

# STATE OF NEW YORK

7471

2023-2024 Regular Sessions

## IN SENATE

May 30, 2023

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

AN ACT to amend the insurance law, in relation to supplemental uninsured/underinsured insurance; and to amend chapter 490 of the laws of 2017 amending the insurance law relating to limits on certain supplementary insurance, in relation to extending the provisions thereof

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 amended by chapter 15 of the laws of 2018, 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, issued, renewed, or amended 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, issued, renewed, or amended 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 a first named insured may exercise the choice]~~ unless the first named insured elects in writing 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

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

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1 any state or Canadian province, if the limits of liability under all  
2 bodily injury liability bonds and insurance policies of any other motor  
3 vehicle liable for damages are in a lesser amount than the bodily injury  
4 liability insurance limits of coverage provided by such policy. Upon  
5 written request by any insured covered by supplemental  
6 uninsured/underinsured motorists insurance or a duly authorized repre-  
7 sentative and upon disclosure by the insured of the insured's bodily  
8 injury and supplemental uninsured/underinsured motorists insurance  
9 coverage limits, the insurer of any other owner or operator of another  
10 motor vehicle against which a claim has been made for damages to the  
11 insured shall disclose, within forty-five days of the request, the bodi-  
12 ly injury liability insurance limits of its coverage provided under the  
13 policy or all bodily injury liability bonds. The time of the insured to  
14 make any supplementary uninsured/underinsured motorist claim, shall be  
15 tolled during the period the insurer of any other owner or operator of  
16 another motor vehicle that may be liable for damages to the insured,  
17 fails to so disclose its coverage. As a condition precedent to the obli-  
18 gation of the insurer to pay under the supplementary  
19 uninsured/underinsured motorists insurance coverage, the limits of  
20 liability of all bodily injury liability bonds or insurance policies  
21 applicable at the time of the accident shall be exhausted by payment of  
22 judgments or settlements.

23 (B) In addition to the notice provided, upon issuance, renewal, or  
24 amendment of a policy of motor vehicle liability insurance pursuant to  
25 regulations promulgated by the superintendent, insurers shall notify  
26 insureds, in writing, ~~[of the availability of]~~ that such policy shall  
27 include supplementary uninsured/underinsured motorists coverage in an  
28 amount equal to the bodily injury liability insurance limits of coverage  
29 provided under such motor vehicle liability insurance policy, unless the  
30 insured declines and refuses such insurance or selects a lower amount of  
31 coverage in writing. ~~[Such notification shall contain an explanation of~~  
32 ~~supplementary uninsured/underinsured motorists coverage and the amounts~~  
33 ~~in which it can be purchased. Subsequently, a notification of availabil-~~  
34 ~~ity shall be provided at least once a year and may be simplified pursu-~~  
35 ~~ant to regulations promulgated by the superintendent, but must include a~~  
36 ~~concise statement that supplementary uninsured/underinsured motorists~~  
37 ~~coverage is available, an explanation of such coverage, and the coverage~~  
38 ~~limits that can be purchased from the insurer.]~~ If an insured elects to  
39 reject supplementary uninsured/underinsured motorist coverage or select  
40 a lower amount of supplementary uninsured/underinsured motorist coverage  
41 than the bodily injury liability insurance limits of coverage provided  
42 under the insured's motor vehicle liability insurance policy, the  
43 selection of lower supplementary uninsured/underinsured motorists cover-  
44 age or rejection of such coverage must be made on a written or electron-  
45 ic form provided to the first named insured. ~~[Such form shall also~~  
46 ~~advise that such coverage is equal to the insured's bodily injury~~  
47 ~~liability limits under the motor vehicle liability insurance policy~~  
48 ~~unless lower limits are requested or the coverage is rejected.]~~ Failure  
49 of the insurance carrier to maintain and provide such form shall result  
50 in the insurance policy being read to include the maximum supplemental  
51 uninsured/underinsured coverage available equal to the liability limits  
52 regardless of premiums paid.

53 (i) The form shall also advise that: supplementary  
54 uninsured/underinsured motorists coverage (sum coverage) provides insur-  
55 ance protection for any person included as insured under your policy if  
56 he or she is injured in an accident involving another motor vehicle

1 whose owner or operator was negligent but who has either no bodily inju-  
2 ry or liability insurance, or less than the insurance you carry. Sum  
3 coverage shall be equal to the level of the bodily injury liability  
4 coverage of your motor vehicle liability insurance policy unless you  
5 sign a waiver requesting lower coverage or declining the coverage. You  
6 are urged to carefully consider this decision. We strongly recommend  
7 that you protect yourself and purchase the maximum supplemental  
8 uninsured/underinsured coverage available.

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

13 (iii) The selection of lower supplementary uninsured/underinsured  
14 motorists coverage or the rejection of such coverage by any first named  
15 insured shall be binding upon all insureds under such policy.

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

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

24 § 2. Section 2 of chapter 490 of the laws of 2017 amending the insur-  
25 ance law relating to limits on certain supplementary insurance, as  
26 amended by section 1 of item S of subpart B of part XXX of chapter 58 of  
27 the laws of 2020, is amended to read as follows:

28 § 2. This act shall take effect on the one hundred eightieth day after  
29 it shall have become a law, and shall apply to new insurance policies  
30 and contracts issued on and after such effective date and shall expire  
31 and be deemed repealed June 30, ~~2023~~ 2026.

32 § 3. This act shall take effect immediately; provided, however, that  
33 section one of this act shall take effect on the ninetieth day after it  
34 shall have become a law and shall apply to all new insurance policies  
35 and contracts issued, renewed, or amended on and after such effective  
36 date; and provided further that the amendments to paragraph 2-a of  
37 subsection (f) of section 3420 of the insurance law made by section one  
38 of this act shall not affect the repeal of such paragraph and shall be  
39 deemed repealed therewith.