

SENATE BILL NO. 103

BY SENATOR FOIL

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AN ACT

To enact R.S. 9:5605.2, relative to legal malpractice; to provide relative to filing time periods; to provide relative to the burden of proof; to provide relative to collectability of damages; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:5605.2 is hereby enacted to read as follows:

**§5605.2. Collectability rule**

**In any action for damages by a client against an attorney, the client's recovery against the attorney shall be limited to the amount of damages which the attorney shows by a preponderance of the evidence would have been the maximum amount of damages that the client could have collected in the client's underlying action in which he was represented by the attorney.**

Section 2. The provisions of this Act are intended to legislatively overrule the holding that collectability of damages against the tortfeasor in an underlying lawsuit is not an affirmative defense to a legal malpractice action, as held in the Louisiana Supreme Court decision, *Ewing v. Westport Ins. Co.*, 315 So.3d 175 (La. 2020).

Section 3. This Act shall become effective on July 1, 2022.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_