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NY Comprehensive Insurance Disclosure Act Obligates Defendants in Litigation

On Dec. 31, 2021, New York Gov. Hochul signed into law the Comprehensive Insurance Disclosure Act (S7052) (Chapter 832 of the Laws of 2021), placing obligations on defendants in litigation. However, a chapter amendment will be enacted that will modify many of the law's provisions.

The Act amends New York Civil Practice Law & Rules Section 3101(f) and imposes new insurance disclosure requirements on defendants in civil cases in New York state courts. It applies to all actions commenced on or after its effective date, Dec. 31, 2021, and requires defendants to produce insurance information to the plaintiff within 90 days of service of an answer to a complaint. Insurance information means all insurance policies and self-insurance, including primary, excess, and umbrella policies that may satisfy part or all of a judgment that may be entered in the action. The Act permits a plaintiff at their revocable discretion to accept a declaration page, rather than the entire policy. It requires that the name and email of the person adjusting the claim be disclosed. The Act further requires the disclosure of total limits available under any disclosed policy, taking into account any erosion and offsets. The limits disclosure will need to be made at the time of the filing of the note of issue, during settlement negotiations conducted or supervised by the court, and at trial, inclusive of appeals. The Act expressly states that the disclosure of policy limits does not constitute an admission that the alleged injury or damage is covered under the policy.

The Act does not apply to actions brought to recover motor vehicle insurance personal injury protection benefits pursuant Article 51 of Insurance Law (Comprehensive Motor Vehicle Insurance Reparations Act/ Regulation 68 of Title 11 of the New York Codes, Rules and Regulations).

The chapter amendment will soften some of the Act's initial requirements, including by lengthening the time for disclosure of insurance information from 60 days to 90 days; eliminating the requirement to disclose the application for insurance, and limiting the times that calculation of the total limits of the policy must be disclosed.

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