, the one-year prescription
11 commences to run from the day the owner of the immovable acquired, or should
12 have acquired, knowledge of the damage.

13 SECTION + 1-A. TWO-YEAR PRESCRIPTION

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

15 Delictual actions which arise due to damages sustained as a result of an act
16 defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised
17 Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative
18 prescription of two years. This prescription commences to run from the day injury
19 or damage is sustained. ~~It does not run against minors or interdicts in actions~~
20 ~~involving permanent disability and brought pursuant to the Louisiana Products~~
21 ~~Liability Act or state law governing product liability actions in effect at the time of~~
22 ~~the injury or damage.~~

23 When damage is caused to immovable property, the two year prescription
24 commences to run from the day the owner of the immovable acquired, or should
25 have acquired, knowledge of the damage.

1 Section 9. Code of Civil Procedure Articles 1732(1) and 1761(A) are hereby
2 amended and reenacted to read as follows:

3 Art. 1732. Limitation upon jury trials

4 A trial by jury shall not be available in:

5 (1) A suit, ~~other than one brought pursuant to Chapter 3 of Title V of Book~~
6 ~~III of the Civil Code~~, where the amount of no individual petitioner's cause of action
7 exceeds ~~thirty-five~~ fifty thousand dollars exclusive of interest and costs, except as
8 follows:

9 (a) If an individual petitioner stipulates or otherwise judicially admits sixty
10 days or more prior to trial that the amount of the individual petitioner's cause of
11 action does not exceed ~~thirty-five~~ fifty thousand dollars exclusive of interest and
12 costs, a defendant shall not be entitled to a trial by jury.

13 (b) If an individual petitioner stipulates or otherwise judicially admits for the
14 first time less than sixty days prior to trial that the amount of the individual
15 petitioner's cause of action does not exceed ~~thirty-five~~ fifty thousand dollars
16 exclusive of interest and costs, any other party may retain the right to a trial by jury
17 if that party is entitled to a trial by jury pursuant to this Article and has otherwise
18 complied with the procedural requirements for obtaining a trial by jury.

19 (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if,
20 as a result of a compromise or dismissal of one or more claims or parties which
21 occurs less than sixty days prior to trial, an individual petitioner stipulates or
22 otherwise judicially admits that the amount of the individual petitioner's cause of
23 action does not exceed ~~thirty-five~~ fifty thousand dollars exclusive of interest and
24 costs, a defendant shall not be entitled to a trial by jury.

25 * * *

26 Art. 1761. Procedure in general

27 A. In cases to be tried by jury, ~~six~~ twelve jurors summoned in accordance
28 with law shall be chosen by lot to try the issues specified unless ~~a party requests the~~

1 parties stipulate that the case shall be tried by ~~twelve~~ six jurors. The method of
2 calling and drawing by lot shall be at the discretion of the court.

3 * * *

4 Section 10. Code of Evidence Article 411 is hereby amended and reenacted to read
5 as follows:

6 Art. 411. Liability insurance

7 ~~Evidence that a person was or was not insured against liability shall not be~~
8 ~~admissible to prove whether the person acted negligently or otherwise wrongfully.~~
9 ~~However, such evidence may be admissible for another purpose, such as proving a~~
10 ~~witness' bias or prejudice or proving agency, ownership, or control. Although a~~
11 ~~policy of insurance may be admissible, the amount of coverage under the policy shall~~
12 ~~not be communicated to the jury unless the amount of coverage is a disputed issue~~
13 ~~which the jury will decide.~~

14 Section 11. R.S. 22:1454(A) is hereby amended and reenacted to read as follows:

15 §1454. Rating standards and methods

16 A. Rates shall not be inadequate or unfairly discriminatory in a competitive
17 market. Rates shall not be excessive, inadequate, or unfairly discriminatory in a
18 noncompetitive market. Risks may be classified using any criteria except that no
19 risk shall be classified on the basis of race, ~~gender of an insured over the age of~~
20 ~~twenty-five~~, color, creed, or national origin.

21 * * *

22 Section 12. Civil Code Article 2323(D), Code of Civil Procedure Article 1733(D),
23 R.S. 9:2800.27, and R.S. 22:1269(B)(3) and (4) are hereby repealed in their entirety.

24 Section 13. (A) On April 1 of each year through 2024, the commissioner of
25 insurance shall report annually to the legislature the rate change of the statewide average
26 private passenger automobile written premium for minimum limits from April 1 of the prior
27 year.

1 (B) On August 1, 2023, the commissioner of insurance shall report to the legislature
2 the rate change of the statewide average private passenger automobile written premium for
3 minimum limits from January 1, 2020.

4 (C) In calculating the rate change as provided in Subsections A and B of this
5 Section, the commissioner of insurance shall include a measure of inflation which is based
6 on any increase or decrease in medical expenses, wages, property damage expenses, and
7 relevant costs and expenses over the reporting period commencing on April 1 of the prior
8 year.

9 Section 14.(A) This Section and Sections 1 through 7 and 13 of this Act are effective
10 August 1, 2020.

11 (B) The provisions of Section 2 of this Act shall have prospective application only
12 and shall apply only to new causes of action that arise on or after the effective date of this
13 Act.

14 (C) The provisions of Sections 8 through 12 of this Act are effective August 1, 2023,
15 if no report required to be submitted on or before August 1, 2023, by the commissioner of
16 insurance pursuant to Section 13 of this Act reflects that the statewide average private
17 passenger automobile written premium for minimum limits decreased by at least fifteen
18 percent compared to the average private passenger automobile written premium for
19 minimum limits on January 1, 2020.

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)]

HB 66 Engrossed

2020 First Extraordinary Session

Nelson

Abstract: Limits the recovery of damages by an injured party when his liability exceeds the liability of all other persons at fault, increases the prescriptive period for tort actions from one to two years, eliminates the jury trial threshold in tort actions, lowers the jury trial threshold in non-tort actions, creates a default six-person jury with the right to request a 12-person jury, provides for the payment of a 12-person jury bond, makes an insurance policy admissible as evidence except to prove negligence, prohibits a jury from seeing evidence of an insurance policy for purposes of establishing a direct action against an insurer, limits the amount of recoverable past medical expenses and insurance premium payments, and prohibits the use of gender in setting insurance rates in certain circumstances.

Comparative Fault

Present law (C.C. Art. 2323) provides that in an action for damages, the degree or percentage of fault of all persons causing or contributing to the injury, death, or loss shall be determined. Further provides that if a person suffers an injury, death, or loss partly as the result of his own negligence, the amount of damages recoverable shall be reduced in proportion to the percentage of negligence attributable to that person. Further provides that a person's claim for recovery shall not be reduced in proportion to his own negligence if the injury, death, or loss is partly the result of an intentional act.

Proposed law retains present law and provides that a person suffering injury, death, or loss shall be barred from recovering damages if his percentage of fault is greater than the combined percentage of fault of all other persons found to have contributed to the injury, death, or loss.

Prescription

Present law provides a general one-year liberative prescriptive period for delictual actions (C.C. Art. 3492), and a two-year period for delictual actions for damages arising from an act defined as a crime of violence, except for any act of sexual assault which is subject to a liberative prescription of three years (C.C. Art. 3493.10).

Proposed law increases the one-year prescriptive period for delictual actions to a two-year prescriptive period and otherwise retains the two- and three-year liberative prescriptive periods.

Jury Trials

Present law (C.C.P. Art. 1732) authorizes a civil jury trial when the amount in controversy exceeds \$50,000.

Proposed law authorizes a jury trial for non-tort actions when the amount in controversy exceeds \$35,000. Proposed law further authorizes a jury trial without regard to the amount in controversy for tort actions.

Present law (C.C.P. Art. 1761) provides that in civil cases to be tried by a jury, 12 jurors shall be chosen to try issues of the case, unless the parties stipulate that the case shall be tried by six jurors.

Proposed law instead provides that six jurors shall be chosen to try issues of the case, unless a party requests that the case shall be tried by 12 jurors.

Present law (C.C.P. Art. 1733) provides that a party may request a jury trial by filing a pleading to that effect. Present law (C.C.P. Arts. 1734 and 1734.1) further provides that when a case is set for trial, the court shall fix the amount of the bond, or a deposit, to cover all costs related to the trial by jury.

Proposed law retains present law and provides that the party requesting an increase in the number of jurors from six to 12 shall be responsible for half of the total jury bond or deposit.

Evidence of Liability Insurance

Present law (C.E. Art. 411) provides that a policy of insurance may be admissible as evidence, but the amount of coverage under the policy shall not be communicated to the jury unless the amount of coverage is a disputed issue which the jury will decide.

Proposed law repeals present law and instead provides that evidence that a person was or was not insured against liability shall not be admissible to prove whether the person acted

negligently or otherwise wrongfully. However, such evidence may be admissible for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

Present law (R.S. 22:1269(B)) provides relative to direct action against a liability insurer and provides that an injured third party has the right to take direct legal action against the insurer in certain circumstances.

Proposed law retains present law and provides that the caption of any direct action against the insurer shall not include the name of or reference to an insurer.

Proposed law further provides that in a direct action against the insurer, only the court may receive evidence of the insurance contract between the insurer and the insured for the purpose of establishing the right of direct action.

Insurance Rating Risk Criteria

When setting insurance rates, present law authorizes classification of risk using any criteria except that no risk shall be classified on the basis of race, color, creed, or national origin.

Proposed law retains present law and further prohibits risk classifications made on the basis of gender of an insured over the age of 25.

Collateral Source

Proposed law (R.S. 9:2800.27) provides that amounts written down or discounted from billed medical expenses shall not be considered a benefit from a collateral source and shall not be recoverable as damages. Recovery for past medical expenses shall be limited to amounts actually paid or required to be paid to a healthcare provider, and not the amount billed.

Proposed law further provides that any party receiving a discount or write-down to billed medical expenses as a result of an insurance contract may introduce into evidence and may be reimbursed for the premiums paid by the party or their immediate family member to obtain such insurance from the date of the injury through treatment for a period not to exceed one year. However, any recovery for past premiums shall not exceed the amount written down or discounted from billed medical expenses as a result of the insurance contract.

Department of Insurance

Proposed law requires the commissioner of insurance to report to the legislature on April 1 of each year through 2024, the rate change of the statewide average private passenger automobile written premium for minimum limits.

Proposed law further requires the commissioner of insurance to report to the legislature on Aug. 1, 2023, the rate change of the statewide average private passenger automobile written premium for minimum limits from Jan. 1, 2020.

Effectiveness

Effective Aug. 1, 2020.

Becomes ineffective Aug. 1, 2023, if no report required to be submitted by the commissioner of insurance pursuant to proposed law on or before Aug. 1, 2023, reflects that average motor vehicle insurance rates decreased by at least 15%, compared to the average motor vehicle insurance rates on Jan. 1, 2020.

(Amends the heading of §1 of Ch. 4 of Title XXIV of Book III of the C.C., the heading of §1-A of Ch. 4 of Title XXIV of Book III of the C.C., and C.C. Art. 3493.10, C.C.P. Arts. 1732(1) and 1761(A), C.E. Art. 411, and R.S. 22:1454(A); Adds C.C. Art. 2323(D) and §1 of Ch. 4 of Title XXIV of Book III of the C.C., comprised of Arts. 3492-3493, C.C.P. Art. 1733(D), R.S. 9:2800.27, and R.S. 22:1269(B)(3) and (4); Repeals C.C. Art. 2323(D) and §1 of Ch. 4 of Title XXIV of Book III of the C.C., C.C.P. Art. 1733(D), R.S. 9:2800.27, and R.S. 22:1269(B)(3) and (4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide a \$35,000 jury trial threshold for non-tort actions.
2. Specify that a party may only recover past medical expenses if they are paid to a healthcare provider.
3. Prohibit insurance policy risk classifications made on the basis of gender of an insured over the age of 25.
4. Require the commissioner of insurance to annually report the rate change of certain automobile insurance premiums to the legislature.