



Rep. Frank J. Mautino

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LRB093 15870 RXD 51466 a

1 AMENDMENT TO SENATE BILL 2238

2 AMENDMENT NO. _____. Amend Senate Bill 2238 by replacing
3 everything after the enacting clause with the following:

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.

1 (2) Right of rejection of additional uninsured motorist
2 coverage. Any named insured or applicant ~~After June 30, 1991,~~
3 ~~every application for motor vehicle coverage must contain a~~
4 ~~space for indicating the rejection of additional uninsured~~
5 ~~motorist coverage. No rejection of that coverage may be~~
6 ~~effective unless the applicant signs or initials the indication~~
7 ~~of rejection. The applicant~~ may reject additional uninsured
8 motorist coverage in excess of the limits set forth in Section
9 7-203 of the Illinois Vehicle Code by making a written request
10 for limits of uninsured motorist coverage which are less than
11 bodily injury liability limits or a written rejection of limits
12 in excess of those required by law. This election or rejection
13 shall be binding on all persons insured under the policy. In
14 those cases, ~~including policies first issued before July 1,~~
15 ~~1991,~~ where the insured has elected to purchase limits of
16 uninsured motorist coverage which are less than bodily injury
17 liability limits or to reject limits in excess of those
18 required by law, the insurer need not provide in any renewal,
19 reinstatement, reissuance, substitute, amended, replacement or
20 supplementary policy, coverage in excess of that elected by the
21 insured in connection with a policy previously issued to such
22 insured by the same insurer unless the insured subsequently
23 makes a written request for such coverage.

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

34 (4) For the purpose of this Code the term "underinsured

1 motor vehicle" means a motor vehicle whose ownership,
2 maintenance or use has resulted in bodily injury or death of
3 the insured, as defined in the policy, and for which the sum of
4 the limits of liability under all bodily injury liability
5 insurance policies or under bonds or other security required to
6 be maintained under Illinois law applicable to the driver or to
7 the person or organization legally responsible for such vehicle
8 and applicable to the vehicle, is less than the limits for
9 underinsured coverage provided the insured as defined in the
10 policy at the time of the accident. The limits of liability for
11 an insurer providing underinsured motorist coverage shall be
12 the limits of such coverage, less those amounts actually
13 recovered under the applicable bodily injury insurance
14 policies, bonds or other security maintained on the
15 underinsured motor vehicle. ~~However, the maximum amount~~
16 ~~payable by the underinsured motorist coverage carrier shall not~~
17 ~~exceed the amount by which the limits of the underinsured~~
18 ~~motorist coverage exceeds the limits of the bodily injury~~
19 ~~liability insurance of the owner or operator of the~~
20 ~~underinsured motor vehicle.~~

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

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

1 (5) Scope. Nothing herein shall prohibit an insurer from
2 setting forth policy terms and conditions which provide that if
3 the insured has coverage available under this Section under
4 more than one policy or provision of coverage, any recovery or
5 benefits may be equal to, but may not exceed, the higher of the
6 applicable limits of the respective coverage, and the limits of
7 liability under this Section shall not be increased because of
8 multiple motor vehicles covered under the same policy of
9 insurance. Insurers providing liability coverage on an excess
10 or umbrella basis are neither required to provide, nor are they
11 prohibited from offering or making available coverages
12 conforming to this Section on a supplemental basis.
13 Notwithstanding the provisions of this Section, an insurer
14 shall not be prohibited from solely providing a combination of
15 uninsured and underinsured motorist coverages where the limits
16 of liability under each coverage is in the same amount.

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

25 (7) A policy which provides underinsured motor vehicle
26 coverage may include a clause which denies payment until the
27 limits of liability or portion thereof under all bodily injury
28 liability insurance policies applicable to the underinsured
29 motor vehicle and its operators have been partially or fully
30 exhausted by payment of judgment or settlement. A judgment or
31 settlement of the bodily injury claim in an amount less than
32 the limits of liability of the bodily injury coverages
33 applicable to the claim shall not preclude the claimant from
34 making an underinsured motorist claim against the underinsured

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

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

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