



---

Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

---

## NY Lawmakers Amending Defendant Insurance Disclosure Bill

By **Ben Zigterman**

Law360 (February 2, 2022, 6:47 PM EST) -- After outcry from the insurance industry, the New York Legislature is considering amendments that would ease some of the requirements in a new state law obligating defendants to share insurance coverage information.

The state Senate last week passed the amendments, which the State Assembly's Judiciary Committee approved unanimously Tuesday.

"My goal, and what I am pushing internally, is to get this done as quickly as possible," Assemblymember Jennifer Lunsford, the bill's sponsor in the State Assembly, told Law360. "These changes are definitely happening."

Late last year, Gov. Kathy Hochul **signed** the Comprehensive Insurance Disclosure Act, or CIDA, which gave defendants 60 days after answering a lawsuit to provide insurance coverage information, including applications, contact information for insurance adjusters and available limits. It also applied to both new and pending suits.

The proposed amendments would limit the new requirements to new lawsuits, extend the response time to 90 days and make clear that insurance applications and insurance adjuster phone numbers aren't required to be handed over, according to the bill's text.

Defendants would also no longer have to share lawsuits and attorney fees that may have reduced the total coverage limits, according to the bill's text.

Lunsford said she understood why it would've been "a little burdensome" to have the disclosure requirements apply to all pending lawsuits and was fine with extending the response time to 90 days, but as a former trial lawyer, she said a deadline is still necessary.

"I have been caught in scenarios where we are years into litigation, and I suddenly find out there's excess coverage I didn't know about, and it's drastically changing our strategy midway," she said. "Ninety days is fine with me. There just needed to be some kind of timeline I could hold someone to account for that was towards the front end of a lawsuit."

The bill received support from the New York State Trial Lawyers Association, whose President Halina Radchenko, said it "finally shines a light on their deliberate attempts to deny disclosing coverage in clear violation of state law."

While the NYSTLA praised the bill, the New York Insurance Association and insurance industry lawyers criticized it as burdensome and unnecessary.

NYIA President Ellen Melchionni said the organization is "now taking a pragmatic approach to the amendments, which need to be formally adopted as soon as possible to avoid further costs needlessly being passed on to policyholders."

She also encouraged the state Legislature to make further revisions in the long term.

"It is crucial that civil justice not be for sale to the highest bidder in New York state," she told Law360.

Dan Kohane, an attorney with Hurwitz & Fine PC who represents insurance companies, welcomed some of the amendments, but still doesn't see why CIDA is necessary.

"It's still going to require some work, and it's going to require regular updates," he told Law360. "Assuming these amendments get adopted, it's better than it was. It still solves a problem that doesn't exist; you could always get this information on demand."

Kohane and Roy A. Mura, an attorney with the Mura Law Group in Buffalo who also represents insurance companies, also said they are disappointed that changes weren't made to a provision requiring the defendant and their attorney both certify that the insurance disclosures are accurate.

"Perhaps, worst of all, it requires defendants and their attorneys to obtain and certify the accuracy and completeness of information they have no personal knowledge of or control over. What if the defendant's insurer(s) refuses to provide the information? Or provides inaccurate or incomplete information?" Mura told Law360. "A ridiculous Catch-22."

Representatives of the bill's sponsors and Hochul did not immediately respond Wednesday to requests for comment.

The legislation is A08852 in the New York State Assembly.

--Editing by Nick Petrucio.

*Update: This article has been updated with comments from Assemblymember Jennifer Lunsford.*

---

All Content © 2003-2022, Portfolio Media, Inc.