



Alerts

Amendments Proposed to New York's Comprehensive Insurance Disclosure Act

January 21, 2022

Insights for Insurers

The New York State Senate Rules Committee recently approved [Senate Bill S7882](#), and that amended bill is now waiting for formal presentation to both the Senate and the Assembly. If passed and signed by Governor Hochul, the amendments would modify the recently enacted [Comprehensive Insurance Disclosure Act](#) as follows:

- Compliance with the new CPLR 3101(f) provisions is no longer retroactive and is only required for actions filed on or after December 31, 2021.
- The amendments would alter the time limit to comply with CPLR 3101(f) from 60 days to 90 days.
- Defendants must provide copies of the "declarations, insuring agreements, conditions, exclusions, endorsements, and similar provisions" of any policy that relates to the claim being litigated.
- With plaintiff's written consent, a defendant would only need to provide a copy of the policy's declaration page, but, the plaintiff could revoke its consent or request a complete copy of the policy at any time thereafter.
- Only insurance policies that "relate to the claim being litigated" need to be disclosed.
- Only the name and email address of a person responsible for adjusting the claim must be provided.
- Only the total limits available under the policy, which is defined as the "actual funds, after taking into account erosion and any other offsets," need to be disclosed.
- Defendants are only required to make "reasonable efforts" to ensure the information previously disclosed is accurate, complete, and up-to-date at specific stages of the litigation, including: (i) when the note of issue is filed; (ii) when entering into any formal settlement negotiations conducted or supervised by the court; (iii) at voluntary mediation; and (iv) when the case is called for trial.
- Defendants no longer need to disclose the application for insurance.
- The policy and its limits would still be inadmissible at trial.
- The proposed amendments still require certification by both the defendant and its counsel.
- Actions brought to recover PIP/no-fault benefits are excluded from these disclosure requirements.

Attorneys

Brent M. Reitter



While these amendments are a step in the right direction, the practical effects of the Comprehensive Insurance Disclosure Act will still place an undue burden on both carriers and defense counsel. To learn more about the Act or for assistance in preparing to comply with the Act's onerous requirements, please contact your Hinshaw attorney.