

2019 Regular Session

HOUSE BILL NO. 252

BY REPRESENTATIVE GAINES

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Civil Code Article 1968 and to repeal Title XIV of Book III of the
3 Civil Code, comprised of Civil Code Articles 2982 through 2984, relative to aleatory
4 contracts; to provide with respect to unlawful cause; to provide with respect to
5 gaming, gambling, and wagering; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 1968 is hereby amended and reenacted to read as
8 follows:

9 Art. 1968. Unlawful cause

10 The cause of an obligation is unlawful when the enforcement of the
11 obligation would produce a result prohibited by law or against public policy.

12 Examples of obligations with unlawful causes include those that arise from
13 gaming, gambling, and wagering not authorized by law.

14 Revision Comments - 2019

15 (a) The second paragraph of this Article restates the principles of prior law
16 contained in former Articles 2983 and 2984. It does not significantly change the law.
17 The language creating exceptions of permissible gaming contracts under former
18 Article 2983, which involved "games tending to promote skill in the use of arms,
19 such as the exercise of the gun and foot, horse and chariot racing" has been deleted
20 as anachronistic. The Constitution of Louisiana generally discourages "gaming,
21 gambling, and wagering." See, e.g., La. Const. Art. XII, Sec. 6. The Louisiana
22 Criminal Code also defines and prohibits gambling. See, e.g., R.S. 14:90. For
23 specific examples of allowable games of chance, see, e.g., La. Const. Art. XII, Sec.
24 6(A); R.S. 27:1 et seq.; R.S. 27:502. This Article does not affect the existing
25 jurisprudence holding that casino markers extended to patrons are enforceable
26 extensions of credit. See, e.g., *Strong v. Eldorado Casino Shreveport Joint Venture*,
27 73 So. 3d 967 (La. App. 2 Cir. 2011); *Players Lake Charles, LLC v. Tribble*, 779 So.
28 2d 1058 (La. App. 3 Cir. 2001); *TeleRecovery of Louisiana v. Major*, 734 So. 2d 947
29 (La. App. 1 Cir. 1999); *TeleRecovery of Louisiana v. Gaulon*, 738 So. 2d 662 (La.
30 App. 5 Cir. 1999).

1 (b) The provision in former Article 2984, which refused an action for
 2 recovery by a loser in a gaming or wagering contract in the absence of "fraud, deceit,
 3 or swindling," has also been deleted in light of Article 2033, which denies recovery
 4 of performance on an absolutely null contract except "in exceptional situations when,
 5 in the discretion of the court, that recovery would further the interest of justice."

6 (c) The definition of an aleatory contract contained in former Article 2982
 7 has been deleted as unnecessary in light of existing Article 1912.

8 Section 2. Title XIV of Book III of the Civil Code, comprised of Civil Code Articles
 9 2982 through 2984, is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____