

Regular Session, 2014

SENATE BILL NO. 156

BY SENATOR MURRAY

INSURERS. Provides for right of direct action against an insurer alone. (8/1/14)

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AN ACT

To amend and reenact R.S. 22:1269(B)(1), relative to a direct action against an insurer; to provide with respect to a direct action against an insurer alone; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1269(B)(1) is hereby amended and reenacted to read as follows:

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

* * *

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

1 applies:

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

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

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

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

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

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

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

DIGEST

Murray (SB 156)

Present law grants to an injured person or his survivors or heirs the right of direct action against the insurer within the terms and limits of the liability policy. Such action may be brought against the insurer alone, or against both the insured and the insurer jointly and in solido, in the parish in which the accident or injury occurred or in the parish in which an action could be brought against either the insured or the insurer under the general rules of venue in present law.

Present law restricts a direct action against the insurer alone to situation in which at least one of the following applies:

- (1) The insured has been adjudged bankrupt by a court of competent jurisdiction or when 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) When the cause of action is for damages as a result of an offense or quasi-offense between children and their parents or between married persons.
- (5) When the insurer is an uninsured motorist carrier.
- (6) The insured is deceased.

Proposed law removes the restrictions in present law regarding a direct action against the insurer alone.

Effective August 1, 2014.

(Amends R.S. 22:1269(B)(1))