

# STATE OF NEW YORK

7288

## IN SENATE

January 5, 2018

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to 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-a of subsection (f) of section 3420 of the  
2 insurance law, as added by chapter 490 of the laws of 2017, is amended  
3 to read as follows:

4 (2-a) (A) Notwithstanding paragraph two of this subsection, this para-  
5 graph shall apply to any new insurance policy or contract subject to  
6 this subsection entered into after the effective date of this paragraph.  
7 This paragraph shall not be deemed to apply to any policies originally  
8 entered into prior to the effective date of this paragraph, but renewed  
9 after the effective date of this paragraph, or to any policy of commer-  
10 cial risk insurance. Any new insurance policy or contract entered into  
11 after the effective date of this paragraph shall, at the option of the  
12 first named insured, also provide supplementary uninsured/underinsured  
13 motorists insurance for bodily injury, in an amount equal to the bodily  
14 injury liability insurance limits of coverage provided under such motor  
15 vehicle liability insurance policy; provided, however, that [~~any~~] a  
16 first named insured may exercise the choice to decline such supplementa-  
17 ry uninsured/underinsured motorists insurance or select a lower amount  
18 of coverage through a written waiver signed, or electronically signed,  
19 by such insured, subject to the requirements of subparagraph (B) of this  
20 paragraph. Supplementary uninsured/underinsured motorists insurance  
21 shall provide coverage, in any state or Canadian province, if the limits  
22 of liability under all bodily injury liability bonds and insurance poli-  
23 cies of any other motor vehicle liable for damages are in a lesser  
24 amount than the bodily injury liability insurance limits of coverage  
25 provided by such policy. Upon written request by any insured covered by  
26 supplemental uninsured/underinsured motorists insurance or [~~his~~] a duly  
27 authorized representative and upon disclosure by the insured of the  
28 insured's bodily injury and supplemental uninsured/underinsured motor-

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

LBD04852-10-7

1 ists insurance coverage limits, the insurer of any other owner or opera-  
2 tor of another motor vehicle against which a claim has been made for  
3 damages to the insured shall disclose, within forty-five days of the  
4 request, the bodily injury liability insurance limits of its coverage  
5 provided under the policy or all bodily injury liability bonds. The time  
6 of the insured to make any supplementary uninsured/underinsured motorist  
7 claim, shall be tolled during the period the insurer of any other owner  
8 or operator of another motor vehicle that may be liable for damages to  
9 the insured, fails to so disclose its coverage. As a condition precedent  
10 to the obligation of the insurer to pay under the supplementary  
11 uninsured/underinsured motorists insurance coverage, the limits of  
12 liability of all bodily injury liability bonds or insurance policies  
13 applicable at the time of the accident shall be exhausted by payment of  
14 judgments or settlements.

15 (B) In addition to the notice provided, upon issuance of a policy of  
16 motor vehicle liability insurance pursuant to regulations promulgated by  
17 the superintendent, insurers shall notify insureds, in writing, of the  
18 availability of supplementary uninsured/underinsured motorists coverage.  
19 Such notification shall contain an explanation of supplementary  
20 uninsured/underinsured motorists coverage and the amounts in which it  
21 can be purchased. Subsequently, a notification of availability shall be  
22 provided at least once a year and may be simplified pursuant to regu-  
23 lations promulgated by the superintendent, but must include a concise  
24 statement that supplementary uninsured/underinsured motorists coverage  
25 is available, an explanation of such coverage, and the coverage limits  
26 that can be purchased from the insurer. If an insured elects to reject  
27 supplementary uninsured/underinsured motorist coverage or select a lower  
28 amount of supplementary uninsured/underinsured motorist coverage than  
29 the bodily injury liability insurance limits of coverage provided under  
30 the insured's motor vehicle liability insurance policy, the selection of  
31 lower supplementary uninsured/underinsured motorists coverage or  
32 rejection of such coverage must be made on a written or electronic form  
33 provided to the first named insured. Such form shall also advise that  
34 such coverage is equal to the insured's bodily injury liability limits  
35 under the motor vehicle liability insurance policy unless lower limits  
36 are requested or the coverage is rejected.

37 (i) The form shall [~~be in at least 12 point bold type and shall state:~~  
38 ~~"SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE (SUM COVERAGE)~~  
39 ~~PROVIDES INSURANCE PROTECTION FOR ANY PERSON INCLUDED AS INSURED UNDER~~  
40 ~~YOUR POLICY IF HE OR SHE IS INJURED IN AN ACCIDENT INVOLVING ANOTHER~~  
41 ~~MOTOR VEHICLE WHOSE OWNER OR OPERATOR WAS NEGLIGENT BUT WHO HAS EITHER~~  
42 ~~NO BODILY INJURY OR LIABILITY INSURANCE, OR LESS THAN THE INSURANCE YOU~~  
43 ~~CARRY. SUM COVERAGE SHALL BE EQUAL TO THE LEVEL OF THE BODILY INJURY~~  
44 ~~LIABILITY COVERAGE OF YOUR MOTOR VEHICLE LIABILITY INSURANCE POLICY~~  
45 ~~UNLESS YOU SIGN A WAIVER REQUESTING LOWER COVERAGE OR DECLINING THE~~  
46 ~~COVERAGE. YOU ARE URGED TO CAREFULLY CONSIDER THIS DECISION."~~] also  
47 advise that supplementary uninsured/underinsured motorists coverage (sum  
48 coverage) provides insurance protection for any person included as  
49 insured under your policy if he or she is injured in an accident involv-  
50 ing another motor vehicle whose owner or operator was negligent but who  
51 has either no bodily injury or liability insurance, or less than the  
52 insurance you carry. Sum coverage shall be equal to the level of the  
53 bodily injury liability coverage of your motor vehicle liability insur-  
54 ance policy unless you sign a waiver requesting lower coverage or  
55 declining the coverage. You are urged to carefully consider this deci-  
56 sion.

1 (ii) An insured's written waiver shall apply to all subsequent  
2 renewals of coverage and to all policies or endorsements which extend,  
3 change, supersede, or replace an existing policy issued to the named  
4 insured, unless changed in writing by any named insured.

5 (iii) [~~the~~] The selection of lower supplementary  
6 uninsured/underinsured motorists coverage or the rejection of such  
7 coverage by any [~~one~~] first named insured shall be binding upon all  
8 insureds under such policy.

9 (C) Notwithstanding the provisions of subparagraph (A) of this para-  
10 graph, at the insurer's option, the insured's supplementary  
11 uninsured/underinsured motorists coverage limit may be required to equal  
12 the insured's bodily injury liability insurance limit under the motor  
13 vehicle liability insurance policy.

14 (D) An insurer may provide the coverage described in this paragraph  
15 available in an umbrella or excess liability policy if the umbrella or  
16 excess liability policy expressly provides such coverage.

17 § 2. This act shall take effect on the same date and in the same  
18 manner as chapter 490 of the laws of 2017 takes effect; provided, howev-  
19 er, that the amendments to paragraph (2-a) of subsection (f) of section  
20 3420 of the insurance law made by section one of this act shall not  
21 affect the repeal of such paragraph and shall be deemed repealed there-  
22 with.