



enters judgment, by or on behalf of, the claimant or members of his immediate family to secure his right to any private insurance benefit which he has received as a result of such injury or death.

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 action against the insurer alone if at least one of the following applies:

- (1) The insured has been adjudged bankrupt or bankruptcy proceedings have commenced in a court of competent jurisdiction.
- (2) 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.
- (3) The insured is deceased.

Proposed law further provides that if none of the above circumstances are applicable, the injured person or his survivors or heir's shall bring an action against the insured.

Proposed law provides that the insured's right to enforce the terms of the policy against the insurer remains unaffected.

Present law provides that, if the accident or injury occurred within the state of Louisiana, the right of direct action shall exist whether or not the policy of insurance was written or delivered in the state of Louisiana and whether or not such policy contains a provision forbidding such direct action.

Present law (R.S. 22:333(E)) relative to foreign or alien insurers provides that transacting of business in this state constitutes a consent to being sued by the injured person or heirs in a direct action as provided in present law.

Proposed law repeals this provision.

Present law (R.S. 32:295.1(E)) provides that the failure to wear a safety belt in violation of present law shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of motor vehicle, and the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence.

Proposed law authorizes the introduction of evidence of failure to wear a safety belt in order to establish both comparative negligence and damages, except when the operator or passenger is under 16 years of age, or when the tortfeasor is operating a motor vehicle while intoxicated.

Proposed law requires that the total damages awarded to the injured person be reduced by 25% if a party proves by a preponderance of the evidence that the injured person failed to wear a safety belt at the time the injury occurred.

Proposed law provides that pursuant to its provisions every motor vehicle insurer authorized to transact business in the state shall make a motor vehicle policy rate filing with the Dept. of Insurance at least once every 12 months for the 36 month period following the effective date of the proposed law and shall reduce rates when actuarially justified.

Proposed law further provides that for policies of personal private passenger automobile insurance issued or renewed one year following the effective date of the proposed law, each insurer shall file with the commissioner of insurance for approval premium rates which actuarially reflect the savings it anticipates as a result of the proposed law, which is presumed to be 10% lower for each impacted coverage, when compared to the premium rates in effect for that coverage on the date of enactment of the proposed law. Also provides that each such insurer shall have the right to request all or partial relief from the presumed roll-back amount of 10% on each impacted coverage, if it can demonstrate to the commissioner of insurance that it has not experienced a sufficient reduction in loss costs to actuarially justify the full amount of presumed savings of 10%.

Proposed law further provides that any filing with premium rates that provide for the 10% reduction or more for each impacted coverage shall be deemed approved, if not disapproved, 30 days after filing. Proposed law also provides that it does not prohibit an increase for any individual insurance policy premium if the increase results from an increase in the risk of loss.

Effective January 1, 2021.

(Amends C.C. Arts. 3492 and 3493.10, C.C.P. Art. 1732(1); R.S. 22:1269(B) and R.S. 32:295.1(E); adds R.S. 9:2800.25; repeals R.S. 22:333(E))