SENATE COMMITTEE AMENDMENTS

2020 First Extraordinary Session

Amendments proposed by Senate Committee on Judiciary A to Engrossed House Bill No. 66 by Representative Nelson

1 AMENDMENT NO.	1
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2	On page 1, delete lines 2 through 10 and insert the following:
3	"To amend and reenact Civil Code Articles 3492 and 3493.10, Code of Civil
4	Procedure Articles 1732, 1761(A), and 4871(1), Code of Evidence Article 411, and
5	R.S. 22:1454(A), to enact Civil Code Article 2323(D), Code of Civil Procedure
6	Article 1733(D), R.S. 9:2800.27, and R.S. 22:1269(B)(3) and (4), and to repeal Civil
7	Code Article 2323(D), Code of Civil Procedure Article 1733(D), R.S."

8 AMENDMENT NO. 2

- 9 On page 2, delete line 4, and insert "Section 2. Code of Civil Procedure Articles 1732,
- 10 1761(A), and 4871(1) are hereby"

11 AMENDMENT NO. 3

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On page 2, delete lines 9 through 28 and insert the following:

- "(1) A suit where the amount of no individual petitioner's cause of action exceeds fifty ten thousand dollars exclusive of interest and costs, except as follows:
- (a) If an individual petitioner stipulates or otherwise judicially admits sixty days or more prior to trial that the amount of the individual petitioner's cause of action does not exceed fifty ten thousand dollars exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.
- (b) If an individual petitioner stipulates or otherwise judicially admits for the first time less than sixty days prior to trial that the amount of the individual petitioner's cause of action does not exceed fifty ten thousand dollars exclusive of interest and costs, any other party may retain the right to a trial by jury if that party is entitled to a trial by jury pursuant to this Article and has otherwise complied with the procedural requirements for obtaining a trial by jury.
- (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if, as a result of a compromise or dismissal of one or more claims or parties which occurs less than sixty days prior to trial, an individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed fifty ten thousand dollars exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.
- (2)(a) A suit commenced in a parish or city court, wherein the individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed the amount in dispute to which the jurisdiction of the court is limited by Articles 4842 and 4843, exclusive of interest, penalties, attorney fees, and costs.
- (b) The provisions of this Paragraph shall not apply to delictual or quasidelictual actions, which shall be governed by the provisions of Paragraph (1) of this Article.
- (3) A suit on an unconditional obligation to pay a specific sum of money, unless the defense thereto is forgery, fraud, error, want, or failure of consideration.
- (3) (4) A summary, executory, probate, partition, mandamus, habeas corpus, quo warranto, injunction, concursus, workers' compensation, emancipation, tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce proceeding.
- $\frac{(4)}{(5)}$ A proceeding to determine custody, visitation, alimony, or child support.
- (5) (6) A proceeding to review an action by an administrative or municipal body.

	(6) (7) All cases where a jury trial is specifically denied by law."
	AMENDMENT NO. 4
	On page 3, between lines 12 and 13, insert the following:
	"Art. 4873. Transfer to district court; procedure; contest; effect A party entitled thereto under the provisions of Article 4872 may transfer the action to the district court in the following manner: (1) Within the delay allowed for answer in the trial court of the limited jurisdiction, or within ten days after answer has been filed, he shall file a motion to transfer with the clerk of the court in which the suit is pending. The motion shall include a declaration that the matter is one to which defendant would have been entitled to trial by jury if commenced in district court, and that defendant desires trial by jury. If a party fails to file a motion to transfer within the delays required by this Paragraph, the matter shall not be transferred.
	* * * *"
	AMENDMENT NO. 5
	On page 3, delete lines 13 and 14, and insert "Section 3. Civil Code Articles 3492 and 3493.10 are hereby amended and reenacted and Civil"
	AMENDMENT NO. 6
	On page 3, delete lines 23 through 27, and insert the following:
	"Art. 3492. Delictual actions
	Delictual actions Except as provided in Civil Code Article 3493.10, delictual
	actions are subject to a liberative prescription of one year. This prescription
	commences to run from the day injury or damage is sustained. It does not run against
	minors or interdicts in actions involving permanent disability and brought pursuant
	to the Louisiana Products Liability Act or state law governing product liability
	actions in effect at the time of the injury or damage.
	* * * *
	Art. 3493.10. Delictual actions; two-year prescription; criminal act
	Delictual actions for injury or damage arising from the operation or control
	of any motor vehicle, aircraft, watercraft, or other means of conveyance, or those
	which arise due to damages sustained as a result of an act defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950,
	except as provided in Article 3496.2, are subject to a liberative"
4	AMENDMENT NO. 7
	On page 4, delete lines 4 through 6
	AMENDMENT NO. 8
	On page 4, delete lines 23 through 29, and insert the following:
	"B. Any party receiving a discount or write-down to billed medical expenses
	as a result of an insurance contract may be reimbursed for the premiums paid by the
	party or their immediate family to obtain such insurance from the date of injury
	through the duration of treatment or one year, whichever is less. Such premiums may
	be introduced into evidence for this purpose. 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.
	C. Evidence of future medical expenses not yet incurred at the time of trial
	can be presented to the jury."

AMENDMENT NO. 9

- 2 On page 5, delete lines 21 through 26 and insert the following:
- 3 "Section 7. Civil Code Articles 3492 ad 3493.10 are hereby amended and
- 4 reenacted to read as follows:"

5 AMENDMENT NO. 10

6 On page 6, delete lines 1 through 17, and insert the following:

7 "Art. 3492. Delictual actions

<u>Delictual actions</u> Except as provided in Civil Code Article 3493.10, delictual actions are subject to a liberative prescription of one year. This prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

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

Delictual actions for injury or damage arising from the operation or control of any motor vehicle, aircraft, watercraft, or other means of conveyance, or those which arise due to damages sustained as a result of an act defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative"

21 <u>AMENDMENT NO. 11</u>

- 22 On page 7, delete line 1 and insert "Section 8. Code of Civil Procedure Articles 1732,
- 23 1761(A), and 4873(1) are hereby"

24 AMENDMENT NO. 12

25 On page 7, delete lines 5 through 25 and insert the following:

- "(1) A suit where the amount of no individual petitioner's cause of action exceeds ten <u>fifty</u> thousand dollars exclusive of interest and costs, except as follows:
- (a) If an individual petitioner stipulates or otherwise judicially admits sixty days or more prior to trial that the amount of the individual petitioner's cause of action does not exceed ten <u>fifty</u> thousand dollars exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.
- (b) If an individual petitioner stipulates or otherwise judicially admits for the first time less than sixty days prior to trial that the amount of the individual petitioner's cause of action does not exceed ten fifty thousand dollars exclusive of interest and costs, any other party may retain the right to a trial by jury if that party is entitled to a trial by jury pursuant to this Article and has otherwise complied with the procedural requirements for obtaining a trial by jury.
- (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if, as a result of a compromise or dismissal of one or more claims or parties which occurs less than sixty days prior to trial, an individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed ten fifty thousand dollars exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.
- (2)(a) A suit commenced in a parish or city court, wherein the individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed the amount in dispute to which the jurisdiction of the court is limited by Articles 4842 and 4843, exclusive of interest, penalties, attorney fees, and costs.
- (b) The provisions of this Paragraph shall not apply to delictual or quasidelictual actions, which shall be governed by the provisions of Paragraph (1) of this Article.
- (3) A suit on an unconditional obligation to pay a specific sum of money, unless the defense thereto is forgery, fraud, error, want, or failure of consideration.

2	quo warranto, injunction, concursus, workers' compensation, emancipation,
3	tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce
4	proceeding.
5	(5) (4) A proceeding to determine custody, visitation, alimony, or child
6 7	support. (6) (5) A proceeding to review an action by an administrative or municipal
8 9	body. (7) (6) All cases where a jury trial is specifically denied by law."
10	AMENDMENT NO. 13
11	On page 8, between lines 3 and 4, insert the following:
12	"Art. 4873. Transfer to district court; procedure; contest; effect
13	A party entitled thereto under the provisions of Article 4872 may transfer the
14	action to the district court in the following manner:
15	(1) Within the delay allowed for answer in the trial court of the limited
16	jurisdiction, or within ten days after answer has been filed, he shall file a motion to
17	transfer with the clerk of the court in which the suit is pending. The motion shall
18	include a declaration that the matter is one to which defendant would have been
19	entitled to trial by jury if commenced in district court, and that defendant desires trial
20	by jury. If a party fails to file a motion to transfer within the delays required by this
21 22	Paragraph, the matter shall not be transferred. * * *"
23	AMENDMENT NO. 14
24	On page 8, line 4, change "Section 10." to "Section 9."
25	AMENDMENT NO. 15
26	On page 8, line 14, change "Section 11." to "Section 10."
27	AMENDMENT NO. 16
28	On page 8, line 22, change "Section 12." to "Section 11."
29	AMENDMENT NO. 17
30	On page 8, line 24, change "Section 13." to "Section 12."
31	AMENDMENT NO. 18
32	On page 9, delete lines 1 through 3, and on line 4, change "(C)" to "(B)"
33	AMENDMENT NO. 19
34 35	On page 9, delete lines 9 and 10, and insert "Section 13. (A) This Section and Sections 1 through 6 and 12 of this Act are effective January 1, 2021."
36	AMENDMENT NO. 20
37 38	On page 9, delete line 14 and insert "(C) The provisions of Section 7 through 11 of this Act are effective August 1, 2024,"
39	AMENDMENT NO. 21
40	On page 9 line 15, change "August 1, 2023," to "April 1, 2024,"

- 1 AMENDMENT NO. 22
- 2 On page 9, line 16, change "Section 13" to "Section 12"
- 3 AMENDMENT NO. 23
- 4 On page 9, line 18, between "percent" and "compared" insert ", adjusted for inflation,"