HLS 23RS-757 ORIGINAL

2023 Regular Session

HOUSE BILL NO. 312

BY REPRESENTATIVE ROBBY CARTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/LAW: Provides relative to liability and damages resulting from carbon sequestration

1 AN ACT

2 To amend and reenact R.S. 30:1109(B) and to enact R.S. 30:1109(G), relative to liability;

3 to provide for strict liability; to provide relative to owners and operators of carbon

sequestration; to remove limitations on the recovery of noneconomic damages; and

5 to provide for related matters.

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6 Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:1109(B) is hereby amended and reenacted and R.S. 30:1109(G)

is hereby enacted to read as follows:

§1109. Cessation of storage operations; liability release

10 * * *

B.(1) In any civil liability action against the owner or operator of a storage facility, carbon dioxide transmission pipeline, or the generator of the carbon dioxide being handled by either the facility or pipeline, the maximum amount recoverable as compensatory damages for noneconomic loss shall not exceed two hundred fifty thousand dollars per occurrence, except where the damages for noneconomic loss suffered by the plaintiff were for wrongful death; permanent and substantial physical deformity, loss of use of a limb or loss of a bodily organ system; or permanent physical or mental functional injury that permanently prevents the injured person from being able to independently care for himself or herself and perform life sustaining activities. In such cases, the maximum amount recoverable as

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1 compensatory damages for noneconomic loss shall not exceed five hundred thousand 2 dollars per occurrence. 3 (2) If Paragraph (1) of this Subsection, or the application thereof to any 4 person or circumstance, is finally determined by a court of law to be unconstitutional 5 or otherwise invalid, the maximum amount recoverable as damages for noneconomic 6 loss shall thereafter not exceed one million dollars per occurrence. This provision 7 shall not supersede any contractual agreement with respect to liability between a 8 plaintiff and an owner or operator of a storage facility, a carbon dioxide transmission 9 pipeline, or the generator of the carbon dioxide. 10 11 G. Except as provided in Paragraph (A)(4) and Subsection E of this Section, 12 the owner or operator of a storage facility, carbon dioxide transmission pipeline, or the generator of the carbon dioxide being handled by either the facility or pipeline 13 14 shall be strictly liable for the damages attributable to the owner or operator's actions 15 in the geologic sequestration of carbon dioxide.

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 312 Original

2023 Regular Session

Robby Carter

Abstract: Provides for strict liability for damages attributable to the geologic sequestration of carbon dioxide and eliminates limitations on the recovery of noneconomic damages.

<u>Present law</u> provides for civil liability actions against an owner or operator of a storage facility, carbon dioxide transmission pipeline, or generator of the carbon dioxide being handled by either the facility or pipeline.

<u>Present law</u> provides that the state shall not assume any liability by assuming ownership of a storage facility under <u>present law</u>. <u>Present law</u> also provides that the commissioner of the Dept. of Natural Resources or his agents are not liable for damages arising out of a good faith effort to carry out the purpose of <u>present law</u>.

<u>Proposed law</u> retains the exceptions in <u>present law</u> but provides that in all other cases, the owner or operator of a storage facility, carbon dioxide transmission pipeline, or generator of the carbon dioxide being handled by either the facility or pipeline shall be strictly liable for damages attributable to the owner or operator's actions in carbon sequestration.

<u>Present law</u> provides that the compensatory damages for noneconomic loss shall not exceed \$250,000 per occurrence. <u>Present law</u> further provides that in cases of wrongful death, permanent and substantial physical deformity, loss of use of a limb or bodily organ system, or permanent physical or mental functional injury, the maximum amount recoverable for noneconomic loss shall not exceed \$500,000 per occurrence.

<u>Present law</u> provides that if the application of <u>present law</u> is found to be unconstitutional or invalid, the maximum amount recoverable for noneconomic loss shall not exceed \$1 million per occurrence.

<u>Proposed law</u> removes the limitations of the maximum amount recoverable for noneconomic losses.

(Amends R.S. 30:1109(B); Adds R.S. 30:1109(G))