



Senate Bill 426: What You Need to Know

On March 18, 2024, the Georgia General Assembly passed Senate Bill 426, which amends O.C.G.A. § 40-1-112 and O.C.G.A. § 40-2-140 and limits the circumstances under which a plaintiff can assert a direct action against the insurer of a motor carrier. It has been signed by the Governor.

O.C.G.A. § 40-1-112 and O.C.G.A. § 40-2-140 permit direct actions against the insurers of motor carriers for any claim in tort or contract. As worded, the current version of these statutes permits a plaintiff with a tort or contract claim against a motor carrier to assert a claim against the insurance carrier, without even naming the insured motor carrier or insured driver as a defendant. However, with the enactment of SB 426, a claim can only be asserted against the insurer of a motor carrier when the motor carrier is insolvent or bankrupt or when service cannot be obtained against the driver or motor carrier.

If the motor carrier is insolvent or bankrupt or if service cannot be obtained against the driver or motor carrier, then the insurance carrier may be joined in the action as a matter of right, without motion or order of the court. The plaintiff only needs to file an amended complaint joining the insurance carrier, and the amended complaint will relate back to the date of filing of the original pleading.

The amended statute goes into effect on July 1, 2024, and applies to causes of action accruing after July 1, 2024. Therefore, plaintiffs will still be able to assert direct action claims against the insurers of motor carriers until June 30, 2026, for tort claims, and possibly longer if there are any tolling provisions extending the statute of limitations, and until June 30, 2030, for contract claims.

The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.

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s/c