

Regular Session, 2013

# ACT No. 254

HOUSE BILL NO. 472

BY REPRESENTATIVE JAY MORRIS AND SENATOR LAFLEUR

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

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AN ACT

To amend and reenact Code of Civil Procedure Articles 591(A)(5) and 592(A)(3)(b) through (d) and (E)(5) and to enact Code of Civil Procedure Article 592(A)(3)(e), relative to class actions; to provide relative to prerequisites required to maintain a class action; to provide for burden of proof to establish prerequisites; to prohibit courts from ordering class-wide trial on certain issues; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 591(A)(5) and 592(A)(3)(b) through (d) and (E)(5) are hereby amended and reenacted and Code of Civil Procedure Article 592(A)(3)(e) is hereby enacted to read as follows:

Art. 591. Prerequisites; maintainable class actions

A. One or more members of a class may sue or be sued as representative parties on behalf of all, only if:

\* \* \*

(5) The class is or may be defined objectively in terms of ascertainable criteria, such that the court may determine the constituency of the class for purposes of the conclusiveness of any judgment that may be rendered in the case. This prerequisite shall not be satisfied if it is necessary for the court to inquire into the merits of each potential class member's cause of action to determine whether an individual falls within the defined class.

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Art. 592. Certification procedure; notice; judgment; orders

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(b) At the hearing on the motion to certify an action as a class action, the proponent of the class shall have the burden of proof to establish that all requirements of Article 591 of this Code have been satisfied.

~~(b)~~(c) If the court finds that the action should be maintained as a class action, it shall certify the action accordingly. If the court finds that the action should not be maintained as a class action, the action may continue between the named parties. In either event, the court shall give in writing its findings of fact and reasons for judgment provided a request is made not later than ten days after notice of the order or judgment. A suspensive or devolutive appeal, as provided in Article 2081 et seq. of the Code of Civil Procedure, may be taken as a matter of right from an order or judgment provided for herein.

~~(c)~~(d) In the process of class certification, or at any time thereafter before a decision on the merits of the common issues, the court may alter, amend, or recall its initial ruling on certification and may enlarge, restrict, or otherwise redefine the constituency of the class or the issues to be maintained in the class action.

~~(d)~~(e) No order contemplated in this Subparagraph shall be rendered after a judgment or partial judgment on the merits of common issues has been rendered against the party opposing the class and over such party's objection.

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E. In the conduct of actions to which Article 591 and this Article apply, the court may make any of the following appropriate orders:

\* \* \*

(5) Dealing with similar procedural matters, including but not limited to case management orders providing for consolidation, duties of counsel, the extent and the scheduling of and the delays for pre-certification and post-certification discovery, and other matters which affect the general order of proceedings; however, the court ~~may~~ shall not order the class-wide trial of issues dependent for their resolution on proof individual to a member of the class, including but not limited to the causation

1 of the member's injuries, the amount of the member's special or general damages, the  
2 individual knowledge or reliance of the member, or the applicability to the member  
3 of individual claims or defenses.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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