

Regular Session, 2014

SENATE BILL NO. 306

BY SENATOR MORRISH

COURTS. Provides relative to prescriptive periods and civil jury thresholds for delictual actions arising from vehicular accidents. (8/1/14)

1 AN ACT  
2 To amend and reenact Code of Civil Procedure Article 1732, and to enact Civil Code Article  
3 3493.11, relative to civil actions and proceedings; to provide relative to actions  
4 arising from a vehicular accident; to provide relative to liberative prescription for  
5 such actions; to provide certain limitations upon jury trials relative to such actions;  
6 to provide certain terms, conditions, procedures, requirements and effects; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Civil Code Art. 3493.11 is hereby enacted to read as follows:

10 **Art. 3493.11. Delictual actions; two-year prescription; vehicular accident**  
11 **Delictual actions which arise from damages sustained as a result of a**  
12 **vehicular accident are subject to a liberative prescription of two years. This**  
13 **prescription commences to run from the day injury or damage is sustained.**

14 Section 2. Code of Civil Procedure Art. 1732 is hereby amended and reenacted to  
15 read as follows:

16 Art. 1732. Limitation upon jury trials

17 A trial by jury shall not be available in **the following matters:**

1           (1)~~A~~ **Unless subject to the provisions of Paragraph (2), a** suit where the  
2 amount of no individual petitioner's cause of action exceeds fifty thousand dollars  
3 exclusive of interest and costs, except as follows:

4           (a) If an individual petitioner stipulates or otherwise judicially admits sixty  
5 days or more prior to trial that the amount of the individual petitioner's cause of  
6 action does not exceed fifty thousand dollars exclusive of interest and costs, a  
7 defendant shall not be entitled to a trial by jury.

8           (b) If an individual petitioner stipulates or otherwise judicially admits for the  
9 first time less than sixty days prior to trial that the amount of the individual  
10 petitioner's cause of action does not exceed fifty thousand dollars exclusive of  
11 interest and costs, any other party may retain the right to a trial by jury if that party  
12 is entitled to a trial by jury pursuant to this Article and has otherwise complied with  
13 the procedural requirements for obtaining a trial by jury.

14           (c) Notwithstanding ~~Subsubparagraphs~~ **Subparagraphs** (a) and (b) of this  
15 ~~Subparagraph~~ **Paragraph**, if, as a result of a compromise or dismissal of one or more  
16 claims or parties which occurs less than sixty days prior to trial, an individual  
17 petitioner stipulates or otherwise judicially admits that the amount of the individual  
18 petitioner's cause of action does not exceed fifty thousand dollars exclusive of  
19 interest and costs, a defendant shall not be entitled to a trial by jury.

20           **(2)(a) On or after January 1, 2015, through December 31, 2015, a suit**  
21 **arising from a vehicular accident where the amount of no individual petitioner's**  
22 **cause of action exceeds forty thousand dollars, exclusive of interest and costs.**  
23 **The exceptions set forth in Paragraph (1)(a) through (c) shall apply to suits**  
24 **subject to this Subparagraph, except that the amount of forty thousand dollars**  
25 **rather than fifty thousand dollars shall be used in determining the applicability**  
26 **of such exceptions.**

27           **(b) On or after January 1, 2016, through December 31, 2016, a suit**  
28 **arising from a vehicular accident where the amount of no individual petitioner's**  
29 **cause of action exceeds thirty thousand dollars, exclusive of interest and costs.**

1        **The exceptions set forth in Paragraph (1)(a) through (c) shall apply to suits**  
2        **subject to this Subparagraph, except that the amount of thirty thousand dollars**  
3        **rather than fifty thousand dollars shall be used in determining the applicability**  
4        **of such exceptions.**

5                **(c) On or after January 1, 2017, through December 31, 2017, a suit**  
6        **arising from a vehicular accident where the amount of no individual petitioner's**  
7        **cause of action exceeds twenty thousand dollars, exclusive of interest and costs.**

8        **The exceptions set forth in Paragraph (1)(a) through (c) shall apply to suits**  
9        **subject to this Subparagraph, except that the amount of twenty thousand**  
10       **dollars rather than fifty thousand dollars shall be used in determining the**  
11       **applicability of such exceptions.**

12               **(d) On or after January 1, 2018, through December 31, 2018, a suit**  
13       **arising from a vehicular accident where the amount of no individual petitioner's**  
14       **cause of action exceeds ten thousand dollars, exclusive of interest and costs. The**  
15       **exceptions set forth in Paragraph (1)(a) through (c) shall apply to suits subject**  
16       **to this Subparagraph, except that the amount of ten thousand dollars rather**  
17       **than fifty thousand dollars shall be used in determining the applicability of such**  
18       **exceptions.**

19               **(e) On or after January 1, 2019, any suit arising from a vehicular**  
20       **accident.**

21               ~~(2)~~**(3)** A suit on an unconditional obligation to pay a specific sum of money,  
22       unless the defense thereto is forgery, fraud, error, want, or failure of consideration.

23               ~~(3)~~**(4)** A summary, executory, probate, partition, mandamus, habeas corpus,  
24       quo warranto, injunction, concursus, workers' compensation, emancipation,  
25       tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce  
26       proceeding.

27               ~~(4)~~**(5)** A proceeding to determine custody, visitation, alimony, or child  
28       support.

29               ~~(5)~~**(6)** A proceeding to review an action by an administrative or municipal

1 body.

2 ~~(6)~~(7) All cases where a jury trial is specifically denied by law.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

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#### DIGEST

Morrish (SB 306)

Proposed law provides relative to civil actions arising from a vehicular accident.

Present law provides that delictual actions are subject to a liberative prescription of one year.

Proposed law provides that delictual actions which arise from damages sustained as a result of a vehicular accident are subject to a liberative prescription of two years. Proposed law provides that prescription provided for in proposed law commences to run from the day injury or damage is sustained.

Present law provides that a trial by jury shall not be available in the following civil cases:

- (1) A suit on an unconditional obligation to pay a specific sum of money, unless the defense thereto is forgery, fraud, error, want, or failure of consideration.
- (2) A summary, executory, probate, partition, mandamus, habeas corpus, quo warranto, injunction, concursus, workers' compensation, emancipation, tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce proceeding.
- (3) A proceeding to determine custody, visitation, alimony, or child support.
- (4) A proceeding to review an action by an administrative or municipal body.
- (5) All cases where a jury trial is specifically denied by law.

Proposed law retains present law.

Present law further provides that in a suit where the amount of no individual petitioner's cause of action exceeds the threshold amount of \$50,000, no trial by jury shall be available, with the following exceptions:

- (1) If an individual petitioner stipulates or otherwise judicially admits 60 days or more prior to trial that the amount of the individual petitioner's cause of action does not exceed \$50,000 exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.
- (2) If an individual petitioner stipulates or otherwise judicially admits for the first time less than 60 days prior to trial that the amount of the individual petitioner's cause of action does not exceed \$50,000 exclusive of interest and costs, any other party may retain the right to a trial by jury if that party is entitled to trial by jury pursuant to present law and has otherwise complied with the procedural requirements for obtaining a trial by jury.
- (3) Notwithstanding the exceptions noted in paragraphs (1) and (2) above, if, as a result of compromise or dismissal of one or more claims or parties which occurs less than 60 days prior to trial, an individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed \$50,000

exclusive of interest and costs, a defendant shall not be entitled to a trial by jury.

Proposed law retains present law including the three exceptions, except for suits arising from a vehicular accident as follows:

- (1) On or after January 1, 2015, through December 31, 2015, no jury trial shall be available for a suit arising from a vehicular accident where the amount of no individual petitioner's cause of action exceeds \$40,000 exclusive of interest and costs. The three exceptions set forth in the present law shall be applicable, except the sum of \$40,000 instead of \$50,000 is to be used in the calculations to determine applicability.
- (2) On or after January 1, 2016, through December 31, 2016, no jury trial shall be available for a suit arising from a vehicular accident where the amount of no individual petitioner's cause of action exceeds \$30,000 exclusive of interest and costs. The three exceptions set forth in the present law shall be applicable, except the sum of \$30,000 instead of \$50,000 is to be used in the calculations to determine applicability.
- (3) On or after January 1, 2017, through December 31, 2017, no jury trial shall be available for a suit arising from a vehicular accident where the amount of no individual petitioner's cause of action exceeds \$20,000 exclusive of interest and costs. The three exceptions set forth in the present law shall be applicable, except the sum of \$20,000 instead of \$50,000 is to be used in the calculations to determine applicability.
- (4) On or after January 1, 2018, through December 31, 2018, no jury trial shall be available for a suit arising from a vehicular accident where the amount of no individual petitioner's cause of action exceeds \$10,000 exclusive of interest and costs. The three exceptions set forth in the present law shall be applicable, except the sum of \$10,000 instead of \$50,000 is to be used in the calculations to determine applicability.
- (5) On or after January 1, 2019, no jury trial shall be available for any suit arising from a vehicular accident.

Effective August 1, 2014.

(Amends C.C.P. Art. 1732; adds C.C. Art. 3493.11)