

2022 Regular Session

SENATE BILL NO. 128

BY SENATOR TALBOT

INSURANCE POLICIES. Provides for venue for direct actions by third parties against insurers. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 22:1269(B), relative to actions initiated against motor vehicle
3 liability insurers by third parties; to limit the circumstances in which a third party
4 may take direct action against an insurer; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1269(B) is hereby amended and reenacted 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 B.(1) The injured person or his survivors or heirs ~~mentioned~~ **as provided** in
10 Subsection A of this Section, at their option, shall have a right of direct action
11 against the insurer within the terms and limits of the policy; ~~and, such action may be~~
12 ~~brought against the insurer alone, or against both the insured and insurer jointly and~~
13 ~~in solido, in the parish in which the accident or injury occurred or in the parish in~~
14 ~~which an action could be brought against either the insured or the insurer under the~~
15 ~~general rules of venue prescribed by Code of Civil Procedure Art. 42 only; however,~~
16 ~~such action may be brought against the insurer alone only when at least one of the~~
17 following applies:

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

4 (b) The insured is insolvent.

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

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

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

9 (f) The insured is deceased.

10 **(2) This action may be brought against the insurer alone, or against both**
11 **the insured and the insurer jointly and in solido, in the parish in which the**
12 **accident or injury occurred or in the parish in which an action could be brought**
13 **against either the insured or the insurer under the general rules of venue**
14 **prescribed by the Code of Civil Procedure Art. 42 only.**

15 ~~(2)~~**(3)** This right of direct action shall exist whether or not the policy of
16 insurance sued upon was written or delivered in the state of Louisiana and whether
17 or not such policy contains a provision forbidding such direct action, provided the
18 accident or injury occurred within the state of Louisiana. Nothing contained in this
19 Section shall be construed to affect the provisions of the policy or contract if such
20 provisions are not in violation of the laws of this state.

21 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 128 Original 2022 Regular Session Talbot

Present law provides that an injured person or his survivors, at their option, have a right of direct action against the insurer within the terms and limits of the insurance policy.

Present law provides that the action may be brought against the insurer within the terms and limits of the policy or against the insurer alone or 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 prescribed by Code of Civil Procedure Art. 42 only. Provides that the action may be brought against the insurer alone only when at least one of the following applies:

- (a) 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.
- (b) The insured is insolvent.
- (c) Service of citation or other process cannot be made on the insured.
- (d) 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.
- (e) When the insurer is an uninsured motorist carrier.
- (f) The insured is deceased.

Proposed law provides that the action may be brought against the insurer within the terms and limits of the policy only when at least one of the items listed in present law applies.

Proposed law provides that the right of direct 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 prescribed by the Code of Civil Procedure Art. 42 only.

Proposed law otherwise retains present law.

Effective August 1, 2022.

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