

Regular Session, 2005

HOUSE BILL NO. 226

BY REPRESENTATIVE GALLOT

(On Recommendation of the Louisiana State Law Institute)

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

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 592(A)(3)(b), 1917, 2031(A), and
3 2083, relative to civil procedure; to provide for the continuous revision of the Code
4 of Civil Procedure as required by R.S. 24:251; to provide for written reasons for
5 judgment and findings of fact in class action certifications and for appeal therefrom;
6 to provide for the commencement of the time period in which to request the court to
7 give findings of fact and written reasons for judgment in a nonjury trial; to provide
8 for the interruption of prescription with the filing of a motion to revive a judgment;
9 to provide for appeal of interlocutory judgments; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Civil Procedure Articles 592(A)(3)(b), 1917, 2031(A), and 2083
12 are hereby amended and reenacted to read as follows:

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

14 A.

15 * * *

16 (3)

17 * * *

18 (b) If the court finds that the action should be maintained as a class action,
19 it shall certify the action accordingly. If the court finds that the action should not be
20 maintained as a class action, the action may continue between the named parties. In
21 either event, the court shall give in writing its findings of fact and reasons for
22 judgment provided a request is made not later than ten days after notice of the order
23 or judgment. A suspensive or devolutive appeal, as provided in Article 2081, et seq.

1 rendered reviving the original judgment. No citation or service of process of the
 2 motion to revive shall be required. The court may order the judgment debtor to pay
 3 additional court costs and reasonable attorney fees in connection with the judgment
 4 revival action. Notice of signing of the judgment of revival shall be mailed by the
 5 clerk of court to the judgment debtor at his last known address as reflected in the suit
 6 record.

7 * * *

8 Comment—2005

9 Paragraph A was amended to provide that the filing of the ex parte motion
10 interrupts prescription as provided in Civil Code Article 3462.

11 * * *

12 Art. 2083. Judgments appealable

13 A. ~~An appeal may be taken from a final judgment rendered in causes in~~
 14 ~~which appeals are given by law whether rendered after hearing or by default, from~~
 15 ~~an interlocutory judgment which may cause irreparable injury, and from a judgment~~
 16 ~~reformed in accordance with a remittitur or additur under Article 1814. A final~~
 17 judgment is appealable in all causes in which appeals are given by law, whether
 18 rendered after hearing, by default, or by reformation under Article 1814.

19 B. In reviewing a judgment reformed in accordance with a remittitur or
 20 additur, the court shall consider the reasonableness of the underlying jury verdict.

21 C. An interlocutory judgment is appealable only when expressly provided
 22 by law.

23 Comments – 2005

24 (a) The prior cases recognizing a right to appeal interlocutory judgments
 25 based on the often ill-defined irreparable injury standard set forth in the previous
 26 version of Article 2083(A) are no longer valid. However, irreparable injury
 27 continues to be an important (but not exclusive) ingredient in an application for
 28 supervisory writs. *See Herlitz Const. Co., Inc. v. Hotel Investors of New Iberia, Inc.*,
 29 396 So.2d 878 (La. 1981); Tatum, *Revisiting the Supervisory Powers*, 41 La. B. J.
 30 21, (1994).

31 (b) Article 2083(C) has been added to provide that interlocutory judgments
 32 are appealable only when expressly provided by legislation such as Code of Civil
 33 Procedure Articles 3612 and 592(A)(3)(b). Appellate review of all other
 34 interlocutory judgments should now be applied for pursuant to the appellate courts
 35 supervisory authority set forth in Article 2201, the Uniform Rules Courts of Appeal
 36 and the Rules of the Supreme Court of Louisiana. The new restriction on appeals of

1 interlocutory judgments reflects a judicial policy of the appellate courts that review
 2 of such judgments by supervisory writs is more efficient and expeditious than by
 3 appeal. *See Hamilton Medical Group v. Ochsner Health Plan*, 550 So.2d 290 (La.
 4 App. 3 Cir. 1989); *Laborde v. DeBlanc*, 532 So.2d 829 (La. App. 4 Cir. 1988). The
 5 courts of appeal have the discretion to decide supervisory writs peremptorily or
 6 assign them for briefing and argument. Nothing herein is intended to abridge the
 7 court’s supervisory writ authority.

8 Section 2. This Act shall become effective on January 1, 2006.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____