

2021 Regular Session

HOUSE BILL NO. 262

BY REPRESENTATIVE SEABAUGH

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

INSURANCE/LIABILITY: Provides relative to venue for direct actions by third parties against insurers

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; to provide for venue; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1269(B) 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 as provided in~~
12 Subsection A of this Section, at their option, shall have a right of direct action
13 against the insurer within the terms and limits of the policy; ~~and, such action may be~~
14 ~~brought against the insurer alone, or against both the insured and insurer jointly and~~
15 ~~in solido, in the parish in which the accident or injury occurred or in the parish in~~
16 ~~which an action could be brought against either the insured or the insurer under the~~
17 ~~general rules of venue prescribed by Code of Civil Procedure Art. 42 only; however,~~
18 ~~such action may be brought against the insurer alone only when at least one of the~~
19 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
7 quasi-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) Such action may be brought against the insurer alone, or against both the
11 insured and the insurer jointly and in solido, in the parish in which the accident or
12 injury occurred or in the parish in which an action could be brought against either the
13 insured or the insurer under the general rules of venue prescribed by Code of Civil
14 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 * * *

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 262 Original

2021 Regular Session

Seabaugh

Abstract: Restructures venue provisions for direct actions of third parties against insurers.

Present law (R.S. 22:1269) provides that an injured third party has the right to take direct legal action against the insurer if that right is provided within the terms and limits of the policy. The third party has the right to sue both the insurer and the insured jointly and in solido, or he may sue the insurer alone if at least one of the following circumstances apply:

- (1) The insured has been adjudged bankrupt or bankruptcy proceedings have commenced in 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 as a result of an offense or quasi offense between children and their parents or between married persons.
- (5) The insurer is an uninsured motorist carrier.
- (6) The insured is deceased.

Present law (R.S. 22:1269) provides that direct actions may be brought against the insurer alone or against both the insured and insurer jointly in the parish in which the accident or injury occurred or in the rules prescribed by C.C.P. Art. 42 for either the insured or insurer.

Present law (C.C.P. Art. 42) provides for the general rules of venue:

- (1) For individuals domiciled or residing in Louisiana, in the parish of domicile or residence.
- (2) For domestic corporations, insurers, or limited liability companies, in the parish of registered office.
- (3) For domestic partnerships or unincorporated associations, in the parish where the principal business establishment is located.
- (4) For foreign corporations or foreign limited liability companies licensed to do business in Louisiana, in the parish of principal business establishment or, if no principal business establishment, in the parish of the primary place of business.
- (5) For foreign corporations or foreign limited liability companies not licensed to do business in Louisiana or a nonresident who has not appointed an agent for service of process, other than a foreign or alien insurer, in the parish of plaintiff's domicile or parish where defendant is served.
- (6) For nonresidents other than foreign corporations or foreign or alien insurers, who has a service of process agent, in the parish of the agent for service of process.
- (7) For foreign or alien insurers, in East Baton Rouge Parish.

Proposed law retains present law but moves the venue provisions for direct actions by third parties against insurers or the insured and insurer jointly and in solido into a subsequent paragraph.

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