S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 24, 2012

Introduced by M. of A. MORELLE, LUPARDO, BARCLAY, GRAF, COOK, CYMBROWITZ, PRETLOW, P. RIVERA, MAGNARELLI, SCARBOROUGH, MILLMAN, BENEDETTO, MARKEY, TITONE, MAISEL, ZEBROWSKI, ROBERTS, WEPRIN, BRINDISI, CASTRO -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, CLARK, GIBSON, GOTTFRIED, MAGEE, THIELE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to limits on certain supplementary insurance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 2 of subsection (f) of section 3420 of the insurance law, as separately amended by chapters 547 and 568 of the laws of 1997, is amended to read as follows:

(2) (A) Any such policy shall[, at the option of the insured, also] provide supplementary uninsured/underinsured motorists insurance for bodily injury[, in an amount up to] IN THE SAME AMOUNT AS the bodily injury liability insurance limits of coverage provided under such policy[, subject to a maximum of two hundred fifty thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to five hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, or a combined single limit policy of five hundred thousand dollars because of bodily injury to or death of one or more persons in any one accident. Provided however, an insurer issuing such policy, in lieu of offering to the insured the coverages stated above, may provide supplementary uninsured/underinsured motorists insurance for bodily injury, in an amount up to the bodily injury liability insurance limits of coverage provided under such policy, subject to a maximum of one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, or a combined single limit policy of three hundred thousand dollars because of bodily injury to or death of one or more persons in any one accident, if such insurer also

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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makes available a personal umbrella policy with liability coverage limits up to at least five hundred thousand dollars which also provides coverage for supplementary uninsured/underinsured motorists claims]. THE COVERAGE REQUIRED UNDER THIS PARAGRAPH IS NOT APPLICABLE WHEN, OR TO THE EXTENT THAT, AN INSURED NAMED IN THE POLICY MAKES A WRITTEN REJECTION OF THE COVERAGE ON BEHALF OF ALL INSUREDS UNDER THE POLICY, PROVIDED HOWEVER, THAT IN NO EVENT SHALL COVERAGE REQUIRED UNDER THIS SECTION BE LESS THAN THE STATUTORY MINIMUM BODILY INJURY LIABILITY INSURANCE LIMITS. Supplementary uninsured/underinsured motorists insurance shall provide coverage, in any state or Canadian province, if the limits of liability under all bodily injury liability bonds and insurance policies of [another] ANY OTHER motor vehicle liable for damages are in a lesser amount than the bodily injury liability insurance limits of coverage provided by such policy. Upon written request by any insured covered by supplemental uninsured/underinsured motorists insurance or his duly authorized representative and upon disclosure by the insured of the insured's bodily injury and supplemental uninsured/underinsured motorists insurance coverage limits, the insurer of any other owner or operator of another motor vehicle against which a claim has been made for damages to the insured shall disclose, within forty-five days of the request, the bodily injury liability insurance limits of its coverage provided under the policy or all bodily injury liability bonds. The time of the insured to make any supplementary uninsured/underinsured motorist claim, shall be tolled during the period the insurer of any other owner or operator of another motor vehicle that may be liable for damages to the insured, fails to so disclose its coverage. As a condition precedent to the obligation of the insurer to pay under the supplementary uninsured/underinsured motorists insurance coverage, the limits of liability of [all] bodily injury liability bonds or insurance policies applicable at the time of the accident shall be exhausted by payment of judgments or settlements.

(B) [In addition to the notice provided, upon issuance of a policy of motor vehicle liability insurance pursuant to regulations promulgated by the superintendent, insurers shall notify insureds, in writing, of the availability of supplementary uninsured/underinsured motorists coverage. Such notification shall contain an explanation of supplementary uninsured/underinsured motorists coverage and the amounts in which it can be purchased. Subsequently, a notification of availability shall be provided at least once a year and may be simplified pursuant to regulations promulgated by the superintendent, but must include a concise statement that supplementary uninsured/underinsured motorists coverage is available, an explanation of such coverage, and the coverage limits that can be purchased from the insurer.] THE REJECTION OR SELECTION OF LOWER SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE SHALL BE MADE ON A FORM APPROVED BY THE SUPERINTENDENT AND FURNISHED TO THE INSURED AT THE TIME THE POLICY IS SOLD, PURCHASED, NEGOTIATED AND/OR RENEWED. THE FORM SHALL FULLY ADVISE THE INSURED OF THE NATURE OF THE COVERAGE AND SHALL STATE THAT THE COVERAGE IS EQUAL TO BODILY INJURY LIABILITY LIMITS UNLESS LOWER LIMITS ARE REQUESTED OR THE COVERAGE IS REJECTED. THE FORM SHALL SET FORTH THE DIFFERENCE IN PREMIUMS TO BE PAID SHOULD THE INSURED CHOOSE TO ACCEPT OR REJECT HIGHER SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE. THE HEADING OF THE FORM SHALL BE IN 12-POINT BOLD TYPE AND SHALL STATE: "YOU ARE ELECTING NOT TO PURCHASE CERTAIN VALUABLE COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY OR YOU ARE PURCHASING UNINSURED MOTORIST LIMITS LESS THAN YOUR BODILY INJURY LIABILITY LIMITS WHEN YOU SIGN THIS FORM. PLEASE READ CAREFULLY

BEFORE REJECTING HIGHER LIMITS, BY DOING SO YOU ARE PROVIDING LESS PROTECTION FOR YOURSELF AND YOUR FAMILY THAN YOU ARE FOR THE PUBLIC AT LARGE." IF THIS FORM IS SIGNED BY A NAMED INSURED, IT WILL BE CONCLUSIVELY PRESUMED THAT THERE WAS AN INFORMED, KNOWING REJECTION OF COVERAGE OR ELECTION OF LOWER LIMITS ON BEHALF OF ALL INSUREDS. THE INSURER SHALL NOTIFY THE NAMED INSURED AT LEAST ANNUALLY OF HER OR HIS OPTIONS AS TO THE COVERAGE REQUIRED BY THIS PARAGRAPH. SUCH NOTICE SHALL BE PART OF, AND ATTACHED TO, THE NOTICE OF PREMIUM, SHALL PROVIDE FOR A MEANS TO ALLOW THE INSURED TO REQUEST SUCH COVERAGE, AND SHALL BE GIVEN IN A MANNER APPROVED BY THE SUPERINTENDENT. IF THE INSURED HAS REJECTED COVERAGE UNDER THIS PARAGRAPH OR HAS SELECTED LOWER LIMITS, THE NOTICE OF PREMIUM SHALL CLEARLY INDICATE THE LEVEL OF COVERAGE ACCEPTED. RECEIPT OF THIS NOTICE DOES NOT CONSTITUTE AN AFFIRMATIVE WAIVER OF THE INSURED'S RIGHT TO UNINSURED MOTORIST COVERAGE WHERE THE INSURED HAS NOT SIGNED A SELECTION OR REJECTION FORM.

S 2. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to insurance policies and contracts issued, entered into or renewed on and after such effective date.