

STATE OF NEW YORK

5644--A

2017-2018 Regular Sessions

IN SENATE

April 24, 2017

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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
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~~

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

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1 ~~more persons in any one accident, if such insurer also makes available a~~
2 ~~personal umbrella policy with liability coverage limits up to at least~~
3 ~~five hundred thousand dollars which also provides coverage for supple-~~
4 ~~mentary uninsured/underinsured motorists claims]; provided, however,~~
5 that any insured may exercise the choice to decline such supplementary
6 uninsured/underinsured motorists insurance or select a lower amount of
7 coverage through a written waiver signed, or electronically signed, by
8 such insured, subject to the requirements of subparagraph (B) of this
9 paragraph. Supplementary uninsured/underinsured motorists insurance
10 shall provide coverage, in any state or Canadian province, if the limits
11 of liability under all bodily injury liability bonds and insurance poli-
12 cies of [~~another~~ any other motor vehicle liable for damages are in a
13 lesser amount than the bodily injury liability insurance limits of
14 coverage provided by such policy. Upon written request by any insured
15 covered by supplemental uninsured/underinsured motorists insurance or
16 his duly authorized representative and upon disclosure by the insured of
17 the insured's bodily injury and supplemental uninsured/underinsured
18 motorists insurance coverage limits, the insurer of any other owner or
19 operator of another motor vehicle against which a claim has been made
20 for damages to the insured shall disclose, within forty-five days of the
21 request, the bodily injury liability insurance limits of its coverage
22 provided under the policy or all bodily injury liability bonds. The time
23 of the insured to make any supplementary uninsured/underinsured motorist
24 claim, shall be tolled during the period the insurer of any other owner
25 or operator of another motor vehicle that may be liable for damages to
26 the insured, fails to so disclose its coverage. As a condition precedent
27 to the obligation of the insurer to pay under the supplementary
28 uninsured/underinsured motorists insurance coverage, the limits of
29 liability of all bodily injury liability bonds or insurance policies
30 applicable at the time of the accident shall be exhausted by payment of
31 judgments or settlements.

32 (B) [~~In addition to the notice provided, upon issuance of a policy of~~
33 ~~motor vehicle liability insurance pursuant to regulations promulgated by~~
34 ~~the superintendent, insurers shall notify insureds, in writing, of the~~
35 ~~availability of supplementary uninsured/underinsured motorists coverage.~~
36 ~~Such notification shall contain an explanation of supplementary~~
37 ~~uninsured/underinsured motorists coverage and the amounts in which it~~
38 ~~can be purchased. Subsequently, a notification of availability shall be~~
39 ~~provided at least once a year and may be simplified pursuant to regu-~~
40 ~~lations promulgated by the superintendent, but must include a concise~~
41 ~~statement that supplementary uninsured/underinsured motorists coverage~~
42 ~~is available, an explanation of such coverage, and the coverage limits~~
43 ~~that can be purchased from the insurer.] The selection of lower supple-
44 mentary uninsured/underinsured motorists coverage or rejection of such
45 coverage must be made on a written or electronic form provided to the
46 insured at the time the policy is sold, purchased or negotiated. Such
47 form shall advise the insured of the amount of the premium attributed to
48 supplementary uninsured/underinsured motorists coverage as required by
49 this paragraph. Such form shall also advise that such coverage is equal
50 to the insured's bodily injury liability limits unless lower limits are
51 requested or the coverage is rejected.~~

52 (i) The form shall be in at least 12-point bold type and shall state:
53 "SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE (SUM COVERAGE)
54 PROVIDES INSURANCE PROTECTION FOR ANY PERSON INCLUDED AS INSURED UNDER
55 YOUR POLICY IF HE OR SHE IS INJURED IN AN ACCIDENT INVOLVING ANOTHER
56 MOTOR VEHICLE WHOSE OWNER OR OPERATOR WAS NEGLIGENT BUT WHO HAS EITHER

1 NO BODILY INJURY OR LIABILITY INSURANCE, OR LESS THAN THE INSURANCE YOU
2 CARRY. SUM COVERAGE SHALL BE EQUAL TO THE LEVEL OF THE BODILY INJURY
3 LIABILITY COVERAGE OF YOUR POLICY UNLESS YOU SIGN A WAIVER REQUESTING
4 LOWER COVERAGE OR DECLINING THE COVERAGE. YOU ARE URGED TO CAREFULLY
5 CONSIDER THIS DECISION."

6 (ii) If an insured rejects such coverage or selects coverage at a
7 lower limit, the insurer shall notify the named insured at least annual-
8 ly of his or her options as to the coverage required by this paragraph
9 pursuant to regulations issued by the superintendent, if any, at the
10 time of or within sixty days prior to the renewal of the policy, or at
11 least annually for multi-year policies. Receipt of such notice does not
12 constitute an affirmative waiver of the insured's right to supplementary
13 uninsured/underinsured motorist coverage or indicate the selection of
14 any lower amount of such coverage where the insured has not signed a
15 form to reject such coverage or select a lower amount of coverage.

16 (iii) The superintendent may promulgate regulations pertaining to
17 supplementary uninsured/underinsured motorists insurance coverage in
18 accordance with the provisions of this section, regarding the form and
19 content of the notices required by clauses (i) and (ii) of this subpara-
20 graph.

21 § 2. This act shall take effect on the one hundred eightieth day after
22 it shall have become a law, and shall apply to insurance policies and
23 contracts issued, entered into or renewed on and after such effective
24 date.