
SENATE COMMITTEE AMENDMENTS

2022 Regular Session

Amendments proposed by Senate Committee on Judiciary A to Original Senate Bill No. 103
by Senator Foil

1 AMENDMENT NO. 1**2** On page 1, line 2, change "R.S. 9:5605(A)" to "R.S. 9:5605(A) and (B), and to enact R.S.
3 9:5605.2,"**4** AMENDMENT NO. 2**5** On page 1, line 3, change "filing and" to "filing time periods; to provide relative to the" and
6 change "required" to "; to provide relative to collectability of damages"**7** AMENDMENT NO. 3**8** On page 1, line 5, change "R.S. 9:5605(A) is" to "R.S. 9:5605(A) and (B) are"**9** AMENDMENT NO. 4**10** On page 1, line 5, after "and reenacted" insert "and R.S. 9:5605.2 is hereby enacted"**11** AMENDMENT NO. 5**12** On page 1, line 14, after "omission," insert "**error,**"**13** AMENDMENT NO. 6**14** On page 1, at the end of line 15, at the end of the line, change "½" to ";"**15** AMENDMENT NO. 7**16** On page 1, delete line 16**17** AMENDMENT NO. 8**18** On page 1, line 17, delete "of such discovery,"**19** AMENDMENT NO. 9**20** On page 2, line 2, change "**(3)**" to "**(2)**" and on line 5, between "**the party bringing**" and
21 "**action**" change "**that**" to "**the**"**22** AMENDMENT NO. 10**23** On page 2, at the beginning of line 7, change "**That the**" to "**The**"**24** AMENDMENT NO. 11**25** On page 2, at the end of line 7, change "**concluded**" to "**resulted**"**26** AMENDMENT NO. 12**27** On page 2, line 9, between "**The value of**" and "**monetary**" change "**that**" to "**the**"**28** AMENDMENT NO. 13**29** On page 2, between lines 10 and 11, insert the following:

1 "B. The provisions of this Section are remedial and apply to all causes of
 2 action without regard to the date when the alleged act, omission, or neglect occurred.
 3 However, with respect to any alleged act, omission, **error**, or neglect occurring prior
 4 to September 7, 1990, actions must, in all events, be filed in a court of competent
 5 jurisdiction and proper venue on or before September 7, 1993, without regard to the
 6 date of discovery of the alleged act, omission, **error**, or neglect. The one-year and
 7 three-year periods of limitation provided in Subsection A of this Section are
 8 peremptive periods within the meaning of Civil Code Article 3458 and, in
 9 accordance with Civil Code Article 3461, may not be renounced, interrupted, or
 10 suspended."

11 AMENDMENT NO. 14

12 On page 2, after line 11, insert the following:

13 **§5605.2. Collectability rule**
 14 **In any action for damages by a client against an attorney, the client's**
 15 **recovery against the attorney shall be limited to the amount of damages which**
 16 **the attorney shows by a preponderance of the evidence would have been the**
 17 **maximum amount of damages that the client could have collected in the client's**
 18 **underlying action in which he was represented by the attorney.**
 19 Section 2. The provisions of this Act are intended to legislatively overrule the
 20 holding that collectability of damages against the tortfeasor in an underlying lawsuit is not
 21 an affirmative defense to a legal malpractice action, as held in the Louisiana Supreme Court
 22 decision, *Ewing v. Westport Ins. Co.*, 315 So.3d 175 (La. 2020).
 23 Section 3. This Act shall become effective on July 1, 2022."