

2018 Regular Session

SENATE BILL NO. 139

BY SENATOR LUNEAU

INSURERS. Provides the option of a right of direct action against the insurer alone when the insured is a small business employing fifty or fewer full-time employees. (8/1/18)

AN ACT

1 To enact R.S. 22:1269(B)(1)(g), relative to civil actions against insurers; to authorize direct
2 action against the insurer alone under certain circumstances; to authorize direct
3 actions involving certain small businesses; to provide for terms, conditions, and
4 procedures; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1269(B)(1)(g) is hereby enacted to read as follows:

7 §1269. Liability policy; insolvency or bankruptcy of insured and inability to effect
8 service of citation or other process; direct action against insurer

9 * * *

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

* * *

(g) The insured is a small business employing fifty or fewer full-time employees.

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

DIGEST

SB 139 Original

2018 Regular Session

Luneau

Present law prohibits the issuance or delivery of a policy or contract of liability insurance in this state, unless it contains provisions to the effect that the insolvency or bankruptcy of the insured shall not release the insurer from the payment of damages for injuries sustained or loss occasioned during the existence of the policy. Provides that any judgment which may be rendered against the insured for which the insurer is liable which shall have become executory, is deemed prima facie evidence of the insolvency of the insured, and an action may thereafter be maintained within the terms and limits of the policy by the injured person, or his survivors, mentioned in Civil Code Art. 2315.1, or heirs against the insurer.

Present law further provides that the injured person or his survivors or heirs, 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.

Present law provides that direct action may be brought against the insurer alone only when 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 retains these provisions but provides that an additional instance in which a direct action may be brought against the insurer alone is when the insured is a small business employing 50 or fewer full-time employees.

Effective August 1, 2018.

(Adds R.S. 22:1269(B)(1)(g))