

2020 First Extraordinary Session

HOUSE CONCURRENT RESOLUTION NO. 19

BY REPRESENTATIVE SEABAUGH

CIVIL/ACTIONS: Suspends provisions of law relative to direct actions against insurers
(Item #40)

1 A CONCURRENT RESOLUTION

2 To suspend until sixty days after final adjournment of the 2021 Regular Session of the
3 Legislature of Louisiana R.S. 22:333(E) and 1269(B), relative to the right of direct
4 action against an insurer in certain circumstances.

5 WHEREAS, Article III, Section 20 of the Constitution of Louisiana provides that
6 "only the legislature may suspend a law"; and

7 WHEREAS, R.S. 22:333(E) provides that in procuring a certificate of authority
8 required to transact business in Louisiana, a foreign or alien insurer consents to being sued
9 in a direct action as provided in R.S. 22:1269; and

10 WHEREAS, R.S. 22:1269(B) provides that a suit may be brought directly against the
11 insurer alone in the following circumstances: the insured is bankrupt; the insured is
12 insolvent; service of citation or other process cannot be made on the insured; the cause of
13 action is for damages as a result of an offense or quasi offense between children and their
14 parents or between married persons; the insurer is an uninsured motorist carrier; or the
15 insured is deceased; and

16 WHEREAS, substantial revisions to R.S. 22:333(E) and 1269(B) are required in
17 order to achieve the goals of the Legislature of Louisiana concerning tort reform and
18 lowering motor vehicle insurance premiums; and

19 WHEREAS, the purpose of this Resolution is to allow the Legislature of Louisiana
20 additional opportunity to make necessary revisions to the provisions of R.S. 22:333(E) and
21 1269(B).

1 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends
2 the provisions of R.S. 22:333(E) and 1269(B).

3 BE IT FURTHER RESOLVED that this Resolution shall become effective if, and
4 only if, the Act which originated as House Bill No. 57 of the 2020 First Extraordinary
5 Session is not enacted or is vetoed and fails to become law.

6 BE IT FURTHER RESOLVED that if, and only if, House Bill No. 57 of the 2020
7 First Extraordinary Session is not enacted or is vetoed and fails to become law, this
8 Resolution shall become effective on August 1, 2020, and shall extend through the sixtieth
9 day after final adjournment of the 2021 Regular Session of the Legislature of Louisiana.

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)]

HCR 19 Reengrossed

2020 First Extraordinary Session

Seabaugh

Suspends R.S. 22:333(E) and 1269(B) which provide relative to liability policies and direct actions against an insurer.

Present law (R.S. 22:333(E)) provides that in order to transact business in La., a foreign or alien insurer must obtain a certificate of authority, which requires the insurer to consent to being sued by an injured person or their heirs through direct action for injuries occurring in La., regardless of whether or not the policy itself forbids direct action.

Present law (R.S. 22:1269(B)) 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 direct 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.

Effective on Aug. 1, 2020, if House Bill No. 57 of this 2020 First E.S. is not enacted or is vetoed and fails to become law.

(Suspends R.S. 22:333(E) and 1269(B))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add that this Resolution is effective on Aug. 1, 2020, if House Bill No. 57 of the 2020 First E.S. is not enacted or is vetoed and fails to become law.