STATE OF NEW YORK

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Introduced by M. of A. MORELLE, PEOPLES-STOKES, ZEBROWSKI, STIRPE, HOOPER, WEPRIN, MOSLEY, ARROYO, ROSENTHAL, SKOUFIS, LIFTON, BRINDISI, BRONSON, AUBRY, M. G. MILLER, JENNE, LUPARDO, WALKER, GALEF, PAULIN, SANTABARBARA -- Multi-Sponsored by -- M. of A. GRAF, LUPINACCI, RAIA -- read once and referred to the Committee on Insurance -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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~~

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

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~~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 five hundred thousand dollars which also provides coverage for supplementary uninsured/underinsured motorists claims~~]; provided, however, that any insured may exercise the choice to decline such supplementary uninsured/underinsured motorists insurance or select a lower amount of coverage through a written waiver signed, or electronically signed, by such insured, subject to the requirements of subparagraph (B) of this paragraph. 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.~~] The selection of lower supplementary uninsured/underinsured motorists coverage or rejection of such coverage must be made on a written or electronic form provided to the insured at the time the policy is sold, purchased or negotiated. Such form shall advise the insured of the amount of the premium attributed to supplementary uninsured/underinsured motorists coverage as required by this paragraph. Such form shall also advise that such coverage is equal to the insured's bodily injury liability limits unless lower limits are requested or the coverage is rejected.

(i) The form shall be in at least 12-point bold type and shall state: "SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE (SUM COVERAGE)

PROVIDES INSURANCE PROTECTION FOR ANY PERSON INCLUDED AS INSURED UNDER YOUR POLICY IF HE OR SHE IS INJURED IN AN ACCIDENT INVOLVING ANOTHER MOTOR VEHICLE WHOSE OWNER OR OPERATOR WAS NEGLIGENT BUT WHO HAS EITHER NO BODILY INJURY OR LIABILITY INSURANCE, OR LESS THAN THE INSURANCE YOU CARRY. SUM COVERAGE SHALL BE EQUAL TO THE LEVEL OF THE BODILY INJURY LIABILITY COVERAGE OF YOUR POLICY UNLESS YOU SIGN A WAIVER REQUESTING LOWER COVERAGE OR DECLINING THE COVERAGE. YOU ARE URGED TO CAREFULLY CONSIDER THIS DECISION."

(ii) If an insured rejects such coverage or selects coverage at a lower limit, the insurer shall notify the named insured at least annually of his or her 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, or at least annually for multi-year policies. Receipt of such notice does not constitute an affirmative waiver of the insured's right to supplementary uninsured/underinsured motorist coverage or indicate the selection of any lower amount of such coverage where the insured has not signed a form to reject such coverage or select a lower amount of coverage.

(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.

§ 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.