

AN ACT in relation to insurance.

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

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

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

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

(2) Right of rejection of additional uninsured motorist coverage. ~~Any named insured or applicant After June 30, 1991, every application for motor vehicle coverage must contain a space for indicating the rejection of additional uninsured motorist coverage. No rejection of that coverage may be effective unless the applicant signs or initials the indication of rejection. The applicant~~ may reject additional uninsured motorist coverage in excess of the limits set forth in Section

7-203 of the Illinois Vehicle Code by making a written request for limits of uninsured motorist coverage which are less than bodily injury liability limits or a written rejection of limits in excess of those required by law. This election or rejection shall be binding on all persons insured under the policy. In those cases, ~~including policies first issued before July 1, 1991,~~ where the insured has elected to purchase limits of uninsured motorist coverage which are less than bodily injury liability limits or to reject limits in excess of those required by law, the insurer need not provide in any renewal, reinstatement, reissuance, substitute, amended, replacement or supplementary policy, coverage in excess of that elected by the insured in connection with a policy previously issued to such insured by the same insurer unless the insured subsequently makes a written request for such coverage.

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

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

an insurer providing underinsured motorist coverage shall be the limits of such coverage, less those amounts actually recovered under the applicable bodily injury insurance policies, bonds or other security maintained on the underinsured motor vehicle. ~~However, the maximum amount payable by the underinsured motorist coverage carrier shall not exceed the amount by which the limits of the underinsured motorist coverage exceeds the limits of the bodily injury liability insurance of the owner or operator of the underinsured motor vehicle.~~

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

The changes made to this subsection (4) by this amendatory Act of the 93rd General Assembly apply to policies issued or renewed on or after December 1, 2004.

(5) Scope. Nothing herein shall prohibit an insurer from setting forth policy terms and conditions which provide that if the insured has coverage available under this Section under more than one policy or provision of coverage, any recovery or benefits may be equal to, but may not exceed, the higher of the applicable limits of the respective coverage, and the limits of liability under this Section shall not be increased because of multiple motor vehicles covered under the same policy of insurance. Insurers providing liability coverage on an excess or umbrella basis are neither required to provide, nor are they prohibited from offering or making available coverages conforming to this Section on a supplemental basis.

Notwithstanding the provisions of this Section, an insurer shall not be prohibited from solely providing a combination of uninsured and underinsured motorist coverages where the limits of liability under each coverage is in the same amount.

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

(7) A policy which provides underinsured motor vehicle coverage may include a clause which denies payment until the limits of liability or portion thereof under all bodily injury liability insurance policies applicable to the underinsured motor vehicle and its operators have been partially or fully exhausted by payment of judgment or settlement. A judgment or settlement of the bodily injury claim in an amount less than the limits of liability of the bodily injury coverages applicable to the claim shall not preclude the claimant from making an underinsured motorist claim against the underinsured motorist coverage. Any such provision in a policy of insurance shall be inapplicable if the insured, or the legal representative of the insured, and the insurer providing underinsured motor vehicle coverage agree that the insured has suffered bodily injury or death as the result of the negligent operation, maintenance, or use of an underinsured motor vehicle and, without arbitration, agree also on the amount of damages that the insured is legally entitled to collect. The maximum amount payable pursuant to such an underinsured motor vehicle insurance settlement agreement shall not exceed the amount by which the limits of the underinsured motorist coverage exceed the limits of the bodily injury liability insurance of the owner or operator of the underinsured motor vehicle. Any such agreement shall be final as to the amount due and shall be

binding upon both the insured and the underinsured motorist insurer regardless of the amount of any judgment, or any settlement reached between any insured and the person or persons responsible for the accident. No such settlement agreement shall be concluded unless: (i) the insured has complied with all other applicable policy terms and conditions; and (ii) before the conclusion of the settlement agreement, the insured has filed suit against the underinsured motor vehicle owner or operator and has not abandoned the suit, or settled the suit without preserving the rights of the insurer providing underinsured motor vehicle coverage in the manner described in paragraph (6) of this Section.

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

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