

Regular Session, 2012

HOUSE BILL NO. 440

BY REPRESENTATIVE ABRAMSON

CIVIL/VENUE: Provides relative to venue for actions involving latent disease

1 AN ACT

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

6 Be it enacted by the Legislature of Louisiana:

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

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

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

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

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

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

20 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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 alleges
4 substantial exposure to asbestos, silica, or any other alleged toxic or injury-causing
5 substance, except a direct action against a foreign or alien insurer may also be
6 brought in accordance with Article 42(7).

7 B.(1) If substantial exposure is alleged in more than one parish, a district
8 court, upon contradictory motion or upon the court's own motion after contradictory
9 hearing, may 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.

12 (2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph,
13 no suit brought in the parish in which the plaintiff is domiciled, and in a court which
14 is otherwise a court of competent jurisdiction and proper venue, shall be transferred
15 to any other court pursuant to this Article.

16 C. Allegations, presentation of evidence, and findings in accordance with
17 this Article shall not:

18 (1) Result in any presumption at trial that a party was exposed as alleged nor
19 that he is impaired by an asbestos-related, silica-related, or other alleged latent
20 disease.

21 (2) Be conclusive as to the liability of any defendant.

22 (3) Be admissible at trial, unless otherwise admissible in accordance with the
23 Code of Evidence.

24 (4) Result in any instruction by the court to the jury with respect to the
25 allegations, presentation of evidence, and findings in accordance with this Article
26 and no counsel for any party, nor any witness, shall inform the jury or potential
27 jurors of any showing or finding subject to appropriate sanctions.

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. 440

Abstract: Provides venue and forum non conveniens procedures for actions involving latent diseases as a result of exposure to any toxic or injury-causing substance.

Proposed law provides that actions involving latent diseases, including asbestos and silica, shall be brought in the parish in which the plaintiff alleges substantial exposure, except direct actions against a foreign or alien insurer may also be brought in East Baton Rouge Parish.

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 may transfer the action to that parish.

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

Proposed law prohibits the transfer of a suit brought in the domicile of the plaintiff and in a court which is otherwise a court of competent jurisdiction and proper venue.

Proposed law provides that allegations, evidence, and findings in accordance with proposed law shall not result in any presumptions at trial, be conclusive as to liability, be admissible at trial unless admissible under Code of Evidence, or result in any special instructions to the jury.

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