
DIGEST

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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))