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CLIENT ALERT

New York Amends Comprehensive Insurance Disclosure Act

MARCH 30, 2022

On January 31, 2022, we summarized New York's newly enacted Comprehensive Insurance Disclosure Act, which amended the scope of disclosure requirements for insurance agreements in CPLR § 3101(f). We also explained why the Act potentially subjected New York state court defendants to some of the most extensive liability insurance disclosure requirements in the nation. Immediately after it was signed into law, the Act drew criticism. Amongst these critics was Governor Kathy Hochul, who implored the New York Legislature to amend the Act to reduce some of its more onerous requirements. This follow-up post reports that these calls were heard and answered.

On February 25, 2022, Governor Kathy Hochul signed into law a variety of amendments. These amendments are now in-effect and address many of the issues discussed in our previous post. The below is a summary of these changes:

1. The time limit to comply with the requirements has been extended to 90 days after filing an answer (the Act originally had a 60-day requirement).
2. The amendments eliminated the requirement that defendants disclose applications for insurance.
3. Insurance policies are only required to be disclosed if they "relate to the claim being litigated" (amended from requiring disclosure of all insurance policies regardless of relevance to the subject of litigation).
4. Requires the disclosure of total limits available under the applicable policy(ies), defined as "actual funds, after taking into account erosion and any other offsets, that can be used to satisfy a judgment" (amended from requiring details about lawsuits and payment of attorneys' fees that reduced the policy limits).
5. Eliminates the Act's "ongoing" obligation to provide updated information regarding policy erosion. Specifically, it amended the Act to only require disclosure at the time of: (a) filing of the note of issue, (b) entering into any formal settlement negotiations conducted or supervised by the court, (c) voluntary mediation, and (d) when the case is called for trial.
6. Requires only the disclosure of the name and email address of the person adjusting the claim (narrowed from previous requirement of name, telephone number, and email address of claim adjusters, third-party administrators, and third-party administrators' supervisors).

7. Remove the requirement that policies such as “primary, excess and umbrella policies, contracts or agreements”—including self-insurance programs—be “sold or delivered within the state of New York.”

If you have additional questions or need further assistance, please reach out to the authors of this article, **Jeffrey Amato** (Partner, Antitrust/Competition and Complex Commercial Litigation).
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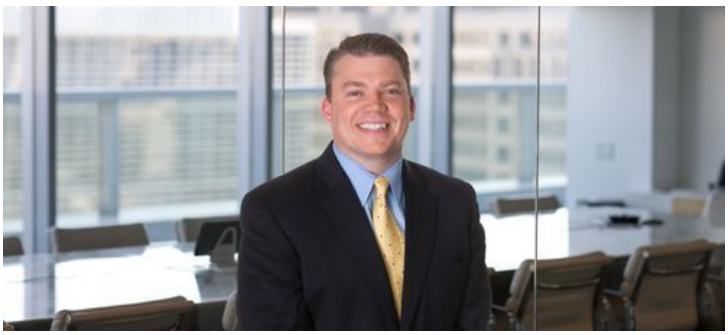

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