



NEW YORK  
CITY BAR

**REPORT ON LEGISLATION BY  
THE INSURANCE LAW COMMITTEE**

**A.8808-A / S.8308-A (Budget Article VII - Transportation, Economic Development and Environmental Conservation) – Part DD**

AN ACT to amend the insurance law, in relation to supplemental spousal liability insurance.

**THIS BUDGET PROVISION IS APPROVED**

The Insurance Law Committee of the New York City Bar Association welcomes this opportunity to comment on Governor Hochul’s proposed budget. We write in support of Part DD of FY 2025 New York State Executive Budget – Transportation, Economic Development and Environmental Conservation, Article VII Legislation (“Part DD”). This proposal would require that automobile insurance carriers offer supplemental spousal liability coverage to married persons on an opt-out basis, and to unmarried persons on an opt-in basis.

By way of background, Chapter 735 of 2022 Laws of New York reversed the long-standing “opt-in” regime established by New York Insurance Law Section 3420(g). Historically, Section 3420(g) required that every automobile liability insurer doing business in New York make available supplemental spousal liability coverage in its automobile liability policies. This would cover one spouse in the event of injuries incurred as a result of a car accident caused by the other spouse. To take advantage of this coverage, an insured would have to affirmatively request such coverage and pay the incremental premium associated with it. Chapter 735, which became effective for policy issuances or renewals on or after August 1, 2023, reversed this regime from “opt-in” to “opt-out”. Under the opt-out regime, such spousal liability coverage is presumptively *included* in coverage unless the insured opts *out* by completing a form determined by the Superintendent of Financial Services. The opt-out requirement applies to all policyholders regardless of marital status and regardless of whether the policyholder is a legal entity or natural person. Under Chapter 108 of 2023 Laws of New York, this opt-out regime sunsets on July 31, 2027, when the requirements of Chapter 735 are deemed repealed.

The opt-out regime imposed by Section 3420(g) as amended by Chapter 735 results in many insureds’ receiving, and paying for, coverage that they neither want nor need. This is particularly true in the case of unmarried persons, who have no need for this coverage and will be forced to pay for coverage simply based on inaction. Chapter 735 also has the potential to increase civil litigation.

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

The reform reflected by Part DD sensibly restricts the opt-out regime to married insureds, while making it clear that unmarried persons will not be required to accept this unwanted and unnecessary coverage or pay for it simply because they fail to fill out a form. Regardless of the merits of an opt-out regime, at a minimum it should not apply to persons who do not benefit from this coverage at all (*e.g.*, unmarried persons). The Insurance Law Committee supports the inclusion of this reform in the final State budget.

March 2024

**Contact**

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