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Changes to Comprehensive Insurance Disclosure Act in New York Introduced

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As discussed in our post on Friday, January 7, 2022, Governor Kathy Hochul signed into law the Comprehensive Insurance Disclosure Act, mandating comprehensive, automatic disclosures regarding insurance in all cases pending in New York courts.

Although the law was signed as written, Governor Hochul also made proposed amendments to the law, in the form of a “redline” in an attempt to make the law less onerous on insurance companies and businesses. On January 18, 2022, Senator Andrew Gounardes introduced Senate Bill 7882, incorporating Governor Hochul's proposed amendments:

- The time for disclosure would be 90 days of service of the answer, instead of 60.
- The proof of insurance could constitute a declaration page only, if a party agrees in writing.
- The required policies to be disclosed only relate to the claim litigated.
- Only the name and e-mail address of a claims adjuster must be disclosed, not the telephone number. Further, only one assigned individual must be disclosed.
- Deletion of the requirement to disclose all other suits that have or may have eroded the policy, and deletion of the requirement to disclose attorney's fees for eroding policies. In their stead, the requirement would be disclosure of the “total limits available” under the policy.
- The requirement to disclose accurate information is no longer “ongoing,” and is replaced by a requirement that the party make reasonable efforts to ensure that the information remains accurate. Updated information is not required to be disclosed within 30 days of receipt, but is now required at the filing of the notice of issue, when entering formal settlement negotiations, when the case is called for trial, and sixty days after settlement or judgment.
- Policy applications would not be required to be disclosed.
- The requirements of the CPLR provision shall not apply to actions brought to recover Motor Vehicle Insurance Personal Injury Protection Benefits under Article 51 of the Insurance Law or Regulation 68 of Title 11 of the NYCRR.
- These disclosure requirements would not be retroactive to all pending cases. Instead, the disclosure requirements will apply to suits filed on or after the effective date of the initial Comprehensive Insurance Disclosure Act, December 31, 2021. The disclosures for these cases would be due 90 days after service of the answer.

In sum, although still automatic, the requirements would not be retroactive, would not involve disclosure of applications or other lawsuits, and would reduce the ongoing obligation to make continuous disclosures. A vote on S7882 is expected in the coming weeks. Traub Lieberman attorneys will be watching closely and will be ready to advise with respect to the proposed changes and obligations of insurers and businesses.