## SLS 16RS-490

## **ENGROSSED**

2016 Regular Session

SENATE BILL NO. 203

BY SENATOR WARD

ATTORNEYS. Provides for certain penalties regarding the unauthorized practice of law. (8/1/16)

1	AN ACT
2	To enact R.S. 37:213.1, relative to the unauthorized practice of law; to provide certain terms,
3	conditions, requirements, definitions and procedures; and to provide for related
4	matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 37:213.1 is hereby enacted to read as follows:
7	§213.1. Unauthorized practice of law; civil damages; prescription
8	A. In addition to any criminal proceedings and criminal penalties set
9	forth in R.S. 37:213, the provisions of this Section shall apply to civil
10	proceedings against persons engaged in, or who have engaged in, the
11	unauthorized practice of law.
12	<b>B.</b> As used in this Section, the following terms shall be defined as follows:
13	(1) "Actor" means a natural or juridical person who is engaged in or has
14	engaged in the unauthorized practice of law. The term "actor" shall not include
15	a Louisiana attorney licensed to practice law or a Louisiana attorney who is
16	suspended or disbarred from the practice of law. The term "actor" may include
17	a Louisiana attorney who has been permanently disbarred or who has

Page 1 of 3 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

1	permanently resigned from the practice of law.
2	(2) "Aggrieved party" means a natural or juridical person who has
3	sustained any damage or harm as a result of an actor engaged in the
4	unauthorized practice of law. The term "aggrieved party" shall not include an
5	<u>attorney or a law firm.</u>
6	(3) "Unauthorized practice of law" means any of the prohibited activities
7	<u>set forth in R.S. 37:213.</u>
8	<b><u>C. An aggrieved party, the attorney general of the state of Louisiana, the</u></b>
9	Louisiana State Bar Association, or any district attorney may file a petition to
10	enjoin an actor from engaging in the unauthorized practice of law. If an actor
11	is enjoined from engaging in the unauthorized practice of law as provided in
12	this Section, the court may also award costs and attorney's fees to the petitioner.
13	D. An aggrieved party may sue an actor who is engaging in, or who has
14	engaged in, the unauthorized practice of law for general damages, special
15	damages, and all other damages suffered by the aggrieved party. The court may
16	also award the aggrieved party all costs and attorney's fees in connection with
17	<u>this suit.</u>
18	<b>E. Venue for any action commenced under Subsections C or D of this</b>
19	Section shall be in any parish where:
20	(1) the actor is engaging or has engaged in the unauthorized practice of
21	<u>law;</u>
22	(2) the offense of the unauthorized practice of law has occurred;
23	(3) any damages were sustained; or
24	(4) the aggrieved party resides.
25	<b>F.</b> Any action commenced by an aggrieved party under the provisions of
26	Subsection D of this Section is subject to a liberative prescriptive period of three
27	years.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ben Huxon.

SB 203 Engrossed

## DIGEST 2016 Regular Session

Ward

<u>Proposed law</u> allows an aggrieved party, the attorney general of the state of Louisiana, the Louisiana State Bar Association, or any district attorney to file a petition to enjoin an actor from engaging in the unauthorized practice of law. <u>Proposed law</u> further provides that any aggrieved party may sue an actor who is engaging in or has engaged in the unauthorized practice of law for general damages, special damages, and all other damages suffered by the aggrieved party. <u>Proposed law</u> further provides for the award of costs and attorney's fees to the petitioner and a liberative prescriptive period of three years.

Effective August 1, 2016.

(Adds R.S. 37:213.1)

Summary of Amendments Adopted by Senate

## <u>Committee Amendments Proposed by Senate Committee on Judiciary A to the</u> <u>original bill</u>

1. Adds "an aggrieved party" to the persons eligible to file a petition to enjoin an actor from engaging in the unauthorized practice of law.