

3121

2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. MORELLE, PEOPLES-STOKES, ZEBROWSKI, STIRPE, HOOPER, WEPRIN, MOSLEY, ARROYO, ROSENTHAL -- Multi-Sponsored by -- M. of A. GRAF -- 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:

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
2 1997, is amended to read as follows:
3 (2) (A) Any such policy shall, at the option of the insured, also
4 provide supplementary uninsured/underinsured motorists insurance for
5 bodily injury, in an amount up to the bodily injury liability insurance
6 limits of coverage provided under such policy[, subject to a maximum of
7 two hundred fifty thousand dollars because of bodily injury to or death
8 of one person in any one accident and, subject to such limit for one
9 person, up to five hundred thousand dollars because of bodily injury to
10 or death of two or more persons in any one accident, or a combined
11 single limit policy of five hundred thousand dollars because of bodily
12 injury to or death of one or more persons in any one accident. Provided
13 however, an insurer issuing such policy, in lieu of offering to the
14 insured the coverages stated above, may provide supplementary
15 uninsured/underinsured motorists insurance for bodily injury, in an
16 amount up to the bodily injury liability insurance limits of coverage
17 provided under such policy, subject to a maximum of one hundred thousand
18 dollars because of bodily injury to or death of one person in any one
19 accident and, subject to such limit for one person, up to three hundred
20 thousand dollars because of bodily injury to or death of two or more
21 persons in any one accident, or a combined single limit policy of three
22 hundred thousand dollars because of bodily injury to or death of one or
23 more persons in any one accident, if such insurer also makes available a
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 personal umbrella policy with liability coverage limits up to at least
2 five hundred thousand dollars which also provides coverage for supple-
3 mentary uninsured/underinsured motorists claims]. Supplementary
4 uninsured/underinsured motorists insurance shall provide coverage, in
5 any state or Canadian province, if the limits of liability under all
6 bodily injury liability bonds and insurance policies of [another] ANY
7 OTHER motor vehicle liable for damages are in a lesser amount than the
8 bodily injury liability insurance limits of coverage provided by such
9 policy. Upon written request by any insured covered by supplemental
10 uninsured/underinsured motorists insurance or his duly authorized repre-
11 sentative and upon disclosure by the insured of the insured's bodily
12 injury and supplemental uninsured/underinsured motorists insurance
13 coverage limits, the insurer of any other owner or operator of another
14 motor vehicle against which a claim has been made for damages to the
15 insured shall disclose, within forty-five days of the request, the bodi-
16 ly injury liability insurance limits of its coverage provided under the
17 policy or all bodily injury liability bonds. The time of the insured to
18 make any supplementary uninsured/underinsured motorist claim, shall be
19 tolled during the period the insurer of any other owner or operator of
20 another motor vehicle that may be liable for damages to the insured,
21 fails to so disclose its coverage. As a condition precedent to the obli-
22 gation of the insurer to pay under the supplementary
23 uninsured/underinsured motorists insurance coverage, the limits of
24 liability of all bodily injury liability bonds or insurance policies
25 applicable at the time of the accident shall be exhausted by payment of
26 judgments or settlements.

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

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

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

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

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