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

5606

2013-2014 Regular Sessions

I N S E N A T E

May 24, 2013

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed 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 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 makes available a personal umbrella policy with liability coverage limits up to at least

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

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five hundred thousand dollars which also provides coverage for supplementary uninsured/underinsured motorists claims]. 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.] (I) AT THE TIME SUCH POLICY IS SOLD, PURCHASED AND/OR NEGOTIATED THE INSURED SHALL BE PROVIDED WITH A FORM THAT SHALL BE IN 12-POINT BOLD TYPE AND SHALL STATE: "SUM INSURANCE PROTECTS ANY INSURED UNDER THE POLICY IF THEY ARE INJURED IN AN ACCIDENT CAUSED BY A DRIVER WHO HAS NO INSURANCE OR LESS INSURANCE THAN YOU CARRY. SUM COVERAGE MAY BE PURCHASED AT LIMITS UP TO THE LEVEL OF THE BODILY INJURY LIABILITY COVERAGE OF THE POLICY. POLICYHOLDERS ARE URGED TO CAREFULLY CONSIDER THIS IN DETERMINING THE LEVEL OF SUM COVERAGE TO PURCHASE." ON THE SAME PAGE AS THE ABOVE PARAGRAPH THE INSURED SHALL BE GIVEN THE OPTION TO EITHER: (1) PURCHASE SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE IN THE SAME AMOUNT AS THE BODILY INJURY LIABILITY INSURANCE LIMITS OF COVERAGE PROVIDED UNDER SUCH POLICY; (2) PURCHASE SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE IN AN AMOUNT LESS THAN THE BODILY INJURY LIABILITY INSURANCE LIMITS OF COVERAGE PROVIDED UNDER SUCH POLICY; OR (3) PURCHASE MANDATORY MINIMUM UNINSURED MOTORIST INSURANCE ONLY. THE INSURED SHALL ALSO BE PROVIDED WITH THE APPLICABLE PREMIUM FOR EACH OPTION. IF THE REJECTION OR SELECTION OF SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE IS MADE VERBALLY, THE INSURER OR THEIR AGENT SHALL READ THE IDENTICAL OR SUBSTANTIALLY SIMILAR LANGUAGE AS IS IN THE ABOVE SELECTION OR REJECTION

FORM AND CONFIRM THE CLIENT HAS HEARD AND UNDERSTOOD THE SAME, AND SHALL RESTATE THE ABOVE INFORMATION AS OFTEN AS IS NECESSARY UNTIL THE INSURED HAS VERBALLY CONFIRMED THAT THEY FULLY UNDERSTAND THE SAME. THE NAMED INSURED'S REJECTION OR SELECTION OF SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE MUST BE MEMORIALIZED BY THE INSURER THROUGH A SIGNED WRITING, AUDIO RECORDING, ELECTRONIC SIGNATURE OR ANY OTHER MEANS EVIDENCING THE INSURED'S REJECTION OR SELECTION OF SUCH COVERAGE. UNLESS THE INSURER HAS PROOF THAT THE INSURED WAS PRESENTED WITH THE ABOVE FORM AND THAT SUCH COVERAGE WAS REJECTED OR SELECTED, AT THE TIME THE INSURED MAKES A CLAIM SEEKING SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE COVERAGE THE INSURED'S POLICY WILL BE READ TO INCLUDE SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE AT LIMITS EQUAL TO THE BODILY INJURY LIABILITY INSURANCE COVERAGE LIMITS OF THE INSURED'S POLICY.

(II) THE INSURER SHALL NOTIFY THE NAMED INSURED AT LEAST ANNUALLY OF HER OF HIS OPTIONS AS TO THE COVERAGE REQUIRED BY THIS PARAGRAPH PURSUANT TO REGULATIONS ISSUED BY THE SUPERINTENDENT, IF ANY, AT THE TIME OF OR WITHIN SIXTY DAYS PRIOR TO THE RENEWAL OF THE POLICY. THE LIMITS OF SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE COVERAGE SELECTED BY THE INSURED SHALL REMAIN EFFECTIVE UPON POLICY AMENDMENT OR RENEWAL, UNLESS THE INSURED REQUESTS AN AMENDMENT OF SUCH COVERAGE BY SO NOTING ON AN IDENTICAL FORM AS SET FORTH IN CLAUSE (I) OF THIS SUBPARAGRAPH AND IN ACCORDANCE WITH THE TERMS OF THIS SECTION. RECEIPT OF THIS NOTICE DOES NOT CONSTITUTE AN AFFIRMATIVE WAIVER OF THE INSURED'S RIGHT TO UNINSURED MOTORIST COVERAGE OR INDICATE THE SELECTION OF ANY AMOUNT OF SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE WHERE THE INSURED HAS NOT SIGNED A SELECTION OR REJECTION FORM.

(III) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS PERTAINING TO SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE COVERAGE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, REGARDING THE FORM AND CONTENT OF THE NOTICES REQUIRED BY CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH INCLUDING A CONCISE STATEMENT OF THE AVAILABILITY OF COVERAGE, AND AN EXPLANATION OF THE COVERAGE, INCLUDING SPECIFIC EXAMPLES OF ITS USAGE.

S 2. This act shall take effect on the one hundred eightieth 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.