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

10533

I N A S S E M B L Y

June 4, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Morelle) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to certain motor vehicle insurance reparations

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

Section 1. Paragraph 3 of subsection (b) of section 5103 of the insurance law is amended to read as follows:

(3) Is injured while he is: (i) committing an act which would constitute a felony, or seeking to avoid lawful apprehension or arrest by a law enforcement officer, or (ii) operating a motor vehicle in a race or speed test, or (iii) operating or occupying a motor vehicle known to him to be stolen, or (iv) operating or occupying any motor vehicle owned by such injured person with respect to which the coverage required by subsection (a) hereof is not in effect, or (v) a pedestrian, through being struck by any motor vehicle owned by such injured pedestrian with respect to which the coverage required by subsection (a) hereof is not in effect, [or] (vi) repairing, servicing or otherwise maintaining a motor vehicle if such conduct is within the course of a business of repairing, servicing or otherwise maintaining a motor vehicle and the injury occurs on the business premises, OR (VII) A NON-PERMISSIVE DRIVER OF A RENTAL VEHICLE AS THAT TERM IS DEFINED IN SECTION ONE HUNDRED THIRTY-SEVEN-A OF THE VEHICLE AND TRAFFIC LAW.

S 2. Section 5103 of the insurance law is amended by adding a new subsection (i) to read as follows:

(I) (1) IN ANY ACTION BY OR ON BEHALF OF A COVERED PERSON, UPON A SHOWING BY THE INSURER THAT SUCH ACTION ALSO INVOLVES: (I) THREE OR MORE OCCUPANTS OF A RENTAL VEHICLE OTHERWISE ENTITLED TO FIRST PARTY BENEFITS WHO ARE NOT RELATED BY BLOOD, ADOPTION, MARRIAGE OR BY OTHER SUPPORT, AS SHOWN BY EITHER UNILATERAL DEPENDENCE OR MUTUAL INTERDEPENDENCE, AS EVIDENCED BY A NEXUS OF FACTORS; AND (II) THE OPERATOR OF THE VEHICLE IS NOT AN AUTHORIZED DRIVER OF SUCH VEHICLE PURSUANT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-SIX-Z OF THE GENERAL BUSINESS LAW, THERE SHALL BE A TOLLING OF

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

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THE INSURER'S OBLIGATION TO PAY SUCH BENEFITS WITHIN THIRTY DAYS AFTER THE CLAIMANT SUPPLIES PROOF OF THE FACT AND AMOUNT OF LOSS SUSTAINED PURSUANT TO THE PROVISIONS OF SUBSECTION (A) OF SECTION FIVE THOUSAND ONE HUNDRED SIX OF THIS ARTICLE, FOR THE PURPOSES OF PROVIDING THE INSURER THE OPPORTUNITY TO INVESTIGATE THE VALIDITY OF THE CLAIM.

(2) UPON THE WRITTEN DOCUMENTATION OF EVIDENCE SUBMITTED TO THE DEPARTMENT BY THE INSURER DEMONSTRATING THE PRESENCE OF THE FACTS PRESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION, THE INSURER SHALL BE PROVIDED WITH AN ADDITIONAL NINETY DAYS TO SUBSTANTIATE ITS CLAIM TO THE DEPARTMENT FOR DENIAL PRIOR TO ANY PAYMENT OF A CLAIM.

S 3. Subsection (a) of section 5106 of the insurance law is amended to read as follows:

(a) Payments of first party benefits and additional first party benefits shall be made as the loss is incurred. Such benefits are overdue if not paid within thirty days after the claimant supplies proof of the fact and amount of loss sustained, EXCEPT WHERE THE PERIOD IS OTHERWISE TOLLED PURSUANT TO THE PROVISIONS OF SUBSECTION (I) OF SECTION FIVE THOUSAND ONE HUNDRED THREE OF THIS ARTICLE, IN WHICH CASE THE INSURER MUST EITHER ISSUE A DENIAL OR PAY THE CLAIM WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLAIMANT INITIALLY SUPPLIES PROOF OF THE FACT AND AMOUNT OF LOSS SUSTAINED. If proof is not supplied as to the entire claim, the amount which is supported by proof is overdue if not paid within thirty days after such proof is supplied. All overdue payments shall bear interest at the rate of two percent per month. If a valid claim or portion was overdue, the claimant shall also be entitled to recover his attorney's reasonable fee, for services necessarily performed in connection with securing payment of the overdue claim, subject to limitations promulgated by the superintendent in regulations.

S 4. This act shall take effect immediately.