



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/4/2004, by Denny Jacobs

**SYNOPSIS AS INTRODUCED:**

215 ILCS 5/143a-2

from Ch. 73, par. 755a-2

Amends the Illinois Insurance Code. In provisions giving an applicant's the right to reject additional uninsured motorist coverage, provides the same right to insureds. Provides that a rejection of additional uninsured motorist coverage in excess of the limits set forth in the Illinois Vehicle Code must be executed by the applicant or insured before the policy is issued by the insurer or within 60 days after the issuance of the policy. Effective immediately.

LRB093 18249 SAS 43949 b

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 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. Each insurance company  
18 providing the coverage must provide applicants with a brief  
19 description of the coverage and advise them of their right to  
20 reject the coverage in excess of the limits set forth in  
21 Section 7-203 of The Illinois Vehicle Code. The provisions of  
22 this amendatory Act of 1990 apply to policies of insurance  
23 applied for after June 30, 1991.

24 (2) Right of rejection of additional uninsured motorist  
25 coverage. After June 30, 1991, every application for motor  
26 vehicle coverage must contain a space for indicating the  
27 rejection of additional uninsured motorist coverage. No  
28 rejection of that coverage may be effective unless the  
29 applicant or insured signs or initials the indication of  
30 rejection. The applicant or insured may reject additional  
31 uninsured motorist coverage in excess of the limits set forth  
32 in Section 7-203 of the Illinois Vehicle Code if the rejection

1 is executed by the applicant or insured before the policy is  
2 issued by the insurer or within 60 days after the issuance of  
3 the policy. In those cases, including policies first issued  
4 before July 1, 1991, where the insured has elected to purchase  
5 limits of uninsured motorist coverage which are less than  
6 bodily injury liability limits or to reject limits in excess of  
7 those required by law, the insurer need not provide in any  
8 renewal, reinstatement, reissuance, substitute, amended,  
9 replacement or supplementary policy, coverage in excess of that  
10 elected by the insured in connection with a policy previously  
11 issued to such insured by the same insurer unless the insured  
12 subsequently makes a 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 of  
16 uninsured motorist coverage limits and shall be binding on all  
17 persons insured under the policy. For purposes of this Section  
18 any reproduction of the application by means of photograph,  
19 photostat, microfiche, computerized optical imaging process,  
20 or other similar process or means of reproduction shall be  
21 deemed the equivalent of the original application.

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

1 underinsured motor vehicle. However, the maximum amount  
2 payable by the underinsured motorist coverage carrier shall not  
3 exceed the amount by which the limits of the underinsured  
4 motorist coverage exceeds the limits of the bodily injury  
5 liability insurance of the owner or operator of the  
6 underinsured motor vehicle.

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

18 (5) Scope. Nothing herein shall prohibit an insurer from  
19 setting forth policy terms and conditions which provide that if  
20 the insured has coverage available under this Section under  
21 more than one policy or provision of coverage, any recovery or  
22 benefits may be equal to, but may not exceed, the higher of the  
23 applicable limits of the respective coverage, and the limits of  
24 liability under this Section shall not be increased because of  
25 multiple motor vehicles covered under the same policy of  
26 insurance. Insurers providing liability coverage on an excess  
27 or umbrella basis are neither required to provide, nor are they  
28 prohibited from offering or making available coverages  
29 conforming to this Section on a supplemental basis.  
30 Notwithstanding the provisions of this Section, an insurer  
31 shall not be prohibited from solely providing a combination of  
32 uninsured and underinsured motorist coverages where the limits  
33 of liability under each coverage is in the same amount.

34 (6) Subrogation against underinsured motorists. No insurer  
35 shall exercise any right of subrogation under a policy  
36 providing additional uninsured motorist coverage against an

1 underinsured motorist where the insurer has been provided with  
2 written notice in advance of a settlement between its insured  
3 and the underinsured motorist and the insurer fails to advance  
4 a payment to the insured, in an amount equal to the tentative  
5 settlement, within 30 days following receipt of such notice.

6 (7) A policy which provides underinsured motor vehicle  
7 coverage may include a clause which denies payment until the  
8 limits of liability or portion thereof under all bodily injury  
9 liability insurance policies applicable to the underinsured  
10 motor vehicle and its operators have been partially or fully  
11 exhausted by payment of judgment or settlement. A judgment or  
12 settlement of the bodily injury claim in an amount less than  
13 the limits of liability of the bodily injury coverages  
14 applicable to the claim shall not preclude the claimant from  
15 making an underinsured motorist claim against the underinsured  
16 motorist coverage. Any such provision in a policy of insurance  
17 shall be inapplicable if the insured, or the legal  
18 representative of the insured, and the insurer providing  
19 underinsured motor vehicle coverage agree that the insured has  
20 suffered bodily injury or death as the result of the negligent  
21 operation, maintenance, or use of an underinsured motor vehicle  
22 and, without arbitration, agree also on the amount of damages  
23 that the insured is legally entitled to collect. The maximum  
24 amount payable pursuant to such an underinsured motor vehicle  
25 insurance settlement agreement shall not exceed the amount by  
26 which the limits of the underinsured motorist coverage exceed  
27 the limits of the bodily injury liability insurance of the  
28 owner or operator of the underinsured motor vehicle. Any such  
29 agreement shall be final as to the amount due and shall be  
30 binding upon both the insured and the underinsured motorist  
31 insurer regardless of the amount of any judgment, or any  
32 settlement reached between any insured and the person or  
33 persons responsible for the accident. No such settlement  
34 agreement shall be concluded unless: (i) the insured has  
35 complied with all other applicable policy terms and conditions;  
36 and (ii) before the conclusion of the settlement agreement, the

1 insured has filed suit against the underinsured motor vehicle  
2 owner or operator and has not abandoned the suit, or settled  
3 the suit without preserving the rights of the insurer providing  
4 underinsured motor vehicle coverage in the manner described in  
5 paragraph (6) of this Section.

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

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