

2024 Regular Session

HOUSE BILL NO. 337

BY REPRESENTATIVE MCFARLAND

CIVIL/ACTIONS: Provides relative to direct action against an insurer

1 AN ACT

2 To amend and reenact R.S. 22:1269(B)(1) and (D), relative to direct actions against an
3 insurer; to provide for direct action against the insured; to provide for direct action
4 against the insurer in limited circumstances; to provide for intent; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1269(B)(1) and (D) are hereby amended and reenacted to read as
8 follows:

9 §1269. Liability policy; insolvency or bankruptcy of insured and inability to effect
10 service of citation or other process; direct action against insurer

11 * * *

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

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 337 Original

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McFarland

Abstract: Provides that in direct action cases, an action is filed against the insured first and may be filed against the insurer under limited circumstances.

Present law (R.S. 22:1269(B)(1)) provides that the injured person or his survivors or heirs, at their option, shall have a right of direct action and such action may be brought against the insurer alone or against both the insured and insurer jointly and in solido under the general rules of venue prescribed by C.C.P. Art. 42 only. Such 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 (R.S. 22:1269(B)(1)) provides that the injured person or his survivors or heirs shall have a right of direct action. Such action shall first be filed against the insured. If the action cannot proceed due to any of the following circumstances, the action may be brought directly against the insurer.

- (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 has been attempted unsuccessfully.
- (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.
- (7) When the insurer is defending the lawsuit under a reservation of rights, or the insurer denies coverage to the insured.

Present law provides that it is the intent of present law that all liability policies within their terms and limits are executed for the benefit of all injured persons and their survivors or

heirs to whom the insured is liable; and, that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insured or additional insureds under the omnibus clause, for any legal liability the insured may have as or for a tortfeasor within the terms and limits of the policy.

Proposed law removes present law and provides that the purpose of all liability policies is to provide protection and coverage to all insured whether the insured is a named insured or an additional insured under the omnibus clause, for all legal liability the insured may have within the terms and limits of the policy.

(Amends R.S. 22:1269(B)(1) and (D))