

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1376

By: Mazzei

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6 AS INTRODUCED

7 An Act relating to insurance policies; adding  
8 requirement that liability insurance policies or  
9 contracts contain certain provision; giving injured  
10 persons the right of direct action against an  
insurer; specifying procedure and conditions; stating  
intent; providing for codification; and providing an  
effective date.

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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 7-204.1 of Title 47, unless  
16 there is created a duplication in numbering, reads as follows:

17 A. No policy or contract of liability insurance shall be issued  
18 or delivered in this state, unless it contains provisions to the  
19 effect that the insolvency or bankruptcy of the insured shall not  
20 release the insurer from the payment of damages for injuries  
21 sustained or loss occasioned during the existence of the policy.

22 Upon the rendition of any judgment against the insured for which the  
23 insurer is liable, an action may thereafter be maintained within the  
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1 terms and limits of the policy by the injured person, or his or her  
2 survivors, or heirs against the insurer.

3 B. 1. The injured person or his or her survivors or heirs  
4 mentioned in subsection A of this section, at their option, shall  
5 have a right of direct action against the insurer within the terms  
6 and limits of the policy. This action may be brought against the  
7 insurer alone, or against both the insured and insurer jointly, in  
8 the county in which the accident or injury occurred or in any other  
9 county in which an action could be brought against either the  
10 insured or the insurer under the general rules of venue prescribed  
11 by Chapter 5 of Title 12 of the Oklahoma Statutes only. This action  
12 may be brought against the insurer alone when at least one of the  
13 following applies:

- 14 a. the insured has been adjudged bankrupt by a court of  
15 competent jurisdiction or when proceedings to adjudge  
16 an insured bankrupt have been commenced before a court  
17 of competent jurisdiction,
- 18 b. the insured is insolvent,
- 19 c. service of process cannot be made on the insured,
- 20 d. the insured is an uninsured motorist carrier, and
- 21 e. the insured is deceased.

22 2. If the accident or injury occurred within this state, this  
23 right of direct action shall exist whether or not the policy of  
24 insurance sued upon was written or delivered in this state and

1 whether or not such policy contains a provision forbidding such  
2 direct action. Nothing contained in this section shall be construed  
3 to affect the provisions of the policy or contract if the provisions  
4 are not in violation of the laws of this state.

5 C. It is the intent of this section that any action brought  
6 under the provisions of this section shall be subject to all of the  
7 lawful conditions of the policy or contract and the defenses which  
8 could be urged by the insurer to a direct action brought by the  
9 insured if the terms and conditions of the policy or contract are  
10 not in violation of the laws of this state.

11 D. It is also the intent of this section that all liability  
12 policies within their terms and limits are executed for the benefit  
13 of all injured persons and their survivors or heirs to whom the  
14 injured is liable and that it is the purpose of all liability  
15 policies to give protection and coverage to all insureds, whether  
16 they are named insured or additional insured under the omnibus  
17 clause, for any legal liability the insured may have as or for a  
18 tortfeasor within the terms and limits of the policy.

19 SECTION 2. This act shall become effective November 1, 2012.

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