

2020 Regular Session

HOUSE BILL NO. 678

BY REPRESENTATIVE ROBBY CARTER

CIVIL/PROCEDURE: Provides relative to actions involving insured defendants

1 AN ACT

2 To enact Code of Civil Procedure Article 425.1, relative to actions against certain
3 defendants; to provide for actions against insurers under certain circumstances; and
4 to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 425.1 is hereby enacted to read as
7 follows:

8 Art. 425.1. Actions against insured defendant

9 A. A plaintiff shall have a right of action against the defendant's insurer
10 within the terms or limits of the defendant's liability insurance policy; and, such
11 action may be brought against the insurer alone, or against both the insured or insurer
12 jointly and in solido, in the parish in which the accident or injury occurred or in the
13 parish in which the action could be brought against either the insured or the insurer
14 under the general rules of venue prescribed by Code of Civil Procedure 42 only;
15 however, such action may be brought against the insurer alone when at least one of
16 the following applies:

17 (1) The insured has been adjudged bankrupt by a court of competent
18 jurisdiction or when proceedings to adjudge an insured bankrupt have been
19 commenced before a court of competent jurisdiction.

20 (2) The insured is insolvent.

- 1 (3) Service of citation or other process cannot be made on the insured.
- 2 (4) When the cause of action is for damages as a result of an offense or
- 3 quasi-offense between children and their parents or between married persons.
- 4 (5) When the cause of action is for damages as a result of an offense or
- 5 quasi-offense between employers and their employees.
- 6 (6) When the insurer is an uninsured motorist carrier.
- 7 (7) The insured is deceased.

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)]

HB 678 Original

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Abstract: Provides for actions against an insured defendant's insurance company.

Present law (R.S. 22:1269) provides for six circumstances for when an injured person or his survivors may sue the insurer alone or against the insured and insurer jointly:

- (1) The insured is bankrupt.
- (2) The insured is insolvent.
- (3) Service cannot be made on the insured.
- (4) Actions for damages between parents and children or married persons.
- (5) The insurer is an uninsured motorist carrier.
- (6) The insured is deceased.

Proposed law adds an additional circumstance to include actions between employers and their employees.

(Adds C.C.P. Art. 425.1)