

1 AMENDMENT TO SENATE BILL 112

2 AMENDMENT NO. _____. Amend Senate Bill 112 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 143a and 143a-2 as follows:

6 (215 ILCS 5/143a) (from Ch. 73, par. 755a)

7 Sec. 143a. Uninsured and hit and run motor vehicle
8 coverage.

9 (1) No policy insuring against loss resulting from
10 liability imposed by law for bodily injury or death suffered
11 by any person arising out of the ownership, maintenance or
12 use of a motor vehicle that is designed for use on public
13 highways and that is either required to be registered in this
14 State or is principally garaged in this State shall be
15 renewed, delivered, or issued for delivery in this State
16 unless coverage is offered ~~provided~~ therein or supplemental
17 thereto, in limits for bodily injury or death set forth in
18 Section 7-203 of the Illinois Vehicle Code for the protection
19 of persons insured thereunder who are legally entitled to
20 recover damages from owners or operators of uninsured motor
21 vehicles and hit-and-run motor vehicles because of bodily
22 injury, sickness or disease, including death, resulting

1 therefrom. Uninsured motor vehicle coverage does not apply to
2 bodily injury, sickness, disease, or death resulting
3 therefrom, of an insured while occupying a motor vehicle
4 owned by, or furnished or available for the regular use of
5 the insured, a resident spouse or resident relative, if that
6 motor vehicle is not described in the policy under which a
7 claim is made or is not a newly acquired or replacement motor
8 vehicle covered under the terms of the policy. The limits
9 for any coverage for any vehicle under the policy may not be
10 aggregated with the limits for any similar coverage, whether
11 provided by the same insurer or another insurer, applying to
12 other motor vehicles, for purposes of determining the total
13 limit of insurance coverage available for bodily injury or
14 death suffered by a person in any one accident. No policy
15 shall be renewed, delivered, or issued for delivery in this
16 State unless it is provided therein that any dispute with
17 respect to the coverage and the amount of damages shall be
18 submitted for arbitration to the American Arbitration
19 Association and be subject to its rules for the conduct of
20 arbitration hearings as to all matters except medical
21 opinions. As to medical opinions, if the amount of damages
22 being sought is equal to or less than the amount provided for
23 in Section 7-203 of the Illinois Vehicle Code, then the
24 current American Arbitration Association Rules shall apply.
25 If the amount being sought in an American Arbitration
26 Association case exceeds that amount as set forth in Section
27 7-203 of the Illinois Vehicle Code, then the Rules of
28 Evidence that apply in the circuit court for placing medical
29 opinions into evidence shall govern. Alternatively, disputes
30 with respect to damages and the coverage shall be determined
31 in the following manner: Upon the insured requesting
32 arbitration, each party to the dispute shall select an
33 arbitrator and the 2 arbitrators so named shall select a
34 third arbitrator. If such arbitrators are not selected

1 within 45 days from such request, either party may request
2 that the arbitration be submitted to the American Arbitration
3 Association. Any decision made by the arbitrators shall be
4 binding for the amount of damages not exceeding the limits
5 for bodily injury or death set forth in Section 7-203 of the
6 Illinois Vehicle Code. All 3-person arbitration cases
7 proceeding in accordance with any uninsured motorist coverage
8 conducted in this State in which the claimant is only seeking
9 monetary damages up to the limits set forth in Section 7-203
10 of the Illinois Vehicle Code shall be subject to the
11 following rules:

12 (A) If at least 60 days' written notice of the
13 intention to offer the following documents in evidence is
14 given to every other party, accompanied by a copy of the
15 document, a party may offer in evidence, without
16 foundation or other proof:

17 (1) bills, records, and reports of hospitals,
18 doctors, dentists, registered nurses, licensed
19 practical nurses, physical therapists, and other
20 healthcare providers;

21 (2) bills for drugs, medical appliances, and
22 prostheses;

23 (3) property repair bills or estimates, when
24 identified and itemized setting forth the charges
25 for labor and material used or proposed for use in
26 the repair of the property;

27 (4) a report of the rate of earnings and time
28 lost from work or lost compensation prepared by an
29 employer;

30 (5) the written opinion of an opinion witness,
31 the deposition of a witness, and the statement of a
32 witness that the witness would be allowed to express
33 if testifying in person, if the opinion or statement
34 is made by affidavit or by certification as provided

1 in Section 1-109 of the Code of Civil Procedure;

2 (6) any other document not specifically
3 covered by any of the foregoing provisions that is
4 otherwise admissible under the rules of evidence.

5 Any party receiving a notice under this paragraph
6 (A) may apply to the arbitrator or panel of arbitrators,
7 as the case may be, for the issuance of a subpoena
8 directed to the author or maker or custodian of the
9 document that is the subject of the notice, requiring the
10 person subpoenaed to produce copies of any additional
11 documents as may be related to the subject matter of the
12 document that is the subject of the notice. Any such
13 subpoena shall be issued in substantially similar form
14 and served by notice as provided by Illinois Supreme
15 Court Rule 204(a)(4). Any such subpoena shall be
16 returnable not less than 5 days before the arbitration
17 hearing.

18 (B) Notwithstanding the provisions of Supreme Court
19 Rule 213(g), a party who proposes to use a written
20 opinion of an expert or opinion witness or the testimony
21 of an expert or opinion witness at the hearing may do so
22 provided a written notice of that intention is given to
23 every other party not less than 60 days prior to the date
24 of hearing, accompanied by a statement containing the
25 identity of the witness, his or her qualifications, the
26 subject matter, the basis of the witness's conclusions,
27 and his or her opinion.

28 (C) Any other party may subpoena the author or
29 maker of a document admissible under this subsection, at
30 that party's expense, and examine the author or maker as
31 if under cross-examination. The provisions of Section
32 2-1101 of the Code of Civil Procedure shall be applicable
33 to arbitration hearings, and it shall be the duty of a
34 party requesting the subpoena to modify the form to show

1 that the appearance is set before an arbitration panel
2 and to give the time and place set for the hearing.

3 (D) The provisions of Section 2-1102 of the Code of
4 Civil Procedure shall be applicable to arbitration
5 hearings under this subsection.

6 (2) No policy insuring against loss resulting from
7 liability imposed by law for property damage arising out of
8 the ownership, maintenance, or use of a motor vehicle shall
9 be renewed, delivered, or issued for delivery in this State
10 with respect to any private passenger or recreational motor
11 vehicle that is designed for use on public highways and that
12 is either required to be registered in this State or is
13 principally garaged in this State and is not covered by
14 collision insurance under the provisions of such policy,
15 unless coverage is made available in the amount of the actual
16 cash value of the motor vehicle described in the policy or
17 \$15,000 whichever is less, subject to a \$250 deductible, for
18 the protection of persons insured thereunder who are legally
19 entitled to recover damages from owners or operators of
20 uninsured motor vehicles and hit-and-run motor vehicles
21 because of property damage to the motor vehicle described in
22 the policy.

23 There shall be no liability imposed under the uninsured
24 motorist property damage coverage required by this subsection
25 if the owner or operator of the at-fault uninsured motor
26 vehicle or hit-and-run motor vehicle cannot be identified.
27 This subsection shall not apply to any policy which does not
28 provide primary motor vehicle liability insurance for
29 liabilities arising from the maintenance, operation, or use
30 of a specifically insured motor vehicle.

31 Each insurance company providing motor vehicle property
32 damage liability insurance shall advise applicants of the
33 availability of uninsured motor vehicle property damage
34 coverage, the premium therefor, and provide a brief

1 description of the coverage. Each insurer, with respect to
2 the initial renewal, reinstatement, or reissuance of a policy
3 of motor vehicle property damage liability insurance shall
4 provide present policyholders with the same information in
5 writing. That information need be given only once and shall
6 not be required in any subsequent renewal, reinstatement or
7 reissuance, substitute, amended, replacement or supplementary
8 policy. No written rejection shall be required, and the
9 absence of a premium payment for uninsured motor vehicle
10 property damage shall constitute conclusive proof that the
11 applicant or policyholder has elected not to accept uninsured
12 motorist property damage coverage.

13 An insurance company issuing uninsured motor vehicle
14 property damage coverage may provide that:

15 (i) Property damage losses recoverable thereunder
16 shall be limited to damages caused by the actual physical
17 contact of an uninsured motor vehicle with the insured
18 motor vehicle.

19 (ii) There shall be no coverage for loss of use of
20 the insured motor vehicle and no coverage for loss or
21 damage to personal property located in the insured motor
22 vehicle.

23 (iii) Any claim submitted shall include the name
24 and address of the owner of the at-fault uninsured motor
25 vehicle, or a registration number and description of the
26 vehicle, or any other available information to establish
27 that there is no applicable motor vehicle property damage
28 liability insurance.

29 Any dispute with respect to the coverage and the amount
30 of damages shall be submitted for arbitration to the American
31 Arbitration Association and be subject to its rules for the
32 conduct of arbitration hearings or for determination in the
33 following manner: Upon the insured requesting arbitration,
34 each party to the dispute shall select an arbitrator and the

1 2 arbitrators so named shall select a third arbitrator. If
2 such arbitrators are not selected within 45 days from such
3 request, either party may request that the arbitration be
4 submitted to the American Arbitration Association. Any
5 arbitration proceeding under this subsection seeking recovery
6 for property damages shall be subject to the following rules:

7 (A) If at least 60 days' written notice of the
8 intention to offer the following documents in evidence is
9 given to every other party, accompanied by a copy of the
10 document, a party may offer in evidence, without
11 foundation or other proof:

12 (1) property repair bills or estimates, when
13 identified and itemized setting forth the charges
14 for labor and material used or proposed for use in
15 the repair of the property;

16 (2) the written opinion of an opinion witness,
17 the deposition of a witness, and the statement of a
18 witness that the witness would be allowed to express
19 if testifying in person, if the opinion or statement
20 is made by affidavit or by certification as provided
21 in Section 1-109 of the Code of Civil Procedure;

22 (3) any other document not specifically
23 covered by any of the foregoing provisions that is
24 otherwise admissible under the rules of evidence.

25 Any party receiving a notice under this paragraph
26 (A) may apply to the arbitrator or panel of arbitrators,
27 as the case may be, for the issuance of a subpoena
28 directed to the author or maker or custodian of the
29 document that is the subject of the notice, requiring the
30 person subpoenaed to produce copies of any additional
31 documents as may be related to the subject matter of the
32 document that is the subject of the notice. Any such
33 subpoena shall be issued in substantially similar form
34 and served by notice as provided by Illinois Supreme

1 Court Rule 204(a)(4). Any such subpoena shall be
2 returnable not less than 5 days before the arbitration
3 hearing.

4 (B) Notwithstanding the provisions of Supreme Court
5 Rule 213(g), a party who proposes to use a written
6 opinion of an expert or opinion witness or the testimony
7 of an expert or opinion witness at the hearing may do so
8 provided a written notice of that intention is given to
9 every other party not less than 60 days prior to the date
10 of hearing, accompanied by a statement containing the
11 identity of the witness, his or her qualifications, the
12 subject matter, the basis of the witness's conclusions,
13 and his or her opinion.

14 (C) Any other party may subpoena the author or
15 maker of a document admissible under this subsection, at
16 that party's expense, and examine the author or maker as
17 if under cross-examination. The provisions of Section
18 2-1101 of the Code of Civil Procedure shall be applicable
19 to arbitration hearings, and it shall be the duty of a
20 party requesting the subpoena to modify the form to show
21 that the appearance is set before an arbitration panel
22 and to give the time and place set for the hearing.

23 (D) The provisions of Section 2-1102 of the Code of
24 Civil Procedure shall be applicable to arbitration
25 hearings under this subsection.

26 (3) For the purpose of the coverage the term "uninsured
27 motor vehicle" includes, subject to the terms and conditions
28 of the coverage, a motor vehicle where on, before or after
29 the accident date the liability insurer thereof is unable to
30 make payment with respect to the legal liability of its
31 insured within the limits specified in the policy because of
32 the entry by a court of competent jurisdiction of an order of
33 rehabilitation or liquidation by reason of insolvency on or
34 after the accident date. An insurer's extension of coverage,

1 as provided in this subsection, shall be applicable to all
2 accidents occurring after July 1, 1967 during a policy period
3 in which its insured's uninsured motor vehicle coverage is in
4 effect. Nothing in this Section may be construed to prevent
5 any insurer from extending coverage under terms and
6 conditions more favorable to its insureds than is required by
7 this Section.

8 (4) In the event of payment to any person under the
9 coverage required by this Section and subject to the terms
10 and conditions of the coverage, the insurer making the
11 payment shall, to the extent thereof, be entitled to the
12 proceeds of any settlement or judgment resulting from the
13 exercise of any rights of recovery of the person against any
14 person or organization legally responsible for the property
15 damage, bodily injury or death for which the payment is made,
16 including the proceeds recoverable from the assets of the
17 insolvent insurer. With respect to payments made by reason of
18 the coverage described in subsection (3), the insurer making
19 such payment shall not be entitled to any right of recovery
20 against the tort-feasor in excess of the proceeds recovered
21 from the assets of the insolvent insurer of the tort-feasor.

22 (5) This amendatory Act of 1967 shall not be construed
23 to terminate or reduce any insurance coverage or any right of
24 any party under this Code in effect before July 1, 1967. This
25 amendatory Act of 1990 shall not be construed to terminate or
26 reduce any insurance coverage or any right of any party under
27 this Code in effect before its effective date.

28 (6) Failure of the motorist from whom the claimant is
29 legally entitled to recover damages to file the appropriate
30 forms with the Safety Responsibility Section of the
31 Department of Transportation within 120 days of the accident
32 date shall create a rebuttable presumption that the motorist
33 was uninsured at the time of the injurious occurrence.

34 (7) An insurance carrier may upon good cause require the

1 insured to commence a legal action against the owner or
2 operator of an uninsured motor vehicle before good faith
3 negotiation with the carrier. If the action is commenced at
4 the request of the insurance carrier, the carrier shall pay
5 to the insured, before the action is commenced, all court
6 costs, jury fees and sheriff's fees arising from the action.

7 The changes made by this amendatory Act of 1997 apply to
8 all policies of insurance amended, delivered, issued, or
9 renewed on and after the effective date of this amendatory
10 Act of 1997.

11 (Source: P.A. 89-206, eff. 7-21-95; 90-451, eff. 1-1-98.)

12 (215 ILCS 5/143a-2) (from Ch. 73, par. 755a-2)

13 Sec. 143a-2. (1) Additional uninsured motor vehicle
14 coverage. No policy insuring against loss resulting from
15 liability imposed by law for bodily injury or death suffered
16 by any person arising out of the ownership, maintenance or
17 use of a motor vehicle shall be renewed or delivered or
18 issued for delivery in this State with respect to any motor
19 vehicle designed for use on public highways and required to
20 be registered in this State unless uninsured motorist
21 coverage as offered pursuant to ~~required-in~~ Section 143a of
22 this Code is included in an amount equal to the insured's
23 bodily injury liability limits unless specifically rejected
24 by the insured. Each insurance company providing the
25 coverage must provide applicants with a brief description of
26 the coverage and advise them of their right to reject the
27 coverage in excess of the limits set forth in Section 7-203
28 of The Illinois Vehicle Code. The provisions of this
29 amendatory Act of 1990 apply to policies of insurance applied
30 for after June 30, 1991.

31 (2) Right of rejection of additional uninsured motorist
32 coverage. After June 30, 1991, every application for motor
33 vehicle coverage must contain a space for indicating the

1 rejection of additional uninsured motorist coverage. No
2 rejection of that coverage may be effective unless the
3 applicant signs or initials the indication of rejection. The
4 applicant may reject additional uninsured motorist coverage
5 in excess of the limits set forth in Section 7-203 of the
6 Illinois Vehicle Code. In those cases, including policies
7 first issued before July 1, 1991, where the insured has
8 elected to purchase limits of uninsured motorist coverage
9 which are less than bodily injury liability limits or to
10 reject limits in excess of those required by law, the insurer
11 need not provide in any renewal, reinstatement, reissuance,
12 substitute, amended, replacement or supplementary policy,
13 coverage in excess of that elected by the insured in
14 connection with a policy previously issued to such insured by
15 the same insurer unless the insured subsequently makes a
16 written request for such coverage.

17 (3) The original application indicating the applicant's
18 selection of uninsured motorist coverage limits shall
19 constitute sufficient evidence of the applicant's selection
20 of uninsured motorist coverage limits and shall be binding on
21 all persons insured under the policy. For purposes of this
22 Section any reproduction of the application by means of
23 photograph, photostat, microfiche, computerized optical
24 imaging process, or other similar process or means of
25 reproduction shall be deemed the equivalent of the original
26 application.

27 (4) For the purpose of this Code the term "underinsured
28 motor vehicle" means a motor vehicle whose ownership,
29 maintenance or use has resulted in bodily injury or death of
30 the insured, as defined in the policy, and for which the sum
31 of the limits of liability under all bodily injury liability
32 insurance policies or under bonds or other security required
33 to be maintained under Illinois law applicable to the driver
34 or to the person or organization legally responsible for such

1 vehicle and applicable to the vehicle, is less than the
2 limits for underinsured coverage provided the insured as
3 defined in the policy at the time of the accident. The
4 limits of liability for an insurer providing underinsured
5 motorist coverage shall be the limits of such coverage, less
6 those amounts actually recovered under the applicable bodily
7 injury insurance policies, bonds or other security maintained
8 on the underinsured motor vehicle. However, the maximum
9 amount payable by the underinsured motorist coverage carrier
10 shall not exceed the amount by which the limits of the
11 underinsured motorist coverage exceeds the limits of the
12 bodily injury liability insurance of the owner or operator of
13 the underinsured motor vehicle.

14 On or after July 1, 1983, no policy insuring against
15 loss resulting from liability imposed by law for bodily
16 injury or death suffered by any person arising out of the
17 ownership, maintenance or use of a motor vehicle shall be
18 renewed or delivered or issued for delivery in this State
19 with respect to any motor vehicle designed for use on public
20 highways and required to be registered in this State unless
21 underinsured motorist coverage is offered included in such
22 policy, or supplemental thereto, in an amount equal to the
23 total amount of uninsured motorist coverage provided in that
24 ~~policy where such uninsured motorist coverage exceeds the~~
25 ~~limits set forth in Section 7-203 of the Illinois Vehicle~~
26 ~~Code.~~

27 (5) Scope. Nothing herein shall prohibit an insurer
28 from setting forth policy terms and conditions which provide
29 that if the insured has coverage available under this Section
30 under more than one policy or provision of coverage, any
31 recovery or benefits may be equal to, but may not exceed, the
32 higher of the applicable limits of the respective coverage,
33 and the limits of liability under this Section shall not be
34 increased because of multiple motor vehicles covered under

1 the same policy of insurance. Insurers providing liability
2 coverage on an excess or umbrella basis are neither required
3 to provide, nor are they prohibited from offering or making
4 available coverages conforming to this Section on a
5 supplemental basis. Notwithstanding the provisions of this
6 Section, an insurer shall not be prohibited from solely
7 providing a combination of uninsured and underinsured
8 motorist coverages where the limits of liability under each
9 coverage is in the same amount.

10 (6) Subrogation against underinsured motorists. No
11 insurer shall exercise any right of subrogation under a
12 policy providing additional uninsured motorist coverage
13 against an underinsured motorist where the insurer has been
14 provided with written notice in advance of a settlement
15 between its insured and the underinsured motorist and the
16 insurer fails to advance a payment to the insured, in an
17 amount equal to the tentative settlement, within 30 days
18 following receipt of such notice.

19 (7) A policy which provides underinsured motor vehicle
20 coverage may include a clause which denies payment until the
21 limits of liability or portion thereof under all bodily
22 injury liability insurance policies applicable to the
23 underinsured motor vehicle and its operators have been
24 partially or fully exhausted by payment of judgment or
25 settlement. A judgment or settlement of the bodily injury
26 claim in an amount less than the limits of liability of the
27 bodily injury coverages applicable to the claim shall not
28 preclude the claimant from making an underinsured motorist
29 claim against the underinsured motorist coverage. Any such
30 provision in a policy of insurance shall be inapplicable if
31 the insured, or the legal representative of the insured, and
32 the insurer providing underinsured motor vehicle coverage
33 agree that the insured has suffered bodily injury or death as
34 the result of the negligent operation, maintenance, or use of

1 an underinsured motor vehicle and, without arbitration, agree
2 also on the amount of damages that the insured is legally
3 entitled to collect. The maximum amount payable pursuant to
4 such an underinsured motor vehicle insurance settlement
5 agreement shall not exceed the amount by which the limits of
6 the underinsured motorist coverage exceed the limits of the
7 bodily injury liability insurance of the owner or operator of
8 the underinsured motor vehicle. Any such agreement shall be
9 final as to the amount due and shall be binding upon both the
10 insured and the underinsured motorist insurer regardless of
11 the amount of any judgment, or any settlement reached between
12 any insured and the person or persons responsible for the
13 accident. No such settlement agreement shall be concluded
14 unless: (i) the insured has complied with all other
15 applicable policy terms and conditions; and (ii) before the
16 conclusion of the settlement agreement, the insured has filed
17 suit against the underinsured motor vehicle owner or operator
18 and has not abandoned the suit, or settled the suit without
19 preserving the rights of the insurer providing underinsured
20 motor vehicle coverage in the manner described in paragraph
21 (6) of this Section.
22 (Source: P.A. 89-658, eff. 1-1-97.)".