

5606

2013-2014 Regular Sessions

I N   S E N A T E

May 24, 2013

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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 insurance law, as separately amended by chapters 547 and 568 of the laws of 1997, is amended to read as follows:  
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3     (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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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.