

2015 Regular Session

SENATE BILL NO. 206

BY SENATOR NEVERS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL PROCEDURE. Provides the option of a right of direct action against the insurer alone when the insured is a small business employing fifty or fewer full-time employees. (8/1/15)

1 AN ACT

2 To amend and reenact R.S. 22:1269(B)(1), relative to civil actions against insurers; to

3 provide relative to direct action against an insurer alone under certain circumstances;

4 to authorize direct action relative to certain small businesses; to provide certain

5 terms, conditions, and procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

8 §1269. Liability policy; insolvency or bankruptcy of insured and inability to effect

9 service of citation or other process; direct action against insurer

10 * * *

11 B.(1) The injured person or his survivors or heirs mentioned in Subsection

12 A of this Section, at their option, shall have a right of direct action against the insurer

13 within the terms and limits of the policy; and, such action may be brought against the

14 insurer alone, or against both the insured and insurer jointly and in solido, in the

15 parish in which the accident or injury occurred or in the parish in which an action

16 could be brought against either the insured or the insurer under the general rules of

17 venue prescribed by Code of Civil Procedure Art. 42 only; however, such action may

1 be brought against the insurer alone only when at least one of the following applies:

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

5 (b) The insured is insolvent.

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

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

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

10 (f) The insured is deceased.

11 **(g) The insured is a small business employing fifty or fewer full-time**
12 **employees.**

13 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

SB 206 Original

2015 Regular Session

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Present law provides that no policy or contract of liability insurance shall be issued or delivered in this state, unless it contains provisions to the effect that the insolvency or bankruptcy of the insured shall not release the insurer from the payment of damages for injuries sustained or loss occasioned during the existence of the policy, and any judgment which may be rendered against the insured for which the insurer is liable which shall have become executory, shall be deemed prima facie evidence of the insolvency of the insured, and an action may thereafter be maintained within the terms and limits of the policy by the injured person, or his survivors, mentioned in Civil Code Art. 2315.1, or heirs against the insurer.

Present law further provides that the injured person or his survivors or heirs mentioned in present law, at their option, shall have a right of direct action against the insurer within the terms and limits of the policy; and, such action may be brought against the insurer alone, or against both the insured and 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; however, 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 retains present law and adds that an additional instance in which such action may be brought against the insurer alone shall be when the insured is a small business employing 50 or fewer full-time employees.

Effective August 1, 2015.

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