

1 AN ACT in relation to 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 by
10 any person arising out of the ownership, maintenance or use of
11 a motor vehicle shall be renewed or delivered or issued for
12 delivery in this State with respect to any motor vehicle
13 designed for use on public highways and required to be
14 registered in this State unless uninsured motorist coverage as
15 required in Section 143a of this Code is included in an amount
16 equal to the insured's bodily injury liability limits unless
17 specifically rejected by the insured as provided in paragraph
18 (2) of this Section. Each insurance company providing the
19 coverage must provide applicants with a brief description of
20 the coverage and advise them of their right to reject the
21 coverage in excess of the limits set forth in Section 7-203 of
22 The Illinois Vehicle Code. The provisions of this amendatory
23 Act of 1990 apply to policies of insurance applied for after
24 June 30, 1991.

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

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

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

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

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

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

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

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

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

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

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

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

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

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