
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Hanna Gettys.

SB 250 Original DIGEST Allain
2024 Regular Session

Present law (R.S. 22:1269(B)) provides relative to liability policies and direct action against an insurer.

Present law provides that an injured third party has the right to take direct legal action against the insurer if that right is provided for within the terms and limits of the policy. Provides for action against the insurer alone if at least one of the following applies:

- (1) The insured has been adjudged bankrupt by a court of competent jurisdiction or proceedings to adjudge an insured bankrupt have been commenced before a court of competent jurisdiction.
- (2) The insured is insolvent.
- (3) Service of citation or other process cannot be made on the insured.
- (4) The cause of action is for damages resulting from an offense or quasi offense between children and parents or between married persons.
- (5) The insurer is an uninsured motorist carrier.
- (6) The insured is deceased.

Proposed law provides for no right of direct action against the insurer unless at least one of the following applies:

- (1) The insured has been adjudged bankrupt by a court of competent jurisdiction or proceedings to adjudge an insured bankrupt have been commenced before a court of competent jurisdiction.
- (2) The insured is insolvent.
- (3) Service of citation or other process has been attempted unsuccessfully.
- (4) The cause of action is for damages resulting from an offense or quasi offense between children and parents or between married persons.
- (5) When the insurer is an uninsured motorist carrier.

- (6) The insured is deceased.
- (7) When the insurer is defending the lawsuit under a reservation of rights, or the insurer denies coverage to the insured.

Present law provides that this right of direct action shall exist whether or not the policy of insurance sued upon was written or delivered in the state of La. and whether or not such policy contains a provision forbidding such direct action, provided the accident or injury occurred within the state of La. Present law shall not be construed to affect the provisions of the policy or contract if such provisions are not in violation of the laws of this state. Proposed law deletes present law.

Present law provides that any action brought under present law shall be subject to all of the lawful conditions of the policy or contract and the defenses which could be urged by the insurer to a direct action brought by the insured, provided the terms and conditions of such policy or contract are not in violation of the laws of this state. Proposed law deletes present law.

Present law provides that all liability policies within their terms and limits are executed for the benefit of all injured persons and their survivors or heirs to whom the insured is liable; and, that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insured or additional insureds under the omnibus clause, for any legal liability the insured may have as or for a tortfeasor within the terms and limits of the policy.

Proposed law deletes the provision of present law that provides all liability policies within their terms and limits are executed for the benefit of all injured persons and their survivors or heirs to whom the insured is liable.

Proposed law retains present law and clarifies that the purpose of all liability policies is to provide protection and coverage to all insured whether the insured is a named insured or an additional insured under the omnibus clause, for all legal liability the insured may have within the terms and limits of the policy.

Effective August 1, 2024.

(Amends R.S. 22:1269)