



Rep. Michael J. Zalewski

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09800HB5575ham001

LRB098 14733 RPM 57157 a

1 AMENDMENT TO HOUSE BILL 5575

2 AMENDMENT NO. _____. Amend House Bill 5575 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 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

1 injury or death set forth in Section 7-203 of the Illinois
2 Vehicle Code for the protection of persons insured thereunder
3 who are legally entitled to recover damages from owners or
4 operators of uninsured motor vehicles and hit-and-run motor
5 vehicles because of bodily injury, sickness or disease,
6 including death, resulting therefrom. Uninsured motor vehicle
7 coverage does not apply to bodily injury, sickness, disease, or
8 death resulting therefrom, of an insured while occupying a
9 motor vehicle owned by, or furnished or available for the
10 regular use of the insured, a resident spouse or resident
11 relative, if that motor vehicle is not described in the policy
12 under which a claim is made or is not a newly acquired or
13 replacement motor vehicle covered under the terms of the
14 policy. The limits for any coverage for any vehicle under the
15 policy may not be aggregated with the limits for any similar
16 coverage, whether provided by the same insurer or another
17 insurer, applying to other motor vehicles, for purposes of
18 determining the total limit of insurance coverage available for
19 bodily injury or death suffered by a person in any one
20 accident. No policy shall be renewed, delivered, or issued for
21 delivery in this State unless it is provided therein that any
22 dispute with respect to the coverage and the amount of damages
23 shall be submitted for arbitration to the American Arbitration
24 Association and be subject to its rules for the conduct of
25 arbitration hearings as to all matters except medical opinions.
26 As to medical opinions, if the amount of damages being sought

1 is equal to or less than the amount provided for in Section
2 7-203 of the Illinois Vehicle Code, then the current American
3 Arbitration Association Rules shall apply. If the amount being
4 sought in an American Arbitration Association case exceeds that
5 amount as set forth in Section 7-203 of the Illinois Vehicle
6 Code, then the Rules of Evidence that apply in the circuit
7 court for placing medical opinions into evidence shall govern.
8 Alternatively, disputes with respect to damages and the
9 coverage shall be determined in the following manner: Upon the
10 insured requesting arbitration, each party to the dispute shall
11 select an arbitrator and the 2 arbitrators so named shall
12 select a third arbitrator. If such arbitrators are not selected
13 within 45 days from such request, either party may request that
14 the arbitration be submitted to the American Arbitration
15 Association. Any decision made by the arbitrators shall be
16 binding for the amount of damages not exceeding \$75,000 ~~\$50,000~~
17 for bodily injury to or death of any one person, \$150,000
18 ~~\$100,000~~ for bodily injury to or death of 2 or more persons in
19 any one motor vehicle accident, or the corresponding policy
20 limits for bodily injury or death, whichever is less. All
21 3-person arbitration cases proceeding in accordance with any
22 uninsured motorist coverage conducted in this State in which
23 the claimant is only seeking monetary damages up to the limits
24 set forth in Section 7-203 of the Illinois Vehicle Code shall
25 be subject to the following rules:

26 (A) If at least 60 days' written notice of the

1 intention to offer the following documents in evidence is
2 given to every other party, accompanied by a copy of the
3 document, a party may offer in evidence, without foundation
4 or other proof:

5 (1) bills, records, and reports of hospitals,
6 doctors, dentists, registered nurses, licensed
7 practical nurses, physical therapists, and other
8 healthcare providers;

9 (2) bills for drugs, medical appliances, and
10 prostheses;

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

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

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

23 (6) any other document not specifically covered by
24 any of the foregoing provisions that is otherwise
25 admissible under the rules of evidence.

26 Any party receiving a notice under this paragraph (A)

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

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

21 (C) Any other party may subpoena the author or maker of
22 a document admissible under this subsection, at that
23 party's expense, and examine the author or maker as if
24 under cross-examination. The provisions of Section 2-1101
25 of the Code of Civil Procedure shall be applicable to
26 arbitration hearings, and it shall be the duty of a party

1 requesting the subpoena to modify the form to show that the
2 appearance is set before an arbitration panel and to give
3 the time and place set for the hearing.

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

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

23 There shall be no liability imposed under the uninsured
24 motorist property damage coverage required by this subsection
25 if the owner or operator of the at-fault uninsured motor
26 vehicle or hit-and-run motor vehicle cannot be identified. This

1 subsection shall not apply to any policy which does not provide
2 primary motor vehicle liability insurance for liabilities
3 arising from the maintenance, operation, or use of a
4 specifically insured motor vehicle.

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

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

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

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

26 (iii) Any claim submitted shall include the name and

1 address of the owner of the at-fault uninsured motor
2 vehicle, or a registration number and description of the
3 vehicle, or any other available information to establish
4 that there is no applicable motor vehicle property damage
5 liability insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (6) Failure of the motorist from whom the claimant is

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

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

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

17 (8) The changes made by this amendatory Act of the 98th
18 General Assembly apply to all policies of insurance amended,
19 delivered, issued, or renewed on and after the effective date
20 of this amendatory Act of the 98th General Assembly.

21 (Source: P.A. 98-242, eff. 1-1-14.)".