

Regular Session, 2012

HOUSE BILL NO. 368

BY REPRESENTATIVE THOMPSON

CIVIL/ACTIONS: Provides with respect to motions to strike

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 971(C), relative to the special motion
3 to strike; to provide for certain procedures; to provide delays for filing a motion to
4 strike; to authorize the filing of the motion under certain circumstances; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 971(C) is hereby amended and reenacted
8 to read as follows:

9 Art. 971. Special motion to strike

10 * * *

11 C.(1) The special motion may be filed within ~~sixty~~ one hundred eighty days
12 of service of the petition, or in the court's discretion, at any later time upon terms the
13 court deems proper.

14 (2) If the plaintiff voluntarily dismisses the action prior to the running of the
15 delays for filing an answer, the defendant shall retain the right to file a special
16 motion to strike within the delays provided by Subparagraph (1) of this Paragraph,
17 and the motion shall be heard pursuant to the provisions of this Article.

18 (3) The motion shall be noticed for hearing not more than thirty days after
19 service unless the docket conditions of the court require a later hearing.

20 * * *

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)]

Thompson

HB No. 368

Abstract: Authorizes the filing of a special motion to strike if the plaintiff dismisses his action prior to the running of the delays to file an answer.

Present law provides that the special motion to strike may be filed within 60 days of service of the petition, or in the court's discretion, at any later time upon terms the court deems proper, and that the motion shall be noticed for hearing not more than 30 days after service unless the docket conditions of the court require a later hearing.

Proposed law extends the period within which to file a motion to strike from 60 days to 180 days of service of the petition.

Proposed law retains present law and also provides that if the plaintiff voluntarily dismisses the action prior to the running of the delays for filing an answer, the defendant shall retain the right to file a special motion to strike and shall have the motion heard.

(Amends C.C.P. Art. 971(C))