

ACT No. 25

2021 Regular Session

HOUSE BILL NO. 385

BY REPRESENTATIVE BEAULLIEU

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AN ACT

To enact R.S. 9:3259.3 and Code of Civil Procedure Article 4912(A)(3), relative to privileges on certain movable property; to provide for a privilege on certain abandoned movable property; to provide for possession and sale of abandoned movable property; to provide procedures for enforcement of the privilege; to provide for notice; to provide for court approval; to provide for redemption by the lessee; to provide for recognition of the judgment of ownership; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3259.3 is hereby enacted to read as follows:

§3259.3. Privilege for unpaid lease payments; abandoned manufactured homes and abandoned movable property; enforcement of privilege by owner of immovable property; definitions

A. As used in this Section, the following terms shall have the following meanings:

(1) "Abandoned manufactured home" means a manufactured home that has a current fair market value not exceeding five thousand dollars that is not encumbered by a mortgage, lien, privilege, or security interest, that is placed upon immovable property of another subject to a lease agreement, when the lessee has notified the owner of the immovable property that the lessee no longer intends to remain in the manufactured home and intends to abandon the remaining movable

1 property, or when a reasonable person would conclude from all appearances that the
 2 lessee no longer intends to occupy the manufactured home or claim ownership to any
 3 of the remaining movable property.

4 (2) "Manufactured home" means a mobile home or residential mobile home
 5 as defined by R.S. 9:1149.2.

6 (3) "Abandoned movable property" means contents, personal items, or other
 7 movable property as defined by Civil Code Article 475 of the lessee left in the
 8 abandoned manufactured home.

9 B.(1) The owner of immovable property to secure the payment of rent and
 10 other obligations arising under the lease shall have a privilege on any abandoned
 11 manufactured home that is not encumbered by a mortgage, lien, privilege, or security
 12 interest, and on any abandoned movable property that is placed upon the immovable
 13 property pursuant to a lease agreement.

14 (2) Notwithstanding any other provision to the contrary, the provisions of
 15 this Section shall not apply to any manufactured home or abandoned manufactured
 16 home that is encumbered by a mortgage, lien, privilege, or security interest.

17 C. In the event of default by the lessee and abandonment of the
 18 manufactured home and after compliance with the provisions of R.S. 9:3259.1, if
 19 applicable, the owner of the immovable property may enforce judicially all of his
 20 rights under the lease agreement, and to enforce his privilege for the debt due him,
 21 as follows:

22 (1) The owner of the immovable property shall be authorized to remove any
 23 lock on the abandoned manufactured home located on the immovable property in
 24 order to compile a brief and general description of the abandoned manufactured
 25 home and abandoned movable property, including the serial number and vehicle
 26 identification number of the manufactured home, if available, upon which a privilege
 27 is claimed and shall be entitled to place his own lock upon such manufactured home
 28 until his privilege is satisfied.

1 (2) The lessee shall be notified of the owner's intention to enforce his
2 privilege.

3 (3) The notice shall be delivered in person to the lessee or sent by certified
4 mail to the last known address of the lessee.

5 (4) The notice shall include:

6 (a) A copy of any written lease agreement between the owner and defaulting
7 lessee, or, if the lease agreement is verbal, a summary of its terms and conditions.

8 (b) An itemized statement of the owner's claim, showing the sum due at the
9 time of the notice and the date when the sum became due.

10 (c) The name of the owner of the abandoned manufactured home, if known,
11 and a brief and general description of the abandoned manufactured home and
12 abandoned movable property, including the serial and vehicle identification numbers
13 of the abandoned manufactured home, if known, upon which a privilege is claimed.
14 The description shall be reasonably adequate to permit the person notified to identify
15 it, except that any container, including but not limited to a trunk, valise, or box that
16 is locked, fastened, sealed, or tied in a manner which deters immediate access to its
17 contents may be described as such without describing its contents.

18 (d) Notification that the lessee has been or shall be denied access to the
19 abandoned manufactured home and abandoned movable property, if such denial is
20 permitted under the terms of the lease agreement, with the name, street address, and
21 telephone number of the owner or his designated agent whom the lessee may contact
22 to respond to the notice.

23 (e) A demand for payment within a specified time not less than fifteen days
24 after the date of mailing or delivery of the notice.

25 (f) A statement that the abandoned manufactured home, its contents, and any
26 other abandoned movable property on the immovable property are subject to the
27 owner's privilege, and that, unless the claim is paid within the time stated in the
28 notice, the abandoned manufactured home and abandoned movable property are to
29 be advertised for sale or other disposition and to be sold or otherwise disposed of to

1 satisfy the owner's privilege for lease payments due and other charges at a specified
2 time and place.

3 (5) Actual receipt of the notice made pursuant to this Section shall not be
4 required. Within fourteen days after mailing of the notice, an advertisement of the
5 sale or other disposition of movable property subject to the privilege shall be
6 published on at least one occasion in a newspaper of general circulation where the
7 abandoned manufactured home is located. The advertisement shall include:

8 (a) The name of the owner of the abandoned manufactured home, if known,
9 and a brief and general description of the abandoned manufactured home and
10 abandoned movable property, including the serial and vehicle identification numbers
11 of the abandoned manufactured home, if known, reasonably adequate to permit its
12 identification as provided by Subparagraph (4)(c) of this Subsection.

13 (b) The address of the immovable property upon which the abandoned
14 manufactured home is located and the name of the lessee.

15 (c) The time, place, and manner of the sale or other disposition.

16 (6) The sale or other disposition of the abandoned manufactured home and
17 abandoned movable property shall take place not sooner than thirty days following
18 publication as required by this Section.

19 D.(1) Upon completion of the procedures required by Subsection C of this
20 Section, the owner of the immovable property may file suit for possession or
21 ownership of the abandoned manufactured home and abandoned movable property
22 pursuant to Code of Civil Procedure Article 4912.

23 (2) The owner of the immovable property shall attach to the petition
24 evidence of the lease agreement, copies of the notice and advertisement required by
25 Subsection C of this Section, and evidence that the abandoned manufactured home
26 is valued at less than five thousand dollars. If the serial or vehicle identification
27 numbers are not known, the owner of the immovable property shall provide
28 certification of a physical inspection of the abandoned manufactured home for the

1 purpose of vehicle identification number verification by a law enforcement officer
2 trained and certified by the Department of Public Safety and Corrections to inspect
3 motor vehicles as provided in Chapter 4 of Title 32 of the Louisiana Revised Statutes
4 of 1950. The certification shall certify that the serial or vehicle identification
5 numbers are not known. The owner of the immovable property shall certify in his
6 petition, or attach an affidavit of the owner of the immovable property attesting, that
7 there is no mortgage, lien, privilege, or security interest encumbering the abandoned
8 manufactured home based on a search of the parish mortgage records and records of
9 the Department of Public Safety and Corrections, office of motor vehicles.

10 (3) Upon finding that the owner of the immovable property has satisfied the
11 requirements of this Section, the court shall authorize the sale of the abandoned
12 manufactured home and abandoned movable property by the petitioner.

13 E.(1) Upon obtaining approval from the court, the owner of the immovable
14 property may proceed to sell the abandoned manufactured home and abandoned
15 movable property. Any sale or other disposition of the abandoned manufactured
16 home and abandoned movable property shall conform to the terms of the notification
17 as provided by this Section.

18 (2) Any sale or other disposition of the abandoned manufactured home and
19 abandoned movable property shall be held at the address of the immovable property
20 where the abandoned manufactured home is located, as indicated in the notice
21 required by this Section. The owner shall sell the abandoned manufactured home
22 and abandoned movable property to the highest bidder, if any. If there are no
23 bidders, the owner may purchase the movable property for a price at least sufficient
24 to satisfy his claim for lease payments due and all other charges, or he may donate
25 the abandoned manufactured home and abandoned movable property to charity.

26 (3) Prior to any sale or other disposition of the abandoned manufactured
27 home or abandoned movable property to enforce the privilege granted by this
28 Section, the lessee may pay the amount necessary to satisfy the privilege, including
29 all reasonable expenses incurred under this Section, and thereby redeem the movable

1 property. Upon receipt of such payment, the owner shall have no liability to any
2 person with respect to such movable property.

3 (4) A purchaser in good faith of the abandoned manufactured home or
4 abandoned movable property sold by an owner to enforce the privilege granted by
5 this Section takes the property free of any claims or rights of persons against whom
6 the privilege was valid, despite noncompliance by the owner with the requirements
7 of this Section, but takes subject to any mortgages, liens, privileges, and security
8 interests that encumber the abandoned manufactured home at the time of the sale.

9 (5) In the event of a sale held pursuant to the provisions of this Section, the
10 owner may satisfy his privilege from the proceeds of the sale, but shall hold the
11 balance, if any, as a credit in the name of the lessee whose property was sold. The
12 lessee may claim the balance of the proceeds within two years of the date of sale,
13 without any interest thereon, and if unclaimed within the two-year period, the credit
14 shall become the property of the owner, without further recourse by the lessee. If the
15 sale or other disposition of the abandoned manufactured home and abandoned
16 movable property made pursuant to the provisions of this Section does not satisfy the
17 owner's claim for lease payments due and other charges, the owner may proceed by
18 ordinary proceedings to collect the balance owed.

19 (6) After conclusion of the sale, the act of sale of the abandoned
20 manufactured home may be filed with the court, and a judgment recognizing the sale
21 shall be rendered by the court and recognized by the Department of Public Safety
22 and Corrections pursuant to Code of Civil Procedure Article 4912.

23 Section 2. Code of Civil Procedure Article 4912(A)(3) is hereby enacted to read as
24 follows:

25 Art. 4912. Possession or ownership of movable property; eviction proceedings;
26 justice of the peace courts

27 A.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

ACT No. 27

2021 Regular Session

HOUSE BILL NO. 400

BY REPRESENTATIVE COUSSAN

1 AN ACT

2 To amend and reenact Civil Code Article 811 and Code of Civil Procedure Articles 4607,
3 4622, 4624, and 4625, relative to property; to provide for partitions by private sale;
4 to provide relative to absentee or non-consenting co-owners; to provide for petition
5 requirements; to provide for sale requirements; to provide for an effective date; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Article 811 is hereby amended and reenacted to read as
9 follows:

10 Art. 811. Partition by licitation or by private sale

11 A. When the thing held in indivision is not susceptible to partition in kind,
12 the court shall decree a partition by licitation or, as provided in Paragraph B of this
13 Article, by private sale and the proceeds shall be distributed to the co-owners in
14 proportion to their shares.

15 B. In the event that one or more of the co-owners are absentees or have not
16 consented to a partition by private sale, the court ~~may set the terms of the sale and~~
17 shall order a partition by private sale and shall give first priority to the private sale
18 between the existing co-owners, over the sale by partition by licitation or private sale
19 to third parties. The court shall order the partition by private sale between the
20 existing co-owners as identified in the conveyance records as of the date of filing for
21 the petition for partition by private sale. The petition for partition by private sale

1 shall be granted first priority, and the sale shall be executed under Title IX of Book
2 VII of the Code of Civil Procedure.

3 Section 2. Code of Civil Procedure Articles 4607, 4622, 4624, and 4625 are hereby
4 amended and reenacted to read as follows:

5 Art. 4607. Partition by licitation or by private sale

6 When a partition is to be made by licitation, the sale shall be conducted at
7 public auction and after the advertisements required for judicial sales under
8 execution. When a partition is to be made at private sale without the consent of all
9 co-owners, the sale shall be for not less than ~~two-thirds~~ of the appraised value of the
10 property, and documents required pursuant to a court order shall be made executed
11 on behalf of the absentee or non-consenting co-owner by a court-appointed
12 representative, who may be a co-owner, after the advertisements required for judicial
13 sales under execution are made. All counsel of record, including curators appointed
14 to represent absentee defendants, and persons appearing in proper person shall be
15 given notice of the sale date. At any time prior to the sale, the parties may agree
16 upon a nonjudicial partition.

17 * * *

18 Art. 4622. Petition

19 A. The petition for the partition of property in which an absentee owns an
20 interest, under the articles of this Chapter, shall allege the facts showing that the
21 absent and unrepresented defendant is an absentee, as defined in Article 5251, shall
22 describe the property sought to be partitioned and allege the ownership interests
23 thereof, and shall be supported by an affidavit of the petitioner or of his counsel that
24 the facts alleged in the petition are true.

25 B.(1) If the partition is to be made by private sale, the petition for partition
26 between the co-owners shall have first priority status by the court and shall describe
27 include all of the following:

28 (a) ~~the~~ The primary terms of the proposed sale;

29 (b) The name of the proposed purchaser and whether the proposed purchaser
30 is a co-owner or third party in accordance with Civil Code Article 811(B). ~~identify~~

1 ~~the proposed purchaser, if any, disclose whether the proposed purchaser is related to~~
2 ~~any co-owner;~~

3 (c) The source or location of funds to be used in the sale.

4 (d) If the proposed purchaser is a juridical entity, including but not limited
5 to corporations, limited liability companies, partnerships, and sole proprietorships,
6 and whether that entity has a relationship with any co-owner. ~~and disclose to the~~
7 ~~petitioning co-owners~~

8 (e) Whether ~~whether~~ any costs associated with the sale will be paid to any
9 person related to the petitioning co-owners within the fourth degree or a juridical
10 entity in which the co-owner has a direct or indirect financial interest.

11 (2) Upon judgment of the court ordering the sale, payment shall be made
12 within twenty-four hours using cash or certified funds.

13 * * *

14 Art. 4624. Publication of notice

15 Notice of the institution of the proceeding shall be published at least once in
16 the parish where the partition proceeding is instituted, in the manner provided by
17 law. This notice shall set forth the title and docket number of the proceeding, the
18 name and address of the court, a description of the property sought to be partitioned,
19 and the primary terms of the private sale and shall notify the absent defendant that
20 the plaintiff is seeking to have the property partitioned by licitation or by private sale
21 under Civil Code Article 811 and Chapters 1 and 2 of this Title, and that the absent
22 defendant has fifteen days from the date of the publication of notice, or of the initial
23 publication of notice if there is more than one publication, to answer the plaintiff's
24 petition.

25 Art. 4625. Trial; judgment ordering sale

26 A. Except as otherwise provided in Article 4630, if the petitioner proves on
27 the trial of the proceeding that he is a co-owner of the property and entitled to the
28 partition thereof and that the defendant is an absentee who owns an interest therein,
29 the court shall render judgment ordering either the public sale of the property for
30 cash by the sheriff to effect a partition, after the advertisement required by law for

1 a sale under execution or the private sale of the property ~~for cash by the court-~~
 2 ~~appointed representative to effect a partition,~~ executed on behalf of the absentee or
 3 non-consenting co-owner by a court-appointed representative, who may be a co-
 4 owner, under Chapters 1 and 2 of this Title, and after the advertisement required by
 5 law for a sale under execution.

6 B. The judgment shall determine the absentee's share in the proceeds of the
 7 sale, and award a reasonable fee to the attorney appointed to represent him to be paid
 8 from the absentee's share of the proceeds of the sale.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 100

BY SENATOR REESE

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 R.S. 6:767(F) and 768(D) and (E) and Code of Civil Procedure Art. 3434, and to enact R.S. 6:325(E), 767(G), and 768(F), relative to banks, mutual associations, and savings banks; to provide relative to an affidavit for small successions; to provide for access and transfer of the contents of a safety deposit box by a bank, mutual association, or savings bank to a succession representative, heir, or legatee; to provide for access and transfer of money and property by a bank, mutual association, or savings bank to a succession representative, heir, or legatee; to provide liability protection for certain entities; to provide certain terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:767(F) and 768(D) and (E) are hereby amended and reenacted, and R.S. 6:325(E), 767(G), and 768(F) are hereby enacted to read as follows:

§325. Death of a customer and access and transfer of contents of safety deposit boxes, money, and other property by bank to succession representatives, legatees, or heirs; authority

* * *

E. A small succession affidavit authorized by Title V of Book IV of the Louisiana Code of Civil Procedure shall constitute full and sufficient authority for the payment or delivery of any money or property, including property held in a safety deposit box, of the deceased customer described in the affidavit to the heirs or legatees of the deceased customer and the surviving spouse in

1 community, if any, in the percentages listed therein, by the bank having such
 2 money or property in its possession or under its control. The transfer of the
 3 money or delivery of property identified in the affidavit to the persons named
 4 in the affidavit constitutes a full release and discharge for the payment of money
 5 or delivery of property and any creditor, heir, legatee, succession
 6 representative, or other person whatsoever shall have no right or cause of action
 7 against the bank paying the money or delivering the property pursuant to the
 8 provisions of this Subsection on account of the payment, delivery, or transfer.

9 * * *

10 §767. Death of member or depositor and access and transfer of money and property
 11 by association to succession representatives, legatees, or heirs;
 12 authority

13 * * *

14 F. A small succession affidavit authorized by Title V of Book IV of the
 15 Louisiana Code of Civil Procedure shall constitute full and sufficient authority
 16 for the payment or delivery of any money or property, including property held
 17 in a safety deposit box, of the deceased customer described in the affidavit to the
 18 heirs or legatees of the deceased customer and the surviving spouse in
 19 community, if any, in the percentages listed therein, by the association having
 20 such money or property in its possession or under its control. The transfer of
 21 the money or delivery of property identified in the affidavit to the persons
 22 named in the affidavit constitutes a full release and discharge for the payment
 23 of money or delivery of property and any creditor, heir, legatee, succession
 24 representative, or other person whatsoever shall have no right or cause of action
 25 against the association paying the money or delivering the property pursuant
 26 to the provisions of this Subsection on account of the payment, delivery, or
 27 transfer.

28 G. Any association may pay to the surviving spouse the value of any savings
 29 or demand account or shares standing in the name of the decedent in such association
 30 without authorization by any court proceeding, order, or judgment, whether the

1 savings account or shares belong to the separate estate of the decedent or to the
 2 community property regime which existed between the decedent and the surviving
 3 spouse, subject to the provisions of R.S. 9:1513.

4 §768. Transfer of contents of safety deposit boxes by an association to succession
 5 representatives, legatees, heirs, minors, or interdicts; authority

6 * * *

7 **D. A small succession affidavit authorized by Title V of Book IV of the**
 8 **Louisiana Code of Civil Procedure shall constitute full and sufficient authority**
 9 **for the payment or delivery of any money or property, including property held**
 10 **in a safety deposit box, of the deceased customer described in the affidavit to the**
 11 **heirs or legatees of the deceased customer and the surviving spouse in**
 12 **community, if any, in the percentages listed therein, by the association having**
 13 **such money or property in its possession or under its control. The transfer of**
 14 **the money or delivery of property identified in the affidavit to the persons**
 15 **named in the affidavit constitutes a full release and discharge for the payment**
 16 **of money or delivery of property and any creditor, heir, legatee, succession**
 17 **representative, or other person whatsoever shall have no right or cause of action**
 18 **against the association paying the money or delivering the property pursuant**
 19 **to the provisions of this Subsection on account of the payment, delivery, or**
 20 **transfer.**

21 **E.** Upon proper authority, an association may transfer the contents of a safety
 22 deposit box belonging to an interdict or a minor to the legal representative of such
 23 interdict or minor. The letters issued to the legal representative by a court of
 24 competent jurisdiction shall constitute proper authority for making the transfer,
 25 which when so made and receipted for, shall be full protection to the association.

26 **E.F.** Conclusive proof to the association of the letters testamentary, letters of
 27 administration, or letters of independent administration of the succession
 28 representative, or of the judgment of possession, and of the jurisdiction of the court
 29 rendering them, shall be as provided in R.S. 6:325(D).

30 Section 2. Code of Civil Procedure Art. 3434 is hereby amended and reenacted to

1 read as follows:

2 Art. 3434. Endorsed copy of affidavit authority for delivery of property

3 A. A multiple original of the affidavit authorized by Article 3432 or 3432.1,
4 shall be full and sufficient authority for the payment or delivery of any money or
5 property of the deceased described in the affidavit to the heirs or legatees of the
6 deceased and the surviving spouse in community, if any, in the percentages listed
7 therein, by any ~~bank~~, federally insured depository institution, financial institution,
8 trust company, warehouseman, or other depository, or by any person having such
9 property in his possession or under his control. Similarly, a multiple original of an
10 affidavit satisfying the requirements of this Article shall be full and sufficient
11 authority for the transfer to the heirs or legatees of the deceased, and surviving
12 spouse in community, if any, or to their assigns, of any stock or registered bonds in
13 the name of the deceased and described in the affidavit, by any domestic or foreign
14 corporation.

15 B. The receipt of the persons named in the affidavit as heirs or legatees of
16 the deceased, or surviving spouse in community thereof, constitutes a full release and
17 discharge for the payment of money or delivery of property made under the
18 provisions of this Article. Any creditor, heir, legatee, succession representative, or
19 other person whatsoever shall have no right or cause of action against the person
20 paying the money, or delivering the property, or transferring the stock or bonds,
21 under the provisions of this Article, on account of such payment, delivery, or
22 transfer.

23 C.(1) A multiple original of the affidavit, to which has been attached a
24 certified copy of the deceased's death certificate, shall be recorded in the conveyance
25 records in the office of the clerk of court in the parish where any immovable property
26 described therein is situated, after at least ninety days have elapsed from the date of
27 the deceased's death.

28 (2) An affidavit so recorded, or a certified copy thereof, shall be admissible
29 as evidence in any action involving immovable property to which it relates or is
30 affected by the instrument, and shall be prima facie evidence of the facts stated

1 therein, including the relationship to the deceased of the parties recognized as heir,
2 legatee, surviving spouse in community, or usufructuary as the case may be, and of
3 their rights in the immovable property of the deceased.

4 (3) An action by a person, who claims to be a successor of a deceased
5 person, but who has not been recognized as such in an affidavit authorized by Article
6 3432 or 3432.1, to assert an interest in property formerly owned by the deceased,
7 against a third person who has acquired an interest in the property, or against his
8 successors by onerous title, is prescribed two years from the date of the recording of
9 the affidavit in accordance with this Paragraph.

10 Section 3. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session

ACT No. 68

HOUSE BILL NO. 140

BY REPRESENTATIVES MUSCARELLO, ROBBY CARTER, JEFFERSON, JENKINS,
MIKE JOHNSON, LANDRY, LARVADAIN, AND SEABAUGH

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 193, 194, 195, 196.1, 863(A),
3 891(A), and 1313(C) and R.S. 9:2603(B)(2), and to repeal Code of Civil Procedure
4 Article 196 and R.S. 9:2603(B)(4)(a), relative to civil procedure; to provide for the
5 adoption of local court rules; to provide with respect to the power of district courts
6 to act; to provide with respect to judicial proceedings; to provide for the signing of
7 orders and judgments; to provide with respect to pleadings and petitions; to provide
8 for service by electronic means; to provide with respect to the Louisiana Uniform
9 Electronic Transaction Act; to provide for an effective date; and to provide for
10 related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Civil Procedure Articles 193, 194,195, 196.1, 863(A), 891(A),
13 and 1313(C) are hereby amended and reenacted to read as follows:

14 Art. 193. Power to adopt local rules; publication

15 A. A court may adopt rules for the conduct of judicial business before it,
16 including those governing matters of practice and procedure ~~which~~ that are not
17 contrary to the rules provided by law. When a court has more than one judge, its
18 rules shall be adopted or amended by a majority of the judges thereof, sitting en
19 banc.

20 ~~The rules may provide that the court may call a special session of court~~
21 ~~during vacation, and that any action, proceeding, or matter otherwise required by law~~
22 ~~to be tried or heard in open court during the regular session may be tried or heard~~
23 ~~during the special session.~~

24 B. The rules shall be entered on the minutes of the court. Rules adopted by
25 an appellate court shall be published in the manner ~~which~~ that the court considers

1 most effective and practicable. ~~Rules adopted by a district court shall be printed in~~
 2 ~~pamphlet form, and a copy shall be furnished on request to any attorney licensed to~~
 3 ~~practice law in this state.~~

4 Art. 194. Power of district court to act ~~in chambers~~; signing orders and judgments

5 The following orders and judgments may be signed by the district judge in
 6 ~~chambers~~ any place where the judge is physically located:

7 (1) Order directing the taking of an inventory; judgment decreeing or
 8 homologating a partition, when unopposed; judgment probating a testament ex parte;
 9 order directing the execution of a testament; order confirming or appointing a legal
 10 representative, when unopposed; order appointing an undertutor or an undercurator;
 11 order appointing an attorney at law to represent an absent, incompetent, or
 12 unrepresented person, or an attorney for an absent heir; order authorizing the sale of
 13 property of an estate administered by a legal representative; order directing the
 14 publication of the notice of the filing of a tableau of distribution, or of an account,
 15 by a legal representative; judgment recognizing heirs or legatees and sending them
 16 into possession, when unopposed; all orders for the administration and settlement of
 17 a succession, or for the administration of an estate by a legal representative;.

18 (2) Order to show cause; order directing the issuance and providing the
 19 security to be furnished by a party for the issuance of a writ of attachment or
 20 sequestration; order directing the release of property seized under a writ of
 21 attachment or sequestration and providing the security to be furnished therefor; order
 22 for the issuance of a temporary restraining order and providing the security therefor;
 23 order for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or
 24 quo warranto;.

25 (3) Order for the seizure and sale of property in an executory proceeding;.

26 (4) Order for the taking of testimony by deposition; for the production of
 27 documentary evidence; for the production of documents and things for inspection,
 28 copying, or photographing; for permission to enter land for the purpose of
 29 measuring, surveying, or photographing;.

1 (5) Order or judgment deciding or otherwise disposing of an action,
2 proceeding, or matter ~~which~~ that may be tried or heard in chambers;

3 (6) Order or judgment that may be granted on ex parte motion or application,
4 except an order of appeal on an oral motion; ~~and~~.

5 (7) Any other order or judgment not specifically required by law to be signed
6 in open court.

7 Comments – 2021

8 This Article has been amended to codify the current practice of the district
9 court judges of signing orders and judgments wherever the judge is physically
10 located. With the use of electronic signatures as provided for in Articles 253(C) and
11 1911(A), judges are authorized to sign orders and judgments electronically, and this
12 Article authorizes them to do so wherever they are physically located.

13 Art. 195. ~~Same; judicial~~ Judicial proceedings in chambers

14 The following judicial proceedings may be conducted by the district judge
15 in chambers or by any audio-visual means:

16 (1) Hearing on an application by a legal representative for authority, whether
17 opposed or unopposed, and on a petition for emancipation;

18 (2) Homologation of a tableau of distribution, or of an account, filed by a
19 legal representative, so far as unopposed;

20 (3) Trial of a rule to determine the nonexempt portion of wages, salaries, or
21 commissions seized under garnishment and to direct the payment thereof
22 periodically by the garnishee to the sheriff;

23 (4) Examination of a judgment debtor; ~~and~~.

24 (5) Trial of or hearing on any other action, proceeding, or matter ~~which~~ that
25 the law expressly provides may be tried or heard in chambers.

26 Art. 196.1. Power of ~~courts to act during emergencies~~ judges to sign orders and
27 judgments while outside of the court's territorial jurisdiction

28 ~~A. A~~ The judge of a district court or a court of limited jurisdiction may sign
29 orders and judgments while outside of ~~it's~~ the court's territorial jurisdiction ~~during~~
30 ~~an emergency or disaster declared as such pursuant to R.S. 29:724(B) if the~~
31 ~~emergency or disaster prevents the court from operating in its own jurisdiction.~~

1 C. Notwithstanding Paragraph A of this Article, if a pleading or order sets
 2 a court date, then service shall be made ~~either~~ by registered or certified mail or as
 3 provided in Article 1314, ~~or~~ by actual delivery by a commercial courier, or by
 4 emailing the document to the email address designated by counsel or the party.
 5 Service by electronic means is complete upon transmission, provided that the sender
 6 receives an electronic confirmation of delivery.

7 * * *

8 Comments – 2021

9 Paragraph C of this Article has been amended to allow service of a pleading
 10 or order setting a court date by emailing the party or his counsel at a designated
 11 email address, provided that the sender receives an electronic confirmation of
 12 delivery. See R.S. 9:4845(2). If such confirmation is not received, the sender will
 13 need to use one of the other alternative methods of service provided in Paragraph C.

14 Section 2. R.S. 9:2603(B)(2) is hereby amended and reenacted to read as follows:

15 §2603. Scope

16 * * *

17 B. This Chapter shall not apply to:

18 * * *

19 (2) A transaction to the extent it is governed by the provisions of Title 10 of
 20 the Louisiana Revised Statutes of 1950, ~~other than R.S. 10:1-107.~~

21 * * *

22 Section 3. Code of Civil Procedure Article 196 and R.S. 9:2603(B)(4)(a) are hereby
 23 repealed in their entirety.

24 Section 4. This Act shall become effective January 1, 2022.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 39

ACT No. 143

BY REPRESENTATIVE MAGEE AND SENATORS ALLAIN AND FESI

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Chapter 3 of Title I of Book I of the Code of Civil Procedure,
3 comprised of Code of Civil Procedure Articles 151 through 159, the heading of
4 Chapter 3 of Title I of Book VIII of the Code of Civil Procedure, the heading of
5 Code of Civil Procedure Article 4861 and Code of Civil Procedure Articles 4862,
6 4863, and 4864, the heading of Code of Civil Procedure Article 4865, and Code of
7 Civil Procedure Article 4866, relative to the recusal of judges; to provide for the
8 grounds for recusal; to provide for disclosures required of judges; to provide for
9 recusal on the court's own motion; to provide for the procedure for recusal; to
10 provide for the selection of the judge to try the motion to recuse; to provide for the
11 selection of the judge after recusal; to provide for the motion to recuse; to provide
12 for the appointment of judge ad hoc; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Chapter 3 of Title I of Book I of the Code of Civil Procedure, comprised
15 of Code of Civil Procedure Articles 151 through 159, the heading of Chapter 3 of Title I of
16 Book VIII of the Code of Civil Procedure, the heading of Code of Civil Procedure Article
17 4861 and Code of Civil Procedure Articles 4862, 4863, and 4864, the heading of Code of
18 Civil Procedure Article 4865, and Code of Civil Procedure Article 4866 are hereby amended
19 and reenacted to read as follows:

20 CHAPTER 3. ~~RECUSATION~~ RECUSAL OF JUDGES

21 Art. 151. Grounds

22 A. A judge of any trial or appellate court, ~~trial or appellate~~, shall be recused
23 ~~when he~~ upon any of the following grounds:

- 24 (1) ~~Is~~ The judge is a witness in the cause;

1 (2) ~~Has~~ The judge has been employed or consulted as an attorney in the
 2 cause or has previously been associated with an attorney during the latter's
 3 employment in the cause, and the judge participated in representation in the cause;

4 (3) ~~Is~~ The judge is the spouse of a party, or of an attorney employed in the
 5 cause or the judge's parent, child, or immediate family member is a party or attorney
 6 employed in the cause; ~~or,~~

7 (4) ~~Is~~ The judge is biased, prejudiced, or interested in the cause or its
 8 outcome or biased or prejudiced toward or against the parties or the parties' attorneys
 9 or any witness to such an extent that ~~he~~ the judge would be unable to conduct fair
 10 and impartial proceedings.

11 B. ~~A judge of any court, trial or appellate, may be recused when he:~~

12 (1) ~~Has been associated with an attorney during the latter's employment in~~
 13 ~~the cause;~~

14 (2) ~~At the time of the hearing of any contested issue in the cause, has~~
 15 ~~continued to employ, to represent him personally, the attorney actually handling the~~
 16 ~~cause (not just a member of that attorney's firm), and in this case the employment~~
 17 ~~shall be disclosed to each party in the cause;~~

18 (3) ~~Has performed a judicial act in the cause in another court; or~~

19 (4) ~~Is related to: a party or the spouse of a party, within the fourth degree;~~
 20 ~~an attorney employed in the cause or the spouse of the attorney, within the second~~
 21 ~~degree; or if the judge's spouse, parent, child, or immediate family member living in~~
 22 ~~the judge's household has a substantial economic interest in the subject matter in~~
 23 ~~controversy sufficient to prevent the judge from conducting fair and impartial~~
 24 ~~proceedings in the cause.~~

25 A judge of any trial or appellate court shall also be recused when there exists
 26 a substantial and objective basis that would reasonably be expected to prevent the
 27 judge from conducting any aspect of the cause in a fair and impartial manner.

28 C. In any cause in which the state; or a political subdivision thereof; ~~or a~~
 29 ~~religious body or corporation~~ is interested, the fact that the judge is a citizen of the
 30 state or a resident of the political subdivision, or pays taxes thereto, ~~or is a member~~

1 ~~of the religious body or corporation~~, is not a ground for ~~recusation~~ recusal. In any
 2 cause in which a religious body or religious corporation is interested, the fact that the
 3 judge is a member of the religious body or religious corporation is not alone a
 4 ground for recusal.

5 Comments - 2021

6 (a) Former Paragraph B of this Article, which set forth permissive grounds
 7 for recusal, has been deleted, and its substance has been moved to a new provision,
 8 Article 152, which provides for the mandatory disclosures that a judge must make
 9 to all parties and attorneys in the cause.

10 (b) A new Paragraph B has been added to provide an additional mandatory
 11 ground for recusal when a substantial and objective basis exists that would
 12 reasonably be expected to prevent the judge from conducting any aspect of the cause
 13 in a fair and impartial manner. This provision is intended to serve as a catch-all
 14 supplementing the mandatory grounds for recusal set forth in Paragraph A and to
 15 incorporate a clearer, more objective standard than the language of Canon 3C of the
 16 Code of Judicial Conduct, which provides that a judge should recuse himself when
 17 "the judge's impartiality might reasonably be questioned."

18 (c) This Article and Article 153(B) are intended to set forth the exclusive
 19 grounds for the recusal of a judge in a civil proceeding.

20 Art. 152. Disclosures

21 A. A judge of any trial or appellate court shall disclose, to the best of his
 22 information and belief, the existence of any of the following to all attorneys and
 23 unrepresented parties in the cause:

24 (1) The judge has been associated with an attorney during the latter's
 25 employment in the cause.

26 (2) At the time of the hearing of any contested issue in the cause, the judge
 27 has continued to employ, to represent him personally, the attorney actually handling
 28 the cause or a member of that attorney's firm.

29 (3) The judge performed a judicial act in the cause in another court.

30 (4) The judge is related to any of the following:

31 (a) A party or the spouse of a party, within the fourth degree.

32 (b) An attorney employed in the cause, the spouse of the attorney, or any
 33 member of the attorney's law firm, within the second degree.

34 (5) The judge's spouse, parent, child, or immediate family member has a
 35 substantial economic interest in the subject matter in controversy.

1 a copy of the recusal and the written reasons therefor to the judicial administrator of
 2 the supreme court.

3 ~~D. If a judge recuses himself pursuant to this Article, he shall provide in~~
 4 ~~writing the specific grounds under Article 151 for which the recusal is ordered within~~
 5 ~~fifteen days of the rendering of the order of recusal.~~

6 Comments - 2021

7 Paragraph C of this Article is new and requires the judge to file written
 8 reasons containing the factual basis for the judge's self-recusal prior to the cause
 9 being allotted to another judge. This provision also requires the judge to provide a
 10 copy of both the recusal and the written reasons for the recusal to the judicial
 11 administrator of the supreme court. This reporting requirement reflects the
 12 countervailing considerations of a judge's duty to sit and his obligation to recuse
 13 when a valid ground for recusal exists. A judge is "not at liberty, nor does he have
 14 the right, to take himself out of a case and burden another judge with his
 15 responsibility without good and legal cause." In re Lemoine, 686 So. 2d 837 (La.
 16 1997).

17 ~~Art. 153. Judge may act until recused or motion for recusation filed~~

18 ~~Until a judge has recused himself, or a motion for his recusation has been~~
 19 ~~filed, he has full power and authority to act in the cause. The judge to whom the~~
 20 ~~motion to recuse is assigned shall have full power and authority to act in the cause~~
 21 ~~pending the disposition of the motion to recuse.~~

22 Art. 154. Procedure for ~~recusation~~ recusal of district court judge

23 A. A party desiring to recuse a judge of a district court shall file a written
 24 motion therefor assigning the ground for ~~recusation~~ recusal under Article 151. This
 25 motion shall be filed ~~prior to trial or hearing unless the party discovers the facts~~
 26 ~~constituting the ground for recusation thereafter, in which event it shall be filed~~
 27 ~~immediately after these facts are discovered, but prior to judgment~~ no later than
 28 thirty days after discovery of the facts constituting the ground upon which the motion
 29 is based, but in all cases prior to the scheduling of the matter for trial. In the event
 30 that the facts constituting the ground upon which the motion to recuse is based occur
 31 after the matter is scheduled for trial or the party moving for recusal could not, in the
 32 exercise of due diligence, have discovered such facts, the motion to recuse shall be
 33 filed immediately after such facts occur or are discovered.

1 A. ~~After a trial judge recuses himself under the authority of Article 152(A),~~
 2 a judge ad hoc shall be assigned to try the cause in the manner provided by Articles
 3 155 and 156 for the appointment of a judge ad hoc to try the motion to recuse. ~~When~~
 4 a trial judge is recused after a trial of the motion therefor, the case shall be reassigned
 5 to a new judge for trial of the cause under the provisions of Code of Civil Procedure
 6 Articles 155 and 156.

7 B. ~~After a trial judge recuses himself under the authority of Article 152(B)~~
 8 he shall make written application to the supreme court for the appointment of another
 9 district judge as judge ad hoc to try the cause. ~~The supreme court shall appoint a~~
 10 judge from a judicial district other than the judicial district of the recused judge as
 11 judge ad hoc to try the cause.

12 C. ~~The judge ad hoc has the same power and authority to dispose of the~~
 13 cause as the recused judge has in cases in which no ground for recusation exists.

14 ~~Art. 158. Supreme court appointment of district judge to try cause when judge~~
 15 recused

16 ~~In a cause in which the district judge is recused, even when a judge ad hoc~~
 17 has been appointed for the trial of the cause under Article 157, a party may apply to
 18 the supreme court for the appointment of another district judge as judge ad hoc to try
 19 the cause. ~~If the supreme court deems it in the interest of justice, such appointment~~
 20 shall be made.

21 ~~The order of the supreme court appointing a judge ad hoc shall be entered on~~
 22 its minutes. ~~The clerk of the supreme court shall forward two certified copies of the~~
 23 order, one to the judge ad hoc appointed and the other to the clerk of the district court
 24 where the cause is pending, for entry in its minutes.

25 ~~Art. 159~~ 157. Recusation Recusal of supreme court justice

26 A. A party desiring to recuse a justice of the supreme court shall file a
 27 written motion therefor assigning the ground for recusal under Article 151. When
 28 a written motion is filed to recuse a justice of the supreme court, ~~he~~ the justice may
 29 recuse himself or the motion shall be heard by the other justices of the court.

1 Art. 4862. Motion to recuse

2 When a written motion is made to recuse a parish court or city court judge
 3 or a justice of the peace, ~~he~~ the judge or justice of the peace shall either recuse
 4 himself, or the motion to recuse shall be tried in the manner provided by Article
 5 4863.

6 Art. 4863. Determination of ~~recusation~~ recusal; appointment of judge ad hoc

7 A. In a parish or city court having more than one judge, the motion to recuse
 8 shall be tried by another judge of the same court, ~~and, if the judge is recused, the case~~
 9 ~~shall be tried by another judge of the same court.~~ The manner in which the judge is
 10 selected to try the recusal ~~and, in the event of recusal, to try the case,~~ shall be
 11 provided by rule of court.

12 B. In all other cases, the motion shall be tried by ~~the district court and, if the~~
 13 ~~judge is recused, the district court shall try the case or shall appoint another judge of~~
 14 ~~a district, parish, or city court to try the case~~ an ad hoc judge appointed by the
 15 supreme court.

16 Art. 4864. Appointment of judge ad hoc ~~when judge recuses himself~~ after recusal

17 A. When a judge of a parish or city court recuses himself or is recused, ~~he~~
 18 ~~shall appoint~~ another judge of the same ~~parish or city court~~ shall be appointed to try
 19 the cause, if that court has more than one division; ~~otherwise, he shall appoint either~~
 20 ~~a parish or city court judge from an adjoining parish or, as judge-ad-hoc, an attorney~~
 21 ~~domiciled in the parish who has the qualifications of a parish or city court judge.~~
 22 The manner in which the judge is selected to try the cause shall be provided by rule
 23 of court. In all other cases, an ad hoc judge shall be appointed by the supreme court
 24 to try the cause.

25 B. When a justice of the peace recuses himself, ~~he shall appoint~~ another
 26 justice of the peace shall be appointed by the supreme court to try the ~~case~~ cause.

27 Art. 4865. Appointment of judge ad hoc in event of temporary inability of parish or
 28 city court judge to preside

29 * * *

1 Art. 4866. Power and authority of judge ad hoc

2 A judge ad hoc appointed under the provisions of Articles 4861 through 4865

3 shall have the same power and authority to act on the ~~cases~~ causes or on the dates to

4 which appointed as the judge whom he replaces would have.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 62

BY SENATOR MILLIGAN

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

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AN ACT

To enact Code of Civil Procedure Article 4566(K), relative to the management of affairs of an interdict; to provide for the establishment and maintenance of deposit accounts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 4566(K) is hereby enacted to read as follows:

Art. 4566. Management of affairs of the interdict

* * *

K. Notwithstanding the requirements of Article 4270 or any other provision of law to the contrary, a curator shall have authority to access deposit accounts held in the name of the interdict and authority to establish and maintain deposit accounts in the name of the "curator on behalf of the interdict", unless the letters of curatorship expressly limit such authority.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 164
BY REPRESENTATIVE ROBBY CARTER

ACT No. 174

(On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact Code of Civil Procedure Articles 253.3(A)(3), 284, 928(A), 1001, 1002, 1471(A)(3), 1702, 1702.1, 1703, 1704, 1843, 1913(B) and (C), 2002(A)(2), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205(introductory paragraph) and 4990, and R.S. 23:1316.1(A) and to repeal Code of Civil Procedure Article 1701 and R.S. 23:1316, relative to default judgments; to eliminate preliminary defaults and confirmation of preliminary defaults; to provide for the rendition of default judgments; to provide for notice of the intent to obtain a default judgment and related delays; to provide for default judgments in parish, city, justice of the peace, and workers' compensation courts; to provide with respect to the delay for answering; to update terminology; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 253.3(A)(3), 284, 928(A), 1001, 1002, 1471(A)(3), 1702.1, 1703, 1704, 1843, 1913(B) and (C), 2002(A)(2), 4921.1(C), and 5095 are hereby amended and reenacted to read as follows:

Art. 253.3. Duty judge exceptions; authority to hear certain matters

A. In any case assigned pursuant to Article 253.1, a duty judge shall only hear and sign orders or judgments for the following:

* * *

(3) ~~Entry of preliminary defaults, confirmation of defaults~~ Default judgments, stipulated matters, examination of judgment debtors, orders to proceed in forma pauperis, orders allowing the filing of supplemental and amending petitions

1 when no trial date has been assigned, orders allowing incidental demands when no
2 trial date has been assigned, orders allowing additional time to answer, and judicial
3 commitments.

4 * * *

5 Art. 284. Judicial powers of district court clerk

6 The clerk of a district court may render, ~~confirm~~, and sign ~~final~~ default
7 judgments or judgments by confession in cases where the jurisdiction of the court is
8 concurrent with that of justices of the peace, as provided in Article 5011.

9 * * *

10 Art. 928. Time of pleading exceptions

11 A. The declinatory exception and the dilatory exception shall be pleaded
12 prior to or in the answer and, prior to or along with the filing of any pleading seeking
13 relief other than entry or removal of the name of an attorney as counsel of record,
14 extension of time within which to plead, security for costs, or dissolution of an
15 attachment issued on the ground of the nonresidence of the defendant, and in any
16 event, prior to the signing of a ~~final~~ default judgment. When both exceptions are
17 pleaded, they shall be filed at the same time, and may be incorporated in the same
18 pleading. When filed at the same time or in the same pleading, these exceptions
19 need not be pleaded in the alternative or in a particular order.

20 * * *

21 Art. 1001. Delay for answering

22 A. A defendant shall file his answer within ~~fifteen~~ twenty-one days after
23 service of citation upon him, except as otherwise provided by law. If the plaintiff
24 files and serves a discovery request with his petition, the defendant shall file his
25 answer to the petition within thirty days after service of citation and service of
26 discovery request.

27 B. When an exception is filed prior to answer and is overruled or referred to
28 the merits, or is sustained and an amendment of the petition ordered, the answer shall
29 be filed within ~~ten~~ fifteen days after the exception is overruled or referred to the
30 merits, or ~~ten~~ fifteen days after service of the amended petition.

1 (C), ~~along with any proof required by law, he or his attorney shall include in an~~
 2 ~~itemized form with a written motion for confirmation of preliminary default and~~
 3 ~~proposed final~~ the plaintiff shall file a written request for default judgment
 4 containing a certification that the suit is on an open account, promissory note, or
 5 other negotiable instrument, on a conventional obligation, or on a check dishonored
 6 for nonsufficient funds, and that the necessary invoices and affidavit, note and
 7 affidavit, or check or certified reproduction thereof are attached, along with any
 8 proof required by law and a proposed default judgment. If attorney fees are sought
 9 under R.S. 9:2781 or 2782, the attorney shall certify that fact and the fact that the
 10 number of days required by R.S. 9:2781(A) or 2782(A), respectively, have elapsed
 11 since demand was made upon the defendant.

12 B. The certification shall indicate the type of service made on the defendant;
 13 and the date of service, ~~and the date a preliminary default was entered,~~ and shall also
 14 include a certification by the clerk that the record was examined by the clerk,
 15 including therein the date of the examination and a statement that no answer or other
 16 pleading has been filed within the time prescribed by law or by the court.

17 Art. 1703. Scope of judgment

18 A ~~final~~ default judgment shall not be different in kind from that demanded
 19 in the petition. The amount of damages awarded shall be the amount proven to be
 20 properly due as a remedy.

21 Art. 1704. ~~Confirmation of preliminary default~~ Default judgment in suits against the
 22 state or a political subdivision

23 A. Notwithstanding any other provision of law to the contrary, prior to
 24 ~~confirmation of a preliminary~~ the rendition of a default judgment against the state or
 25 any of its departments, offices, boards, commissions, agencies, or instrumentalities,
 26 ~~a certified copy of the minute entry constituting the preliminary default entered~~
 27 ~~pursuant to Article 1704~~ the plaintiff or the plaintiff's attorney shall send notice of
 28 the plaintiff's intent to obtain a default judgment, together with a certified copy of the
 29 petition or other demand, ~~shall be sent by the plaintiff or his counsel~~ to the attorney
 30 general by registered or certified mail, or shall be served by the sheriff personally

1 upon the attorney general or the first assistant attorney general at the office of the
2 attorney general. If ~~the minute entry and the~~ notice and petition are served on the
3 attorney general by mail, the person mailing such items shall execute and file in the
4 record an affidavit stating that these items have been enclosed in an envelope
5 properly addressed to the attorney general with sufficient postage affixed, and stating
6 the date on which such envelope was deposited in the United States mail. ~~In addition~~
7 ~~the~~ The return receipt shall be attached to the affidavit ~~which was~~ that is filed in the
8 record.

9 B. If no answer or other pleading is filed during the ~~fifteen~~ twenty-one days
10 immediately following the date on which the attorney general or the first assistant
11 attorney general received notice of the preliminary intent to obtain a default
12 judgment as provided in Paragraph A of this Article, a preliminary default entered
13 judgment against the state or any of its departments, offices, boards, commissions,
14 agencies, or instrumentalities may be ~~confirmed by~~ rendered upon proof as required
15 by Article 1702.

16 C. Notwithstanding any other provision of law to the contrary, prior to
17 ~~confirmation of a preliminary~~ the rendition of a default judgment against a political
18 subdivision of the state or any of its departments, offices, boards, commissions,
19 agencies, or instrumentalities, ~~a certified copy of the minute entry constituting the~~
20 ~~preliminary default entered pursuant to Article 1701~~ the plaintiff or the plaintiff's
21 attorney shall send notice of the plaintiff's intent to obtain a default judgment,
22 together with a certified copy of the petition or other demand, ~~shall be sent by the~~
23 ~~plaintiff or his counsel~~ by registered or certified mail to the proper agent or person
24 for service of process at the office of that agent or person. The person mailing such
25 items shall execute and file in the record an affidavit stating that these items have
26 been enclosed in an envelope properly addressed to the proper agent or person for
27 service of process, with sufficient postage affixed, and stating the date on which such
28 envelope was deposited in the United States mail. ~~In addition the~~ The return receipt
29 shall be attached to the affidavit ~~which was~~ that is filed in the record.

1 Art. 2002. Annulment for vices of form; time for action

2 A. A final judgment shall be annulled if it is rendered:

3 * * *

4 (2) Against a defendant who has not been served with process as required by
5 law and who has not waived objection to jurisdiction, or against whom a valid ~~final~~
6 default judgment has not been taken.

7 * * *

8 Art. 4921.1. Demand for trial; abandonment; applicability

9 * * *

10 C.(1) Notwithstanding the provisions of Paragraph A of this Article, the
11 justice of the peace or clerk may set the matter for trial upon filing of a petition. The
12 date, time, and location of the trial shall be contained in the citation. The first
13 scheduled trial date shall be not more than forty-five days, nor less than ten days,
14 from the service of the citation. If the defendant appears, he need not file an answer
15 unless ordered to do so by the court. If a defendant who has been served with
16 citation fails to appear at the time and place specified in the citation, the judge may
17 enter a ~~final~~ default judgment for the plaintiff in the amount proved to be due. If the
18 plaintiff does not appear, the judge may enter an order dismissing the action without
19 prejudice.

20 (2) If a matter has been set for trial pursuant to Subparagraph (1) of this
21 Paragraph, no ~~final~~ default judgment shall be rendered prior to the trial date.

22 * * *

23 Art. 5095. Same; defense of action

24 A. The attorney at law appointed by the court to represent a defendant shall
25 use reasonable diligence to inquire of the defendant, and to determine from other
26 available sources, what defense, if any, the defendant may have, and what evidence
27 is available in support thereof.

28 B. Except in an executory proceeding, the attorney may except to the
29 petition, shall file an answer or other pleading in time to prevent a ~~final~~ default
30 judgment from being rendered, may plead therein any affirmative defense available,

1 may prosecute an appeal from an adverse judgment, and generally has the same duty,
2 responsibility, and authority in defending the action or proceeding as if he had been
3 retained as counsel for the defendant.

4 Section 2. R.S. 13:3205(introductory paragraph) and 4990 are hereby amended and
5 reenacted to read as follows:

6 §3205. Default judgment; hearings; proof of service of process

7 No ~~preliminary default or final~~ default judgment may be rendered against the
8 defendant and no hearing may be held on a contradictory motion, rule to show cause,
9 or other summary proceeding, except for actions pursuant to R.S. 46:2131 et seq.,
10 until thirty days after the filing in the record of the affidavit of the individual who
11 has done any of the following:

12 * * *

13 §4990. Diligence in locating co-owners; known co-owners made parties

14 In any judicial proceeding in which real property is sought to be partitioned
15 upon the trial of the cause ~~upon~~ on the merits or upon ~~confirmation of any~~
16 preliminary rendition of a default judgment therein, due proof shall be made of a
17 diligent effort on the part of the plaintiff to locate all co-owners of the property to be
18 partitioned and of the fact that all known co-owners have been made parties thereto.

19 Section 3. R.S. 23:1316.1(A) is hereby amended and reenacted to read as follows:

20 §1316.1. ~~Confirmation of preliminary default~~ Default judgment

21 A.(1) ~~A preliminary default on behalf of any party at interest must be~~
22 ~~confirmed by proof of the demand sufficient to establish a prima facie case. If no~~
23 ~~answer or other pleading is filed timely, this confirmation may be made after two~~
24 ~~days, exclusive of holidays, from the entry of the preliminary default. If a defendant~~
25 in the principal or incidental demand fails to answer or file other pleadings within
26 the time prescribed by law or the time extended by the workers' compensation judge,
27 and the plaintiff establishes a prima facie case by competent and admissible evidence
28 and proof of proper service is made, a default judgment may be rendered against the
29 defendant, provided that notice that the plaintiff intends to obtain a default judgment
30 is sent if required by this Paragraph, unless such notice is waived.

1 (2) If a party who fails to answer has made an appearance of record in the
 2 case, notice that the plaintiff intends to obtain a default judgment shall be sent by
 3 certified mail to counsel of record for the party, or if there is no counsel of record,
 4 to the party, at least seven days before a default judgment may be rendered.

5 (3) If an attorney for a party who fails to answer has contacted the plaintiff
 6 or the plaintiff's attorney in writing concerning the action after it has been filed,
 7 notice that the plaintiff intends to obtain a default judgment shall be sent by certified
 8 mail to the party's attorney at least seven days before a default judgment may be
 9 rendered.

* * *

11 Section 4. Code of Civil Procedure Articles 1702, 4904, and 4921 are hereby
12 amended and reenacted to read as follows:

13 Art. 1702. ~~Confirmation of preliminary default~~ Default judgment

14 A. ~~A preliminary default must be confirmed by proof of the demand that is~~
 15 ~~sufficient to establish a prima facie case and that is admitted on the record prior to~~
 16 ~~the entry of a final default judgment. The court may permit documentary evidence~~
 17 ~~to be filed in the record in any electronically stored format authorized by the local~~
 18 ~~rules of the district court or approved by the clerk of the district court for receipt of~~
 19 ~~evidence. If no answer or other pleading is filed timely, this confirmation may be~~
 20 ~~made after two days, exclusive of holidays, from the entry of the preliminary default.~~
 21 ~~When a preliminary default has been entered against a party that is in default after~~
 22 ~~having made an appearance of record in the case, notice of the date of the entry of~~
 23 ~~the preliminary default must be sent by certified mail by the party obtaining the~~
 24 ~~preliminary default to counsel of record for the party in default, or if there is no~~
 25 ~~counsel of record, to the party in default, at least seven days, exclusive of holidays,~~
 26 ~~before confirmation of the preliminary default. If a defendant in the principal or~~
 27 ~~incidental demand fails to answer or file other pleadings within the time prescribed~~
 28 ~~by law or by the court, and the plaintiff establishes a prima facie case by competent~~
 29 ~~and admissible evidence that is admitted on the record, a default judgment in favor~~
 30 ~~of the plaintiff may be rendered, provided that notice that the plaintiff intends to~~

1 obtain a default judgment is sent if required by this Paragraph, unless such notice is
2 waived. The court may permit documentary evidence to be filed in the record in any
3 electronically stored format authorized by the local rules of the district court or
4 approved by the clerk of the district court for receipt of evidence.

5 (1) If a party who fails to answer has made an appearance of record in the
6 case, notice that the plaintiff intends to obtain a default judgment shall be sent by
7 certified mail to counsel of record for the party, or if there is no counsel of record,
8 to the party, at least seven days before a default judgment may be rendered.

9 (2) If an attorney for a party who fails to answer has contacted the plaintiff
10 or the plaintiff's attorney in writing concerning the action after it has been filed,
11 notice that the plaintiff intends to obtain a default judgment shall be sent by certified
12 mail to the party's attorney at least seven days before a default judgment may be
13 rendered.

14 (3) In cases involving delictual actions where neither Subparagraph (1) or
15 (2) of this Paragraph applies, notice that the plaintiff intends to obtain a default
16 judgment shall be sent by regular mail to the party who fails to answer at the address
17 where service was obtained at least seven days before a default judgment may be
18 rendered.

19 B.(1) When a demand is based upon a conventional obligation, affidavits and
20 exhibits annexed thereto ~~which that~~ contain facts sufficient to establish a prima facie
21 case shall be admissible, self-authenticating, and sufficient proof of such demand.
22 The court may, under the circumstances of the case, require additional evidence in
23 the form of oral testimony before entering a ~~final~~ default judgment.

24 (2) When a demand is based upon a delictual obligation, the testimony of the
25 plaintiff with corroborating evidence, which may be by affidavits and exhibits
26 annexed thereto ~~which contain~~ containing facts sufficient to establish a prima facie
27 case, shall be admissible, self-authenticating, and sufficient proof of such demand.
28 The court may, under the circumstances of the case, require additional evidence in
29 the form of oral testimony before entering a ~~final~~ default judgment.

1 (3) When the sum due is on an open account or a promissory note or other
 2 negotiable instrument, an affidavit of the correctness thereof shall be prima facie
 3 proof. When the demand is based upon a promissory note or other negotiable
 4 instrument, no proof of any signature thereon shall be required.

5 C. In those proceedings in which the sum due is on an open account or a
 6 promissory note, other negotiable instrument, or other conventional obligation, or a
 7 deficiency judgment derived therefrom, including those proceedings in which one
 8 or more mortgages, pledges, or other security for the open account, promissory note,
 9 negotiable instrument, conventional obligation, or deficiency judgment derived
 10 therefrom is sought to be enforced, maintained, or recognized, or in which the
 11 amount sought is that authorized by R.S. 9:2782 for a check dishonored for
 12 nonsufficient funds, a hearing in open court shall not be required unless the judge,
 13 in his discretion, directs that such a hearing be held. The plaintiff shall submit to the
 14 court the proof required by law and the original and not less than one copy of the
 15 proposed ~~final~~ default judgment. The judge shall, within seventy-two hours of
 16 receipt of such submission from the clerk of court, sign the proposed ~~final~~ default
 17 judgment or direct that a hearing be held. The clerk of court shall certify that no
 18 answer or other pleading has been filed by the defendant. The minute clerk shall
 19 make an entry showing the dates of receipt of proof, review of the record, and
 20 rendition of the ~~final~~ default judgment. A certified copy of the signed ~~final~~ default
 21 judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing
 22 of the ~~final~~ default judgment shall be given as provided in Article 1913.

23 D. When the demand is based upon a claim for a personal injury, a sworn
 24 narrative report of the treating physician or dentist may be offered in lieu of his
 25 testimony.

26 E.(1) Notwithstanding any other provisions of law to the contrary, when the
 27 demand is for divorce under Civil Code Article 103(1) or (5), whether or not the
 28 demand contains a claim for relief incidental or ancillary thereto, a hearing in open
 29 court shall not be required unless the judge, in his discretion, directs that a hearing
 30 be held. The plaintiff shall submit to the court an affidavit specifically attesting to

1 and testifying as to the truth of all of the factual allegations contained in the petition,
 2 the original and not less than one copy of the proposed ~~final~~ default judgment, ~~and~~
 3 a certification ~~which shall indicate~~ indicating the type of service made on the
 4 defendant; and the date of service, ~~the date a preliminary default was entered~~; and a
 5 certification by the clerk that the record was examined by the clerk, including the
 6 date of the examination, and a statement that no answer or other pleading has been
 7 filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy
 8 of the protective order or injunction rendered after a contradictory hearing or consent
 9 decree shall also be submitted to the court. If no answer or other pleading has been
 10 filed by the defendant, the judge shall, ~~after two days, exclusive of holidays, of entry~~
 11 ~~of a preliminary default~~, review the submitted affidavit, proposed ~~final~~ default
 12 judgment, and certification; and render and sign the proposed ~~final~~ default judgment;
 13 or direct that a hearing be held. The minutes shall reflect rendition and signing of
 14 the ~~final~~ default judgment.

15 (2) If the demand is for divorce under Civil Code Article 103(1) and the
 16 defendant, by sworn affidavit, acknowledges receipt of a certified copy of the
 17 petition and waives formal citation, service of process, all legal delays, notice of
 18 trial, and appearance at trial, a default judgment of divorce may be entered against
 19 the defendant two days, exclusive of legal holidays, after the affidavit is filed. The
 20 affidavit of the defendant may be prepared or notarized by any notary public.

21 Comments - 2021

22 (a) Paragraph C of this Article adopts a new rule that, prior to the rendition
 23 of a default judgment, notice must be sent to a party's attorney who has contacted the
 24 plaintiff or the plaintiff's attorney in writing about the case. The term "in writing"
 25 includes electronic means as well as any other type of writing. If such notice is not
 26 given, any default judgment rendered shall be a nullity similar to that arising from
 27 a lack of the notice required by Paragraph B. See, e.g., *First Bank & Trust v. Bayou*
 28 *Land and Marine Contractors, Inc.*, 103 So. 3d 1148 (La. App. 5 Cir. 2012).

29 (b) Paragraph G of this Article continues the authorization under former
 30 Articles 1701 and 1702(E) for a judgment of divorce under Civil Code Article 103(1)
 31 to be granted without a hearing in open court two days, exclusive of holidays, after
 32 the filing of the defendant's affidavit waiving all legal delays, and for a judgment of
 33 divorce under Civil Code Article 103(5) to be rendered without a hearing in open
 34 court after the delays for answering have expired.

35 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 4904. ~~Final default~~ Default judgment in parish and city courts

2 A. In suits in a parish court or a city court, if the defendant fails to answer
 3 timely, or if he fails to appear at the trial, and the plaintiff ~~proves his~~ establishes a
 4 prima facie case by competent and admissible evidence, a ~~final~~ default judgment in
 5 favor of the plaintiff may be rendered. ~~No preliminary default is necessary.~~

6 B. ~~The plaintiff may obtain a final default judgment only by producing~~
 7 ~~relevant and competent evidence which establishes a prima facie case.~~ When the suit
 8 is for a sum due on an open account, promissory note, negotiable instrument, or other
 9 conventional obligation, prima facie proof may be submitted by affidavit. When the
 10 demand is based upon a promissory note or other negotiable instrument, no proof of
 11 any signature thereon shall be required.

12 C. When the sum due is on an open account, promissory note, negotiable
 13 instrument, or other conventional obligation, a hearing in open court shall not be
 14 required unless the judge in his discretion directs that such a hearing be held. The
 15 plaintiff shall submit to the court the proof required by law and the original and not
 16 less than one copy of the proposed ~~final~~ default judgment. The judge shall, within
 17 seventy-two hours of receipt of such submission from the clerk of court, sign the
 18 proposed ~~final~~ default judgment or direct that a hearing be held. The clerk of court
 19 shall certify that no answer or other pleading has been filed by the defendant. The
 20 minute clerk shall make an entry showing the dates of receipt of proof, review of the
 21 record, and rendition of the ~~final~~ default judgment. A certified copy of the signed
 22 ~~final~~ default judgment shall be sent to the plaintiff by the clerk of court, and notice
 23 of the signing of the default judgment shall be given as provided in Article 1913.

24 Comments - 2021

25 (a) The change to Paragraph A of this Article makes the burden of proof to
 26 obtain a default judgment in parish and city courts consistent with the burden of
 27 proof that is imposed in district court pursuant to Article 1702.

28 (b) Paragraph C of this Article was amended to make this provision
 29 consistent with Article 1702(E) concerning the requirements of Article 1913.

30 * * *

1 ~~before confirmation of the preliminary default.~~ If a defendant in the principal or
2 incidental demand fails to answer or file other pleadings within the time prescribed
3 by law or by the court, and the plaintiff establishes a prima facie case by competent
4 and admissible evidence that is admitted on the record, a default judgment in favor
5 of the plaintiff may be rendered, provided that notice that the plaintiff intends to
6 obtain a default judgment is sent if required by this Paragraph, unless such notice is
7 waived. The court may permit documentary evidence to be filed in the record in any
8 electronically stored format authorized by the local rules of the district court or
9 approved by the clerk of the district court for receipt of evidence.

10 (1) If a party who fails to answer has made an appearance of record in the
11 case, notice that the plaintiff intends to obtain a default judgment shall be sent by
12 certified mail to counsel of record for the party, or if there is no counsel of record,
13 to the party, at least seven days before a default judgment may be rendered.

14 (2) If an attorney for a party who fails to answer has contacted the plaintiff
15 or the plaintiff's attorney in writing concerning the action after it has been filed,
16 notice that the plaintiff intends to obtain a default judgment shall be sent by certified
17 mail to the party's attorney at least seven days before a default judgment may be
18 rendered.

19 (3) In cases involving delictual actions where neither Subparagraph (1) or
20 (2) of this Paragraph applies, notice that the plaintiff intends to obtain a default
21 judgment shall be sent by regular mail to the party who fails to answer at the address
22 where service was obtained at least seven days before a default judgment may be
23 rendered.

24 B.(1) When a demand is based upon a conventional obligation, affidavits and
25 exhibits annexed thereto ~~which~~ that contain facts sufficient to establish a prima facie
26 case shall be admissible, self-authenticating, and sufficient proof of such demand.
27 The court may, under the circumstances of the case, require additional evidence in
28 the form of oral testimony before entering a ~~final~~ default judgment.

29 (2) When a demand is based upon a delictual obligation, the testimony of the
30 plaintiff with corroborating evidence, which may be by affidavits and exhibits

1 annexed thereto ~~which contain~~ containing facts sufficient to establish a prima facie
 2 case, shall be admissible, self-authenticating, and sufficient proof of such demand.
 3 The court may, under the circumstances of the case, require additional evidence in
 4 the form of oral testimony before entering a ~~final~~ default judgment.

5 (3) When the sum due is on an open account or a promissory note or other
 6 negotiable instrument, an affidavit of the correctness thereof shall be prima facie
 7 proof. When the demand is based upon a promissory note or other negotiable
 8 instrument, no proof of any signature thereon shall be required.

9 C. In those proceedings in which the sum due is on an open account or a
 10 promissory note, other negotiable instrument, or other conventional obligation, or a
 11 deficiency judgment derived therefrom, including those proceedings in which one
 12 or more mortgages, pledges, or other security for the open account, promissory note,
 13 negotiable instrument, conventional obligation, or deficiency judgment derived
 14 therefrom is sought to be enforced, maintained, or recognized, or in which the
 15 amount sought is that authorized by R.S. 9:2782 for a check dishonored for
 16 nonsufficient funds, a hearing in open court shall not be required unless the judge,
 17 in his discretion, directs that such a hearing be held. The plaintiff shall submit to the
 18 court the proof required by law and the original and not less than one copy of the
 19 proposed ~~final~~ default judgment. The judge shall, within seventy-two hours of
 20 receipt of such submission from the clerk of court, sign the proposed ~~final~~ default
 21 judgment or direct that a hearing be held. The clerk of court shall certify that no
 22 answer or other pleading has been filed by the defendant. The minute clerk shall
 23 make an entry showing the dates of receipt of proof, review of the record, and
 24 rendition of the ~~final~~ default judgment. A certified copy of the signed ~~final~~ default
 25 judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing
 26 of the ~~final~~ default judgment shall be given as provided in Article 1913.

27 D. When the demand is based upon a right acquired by assignment in an
 28 open account, promissory note, or other negotiable instrument, the court may raise
 29 an objection of prescription before entering a default judgment if the grounds for the
 30 objection appear from the pleadings or from the evidence submitted by the plaintiff.
 31 If the court raises an objection of prescription, it shall not enter the default judgment

1 unless the plaintiff presents prima facie proof that the action is not barred by
 2 prescription. Upon the plaintiff's request, the court shall hold a hearing for the
 3 submission of such proof.

4 D.E. When the demand is based upon a claim for a personal injury, a sworn
 5 narrative report of the treating physician or dentist may be offered in lieu of his
 6 testimony.

7 E.F.(1) Notwithstanding any other provisions of law to the contrary, when
 8 the demand is for divorce under Civil Code Article 103(1) or (5), whether or not the
 9 demand contains a claim for relief incidental or ancillary thereto, a hearing in open
 10 court shall not be required unless the judge, in his discretion, directs that a hearing
 11 be held. The plaintiff shall submit to the court an affidavit specifically attesting to
 12 and testifying as to the truth of all of the factual allegations contained in the petition,
 13 the original and not less than one copy of the proposed ~~final~~ judgment, ~~and~~ a
 14 certification ~~which shall indicate~~ indicating the type of service made on the
 15 defendant; and the date of service, ~~the date a preliminary default was entered,~~ and a
 16 certification by the clerk that the record was examined by the clerk, including the
 17 date of the examination, and a statement that no answer or other pleading has been
 18 filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy
 19 of the protective order or injunction rendered after a contradictory hearing or consent
 20 decree shall also be submitted to the court. If no answer or other pleading has been
 21 filed by the defendant, the judge shall, ~~after two days, exclusive of holidays, of entry~~
 22 ~~of a preliminary default,~~ review the submitted affidavit, proposed ~~final~~ default
 23 judgment, and certification; and render and sign the proposed ~~final~~ default judgment;
 24 or direct that a hearing be held. The minutes shall reflect rendition and signing of
 25 the ~~final~~ default judgment.

26 (2) If the demand is for divorce under Civil Code Article 103(1) and the
 27 defendant, by sworn affidavit, acknowledges receipt of a certified copy of the
 28 petition and waives formal citation, service of process, all legal delays, notice of
 29 trial, and appearance at trial, a default judgment of divorce may be entered against

1 shall certify that no answer or other pleading has been filed by the defendant. The
 2 minute clerk shall make an entry showing the dates of receipt of proof, review of the
 3 record, and rendition of the ~~final~~ default judgment. A certified copy of the signed
 4 ~~final~~ default judgment shall be sent to the plaintiff by the clerk of court, and notice
 5 of the signing of the default judgment shall be given as provided in Article 1913.

6 D. When the demand is based upon a right acquired by assignment in an
 7 open account, promissory note, or other negotiable instrument, the court may raise
 8 an objection of prescription before entering a default judgment if the grounds for the
 9 objection appear from pleadings or from the evidence submitted by the plaintiff. If
 10 the court raises an objection of prescription, it shall not enter the default judgment
 11 unless the plaintiff presents prima facie proof that the action is not barred by
 12 prescription. Upon the plaintiff's request, the court shall hold a hearing for the
 13 submission of such proof.

14 Comments - 2021

15 (a) The change to Paragraph A of this Article makes the burden of proof to
 16 obtain a default judgment in parish and city courts consistent with the burden of
 17 proof that is imposed in district court pursuant to Article 1702.

18 (b) Paragraph C of this Article was amended to make this provision
 19 consistent with Article 1702(E) concerning the requirements of Article 1913.

20 * * *

21 Art. 4921. ~~Final default~~ Default judgment; justice of the peace courts; district courts
 22 with concurrent jurisdiction

23 A. If the defendant fails to answer timely, or if he fails to appear at the trial,
 24 and the plaintiff ~~proves his~~ establishes a prima facie case by competent and
 25 admissible evidence, a ~~final~~ default judgment in favor of the plaintiff may be
 26 rendered. ~~No preliminary default is necessary.~~

27 B. ~~The plaintiff may obtain a final default judgment only by producing~~
 28 ~~relevant and competent evidence which establishes a prima facie case.~~ When the suit
 29 is for a sum due on an open account, promissory note, negotiable instrument, or other
 30 conventional obligation, prima facie proof may be submitted by affidavit. When the
 31 demand is based upon a promissory note or other negotiable instrument, no proof of
 32 any signature thereon shall be required.

SENATE BILL NO. 113

BY SENATORS TARVER AND CARTER

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 Art. 192.2(B), relative to interpreters in certain civil proceedings; to provide relative to costs; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Art. 192.2(B) is hereby amended and reenacted to read as follows:

Art. 192.2. Appointment of interpreter for non-English-speaking persons

* * *

B. The Notwithstanding any other provision of law to the contrary, the
court shall order payment to the interpreter for his services at a fixed reasonable amount, and that amount shall be paid out of the appropriate court fund, ~~except as provided in Paragraph C of this Article. The amount paid out of the fund may be taxed by the court as costs of court to be reimbursed to the fund.~~

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session

ACT No. 251

HOUSE BILL NO. 45

BY REPRESENTATIVE FARNUM

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AN ACT

To amend and reenact Code of Civil Procedure Article 4843(E) and (H), relative to city court jurisdiction; to provide relative to the amount in dispute when the civil jurisdiction is concurrent with the district court; to provide for the jurisdictional amount in dispute for the City Court of Sulphur; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 4843(E) and (H) are hereby amended and reenacted to read as follows:

Art. 4843. City court jurisdiction; amount in dispute; injunctive actions by state or political subdivision

* * *

E. In the City Court of Bogalusa, the City Court of Bunkie, the City Court of Eunice, the City Court of Marksville, the City Court of Natchitoches, a city court in New Orleans, the City Court of Opelousas, the City Court of Port Allen, ~~the City Court of Sulphur~~, the City Court of Ville Platte, and the City Court of Winnsboro, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed twenty-five thousand dollars.

* * *

1 H. In the City Court of Alexandria, the Third Ward City Court of Franklin,
2 the City Court of Pineville, the City Court of Slidell, the City Court of Ruston, the
3 City Court of Sulphur, and the City Court of Lake Charles, the civil jurisdiction is
4 concurrent with the district court in cases where the amount in dispute, or the value
5 of the property involved, does not exceed fifty thousand dollars.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 152
BY REPRESENTATIVE GREGORY MILLER

ACT No. 259

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Civil Code Article 3452, Code of Civil Procedure Articles 80(A)(1)
3 and (2), 253.2, 592(A)(2) and (3), 893(A)(2), (B), and (C), 927(B), 1352, 1561(A),
4 1702(D) and (E), 1793(D), 1795, 1918, 1951, 1974, 2088(A), 2254(B), 2721(C),
5 3943, 3947(B), 4907(B), 4913(B)(4), and 5001, and R.S. 13:3661 and to enact Code
6 of Civil Procedure Articles 1702(F), 4904(D), and 4921(C), relative to civil
7 procedure; to provide with respect to venue; to provide with respect to certification
8 procedure; to provide for the pleading of damages; to provide for the necessity of
9 pleading prescription; to provide for restrictions on subpoenas; to provide for
10 consolidation; to provide with respect to courts raising the issue of prescription on
11 their own motion; to provide for jury instructions; to provide for the form and
12 amendment of final judgments; to provide with respect to the delay for applying for
13 a new trial; to provide for the jurisdiction of trial and justice of the peace courts; to
14 provide for the appeal of judgments; to provide with respect to improper or wrongful
15 seizure; to provide for name confirmation; to provide for witness fees; and to provide
16 for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Civil Code Article 3452 is hereby amended and reenacted to read as
19 follows:

20 Art. 3452. Necessity for pleading prescription

21 Prescription must be pleaded. ~~Courts~~ Except as otherwise provided by
22 legislation, courts may not supply a plea of prescription.

23 Section 2. Code of Civil Procedure Articles 80(A)(1) and (2), 253.2, 592(A)(2) and
24 (3), 893(A)(2), (B), and (C), 927(B), 1352, 1561(A), 1702(D) and (E), 1793(D), 1795, 1918,

1 1951, 1974, 2088(A), 2254(B), 2721(C), 3943, 3947(B), 4907(B), 4913(B)(4), and 5001 are
2 hereby amended and reenacted, and Code of Civil Procedure Articles 1702(F), 4904(D), and
3 4921(C) are hereby enacted to read as follows:

4 Art. 80. Action involving immovable property

5 A. The following actions may be brought in the parish where the immovable
6 property is situated or in the parish where the defendant in the action is domiciled:

7 (1) An action to assert an interest in immovable property, or a right in, to, or
8 against immovable property, ~~except as otherwise provided in Article 72;~~

9 (2) An action to partition immovable property, except as otherwise provided
10 in Articles 81, 82, and 83, ~~and.~~

11 * * *

12 Comments - 2021

13 The deletion of the phrase "except as otherwise provided in Article 72" is
14 intended to recognize the removal by Acts 1997, No. 1005 of the exception that
15 previously allowed a defendant to convert a personal action into an in rem action by
16 objecting to venue.

17 * * *

18 Art. 253.2. Transfer and reassignment of pending cases

19 After a case has been assigned to a particular section or division of the court,
20 it may not be transferred from one section or division to another section or division
21 within the same court, unless agreed to by all parties, or unless it is being transferred
22 to effect a consolidation ~~for purpose of trial~~ pursuant to Article 1561. However, the
23 supreme court, by rule, may establish uniform procedures for reassigning cases under
24 circumstances where an expeditious disposition of cases may be effectuated.

25 * * *

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

27 A.

28 * * *

29 (2) If the proponent fails to file a motion for certification within the delay
30 allowed by Subparagraph ~~A(1)~~ of this Paragraph, any adverse party may file a notice
31 of the failure to move for certification. On the filing of such a notice and after

1 hearing thereon, the demand for class relief may be stricken. If the demand for class
2 relief is stricken, the action may continue between the named parties alone. A
3 demand for class relief stricken under this Subparagraph may be reinstated upon a
4 showing of good cause by the proponent.

5 (3)(a) No motion to certify an action as a class action shall be granted prior
6 to a hearing on the motion. Such hearing shall be held as soon as practicable, but in
7 no event ~~before~~ until after both of the following have occurred:

8 (i) All named adverse parties have been served with the pleading containing
9 the demand for class relief or have made an appearance or, with respect to unserved
10 defendants who have not appeared, the proponent of the class has made due and
11 diligent effort to perfect service of such pleading, ~~and~~.

12 (ii) The parties have had a reasonable opportunity to obtain discovery on
13 class certification issues, on such terms and conditions as the court deems necessary,
14 which may include expert witness testimony or evidence. The admissibility of
15 expert witness testimony or evidence for class certification purposes shall also be
16 governed by Article 1425(F), although the court in its discretion may change the
17 deadlines for filing or hearing a motion as set forth in Article 1425(F) provided such
18 deadlines are prior to or contemporaneous with the class certification hearing.

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

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

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

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

8 * * *

9 Comments - 2021

10 Former Subsubparagraph (A)(3)(e) of this Article has been deleted. This
11 deletion is intended to recognize a series of judicial decisions permitting motions and
12 exceptions that are dispositive of common and determinative issues to be resolved
13 prior to certification of the class action. See, e.g., *Cooper v. CVS Caremark*
14 *Corporation*, 176 So. 3d 422 (La. App. 1 Cir. 2015); *Smith v. City of New Orleans*,
15 131 So. 3d 511 (La. App. 4 Cir. 2013); *Clark v. Shackelford Farms Partnership*, 880
16 So. 2d 225 (La. App. 2 Cir. 2004); see also *Wade v. Kirkland*, 118 F. 3d 667 (9 Cir.
17 1997).

18 * * *

19 Art. 893. Pleading of damages

20 A.

21 * * *

22 (2) If a petition is filed in violation of this Article, the claim for a specific
23 monetary amount of damages shall be stricken upon the motion of an opposing party,
24 and the court may award ~~attorney's~~ attorney fees and costs against the person who
25 signed the petition, the party who filed on whose behalf the petition was filed, or
26 both.

27 B. The provisions of Paragraph A of this Article shall not be applicable to
28 a suit on a conventional obligation, promissory note, open account, or other
29 negotiable instrument, for alimony or child support, on a tax claim, or in a
30 garnishment proceeding.

31 C. The prohibitions in Paragraph A of this Article apply only to an original,
32 amended, or incidental demand. Evidence at trial or hearing of a specific monetary

1 amount of damages shall be adduced in accordance with the Louisiana Code of
2 Evidence or other applicable law.

3 Comments - 2021

4 The amendment to Paragraph (A)(2) of this Article is intended to make this
5 paragraph consistent with Article 863, which permits the court to impose sanctions
6 for the improper certification of a pleading against the person who made the
7 certification, the represented party, or both.

8 * * *

9 Art. 927. Objections raised by peremptory exception

10 * * *

11 B. The Except as otherwise provided by Articles 1702(D), 4904(D), and
12 4921(C), the court may not supply the objection of prescription, which shall be
13 specially pleaded. The nonjoinder of a party, peremption, res judicata, the failure to
14 disclose a cause of action or a right or interest in the plaintiff to institute the suit, or
15 discharge in bankruptcy, may be noticed by either the trial or appellate court on its
16 own motion.

17 * * *

18 Art. 1352. Restrictions on subpoena

19 A witness, whether a party or not, who resides or is employed in this state
20 may be subpoenaed to attend a trial or hearing wherever held in this state. No
21 subpoena shall issue to compel the attendance of such a witness ~~who resides and is~~
22 ~~employed outside the parish and more than twenty-five miles from the courthouse~~
23 ~~where the trial or hearing is to be held~~, unless the provisions of R.S. 13:3661 are
24 complied with.

25 * * *

26 Art. 1561. Consolidation for trial or other limited purposes

27 A. When two or more separate actions are pending in the same court, the
28 section or division of the court in which the first filed action is pending may order
29 consolidation of the actions for trial or other limited purposes after a contradictory
30 hearing, ~~and~~ upon a finding that common issues of fact and law predominate, and,
31 in the event a trial date has been set in a subsequently filed action, upon a finding

1 that consolidation is in the interest of justice. The contradictory hearing may be
2 waived upon the certification by the mover that all parties in all cases to be
3 consolidated consent to the consolidation.

4 * * *

5 Comments - 2021

6 The amendment to this Article to allow the court in its discretion to
7 consolidate two or more separate actions for trial or other limited purposes, such as
8 discovery, is intended to legislatively overrule the decision of the Fourth Circuit
9 Court of Appeal in *Boh v. James Indus. Contractors, LLC*, 868 So. 2d 180 (La. App.
10 4 Cir. 2004).

11 * * *

12 Art. 1702. Confirmation of preliminary default

13 * * *

14 D. When the demand is based upon a right acquired by assignment in an
15 open account, promissory note, or other negotiable instrument, the court may raise
16 an objection of prescription before entering a final default judgment if the grounds
17 for the objection appear from the pleadings or from the evidence submitted by the
18 plaintiff. If the court raises an objection of prescription, it shall not enter the final
19 default judgment unless the plaintiff presents prima facie proof that the action is not
20 barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for
21 the submission of such proof.

22 ~~D.E.~~ When the demand is based upon a claim for a personal injury, a sworn
23 narrative report of the treating physician or dentist may be offered in lieu of his
24 testimony.

25 E.F. Notwithstanding any other provisions of law to the contrary, when the
26 demand is for divorce under Civil Code Article 103(1) or (5), whether or not the
27 demand contains a claim for relief incidental or ancillary thereto, a hearing in open
28 court shall not be required unless the judge, in his discretion, directs that a hearing
29 be held. The plaintiff shall submit to the court an affidavit specifically attesting to
30 and testifying as to the truth of all of the factual allegations contained in the petition,
31 the original and not less than one copy of the proposed final judgment, and a
32 certification which shall indicate the type of service made on the defendant, the date

1 of service, the date a preliminary default was entered, and a certification by the clerk
 2 that the record was examined by the clerk, including the date of the examination, and
 3 a statement that no answer or other pleading has been filed. If the demand is for
 4 divorce under Civil Code Article 103(5), a certified copy of the protective order or
 5 injunction rendered after a contradictory hearing or consent decree shall also be
 6 submitted to the court. If no answer or other pleading has been filed by the
 7 defendant, the judge shall, after two days, exclusive of holidays, of entry of a
 8 preliminary default, review the affidavit, proposed final default judgment, and
 9 certification, render and sign the proposed final default judgment, or direct that a
 10 hearing be held. The minutes shall reflect rendition and signing of the final default
 11 judgment.

12 * * *

13 Art. 1793. Instructions to jury; objections

14 * * *

15 D. The jury may take with it or have sent to it a written copy of all
 16 instructions and charges ~~and any object or document received in evidence when a~~
 17 ~~physical examination thereof is required to enable the jury to arrive at a verdict.~~

18 Comments - 2021

19 Paragraph D of this Article has been amended to delete the restriction that the
 20 jury may take evidence into the jury room only when a physical examination of the
 21 evidence is required to enable the jury to arrive at a verdict. This language
 22 incorrectly imposed the criminal procedural rule of Code of Criminal Procedure
 23 Article 793(A). In civil proceedings, Article 1794(B) permits the jury to take into
 24 the deliberation room any object or writing received in evidence, except depositions
 25 and except as otherwise provided in the Louisiana Code of Evidence.

26 * * *

27 Art. 1795. Jury request to review ~~evidence~~ testimony

28 ~~A. If the jury, after retiring for deliberation, requests a review of certain~~
 29 ~~testimony or other evidence, they shall be conducted to the courtroom. After giving~~
 30 ~~notice to the parties, the court may have the requested testimony read to the jury.~~

31 ~~B. After giving notice to the parties, the court may have the requested~~
 32 ~~testimony read to the jury and may permit the jury to examine the requested~~
 33 ~~materials admitted into evidence.~~

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Comments - 2021

This Article has been amended to clarify a misunderstanding concerning the review of testimony by the jury. Under this Article, when the jury retires for deliberation and later requests review of certain testimony, the jury must be conducted to the courtroom where, after notifying the parties, the requested testimony may be read to the jury; however, the jury may not take depositions, trial transcripts, or other testimony into the jury room for examination. Because Article 1794 already permits the jury, with certain exceptions, to take with it any object or writing received into evidence, the references to "other evidence" and "materials" have been deleted to eliminate confusion.

* * *

Art. 1918. Form of final judgment

A. A final judgment in accordance with Article 1841 shall be identified as such by appropriate language; shall be signed and dated; and shall, in its decree, identify the name of the party in whose favor the relief is awarded, the name of the party against whom the relief is awarded, and the relief that is awarded. If appealed, a final judgment that does not contain the appropriate decretal language shall be remanded to the trial court, which shall amend the judgment in accordance with Article 1951 within the time set by the appellate court.

B. When written reasons for the judgment are assigned, they shall be set out in an opinion separate from the judgment.

Comments - 2021

(a) The amendments to this Article are intended to codify Louisiana jurisprudence providing that a final judgment must contain decretal language identifying the relief that is awarded and the parties in whose favor and against whom the relief is awarded. See, e.g., *Matter of Succession of Porche*, 213 So. 3d 401 (La. App. 1 Cir. 2017); *Abshire v. Town of Gueydan*, 208 So. 3d 405 (La. App. 3 Cir. 2016); *Schiff v. Pollard*, 222 So. 3d 867 (La. App. 4 Cir. 2017); *Contreras v. Vesper*, 202 So. 3d 1186 (La. App. 5 Cir. 2016). The issue of whether a judgment constitutes a final judgment should be determined in accordance with Article 1841. A lack of proper decretal language in a judgment that is otherwise a final judgment does not divest the appellate court of jurisdiction. Instead, the final judgment shall be corrected to include proper decretal language by an amendment in accordance with Article 1951.

(b) The amendments to this Article are consistent with existing requirements pertaining to final judgments affecting immovable property under Article 1919 and those granting an injunction or temporary restraining order under Article 3605.

* * *

1 Art. 1951. Amendment of judgment

2 On motion of the court or any party, a final judgment may be amended at any
 3 time to alter the phraseology of the judgment, ~~but not its substance~~, or to correct
 4 deficiencies in the decretal language or errors of calculation. The judgment may be
 5 amended only after a hearing with notice to all parties, except that a hearing is not
 6 required if all parties consent or if the court or the party submitting the amended
 7 judgment certifies that it was provided to all parties at least five days before the
 8 amendment and that no opposition has been received. A final judgment may not be
 9 amended under this Article to change its substance.

10 Comments - 2021

11 The amendments to this Article and Article 2088 allow the trial court to
 12 retain jurisdiction to correct, on its own motion or after remand from the appellate
 13 court, the lack of proper decretal language in a final judgment. This Article does not
 14 allow the court to make a substantive change to a final judgment. See, e.g., *Denton*
 15 *v. State Farm Mut. Auto. Ins. Co.*, 998 So. 2d 48 (La. 2008); *Bourgeois v. Kost*, 846
 16 So. 2d 692 (La. 2003).

17 * * *

18 Art. 1974. Delay for applying for new trial

19 ~~The delay for applying for a new trial shall be~~ A party may file a motion for
 20 a new trial not later than seven days, exclusive of legal holidays, ~~;~~ ~~The delay for~~
 21 ~~applying for a new trial commences to run on the day~~ after the clerk has mailed; or
 22 the sheriff has served; the notice of judgment as required by Article 1913.

23 Comments - 2021

24 This Article has been amended to clarify that the delay for filing a motion for
 25 new trial is the same as the delay for filing a motion for judgment notwithstanding
 26 the verdict under Article 1811.

27 * * *

28 Art. 2088. Divesting of jurisdiction of trial court

29 A. The jurisdiction of the trial court over all matters in the case reviewable
 30 under the appeal is divested, and that of the appellate court attaches, on the granting
 31 of the order of appeal and the timely filing of the appeal bond, in the case of a
 32 suspensive appeal or on the granting of the order of appeal, in the case of a
 33 devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over

1 those matters not reviewable under the appeal, including the right to do any of the
2 following:

3 (1) Allow the taking of a deposition, as provided in Article 1433~~;~~

4 (2) Extend the return day of the appeal, as provided in Article 2125~~;~~

5 (3) Make, or permit the making of, a written narrative of the facts of the
6 case, as provided in Article 2131~~;~~

7 (4) Correct any misstatement, irregularity, informality, or omission of the
8 trial record, as provided in Article 2132~~;~~

9 (5) Test the solvency of the surety on the appeal bond as of the date of its
10 filing or subsequently, consider objections to the form, substance, and sufficiency
11 of the appeal bond, and permit the curing thereof, as provided in Articles 5123, 5124,
12 and 5126~~;~~

13 (6) Grant an appeal to another party~~;~~

14 (7) Execute or give effect to the judgment when its execution or effect is not
15 suspended by the appeal~~;~~

16 (8) Enter orders permitting the deposit of sums of money within the meaning
17 of Article 4658 of this Code~~;~~

18 (9) Impose the penalties provided by Article 2126, or dismiss the appeal,
19 when the appellant fails to timely pay the estimated costs or the difference between
20 the estimated costs and the actual costs of the appeal~~; or~~

21 (10) Set and tax costs, ~~and~~ expert witness fees, and attorney fees.

22 (11) Certify a partial judgment or partial summary judgment in accordance
23 with Article 1915(B).

24 (12) Amend a judgment to provide proper decretal language under Article
25 1918 or 1951.

26 * * *

27 Comments - 2021

28 (a) The amendment to Subparagraph (A)(10) of this Article clarifies that the
29 trial court retains jurisdiction for purposes of setting attorney fees after an appeal has
30 been taken from the initial judgment. Trial courts award reasonable attorney fees in
31 many judgments, but often these judgments are appealed before the attorney fees are
32 set. With this amendment, it is no longer necessary for an appellate court to dismiss

1 an appeal in order to allow the trial court to set the amount of the attorney fees,
2 because the trial court has jurisdiction to set attorney fees while the appeal is
3 pending.

4 (b) Subparagraph (A)(11) codifies the Louisiana Supreme Court's holding
5 in *In re Interdiction of Gambino*, 296 So. 3d 1046 (La. 2020) (per curiam), that the
6 trial court had jurisdiction to certify a partial judgment under Article 1915(B) as a
7 final judgment after an appeal had been obtained.

8 (c) Subparagraph (A)(12) allows a trial court to retain jurisdiction after an
9 order of appeal is granted to amend a final judgment to correct any deficiencies in
10 the decretal language.

11 * * *

12 Art. 2254. Execution by sheriff; return; wrongful seizure

13 * * *

14 B. ~~Since secured collateral subject to a security interest under Chapter 9 of~~
15 ~~the Louisiana Commercial Laws (R.S. 10:9-101, et seq.) need only be reasonably~~
16 ~~described in the debtor's security agreement (R.S. 10:9-110), the~~ The sheriff shall
17 have no liability to the debtor or to any third party for wrongful or improper seizure
18 of the debtor's or third party's property of the same general type as described in the
19 debtor's security agreement. If necessary, the sheriff shall request the secured
20 creditor to identify the property subject to the security agreement and shall act
21 pursuant to the secured creditor's instructions. The debtor's and other owner's sole
22 remedy for the wrongful or improper seizure of the property shall be for actual losses
23 sustained under R.S. ~~10:9-507(1)~~ 10:9-625 against the secured creditor on whose
24 behalf and pursuant to whose instructions the sheriff may act.

25 * * *

26 Art. 2721. Seizure of property; notice

27 * * *

28 C. ~~Since secured collateral subject to a security interest under Chapter 9 of~~
29 ~~the Louisiana Commercial Laws need only be reasonably described in the debtor's~~
30 ~~security agreement, the~~ The sheriff shall have no liability to the debtor or to any third
31 party for wrongful or improper seizure of the debtor's or third party's property of the
32 same general type as described in the debtor's security agreement. If necessary, the
33 sheriff shall request the secured creditor to identify the property subject to the

1 security agreement and shall act pursuant to the secured creditor's instructions. The
2 debtor's and other owner's sole remedy for the wrongful or improper seizure of the
3 property shall be for actual losses sustained under R.S. 10:9-625 against the secured
4 creditor on whose behalf and pursuant to whose instructions the sheriff may act.

5 * * *

6 Art. 3943. Appeal from judgment awarding, modifying, or denying custody,
7 visitation, or support

8 An appeal from a judgment awarding, modifying, or denying custody,
9 visitation, or support of a person can be taken only within the delay provided in
10 Article 3942. Such an appeal shall not suspend execution of the judgment insofar
11 as the judgment relates to custody, visitation, or support.

12 * * *

13 Art. 3947. Name confirmation

14 * * *

15 B. The court may enter an order confirming the name of a ~~married woman~~
16 spouse in a divorce proceeding, whether ~~she~~ the person is the plaintiff or defendant,
17 which confirmation shall be limited to the name ~~which she~~ that the person was using
18 at the time of the marriage, or the name of ~~her~~ the person's minor children, or ~~her~~
19 ~~maiden name~~ the person's surname on the birth certificate, without complying with
20 the provisions of R.S. 13:4751 through 4755. This Article shall not be construed to
21 allow ~~her to amend her~~ an amendment to a birth certificate with the Bureau of Vital
22 Statistics.

23 * * *

24 Art. 4904. Final default judgment in parish and city courts

25 * * *

26 D. When the demand is based upon a right acquired by assignment in an
27 open account, promissory note, or other negotiable instrument, the court may raise
28 an objection of prescription before entering a final default judgment if the grounds
29 for the objection appear from the pleadings or from the evidence submitted by the
30 plaintiff. If the court raises an objection of prescription, it shall not enter the final

1 default judgment unless the plaintiff presents prima facie proof that the action is not
2 barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for
3 the submission of proof.

4 * * *

5 Art. 4907. New trials; delay in parish or city courts

6 * * *

7 B. The delay for applying for a new trial shall be seven days, exclusive of
8 legal holidays. Where notice of judgment is required, ~~this delay commences to run~~
9 ~~on the day~~ a party may file a motion for a new trial not later than seven days,
10 exclusive of legal holidays, after the clerk has mailed, or the sheriff has served, the
11 notice of judgment.

12 Comments - 2021

13 This Article has been amended to make certain that the delay for filing a
14 motion for new trial in parish and city courts is seven days, exclusive of legal
15 holidays. If a notice of judgment is required, the delay begins to run once the clerk
16 has mailed the notice of judgment or the sheriff has served the notice of judgment.

17 * * *

18 Art. 4913. Limitations upon jurisdiction; nature of proceedings; justice of the peace
19 courts

20 * * *

21 B. A justice of the peace court has no jurisdiction in any of the following
22 cases or proceedings:

23 * * *

24 (4) A claim for annulment of marriage, separation from bed and board,
25 divorce, separation of property, ~~or alimony~~ custody, visitation, spousal support, or
26 child support.

27 * * *

28 Art. 4921. Final default judgment; justice of the peace courts; district courts with
29 concurrent jurisdiction

30 * * *

2021 Regular Session
HOUSE BILL NO. 348

ACT No. 309

BY REPRESENTATIVE DUBUISSON

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2334(A), relative to advertisement
3 of sheriff's sales; to provide relative to the description of property; to provide relative
4 to reasonable notice to the public; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2334(A) is hereby amended and
7 reenacted to read as follows:

8 Art. 2334. Reading of advertisement and certificates

9 A. At the time and place designated for the sale, the sheriff shall read aloud
10 all or part of the advertisement describing the property in such sufficiency as to
11 reasonably provide notice to the public of the property then being offered for sale,
12 which, at a minimum, shall include the lot and subdivision or municipal number or
13 by section, township, and range, including some identifying mark, if appropriate, and
14 a reference to the conveyance or mortgage recordation. The sheriff shall also read
15 aloud a mortgage certificate and any other certificate required by law or otherwise
16 provide, at least twenty-four hours prior to the sale, a copy of such certificates to the
17 public by means of public posting, written copies, electronic means, or by any other
18 method.

19 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

BY REPRESENTATIVES FREEMAN, BUTLER, CARPENTER, ECHOLS, FREIBERG, GREEN, HILFERTY, JENKINS, MIKE JOHNSON, LARVADAIN, MARCELLE, MARINO, MOORE, NELSON, NEWELL, PIERRE, STAGNI, AND WHITE AND SENATORS BARROW, JACKSON, MIZELL, AND PETERSON

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3603(A), Children's Code Article
3 1568(D), and R.S. 46:2134(D) and to enact Code of Civil Procedure Article
4 3603.1(C)(3), relative to the issuance of protective orders; to provide for
5 complainants seeking protection from domestic abuse, dating violence, stalking, or
6 sexual assault; to provide for the signature of the petitioner; to provide for the
7 affirmation of the petitioner; to provide for a witness; to provide for the crime of
8 perjury; to provide for the penalty of perjury; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Civil Procedure Article 3603(A) is hereby amended and
11 reenacted and Code of Civil Procedure Article 3603.1(C)(3) is hereby enacted to read as
12 follows:

13 Art. 3603. Temporary restraining order; affidavit or affirmation of irreparable injury
14 and notification efforts

15 A. A temporary restraining order shall be granted without notice when all of
16 the following occur:

17 (1) It clearly appears from specific facts shown by a verified petition ~~or~~, by
18 supporting affidavit, or by affirmation as provided in Article 3603.1(C)(3) that
19 immediate and irreparable injury, loss, or damage will result to the applicant before
20 the adverse party or his attorney can be heard in opposition, ~~and~~.

1 (2) The applicant's attorney certifies to the court in writing the efforts which
2 have been made to give the notice or the reasons supporting his claim that notice
3 should not be required.

4 * * *

5 Art. 3603.1. Governing provisions for issuance of protective orders; grounds;
6 notice; court-appointed counsel

7 * * *

8 C.

9 * * *

10 (3) When a complainant is seeking a temporary restraining order for
11 protection from domestic abuse, dating violence, stalking, or sexual assault, it is
12 sufficient for the petition to contain a written affirmation signed and dated by the
13 complainant that the facts and circumstances contained in the complaint are true and
14 correct to the best knowledge, information, and belief of the complainant, under
15 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
16 witness who shall sign and print his name.

17 Section 2. Children's Code Article 1568(D) is hereby amended and reenacted to read
18 as follows:

19 Art. 1568. Petition

20 * * *

21 D. If the petition requests the issuance of an ex parte temporary restraining
22 order, the petition shall contain ~~an affidavit~~ a written affirmation signed and dated
23 by each petitioner that the facts and circumstances contained in the petition are true
24 and correct to the best knowledge, information, and belief of the petitioner, under
25 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
26 witness who shall sign and print his name. ~~Any false statement under oath contained~~
27 ~~in the affidavit shall constitute perjury and shall be punishable by a fine of not more~~
28 ~~than one thousand dollars or by imprisonment with or without hard labor for not~~
29 ~~more than five years, or both.~~

30 * * *

1 Section 3. R.S. 46:2134(D) is hereby amended and reenacted to read as follows:

2 §2134. Petition

3 * * *

4 D. If the petition requests the issuance of an ex parte temporary restraining
5 order, the petition shall contain ~~an affidavit~~ a written affirmation signed and dated
6 by each petitioner that the facts and circumstances contained in the petition are true
7 and correct to the best knowledge, information, and belief of the petitioner, under
8 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
9 witness who shall sign and print his name. ~~Any false statement under oath contained~~
10 ~~in the affidavit shall constitute perjury and shall be punishable by a fine of not more~~
11 ~~than one thousand dollars, or by imprisonment, with or without hard labor, for not~~
12 ~~more than five years, or both.~~

13 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 108

ACT No. 416

BY REPRESENTATIVES LARVADAIN, ROBBY CARTER, JAMES, AND JEFFERSON
(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 5183(A)(introductory paragraph),
3 (1), and (2) and (B) and 5185(A) and (B), relative to proceeding in forma pauperis;
4 to provide with respect to applications to proceed in forma pauperis; to provide for
5 the rights of parties proceeding in forma pauperis; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Articles 5183(A)(introductory paragraph), (1),
8 and (2) and (B) and 5185(A) and (B) are hereby amended and reenacted to read as follows:

9 Art. 5183. Affidavits of poverty; documentation; order

10 A. A person who wishes to exercise the privilege granted in this Chapter
11 shall apply to the court for permission to do so in his first pleading, or in an ex parte
12 written motion if requested later, to which ~~he~~ the applicant shall annex the following:

13 (1) ~~His~~ The applicant's affidavit that ~~he~~ the applicant is unable to pay the
14 costs of court in advance, or as they accrue, or to furnish security therefor, because
15 of ~~his~~ the applicant's poverty and lack of means, accompanied by any supporting
16 documentation; ~~and~~.

17 (2) The affidavit of a third person other than ~~his~~ the applicant's attorney that
18 he knows the applicant, knows ~~his~~ the applicant's financial condition, and believes
19 that ~~he~~ the applicant is unable to pay the costs of court in advance, or as they accrue,
20 or to furnish security therefor.

21 * * *

22 B.(1) ~~When~~ Upon the filing of the completed application and supporting
23 affidavits, ~~are presented to the court, it~~ the court shall ~~inquire into the facts, and if~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 satisfied that the applicant is entitled to the privilege granted in this Chapter it shall
2 render an order ~~permitting~~ that does one of the following:

3 (a) Grants the application and allows the applicant to litigate; or to continue
4 the litigation ~~of, the action or proceeding~~ without paying the costs in advance, ~~or as~~
5 ~~they accrue, or furnishing security therefor.~~

6 (b) Denies the application with written reasons for such denial.

7 (c) Sets the matter for a contradictory hearing.

8 (2) The submission by the applicant of supporting documentation that the
9 applicant is receiving public assistance benefits or that the applicant's income is less
10 than or equal to one hundred twenty-five percent of the federal poverty level shall
11 create a rebuttable presumption that the applicant is entitled to the privilege granted
12 in this Chapter. If the court finds that the presumption has been rebutted, it shall
13 provide written reasons for its finding.

14 (3) The court may reconsider ~~such an~~ its original order granting the
15 application on its own motion at any time in a contradictory hearing.

16 Comments - 2021

17 Paragraph B of this Article has been amended to require the court to do one
18 of three things after a person has filed a completed application to proceed in forma
19 pauperis with the requisite supporting affidavits: (1) grant the application and allow
20 the applicant to proceed in forma pauperis, (2) deny the application and provide
21 written reasons for such denial, or (3) set the matter for a contradictory hearing. The
22 requirement under this provision that written reasons be provided by the court upon
23 the denial of an application is intended to provide the applicant with additional
24 information necessary to, for example, correct a deficiency in the application. The
25 form and contents of these written reasons are left to the discretion of the court.

26 * * *

27 Art. 5185. Rights of party permitted to litigate without payment of costs

28 A. When an order of court permits a party to litigate without the payment of
29 costs until this order is rescinded or expires, ~~he~~ the party is entitled to:

30 (1) All services required by law of a sheriff, clerk of court, court reporter,
31 notary, or other public officer in, or in connection with, the judicial proceeding,
32 including but not limited to the filing of pleadings and exhibits, the issuance of
33 certificates, the certification of copies of notarial acts and public records, the

1 issuance and service of subpoenas and process, the taking and transcribing of
2 testimony, and the preparation of a record of appeal;

3 (2)(a) The right to the compulsory attendance of not more than six witnesses
4 for the purpose of testifying, either in court or by deposition, without the payment
5 of the fees, mileage, and other expenses allowed these witnesses by law. If a party
6 has been permitted to litigate without full payment of costs and is unable to pay for
7 witnesses desired by ~~him~~ the party, in addition to those summoned at the expense of
8 the parish, ~~he~~ the party shall make a sworn application to the court for the additional
9 witnesses. The application ~~must~~ shall allege that the testimony is relevant and
10 material and not cumulative and that the defendant cannot safely go to trial without
11 it. A short summary of the expected testimony of each witness shall be attached to
12 the application.

13 (b) The court shall make a private inquiry into the facts and, if satisfied that
14 the party is entitled to the privilege, shall render an order permitting the party to
15 subpoena additional witnesses at the expense of the parish. If the application is
16 denied, the court shall state the reasons for the denial in writing, which shall become
17 part of the record.

18 (3) The right to a trial by jury and to the services of jurors, when allowed by
19 law and applied for timely; ~~and~~.

20 (4) The right to have any judgment or order filed and to receive one certified
21 copy of the judgment or order.

22 (5) The right to a devolutive appeal, and to apply for supervisory writs.

23 B. ~~He~~ The party is not entitled to a suspensive appeal, or to an order or
24 judgment required by law to be conditioned on his furnishing security other than for
25 costs, unless ~~he~~ the party furnishes the necessary security therefor.

26 * * *

27 Comments - 2021

28 Paragraph (A)(4) of this Article has been added to provide an applicant
29 proceeding in forma pauperis with the right to have a judgment or order filed and to
30 receive a certified copy of such judgment or order, regardless of whether the costs
31 of court have been paid. See Carline v. Carline, 644 So.2d 835 (La. App. 1 Cir.

1 1994) (holding that it was improper to require a plaintiff proceeding in forma
2 pauperis to pay court costs before providing a certified copy of the judgment
3 rendered in the proceedings).

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 264

ACT No. 469

BY REPRESENTATIVE SEABAUGH

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 2331, relative to judicial sales; to
3 provide for writs of fieri facias, to provide for advertisement and legal notices; to
4 provide for rescheduled sales; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2331 is hereby amended and reenacted
7 to read as follows:

8 Art. 2331. Publication of notice of sale

9 A. Notice of the sale of property under a writ of fieri facias shall be
10 published at least once for movable property, and at least twice for immovable
11 property, in the manner provided by law. The court may order additional
12 publications.

13 B. Notwithstanding the requirements of Paragraph A of this Article, if a
14 judicial sale of immovable property is cancelled or postponed and rescheduled for
15 a later date, notice of sale of property under a writ of fieri facias shall be published
16 once in the manner provided by law.

17 C. The sheriff shall not order the advertisement of the sale of the property
18 seized until three days, exclusive of holidays, have elapsed after service on the
19 judgment debtor of the notice of seizure, as provided in Article 2293.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____