

# STATE OF NEW YORK

3874

2019-2020 Regular Sessions

## IN ASSEMBLY

January 31, 2019

Introduced by M. of A. MAGNARELLI -- 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 Assem-  
bly, do enact as follows:

1 Section 1. Paragraph 2 of subsection (f) of section 3420 of the insur-  
2 ance law, as separately amended by chapters 547 and 568 of the laws of  
3 1997, is amended to read as follows:

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~~  
24 ~~more persons in any one accident, if such insurer also makes available a~~  
25 ~~personal umbrella policy with liability coverage limits up to at least~~

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

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

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

50 (i) The form shall be in at least 12-point bold type and shall state:  
51 "SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS COVERAGE (SUM COVERAGE)  
52 PROVIDES INSURANCE PROTECTION FOR ANY PERSON INCLUDED AS INSURED UNDER  
53 YOUR POLICY IF HE OR SHE IS INJURED IN AN ACCIDENT INVOLVING ANOTHER  
54 MOTOR VEHICLE WHOSE OWNER OR OPERATOR WAS NEGLIGENT BUT WHO HAS EITHER  
55 NO BODILY INJURY OR LIABILITY INSURANCE, OR LESS THAN THE INSURANCE YOU  
56 CARRY. SUM COVERAGE SHALL BE EQUAL TO THE LEVEL OF THE BODILY INJURY

1 LIABILITY COVERAGE OF YOUR POLICY UNLESS YOU SIGN A WAIVER REQUESTING  
2 LOWER COVERAGE OR DECLINING THE COVERAGE. YOU ARE URGED TO CAREFULLY  
3 CONSIDER THIS DECISION."

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

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

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