

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

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

6 (215 ILCS 5/143a-2) (from Ch. 73, par. 755a-2)

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

25 (2) Right of rejection of additional uninsured motorist
26 coverage. After June 30, 1991, every application for motor
27 vehicle coverage must contain a space for indicating the
28 rejection of additional uninsured motorist coverage. No
29 rejection of that coverage may be effective unless the
30 applicant signs or initials the indication of rejection. The
31 applicant may reject additional uninsured motorist coverage

1 in excess of the limits set forth in Section 7-203 of the
2 Illinois Vehicle Code. In those cases, including policies
3 first issued before July 1, 1991, where the insured has
4 elected to purchase limits of uninsured motorist coverage
5 which are less than bodily injury liability limits or to
6 reject limits in excess of those required by law, the insurer
7 need not provide in any renewal, reinstatement, reissuance,
8 substitute, amended, replacement or supplementary policy,
9 coverage in excess of that elected by the insured in
10 connection with a policy previously issued to such insured by
11 the same insurer unless the insured subsequently makes a
12 written request for such coverage.

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

23 (4) For the purpose of this Code the term "underinsured
24 motor vehicle" means a motor vehicle whose ownership,
25 maintenance or use has resulted in bodily injury or death of
26 the insured, as defined in the policy, and for which the sum
27 of the limits of liability under all bodily injury liability
28 insurance policies or under bonds or other security required
29 to be maintained under Illinois law applicable to the driver
30 or to the person or organization legally responsible for such
31 vehicle and applicable to the vehicle, is less than the
32 limits for underinsured coverage provided the insured as
33 defined in the policy at the time of the accident. The
34 limits of liability for an insurer providing underinsured

1 motorist coverage shall be the limits of such coverage, less
2 those amounts actually recovered under the applicable bodily
3 injury insurance policies, bonds or other security maintained
4 on the underinsured motor vehicle. However, the maximum
5 amount payable by the underinsured motorist coverage carrier
6 shall not exceed the amount by which the limits of the
7 underinsured motorist coverage exceeds the limits of the
8 bodily injury liability insurance of the owner or operator of
9 the underinsured motor vehicle.

10 On or after July 1, 1983, no policy insuring against
11 loss resulting from liability imposed by law for bodily
12 injury or death suffered by any person arising out of the
13 ownership, maintenance or use of a motor vehicle shall be
14 renewed or delivered or issued for delivery in this State
15 with respect to any motor vehicle designed for use on public
16 highways and required to be registered in this State unless
17 underinsured motorist coverage is included in such policy in
18 an amount equal to the total amount of uninsured motorist
19 coverage provided in that policy where such uninsured
20 motorist coverage exceeds the limits set forth in Section
21 7-203 of the Illinois Vehicle Code. An insurer shall provide
22 to its insureds a written explanation of the coverage
23 provided by underinsured motorist coverage. The explanation
24 shall be provided when a policy is issued and at the first
25 renewal, reinstatement, or reissuance of a policy that occurs
26 after the effective date of this amendatory Act of the 92nd
27 General Assembly.

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

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

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

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

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

23 (Source: P.A. 89-658, eff. 1-1-97.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.