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:

Section 1. Paragraph 2-a of subsection (f) of section 3420 of the insurance law, as added by chapter 490 of the laws of 2017, is amended to read as follows:

(2-a) (A) Notwithstanding paragraph two of this subsection, this paragraph shall apply to any new insurance policy or contract **subject to this subsection** entered into after the effective date of this paragraph. This paragraph shall not be deemed to apply to any policies originally entered into prior to the effective date of this paragraph, but renewed after the effective date of this paragraph**, or to any policy of commercial risk insurance**. Any new insurance policy or contract entered into after the effective date of this paragraph shall, at the option of the **first named** insured, also provide supplementary uninsured/underinsured motorists insurance for bodily injury, in an amount equal to the bodily injury liability insurance limits of coverage provided under such motor vehicle liability insurance policy; provided, however, that [~~any~~] **a first** named 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 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~~] **a** duly authorized representative and upon disclosure by the insured of the 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.

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ists 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. If an insured elects to reject supplementary uninsured/underinsured motorist coverage or select a lower amount of supplementary uninsured/underinsured motorist coverage than the bodily injury liability insurance limits of coverage provided under the insured's motor vehicle liability insurance policy, 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 **first** named insured. Such form shall also advise that such coverage is equal to the insured's bodily injury liability limits under the motor vehicle liability insurance policy 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 MOTOR VEHICLE LIABILITY INSURANCE POLICY UNLESS YOU SIGN A WAIVER REQUESTING LOWER COVERAGE OR DECLINING THE COVERAGE. YOU ARE URGED TO CAREFULLY CONSIDER THIS DECISION."~~] **also advise that 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 motor vehicle liability insurance policy unless you sign a waiver requesting lower coverage or declining the coverage. You are urged to carefully consider this decision.**

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

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

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

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

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