



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0917

Introduced 2/7/2007, by Rep. JoAnn D. Osmond

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/143a

from Ch. 73, par. 755a

215 ILCS 5/143a-2

from Ch. 73, par. 755a-2

Amends the Illinois Insurance Code. Provides that insurers providing a commercial general liability policy that includes automobile liability for hired or non-owned vehicles are neither required to provide, nor are they prohibited from offering or making available, coverages conforming to uninsured and hit and run motor vehicle coverage required by the Code. Removes a reference to coverage on a supplemental basis. Effective immediately.

LRB095 06394 KBJ 26491 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 Sections 143a and 143a-2 as follows:

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

7 Sec. 143a. Uninsured and hit and run motor vehicle  
8 coverage.

9 (1) No policy insuring against loss resulting from  
10 liability imposed by law for bodily injury or death suffered by  
11 any person arising out of the ownership, maintenance or use of  
12 a motor vehicle that is designed for use on public highways and  
13 that is either required to be registered in this State or is  
14 principally garaged in this State shall be renewed, delivered,  
15 or issued for delivery in this State unless coverage is  
16 provided therein or supplemental thereto, in limits for bodily  
17 injury or death set forth in Section 7-203 of the Illinois  
18 Vehicle Code for the protection of persons insured thereunder  
19 who are legally entitled to recover damages from owners or  
20 operators of uninsured motor vehicles and hit-and-run motor  
21 vehicles because of bodily injury, sickness or disease,  
22 including death, resulting therefrom. Insurers providing a  
23 commercial general liability policy that includes automobile

1 liability for hired or non-owned vehicles are neither required  
2 to provide, nor are they prohibited from offering or making  
3 available, coverages conforming to this Section. Uninsured  
4 motor vehicle coverage does not apply to bodily injury,  
5 sickness, disease, or death resulting therefrom, of an insured  
6 while occupying a motor vehicle owned by, or furnished or  
7 available for the regular use of the insured, a resident spouse  
8 or resident relative, if that motor vehicle is not described in  
9 the policy under which a claim is made or is not a newly  
10 acquired or replacement motor vehicle covered under the terms  
11 of the policy. The limits for any coverage for any vehicle  
12 under the policy may not be aggregated with the limits for any  
13 similar coverage, whether provided by the same insurer or  
14 another insurer, applying to other motor vehicles, for purposes  
15 of determining the total limit of insurance coverage available  
16 for bodily injury or death suffered by a person in any one  
17 accident. No policy shall be renewed, delivered, or issued for  
18 delivery in this State unless it is provided therein that any  
19 dispute with respect to the coverage and the amount of damages  
20 shall be submitted for arbitration to the American Arbitration  
21 Association and be subject to its rules for the conduct of  
22 arbitration hearings as to all matters except medical opinions.  
23 As to medical opinions, if the amount of damages being sought  
24 is equal to or less than the amount provided for in Section  
25 7-203 of the Illinois Vehicle Code, then the current American  
26 Arbitration Association Rules shall apply. If the amount being

1 sought in an American Arbitration Association case exceeds that  
2 amount as set forth in Section 7-203 of the Illinois Vehicle  
3 Code, then the Rules of Evidence that apply in the circuit  
4 court for placing medical opinions into evidence shall govern.  
5 Alternatively, disputes with respect to damages and the  
6 coverage shall be determined in the following manner: Upon the  
7 insured requesting arbitration, each party to the dispute shall  
8 select an arbitrator and the 2 arbitrators so named shall  
9 select a third arbitrator. If such arbitrators are not selected  
10 within 45 days from such request, either party may request that  
11 the arbitration be submitted to the American Arbitration  
12 Association. Any decision made by the arbitrators shall be  
13 binding for the amount of damages not exceeding \$50,000 for  
14 bodily injury to or death of any one person, \$100,000 for  
15 bodily injury to or death of 2 or more persons in any one motor  
16 vehicle accident, or the corresponding policy limits for bodily  
17 injury or death, whichever is less. All 3-person arbitration  
18 cases proceeding in accordance with any uninsured motorist  
19 coverage conducted in this State in which the claimant is only  
20 seeking monetary damages up to the limits set forth in Section  
21 7-203 of the Illinois Vehicle Code shall be subject to the  
22 following rules:

23 (A) If at least 60 days' written notice of the  
24 intention to offer the following documents in evidence is  
25 given to every other party, accompanied by a copy of the  
26 document, a party may offer in evidence, without foundation

1 or other proof:

2 (1) bills, records, and reports of hospitals,  
3 doctors, dentists, registered nurses, licensed  
4 practical nurses, physical therapists, and other  
5 healthcare providers;

6 (2) bills for drugs, medical appliances, and  
7 prostheses;

8 (3) property repair bills or estimates, when  
9 identified and itemized setting forth the charges for  
10 labor and material used or proposed for use in the  
11 repair of the property;

12 (4) a report of the rate of earnings and time lost  
13 from work or lost compensation prepared by an employer;

14 (5) the written opinion of an opinion witness, the  
15 deposition of a witness, and the statement of a witness  
16 that the witness would be allowed to express if  
17 testifying in person, if the opinion or statement is  
18 made by affidavit or by certification as provided in  
19 Section 1-109 of the Code of Civil Procedure;

20 (6) any other document not specifically covered by  
21 any of the foregoing provisions that is otherwise  
22 admissible under the rules of evidence.

23 Any party receiving a notice under this paragraph (A)  
24 may apply to the arbitrator or panel of arbitrators, as the  
25 case may be, for the issuance of a subpoena directed to the  
26 author or maker or custodian of the document that is the

1 subject of the notice, requiring the person subpoenaed to  
2 produce copies of any additional documents as may be  
3 related to the subject matter of the document that is the  
4 subject of the notice. Any such subpoena shall be issued in  
5 substantially similar form and served by notice as provided  
6 by Illinois Supreme Court Rule 204(a)(4). Any such subpoena  
7 shall be returnable not less than 5 days before the  
8 arbitration hearing.

9 (B) Notwithstanding the provisions of Supreme Court  
10 Rule 213(g), a party who proposes to use a written opinion  
11 of an expert or opinion witness or the testimony of an  
12 expert or opinion witness at the hearing may do so provided  
13 a written notice of that intention is given to every other  
14 party not less than 60 days prior to the date of hearing,  
15 accompanied by a statement containing the identity of the  
16 witness, his or her qualifications, the subject matter, the  
17 basis of the witness's conclusions, and his or her opinion.

18 (C) Any other party may subpoena the author or maker of  
19 a document admissible under this subsection, at that  
20 party's expense, and examine the author or maker as if  
21 under cross-examination. The provisions of Section 2-1101  
22 of the Code of Civil Procedure shall be applicable to  
23 arbitration hearings, and it shall be the duty of a party  
24 requesting the subpoena to modify the form to show that the  
25 appearance is set before an arbitration panel and to give  
26 the time and place set for the hearing.

1           (D) The provisions of Section 2-1102 of the Code of  
2           Civil Procedure shall be applicable to arbitration  
3           hearings under this subsection.

4           (2) No policy insuring against loss resulting from  
5           liability imposed by law for property damage arising out of the  
6           ownership, maintenance, or use of a motor vehicle shall be  
7           renewed, delivered, or issued for delivery in this State with  
8           respect to any private passenger or recreational motor vehicle  
9           that is designed for use on public highways and that is either  
10          required to be registered in this State or is principally  
11          garaged in this State and is not covered by collision insurance  
12          under the provisions of such policy, unless coverage is made  
13          available in the amount of the actual cash value of the motor  
14          vehicle described in the policy or \$15,000 whichever is less,  
15          subject to a \$250 deductible, for the protection of persons  
16          insured thereunder who are legally entitled to recover damages  
17          from owners or operators of uninsured motor vehicles and  
18          hit-and-run motor vehicles because of property damage to the  
19          motor vehicle described in the policy.

20          There shall be no liability imposed under the uninsured  
21          motorist property damage coverage required by this subsection  
22          if the owner or operator of the at-fault uninsured motor  
23          vehicle or hit-and-run motor vehicle cannot be identified. This  
24          subsection shall not apply to any policy which does not provide  
25          primary motor vehicle liability insurance for liabilities  
26          arising from the maintenance, operation, or use of a

1 specifically insured motor vehicle.

2 Each insurance company providing motor vehicle property  
3 damage liability insurance shall advise applicants of the  
4 availability of uninsured motor vehicle property damage  
5 coverage, the premium therefor, and provide a brief description  
6 of the coverage. Each insurer, with respect to the initial  
7 renewal, reinstatement, or reissuance of a policy of motor  
8 vehicle property damage liability insurance shall provide  
9 present policyholders with the same information in writing.  
10 That information need be given only once and shall not be  
11 required in any subsequent renewal, reinstatement or  
12 reissuance, substitute, amended, replacement or supplementary  
13 policy. No written rejection shall be required, and the absence  
14 of a premium payment for uninsured motor vehicle property  
15 damage shall constitute conclusive proof that the applicant or  
16 policyholder has elected not to accept uninsured motorist  
17 property damage coverage.

18 An insurance company issuing uninsured motor vehicle  
19 property damage coverage may provide that:

20 (i) Property damage losses recoverable thereunder  
21 shall be limited to damages caused by the actual physical  
22 contact of an uninsured motor vehicle with the insured  
23 motor vehicle.

24 (ii) There shall be no coverage for loss of use of the  
25 insured motor vehicle and no coverage for loss or damage to  
26 personal property located in the insured motor vehicle.



1 (iii) Any claim submitted shall include the name and  
2 address of the owner of the at-fault uninsured motor  
3 vehicle, or a registration number and description of the  
4 vehicle, or any other available information to establish  
5 that there is no applicable motor vehicle property damage  
6 liability insurance.

7 Any dispute with respect to the coverage and the amount of  
8 damages shall be submitted for arbitration to the American  
9 Arbitration Association and be subject to its rules for the  
10 conduct of arbitration hearings or for determination in the  
11 following manner: Upon the insured requesting arbitration,  
12 each party to the dispute shall select an arbitrator and the 2  
13 arbitrators so named shall select a third arbitrator. If such  
14 arbitrators are not selected within 45 days from such request,  
15 either party may request that the arbitration be submitted to  
16 the American Arbitration Association. Any arbitration  
17 proceeding under this subsection seeking recovery for property  
18 damages shall be subject to the following rules:

19 (A) If at least 60 days' written notice of the  
20 intention to offer the following documents in evidence is  
21 given to every other party, accompanied by a copy of the  
22 document, a party may offer in evidence, without foundation  
23 or other proof:

24 (1) property repair bills or estimates, when  
25 identified and itemized setting forth the charges for  
26 labor and material used or proposed for use in the

1 repair of the property;

2 (2) the written opinion of an opinion witness, the  
3 deposition of a witness, and the statement of a witness  
4 that the witness would be allowed to express if  
5 testifying in person, if the opinion or statement is  
6 made by affidavit or by certification as provided in  
7 Section 1-109 of the Code of Civil Procedure;

8 (3) any other document not specifically covered by  
9 any of the foregoing provisions that is otherwise  
10 admissible under the rules of evidence.

11 Any party receiving a notice under this paragraph (A)  
12 may apply to the arbitrator or panel of arbitrators, as the  
13 case may be, for the issuance of a subpoena directed to the  
14 author or maker or custodian of the document that is the  
15 subject of the notice, requiring the person subpoenaed to  
16 produce copies of any additional documents as may be  
17 related to the subject matter of the document that is the  
18 subject of the notice. Any such subpoena shall be issued in  
19 substantially similar form and served by notice as provided  
20 by Illinois Supreme Court Rule 204(a)(4). Any such subpoena  
21 shall be returnable not less than 5 days before the  
22 arbitration hearing.

23 (B) Notwithstanding the provisions of Supreme Court  
24 Rule 213(g), a party who proposes to use a written opinion  
25 of an expert or opinion witness or the testimony of an  
26 expert or opinion witness at the hearing may do so provided

1 a written notice of that intention is given to every other  
2 party not less than 60 days prior to the date of hearing,  
3 accompanied by a statement containing the identity of the  
4 witness, his or her qualifications, the subject matter, the  
5 basis of the witness's conclusions, and his or her opinion.

6 (C) Any other party may subpoena the author or maker of  
7 a document admissible under this subsection, at that  
8 party's expense, and examine the author or maker as if  
9 under cross-examination. The provisions of Section 2-1101  
10 of the Code of Civil Procedure shall be applicable to  
11 arbitration hearings, and it shall be the duty of a party  
12 requesting the subpoena to modify the form to show that the  
13 appearance is set before an arbitration panel and to give  
14 the time and place set for the hearing.

15 (D) The provisions of Section 2-1102 of the Code of  
16 Civil Procedure shall be applicable to arbitration  
17 hearings under this subsection.

18 (3) For the purpose of the coverage the term "uninsured  
19 motor vehicle" includes, subject to the terms and conditions of  
20 the coverage, a motor vehicle where on, before or after the  
21 accident date the liability insurer thereof is unable to make  
22 payment with respect to the legal liability of its insured  
23 within the limits specified in the policy because of the entry  
24 by a court of competent jurisdiction of an order of  
25 rehabilitation or liquidation by reason of insolvency on or  
26 after the accident date. An insurer's extension of coverage, as

1 provided in this subsection, shall be applicable to all  
2 accidents occurring after July 1, 1967 during a policy period  
3 in which its insured's uninsured motor vehicle coverage is in  
4 effect. Nothing in this Section may be construed to prevent any  
5 insurer from extending coverage under terms and conditions more  
6 favorable to its insureds than is required by this Section.

7 (4) In the event of payment to any person under the  
8 coverage required by this Section and subject to the terms and  
9 conditions of the coverage, the insurer making the payment  
10 shall, to the extent thereof, be entitled to the proceeds of  
11 any settlement or judgment resulting from the exercise of any  
12 rights of recovery of the person against any person or  
13 organization legally responsible for the property damage,  
14 bodily injury or death for which the payment is made, including  
15 the proceeds recoverable from the assets of the insolvent  
16 insurer. With respect to payments made by reason of the  
17 coverage described in subsection (3), the insurer making such  
18 payment shall not be entitled to any right of recovery against  
19 the tort-feasor in excess of the proceeds recovered from the  
20 assets of the insolvent insurer of the tort-feasor.

21 (5) This amendatory Act of 1967 shall not be construed to  
22 terminate or reduce any insurance coverage or any right of any  
23 party under this Code in effect before July 1, 1967. This  
24 amendatory Act of 1990 shall not be construed to terminate or  
25 reduce any insurance coverage or any right of any party under  
26 this Code in effect before its effective date.

1           (6) Failure of the motorist from whom the claimant is  
2 legally entitled to recover damages to file the appropriate  
3 forms with the Safety Responsibility Section of the Department  
4 of Transportation within 120 days of the accident date shall  
5 create a rebuttable presumption that the motorist was uninsured  
6 at the time of the injurious occurrence.

7           (7) An insurance carrier may upon good cause require the  
8 insured to commence a legal action against the owner or  
9 operator of an uninsured motor vehicle before good faith  
10 negotiation with the carrier. If the action is commenced at the  
11 request of the insurance carrier, the carrier shall pay to the  
12 insured, before the action is commenced, all court costs, jury  
13 fees and sheriff's fees arising from the action.

14           The changes made by this amendatory Act of 1997 apply to  
15 all policies of insurance amended, delivered, issued, or  
16 renewed on and after the effective date of this amendatory Act  
17 of 1997.

18           (Source: P.A. 93-485, eff. 1-1-04.)

19           (215 ILCS 5/143a-2) (from Ch. 73, par. 755a-2)

20           Sec. 143a-2. (1) Additional uninsured motor vehicle  
21 coverage. No policy insuring against loss resulting from  
22 liability imposed by law for bodily injury or death suffered by  
23 any person arising out of the ownership, maintenance or use of  
24 a motor vehicle shall be renewed or delivered or issued for  
25 delivery in this State with respect to any motor vehicle

1 designed for use on public highways and required to be  
2 registered in this State unless uninsured motorist coverage as  
3 required in Section 143a of this Code is included in an amount  
4 equal to the insured's bodily injury liability limits unless  
5 specifically rejected by the insured as provided in subsection  
6 ~~paragraph~~ (2) of this Section. Each insurance company providing  
7 the coverage must provide applicants with a brief description  
8 of the coverage and advise them of their right to reject the  
9 coverage in excess of the limits set forth in Section 7-203 of  
10 The Illinois Vehicle Code. The provisions of this amendatory  
11 Act of 1990 apply to policies of insurance applied for after  
12 June 30, 1991.

13 (2) Right of rejection of additional uninsured motorist  
14 coverage. Any named insured or applicant may reject additional  
15 uninsured motorist coverage in excess of the limits set forth  
16 in Section 7-203 of the Illinois Vehicle Code by making a  
17 written request for limits of uninsured motorist coverage which  
18 are less than bodily injury liability limits or a written  
19 rejection of limits in excess of those required by law. This  
20 election or rejection shall be binding on all persons insured  
21 under the policy. In those cases where the insured has elected  
22 to purchase limits of uninsured motorist coverage which are  
23 less than bodily injury liability limits or to reject limits in  
24 excess of those required by law, the insurer need not provide  
25 in any renewal, reinstatement, reissuance, substitute,  
26 amended, replacement or supplementary policy, coverage in

1 excess of that elected by the insured in connection with a  
2 policy previously issued to such insured by the same insurer  
3 unless the insured subsequently makes a written request for  
4 such coverage.

5 (3) The original document indicating the applicant's  
6 selection of uninsured motorist coverage limits shall  
7 constitute sufficient evidence of the applicant's selection of  
8 uninsured motorist coverage limits. For purposes of this  
9 Section any reproduction of the document by means of  
10 photograph, photostat, microfiche, computerized optical  
11 imaging process, or other similar process or means of  
12 reproduction shall be deemed the equivalent of the original  
13 document.

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

1 recovered under the applicable bodily injury insurance  
2 policies, bonds or other security maintained on the  
3 underinsured motor vehicle.

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

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

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



1 or umbrella basis are neither required to provide, nor are they  
2 prohibited from offering or making available, coverages  
3 conforming to this Section ~~on a supplemental basis.~~

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

8 Insurers providing a commercial general liability policy that  
9 includes automobile liability for hired or non-owned vehicles  
10 are neither required to provide, nor are they prohibited from  
11 offering or making available, coverages conforming to this  
12 Section.

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

21 (7) A policy which provides underinsured motor vehicle  
22 coverage may include a clause which denies payment until the  
23 limits of liability or portion thereof under all bodily injury  
24 liability insurance policies applicable to the underinsured  
25 motor vehicle and its operators have been partially or fully  
26 exhausted by payment of judgment or settlement. A judgment or

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

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

5 (Source: P.A. 93-762, eff. 7-16-04.)

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