

Regular Session, 2009

HOUSE BILL NO. 245

BY REPRESENTATIVE TALBOT

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

CIVIL/VENUE: Provides venue for actions involving latent disease

## AN ACT

To amend and reenact Civil Code Article 45 and to enact Code of Civil Procedure Article 78.1, relative to venue; to provide for exclusive venue; to provide venue for actions involving latent disease; to provide for a contradictory hearing; to provide for the transfer of certain actions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 45 is hereby amended and reenacted and Code of Civil Procedure Article 78.1 is hereby enacted to read as follows:

Art. 45. Conflict between two or more articles in Chapter

The following rules determine the proper venue in cases where two or more articles in this Chapter may conflict:

(1) Article 78, 78.1, 79, 80, 81, 82, or 83 governs the venue exclusively, if this article conflicts with any of Articles 42 and 71 through 77;

(2) If there is a conflict between two or more Articles 78 through 83, the plaintiff may bring the action in any venue provided by any applicable article; and

(3) If Article 78, 78.1, 79, 80, 81, 82, or 83 is not applicable, and there is a conflict between two or more of Articles 42 and 71 through 77, the plaintiff may bring the action in any venue provided by any applicable article.

\* \* \*

1        Art. 78.1. Latent disease actions; forum non conveniens

2                A. An action involving a latent disease, including but not limited to asbestos  
3        or silica-related disease, shall be brought in the parish in which the plaintiff has  
4        resided for no less than one year preceding the filing of the action or in the parish in  
5        which the plaintiff alleges substantial exposure to asbestos, silica, or any other  
6        alleged toxic or injury causing substance.

7                B. If substantial exposure is alleged in more than one parish, a district court  
8        upon contradictory motion or upon the court's own motion after contradictory  
9        hearing, shall transfer the case to a more appropriate district court where it may have  
10       been brought, considering the convenience of the parties and the witnesses, the  
11       amount and length of exposure alleged in each parish, and the interest of justice.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Talbot

HB No. 245

**Abstract:** Provides venue and forum non conveniens procedures for actions involving asbestos and silica.

Proposed law provides that actions involving latent diseases, including asbestos and silica, shall be brought in the parish in which the plaintiff has resided for no less than one year preceding the filing of the action or in the parish in which the plaintiff alleges substantial exposure.

Proposed law provides that if exposure is alleged in more than one parish, the court shall determine which parish has the most significant contacts based on the amount and length of exposure and shall transfer the action to that parish.

Proposed law provides that when two or more venue articles conflict proposed law governs the venue exclusively.

(Amends C.C.P. Art. 45; Adds C.C.P. Art. 78.1)