

SENATE FLOOR AMENDMENTS

2019 Regular Session

Amendments proposed by Senator Hewitt to Reengrossed House Bill No. 410 by Representative Hollis

1 AMENDMENT NO. 1

2 On page 1, line 2, after "(3)(b)" insert "and 1269"

3 AMENDMENT NO. 2

4 On page 1, delete line 3 and insert

5 "22:333(E) and 1476(B) and (C), relative to insurance; to provide relative to
6 insurance fees and assessments; to provide for the"

7 AMENDMENT NO. 3

8 On page 1, line 5, after "licenses;" insert "to provide relative to liability policies and actions
9 against insurers;"

10 AMENDMENT NO. 4

11 On page 2, between lines 10 and 11 insert

12 "§1269. Liability policy; insolvency or bankruptcy of insured and inability to effect
13 service of citation or other process; ~~direct action against insurer~~

14 A. No policy or contract of liability insurance shall be issued or delivered in
15 this state, unless it contains provisions to the effect that the insolvency or bankruptcy
16 of the insured shall not release the insurer from the payment of damages for injuries
17 sustained or loss occasioned during the existence of the policy, and any judgment
18 which may be rendered against the insured for which the insurer is liable which shall
19 have become executory, shall be deemed prima facie evidence of the insolvency of
20 the insured, and an action may thereafter be maintained within the terms and limits
21 of the policy by the injured person, or his survivors, mentioned in Civil Code Art.
22 2315.1, or heirs against the insurer.

23 ~~B.(1) The injured person or his survivors or heirs mentioned in Subsection~~
24 ~~A of this Section, at their option, shall have a right of direct action against the insurer~~
25 ~~within the terms and limits of the policy; and, such action may be brought against the~~
26 ~~insurer alone, or against both the insured and insurer jointly and in solido, in the~~
27 ~~parish in which the accident or injury occurred or in the parish in which an action~~
28 ~~could be brought against either the insured or the insurer under the general rules of~~
29 ~~venue prescribed by Code of Civil Procedure Art. 42 only, however, such action may~~
30 ~~be brought against the insurer alone only when at least one of the following applies:~~

31 ~~(a) The insured has been adjudged bankrupt by a court of competent~~
32 ~~jurisdiction or when proceedings to adjudge an insured bankrupt have been~~
33 ~~commenced before a court of competent jurisdiction.~~

34 ~~(b) The insured is insolvent.~~

35 ~~(c) Service of citation or other process cannot be made on the insured.~~

36 ~~(d) When the cause of action is for damages as a result of an offense or quasi-~~
37 ~~offense between children and their parents or between married persons.~~

38 ~~(e) When the insurer is an uninsured motorist carrier.~~

39 ~~(f) The insured is deceased.~~

40 ~~(2) This right of direct action shall exist whether or not the policy of~~
41 ~~insurance sued upon was written or delivered in the state of Louisiana and whether~~
42 ~~or not such policy contains a provision forbidding such direct action, provided the~~

1 ~~accident or injury occurred within the state of Louisiana. Nothing contained in this~~
2 ~~Section shall be construed to affect the provisions of the policy or contract if such~~
3 ~~provisions are not in violation of the laws of this state.~~

4 ~~C. It is the intent of this Section that any action brought under the provisions~~
5 ~~of this Section shall be subject to all of the lawful conditions of the policy or contract~~
6 ~~and the defenses which could be urged by the insurer to a direct action brought by~~
7 ~~the insured, provided the terms and conditions of such policy or contract are not in~~
8 ~~violation of the laws of this state.~~

9 ~~D. B. It is also the intent of this Section that all liability policies within their~~
10 ~~terms and limits are executed for the benefit of all injured persons and their survivors~~
11 ~~or heirs to whom the insured is liable; and, that it is the purpose of all liability~~
12 ~~policies to give protection and coverage to all insureds, whether they are named~~
13 ~~insured or additional insureds under the omnibus clause, for any legal liability the~~
14 ~~insured may have as or for a tortfeasor within the terms and limits of the policy."~~

15 AMENDMENT NO. 5

16 On page 2, line 11, after "22:" insert "333(E) and"