

Regular Session, 2012

HOUSE BILL NO. 464

BY REPRESENTATIVE ABRAMSON

CIVIL/ACTIONS: Provides relative to civil procedure

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 123(A) and Civil Code Article 38
3 and to enact Code of Civil Procedure Articles 593.1 and 593.2, relative to civil
4 procedure; to provide relative to venue; to provide relative to domicile; to provide
5 for the domicile of juridical persons; to provide for certain procedures for class
6 actions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 123(A) is hereby amended and reenacted
9 and Code of Civil Procedure Articles 593.1 and 593.2 are hereby enacted to read as follows:

10 Art. 123. Forum non conveniens

11 A.(1) For the convenience of the parties and the witnesses, in the interest of
12 justice, a district court upon contradictory motion, or upon the court's own motion
13 after contradictory hearing, may transfer a civil case to another district court where
14 it might have been brought; however, no suit brought in the parish in which the
15 plaintiff is domiciled, and in a court which is otherwise a court of competent
16 jurisdiction and proper venue, shall be transferred to any other court pursuant to this
17 Article.

18 (2) For purposes of Subparagraph (A)(1) of this Article, domicile shall be the
19 location pursuant to Article 42 where the plaintiff would be subject to suit had he
20 been a defendant.

21 * * *

1 Art. 593.1. Class actions; lis pendens

2 When two or more actions are filed pursuant to Article 591 in a Louisiana
3 court or courts of different parishes on the same transaction or occurrence, between
4 any of the same parties in the same capacities, the defendant may have all but the
5 first suit dismissed by excepting thereto as provided in Article 925. When the
6 defendant does so except, the plaintiff may elect, in lieu of dismissal, to have the
7 case transferred to the district court where the first suit was brought. When the
8 defendant does not so except, the plaintiff may continue the prosecution of any of the
9 class actions, but the first final judgment rendered shall be conclusive of all.

10 Art. 593.2. Class actions; forum non conveniens

11 Notwithstanding the provisions of Article 123, for the convenience of the
12 parties and the witnesses, in the interest of justice, a district court upon contradictory
13 motion, or upon the court's own motion after contradictory hearing, may transfer a
14 class action to another district court where it might have been brought.

15 Section 2. Civil Code Article 38 is hereby amended and reenacted to read as follows:

16 Art. 38. Domicile

17 The domicile of a natural person is the place of his habitual residence. The
18 domicile of a juridical person may be either the state of its formation or the state of
19 its principal place of business, whichever is most pertinent to the particular issue,
20 unless otherwise specifically provided by law.

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)]

Abramson

HB No. 464

Abstract: Provides relative to the domicile of certain persons and venue of certain actions for purposes of forum non conveniens and lis pendens.

Present law provides that a district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer a civil case to another district court where it might have been brought in certain circumstances. Also provides that no suit brought in the parish in which the plaintiff is domiciled, and in a court which is otherwise a court of competent jurisdiction and proper venue, shall be transferred to any other court.

Proposed law retains present law and provides that domicile shall be the location pursuant to the general rules of venue (Article 42) where the plaintiff would be subject to suit had he been a defendant.

Proposed law provides that when two or more class actions are filed pursuant to Article 591 in a La. court or courts of different parishes on the same transaction or occurrence, between any of the same parties in the same capacities, the defendant may have all but the first suit dismissed by filing an exception. Provides that when the defendant files an exception of lis pendens, the plaintiff may elect to transfer the case in lieu of having the case dismissed. Provides that if the defendant does not so except, the plaintiff may continue the prosecution of any of the class actions, but the first final judgment rendered shall be conclusive of all.

Proposed law provides that notwithstanding present law provisions of forum non conveniens, a district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer a class action to another district court where it might have been brought.

Present law defines the domicile of a natural person as the place of his habitual residence.

Proposed law defines the domicile of a juridical person as either the state of its formation or the state of its principal place of business, whichever is most pertinent to the particular issue, unless otherwise specifically provided by law.

(Amends C.C.P. Art. 123(A) and C.C. Art. 38; Adds C.C.P. Arts. 593.1 and 593.2)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added provisions relative to the applicability of lis pendens to multiple actions filed pursuant to C.C.P. Art. 591 between any of the same parties.
2. Added authority of plaintiff to elect transfer of the suit in lieu of dismissal.
3. Added technical amendments.