

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:

1 Section 1. Paragraph 2 of subsection (f) of section 3420 of the insur-
2 ance law, as separately amended by chapters 547 and 568 of the laws of
3 1997, is amended to read as follows:
4 (2) (A) Any such policy shall, at the option of the insured, also
5 provide supplementary uninsured/underinsured motorists insurance for
6 bodily injury, in an amount up to the bodily injury liability insurance
7 limits of coverage provided under such policy[, subject to a maximum of
8 two hundred fifty thousand dollars because of bodily injury to or death
9 of one person in any one accident and, subject to such limit for one
10 person, up to five hundred thousand dollars because of bodily injury to
11 or death of two or more persons in any one accident, or a combined
12 single limit policy of five hundred thousand dollars because of bodily
13 injury to or death of one or more persons in any one accident. Provided
14 however, an insurer issuing such policy, in lieu of offering to the
15 insured the coverages stated above, may provide supplementary
16 uninsured/underinsured motorists insurance for bodily injury, in an
17 amount up to the bodily injury liability insurance limits of coverage
18 provided under such policy, subject to a maximum of one hundred thousand
19 dollars because of bodily injury to or death of one person in any one
20 accident and, subject to such limit for one person, up to three hundred
21 thousand dollars because of bodily injury to or death of two or more
22 persons in any one accident, or a combined single limit policy of three
23 hundred thousand dollars because of bodily injury to or death of one or
24 more persons in any one accident, if such insurer also makes available a
25 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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1 five hundred thousand dollars which also provides coverage for supple-
2 mentary uninsured/underinsured motorists claims]. Supplementary
3 uninsured/underinsured motorists insurance shall provide coverage, in
4 any state or Canadian province, if the limits of liability under all
5 bodily injury liability bonds and insurance policies of [another] ANY
6 OTHER motor vehicle liable for damages are in a lesser amount than the
7 bodily injury liability insurance limits of coverage provided by such
8 policy. Upon written request by any insured covered by supplemental
9 uninsured/underinsured motorists insurance or his duly authorized repre-
10 sentative and upon disclosure by the insured of the insured's bodily
11 injury and supplemental uninsured/underinsured motorists insurance
12 coverage limits, the insurer of any other owner or operator of another
13 motor vehicle against which a claim has been made for damages to the
14 insured shall disclose, within forty-five days of the request, the bodi-
15 ly injury liability insurance limits of its coverage provided under the
16 policy or all bodily injury liability bonds. The time of the insured to
17 make any supplementary uninsured/underinsured motorist claim, shall be
18 tolled during the period the insurer of any other owner or operator of
19 another motor vehicle that may be liable for damages to the insured,
20 fails to so disclose its coverage. As a condition precedent to the obli-
21 gation of the insurer to pay under the supplementary
22 uninsured/underinsured motorists insurance coverage, the limits of
23 liability of all bodily injury liability bonds or insurance policies
24 applicable at the time of the accident shall be exhausted by payment of
25 judgments or settlements.

26 (B) [In addition to the notice provided, upon issuance of a policy of
27 motor vehicle liability insurance pursuant to regulations promulgated by
28 the superintendent, insurers shall notify insureds, in writing, of the
29 availability of supplementary uninsured/underinsured motorists coverage.
30 Such notification shall contain an explanation of supplementary
31 uninsured/underinsured motorists coverage and the amounts in which it
32 can be purchased. Subsequently, a notification of availability shall be
33 provided at least once a year and may be simplified pursuant to regu-
34 lations promulgated by the superintendent, but must include a concise
35 statement that supplementary uninsured/underinsured motorists coverage
36 is available, an explanation of such coverage, and the coverage limits
37 that can be purchased from the insurer.] (I) AT THE TIME SUCH POLICY IS
38 SOLD, PURCHASED AND/OR NEGOTIATED THE INSURED SHALL BE PROVIDED WITH A
39 FORM THAT SHALL BE IN 12-POINT BOLD TYPE AND SHALL STATE: "SUM INSURANCE
40 PROTECTS ANY INSURED UNDER THE POLICY IF THEY ARE INJURED IN AN ACCIDENT
41 CAUSED BY A DRIVER WHO HAS NO INSURANCE OR LESS INSURANCE THAN YOU
42 CARRY. SUM COVERAGE MAY BE PURCHASED AT LIMITS UP TO THE LEVEL OF THE
43 BODILY INJURY LIABILITY COVERAGE OF THE POLICY. POLICYHOLDERS ARE URGED
44 TO CAREFULLY CONSIDER THIS IN DETERMINING THE LEVEL OF SUM COVERAGE TO
45 PURCHASE." ON THE SAME PAGE AS THE ABOVE PARAGRAPH THE INSURED SHALL BE
46 GIVEN THE OPTION TO EITHER: (1) PURCHASE SUPPLEMENTARY
47 UNINSURED/UNDERINSURED MOTORISTS INSURANCE IN THE SAME AMOUNT AS THE
48 BODILY INJURY LIABILITY INSURANCE LIMITS OF COVERAGE PROVIDED UNDER SUCH
49 POLICY; (2) PURCHASE SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS
50 INSURANCE IN AN AMOUNT LESS THAN THE BODILY INJURY LIABILITY INSURANCE
51 LIMITS OF COVERAGE PROVIDED UNDER SUCH POLICY; OR (3) PURCHASE MANDATORY
52 MINIMUM UNINSURED MOTORIST INSURANCE ONLY. THE INSURED SHALL ALSO BE
53 PROVIDED WITH THE APPLICABLE PREMIUM FOR EACH OPTION. IF THE REJECTION
54 OR SELECTION OF SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE
55 IS MADE VERBALLY, THE INSURER OR THEIR AGENT SHALL READ THE IDENTICAL OR
56 SUBSTANTIALLY SIMILAR LANGUAGE AS IS IN THE ABOVE SELECTION OR REJECTION

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

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

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

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