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 DIGEST

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SB 11 Reengrossed

2020 First Extraordinary Session

Fesi

Present law provides for nullity of actions on the basis of fraud or ill practices.

Proposed law retains present law and further provides for nullity of a final judgment or compromise settlement obtained by fraud in an action for a delictual or quasi-delictual offense.

Proposed law provides that an action to annul a judgment or compromise settlement on the grounds of fraud shall be brought within one year of the discovery of the fraudulent act by any party to the original final judgment or compromised settlement.

Proposed law provides that a nullity action pursuant to proposed law may be brought by a liability insurer who would have been an interested party in the original action, whether or not named as a party in that action.

Proposed law provides that the court may award reasonable attorney fees incurred by the prevailing party in the nullity action and, if the judgment or settlement is nullified, judicial interest on repayment of the original amount of the award or settlement.

Effective 60 days upon adjournment of the 2020 First Extraordinary Session.

(Adds C.C.P. Art. 2004.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Provide that any party to the original final judgment or compromised settlement may bring a nullity action pursuant to proposed law.

Senate Floor Amendments to engrossed bill

1. Revised language relative to bringing of such action by a liability insurer.

Summary of Amendments Adopted by House

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

1. Change "must" to "shall".
2. Clarify that the prescriptive period to bring the action to annul the judgment begins when the fraudulent action is discovered.