

2020 First Extraordinary Session

SENATE BILL NO. 11

BY SENATOR FESI

FRAUD. Provides relative to civil liability and certain actions for nullity involving fraud.
(Item #40) (See Act)

1 AN ACT

2 To enact Code of Civil Procedure Art. 2004.1, relative to civil actions; to provide relative
3 to nullity of judgments for fraud; to provide for certain terms and conditions; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2004.1 is hereby enacted to read as
7 follows:

8 **Art. 2004.1. Annulment for vice of fraud**

9 **A. A final judgment or compromise settlement obtained by fraud in an**
10 **action for a delictual or quasi-delictual offense may be annulled.**

11 **B. An action to annul a judgment or compromise settlement on these**
12 **grounds must be brought within one year of the discovery by any party to the**
13 **original final judgment or compromised settlement or by a liability insurer who**
14 **would have been an interested party in the original action, whether or not such**
15 **insurer was named as a party in that action.**

16 **C. The court may award reasonable attorney fees incurred by the**
17 **prevailing party in the nullity action and, if the judgment or settlement is**

1 **nullified, judicial interest on repayment of the original amount of the award or**
 2 **settlement.**

The original instrument was prepared by Margaret M. Corley. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

DIGEST

SB 11 Reengrossed

2020 First Extraordinary Session

Fesi

Present law provides for nullity of actions on the basis of fraud or ill practices.

Proposed law retains present law and further provides for nullity of a final judgment or compromise settlement obtained by fraud in an action for a delictual or quasi-delictual offense.

Proposed law provides for the annulment of a judgment or compromise settlement on the grounds of fraud to be brought within one year of the discovery by any party to the original final judgment or compromised settlement.

Proposed law provides that a nullity action pursuant to proposed law may be brought by a liability insurer who would have been an interested party in the original action, whether or not named as a party in that action.

Proposed law provides that the court may award reasonable attorney fees incurred by the prevailing party in the nullity action and, if the judgment or settlement is nullified, judicial interest on repayment of the original amount of the award or settlement.

Effective 60 days upon adjournment of the 2020 First Extraordinary Session.

(Adds C.C.P. Art. 2004.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Provide that any party to the original final judgment or compromised settlement may bring a nullity action pursuant to proposed law.

Senate Floor Amendments to engrossed bill

1. Revised language relative to bringing of such action by a liability insurer.