

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Bill banning step-down clauses in auto policies advances in Senate," New Jersey Law Journal, 12-04-06

RWH 6/5/08

P.L. 2007, CHAPTER 163, *approved September 10, 2007*
Senate, No. 1666

1 AN ACT concerning uninsured and underinsured motorist coverage
2 and amending P.L.1968, c.385.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read
8 as follows:

9 2. a. Except for a basic automobile insurance policy, no motor
10 vehicle liability policy or renewal of such policy of insurance,
11 including a standard liability policy for an automobile as defined in
12 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss
13 resulting from liability imposed by law for bodily injury or death,
14 sustained by any person arising out of the ownership, maintenance
15 or use of a motor vehicle, shall be issued in this State with respect
16 to any motor vehicle registered or principally garaged in this State
17 unless it includes coverage in limits for bodily injury or death as
18 follows:

19 (1) an amount or limit of \$15,000.00, exclusive of interest and
20 costs, on account of injury to, or death of, one person, in any one
21 accident, and

22 (2) an amount or limit, subject to such limit for any one person
23 so injured or killed, of \$30,000.00, exclusive of interest and costs,
24 on account of injury to or death of more than one person, in any one
25 accident, under provisions approved by the Commissioner of
26 Banking and Insurance, for payment of all or part of the sums which
27 the insured or his legal representative shall be legally entitled to
28 recover as damages from the operator or owner of an uninsured
29 motor vehicle, or hit and run motor vehicle, as defined in section 18
30 of P.L.1952, c.174 (C.39:6-78), because of bodily injury, sickness
31 or disease, including death resulting therefrom, sustained by the
32 insured, caused by accident and arising out of the ownership,
33 maintenance, operation or use of such uninsured or hit and run
34 motor vehicle anywhere within the United States or Canada; except
35 that uninsured motorist coverage shall provide that in order to
36 recover for non-economic loss, as defined in section 2 of P.L.1972,
37 c.70 (C.39:6A-2), for accidents to which the benefits of section 4
38 (C.39:6A-4) of that act apply, the tort option elected pursuant to
39 section 8 (C.39:6A-8) of that act shall apply to that injured person.

40 All motor vehicle liability policies, except basic automobile
41 insurance policies, shall also include coverage for the payment of
42 all or part of the sums which persons insured thereunder shall be
43 legally entitled to recover as damages from owners or operators of
44 uninsured motor vehicles, other than hit and run motor vehicles,
45 because of injury to or destruction to the personal property of such

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 insured, with a limit in the aggregate for all insurers involved in any
2 one accident of \$5,000.00, and subject, for each insured, to an
3 exclusion of the first \$500.00 of such damages.

4 b. Uninsured and underinsured motorist coverage shall be
5 provided as an option by an insurer to the named insured electing a
6 standard automobile insurance policy up to at least the following
7 limits: \$250,000.00 each person and \$500,000.00 each accident for
8 bodily injury; \$100,000.00 each accident for property damage or
9 \$500,000.00 single limit, subject to an exclusion of the first \$500.00
10 of such damage to property for each accident, except that the limits
11 for uninsured and underinsured motorist coverage shall not exceed
12 the insured's motor vehicle liability policy limits for bodily injury
13 and property damage, respectively.

14 Rates for uninsured and underinsured motorist coverage for the
15 same limits shall, for each filer, be uniform on a Statewide basis
16 without regard to classification or territory.

17 c. Uninsured and underinsured motorist coverage provided for in
18 this section shall not be increased by stacking the limits of coverage
19 of multiple motor vehicles covered under the same policy of
20 insurance nor shall these coverages be increased by stacking the
21 limits of coverage of multiple policies available to the insured. If
22 the insured had uninsured motorist coverage available under more
23 than one policy, any recovery shall not exceed the higher of the
24 applicable limits of the respective coverages and the recovery shall
25 be prorated between the applicable coverages as the limits of each
26 coverage bear to the total of the limits.

27 d. Uninsured and underinsured motorist coverage shall be
28 subject to the policy terms, conditions and exclusions approved by
29 the Commissioner of Banking and Insurance, including, but not
30 limited to, unauthorized settlements, non-duplication of coverage,
31 subrogation and arbitration.

32 e. For the purpose of this section, (1) "underinsured motorist
33 coverage" means insurance for damages because of bodily injury
34 and property damage resulting from an accident arising out of the
35 ownership, maintenance, operation or use of an underinsured motor
36 vehicle. Underinsured motorist coverage shall not apply to an
37 uninsured motor vehicle. A motor vehicle is underinsured when the
38 sum of the limits of liability under all bodily injury and property
39 damage liability bonds and insurance policies available to a person
40 against whom recovery is sought for bodily injury or property
41 damage is, at the time of the accident, less than the applicable limits
42 for underinsured motorist coverage afforded under the motor
43 vehicle insurance policy held by the person seeking that recovery.
44 A motor vehicle shall not be considered an underinsured motor
45 vehicle under this section unless the limits of all bodily injury
46 liability insurance or bonds applicable at the time of the accident
47 have been exhausted by payment of settlements or judgments. The
48 limits of underinsured motorist coverage available to an injured

1 person shall be reduced by the amount he has recovered under all
2 bodily injury liability insurance or bonds;

3 (2) "uninsured motor vehicle" means:

4 (a) a motor vehicle with respect to the ownership, operation,
5 maintenance, or use of which there is no bodily injury liability
6 insurance or bond applicable at the time of the accident;

7 (b) a motor vehicle with respect to the ownership, operation,
8 maintenance, or use of which there is bodily injury liability
9 insurance in existence but the liability insurer denies coverage or is
10 unable to make payment with respect to the legal liability of its
11 insured because the insurer has become insolvent or bankrupt, or
12 the Commissioner of Banking and Insurance has undertaken control
13 of the insurer for the purpose of liquidation;

14 (c) a hit and run motor vehicle as described in section 18 of
15 P.L.1952, c.174 (C.39:6-78); or

16 (d) an automobile covered by a special automobile insurance
17 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

18 "Uninsured motor vehicle" shall not include an automobile
19 covered by a basic automobile insurance policy; an underinsured
20 motor vehicle; a motor vehicle owned by or furnished for the
21 regular use of the named insured or any resident of the same
22 household; a self-insurer within the meaning of any financial
23 responsibility or similar law of the state in which the motor vehicle
24 is registered or principally garaged; a motor vehicle which is owned
25 by the United States or Canada, or a state, political subdivision or
26 agency of those governments or any of the foregoing; a land motor
27 vehicle or trailer operated on rails or crawler treads; a motor vehicle
28 used as a residence or stationary structure and not as a vehicle; or
29 equipment or vehicles designed for use principally off public roads,
30 except while actually upon public roads.

31 f. Notwithstanding the provisions of this section or any other
32 law to the contrary, a motor vehicle liability policy or renewal of
33 such policy of insurance, insuring against loss resulting from
34 liability imposed by law for bodily injury or death, sustained by any
35 person arising out of the ownership, maintenance or use of a motor
36 vehicle, issued in this State to a corporate or business entity with
37 respect to any motor vehicle registered or principally garaged in this
38 State, shall not provide less uninsured or underinsured motorist
39 coverage for an individual employed by the corporate or business
40 entity than the coverage provided to the named insured under the
41 policy. A policy that names a corporate or business entity as a
42 named insured shall be deemed to provide the maximum uninsured
43 or underinsured motorist coverage available under the policy to an
44 individual employed by the corporate or business entity, regardless
45 of whether the individual is an additional named insured under that
46 policy or is a named insured or is covered under any other policy
47 providing uninsured or underinsured motorist coverage.

48 (cf: P.L.2003, c.89, s.59)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill prohibits the use of "step-down" provisions in motor
7 vehicle liability policies issued to corporate or business entities to
8 lower uninsured or underinsured motorist coverage for employees
9 to the limits of coverage available to the employees under their
10 personal policies.

11 This bill is in response to the New Jersey Supreme Court's
12 decision in Pinto v. New Jersey Manufacturers Insurance Company,
13 183 N.J. 205 (2005). In Pinto, the court held that as to a motor
14 vehicle liability policy that names a corporate or business entity as a
15 named insured, step-down provisions which limit uninsured or
16 underinsured motorist coverage for employees of that entity that are
17 not individually named on the policy are valid and enforceable.
18 Thus, the court's ruling allows an employee's coverage under an
19 employer's business motor vehicle insurance policy to be limited to
20 the lower limits of uninsured or underinsured motorist coverage
21 contained in the employee's individual motor vehicle liability
22 policy, even in situations in which the employee is injured in a
23 covered vehicle in a work-related accident, if the employer's policy
24 so provides.

25 This bill reverses the effect of the Pinto decision by prohibiting
26 step-down provisions in these policies. Further, the bill expressly
27 provides that a policy that names a corporate or business entity as a
28 named insured shall be deemed to provide the maximum uninsured
29 or underinsured motorist coverage available under the policy to any
30 individual employed by the corporate or business entity, regardless
31 of whether the individual is an additional named insured under that
32 policy or is a named insured or is covered under any other policy
33 providing uninsured or underinsured motorist coverage.

34

35

36

37

38 Prohibits use of "step-down" provisions to limit uninsured and
39 underinsured motorist coverage in certain circumstances.

SENATE, No. 1666

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 20, 2006

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Assemblyman NEIL M. COHEN

District 20 (Union)

SYNOPSIS

Prohibits use of "step-down" provisions to limit uninsured and underinsured motorist coverage in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

S1666 SCUTARI, GILL

2

1 AN ACT concerning uninsured and underinsured motorist coverage
2 and amending P.L.1968, c.385.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read
8 as follows:

9 2. a. Except for a basic automobile insurance policy, no motor
10 vehicle liability policy or renewal of such policy of insurance,
11 including a standard liability policy for an automobile as defined in
12 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss
13 resulting from liability imposed by law for bodily injury or death,
14 sustained by any person arising out of the ownership, maintenance
15 or use of a motor vehicle, shall be issued in this State with respect
16 to any motor vehicle registered or principally garaged in this State
17 unless it includes coverage in limits for bodily injury or death as
18 follows:

19 (1) an amount or limit of \$15,000.00, exclusive of interest and
20 costs, on account of injury to, or death of, one person, in any one
21 accident, and

22 (2) an amount or limit, subject to such limit for any one person
23 so injured or killed, of \$30,000.00, exclusive of interest and costs,
24 on account of injury to or death of more than one person, in any one
25 accident, under provisions approved by the Commissioner of
26 Banking and Insurance, for payment of all or part of the sums which
27 the insured or his legal representative shall be legally entitled to
28 recover as damages from the operator or owner of an uninsured
29 motor vehicle, or hit and run motor vehicle, as defined in section 18
30 of P.L.1952, c.174 (C.39:6-78), because of bodily injury, sickness
31 or disease, including death resulting therefrom, sustained by the
32 insured, caused by accident and arising out of the ownership,
33 maintenance, operation or use of such uninsured or hit and run
34 motor vehicle anywhere within the United States or Canada; except
35 that uninsured motorist coverage shall provide that in order to
36 recover for non-economic loss, as defined in section 2 of P.L.1972,
37 c.70 (C.39:6A-2), for accidents to which the benefits of section 4
38 (C.39:6A-4) of that act apply, the tort option elected pursuant to
39 section 8 (C.39:6A-8) of that act shall apply to that injured person.

40 All motor vehicle liability policies, except basic automobile
41 insurance policies, shall also include coverage for the payment of
42 all or part of the sums which persons insured thereunder shall be
43 legally entitled to recover as damages from owners or operators of
44 uninsured motor vehicles, other than hit and run motor vehicles,
45 because of injury to or destruction to the personal property of such

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 insured, with a limit in the aggregate for all insurers involved in any
2 one accident of \$5,000.00, and subject, for each insured, to an
3 exclusion of the first \$500.00 of such damages.

4 b. Uninsured and underinsured motorist coverage shall be
5 provided as an option by an insurer to the named insured electing a
6 standard automobile insurance policy up to at least the following
7 limits: \$250,000.00 each person and \$500,000.00 each accident for
8 bodily injury; \$100,000.00 each accident for property damage or
9 \$500,000.00 single limit, subject to an exclusion of the first \$500.00
10 of such damage to property for each accident, except that the limits
11 for uninsured and underinsured motorist coverage shall not exceed
12 the insured's motor vehicle liability policy limits for bodily injury
13 and property damage, respectively.

14 Rates for uninsured and underinsured motorist coverage for the
15 same limits shall, for each filer, be uniform on a Statewide basis
16 without regard to classification or territory.

17 c. Uninsured and underinsured motorist coverage provided for in
18 this section shall not be increased by stacking the limits of coverage
19 of multiple motor vehicles covered under the same policy of
20 insurance nor shall these coverages be increased by stacking the
21 limits of coverage of multiple policies available to the insured. If
22 the insured had uninsured motorist coverage available under more
23 than one policy, any recovery shall not exceed the higher of the
24 applicable limits of the respective coverages and the recovery shall
25 be prorated between the applicable coverages as the limits of each
26 coverage bear to the total of the limits.

27 d. Uninsured and underinsured motorist coverage shall be
28 subject to the policy terms, conditions and exclusions approved by
29 the Commissioner of Banking and Insurance, including, but not
30 limited to, unauthorized settlements, non-duplication of coverage,
31 subrogation and arbitration.

32 e. For the purpose of this section, (1) "underinsured motorist
33 coverage" means insurance for damages because of bodily injury
34 and property damage resulting from an accident arising out of the
35 ownership, maintenance, operation or use of an underinsured motor
36 vehicle. Underinsured motorist coverage shall not apply to an
37 uninsured motor vehicle. A motor vehicle is underinsured when the
38 sum of the limits of liability under all bodily injury and property
39 damage liability bonds and insurance policies available to a person
40 against whom recovery is sought for bodily injury or property
41 damage is, at the time of the accident, less than the applicable limits
42 for underinsured motorist coverage afforded under the motor
43 vehicle insurance policy held by the person seeking that recovery.
44 A motor vehicle shall not be considered an underinsured motor
45 vehicle under this section unless the limits of all bodily injury
46 liability insurance or bonds applicable at the time of the accident
47 have been exhausted by payment of settlements or judgments. The
48 limits of underinsured motorist coverage available to an injured

1 person shall be reduced by the amount he has recovered under all
2 bodily injury liability insurance or bonds;

3 (2) "uninsured motor vehicle" means:

4 (a) a motor vehicle with respect to the ownership, operation,
5 maintenance, or use of which there is no bodily injury liability
6 insurance or bond applicable at the time of the accident;

7 (b) a motor vehicle with respect to the ownership, operation,
8 maintenance, or use of which there is bodily injury liability
9 insurance in existence but the liability insurer denies coverage or is
10 unable to make payment with respect to the legal liability of its
11 insured because the insurer has become insolvent or bankrupt, or
12 the Commissioner of Banking and Insurance has undertaken control
13 of the insurer for the purpose of liquidation;

14 (c) a hit and run motor vehicle as described in section 18 of
15 P.L.1952, c.174 (C.39:6-78); or

16 (d) an automobile covered by a special automobile insurance
17 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

18 "Uninsured motor vehicle" shall not include an automobile
19 covered by a basic automobile insurance policy; an underinsured
20 motor vehicle; a motor vehicle owned by or furnished for the
21 regular use of the named insured or any resident of the same
22 household; a self-insurer within the meaning of any financial
23 responsibility or similar law of the state in which the motor vehicle
24 is registered or principally garaged; a motor vehicle which is owned
25 by the United States or Canada, or a state, political subdivision or
26 agency of those governments or any of the foregoing; a land motor
27 vehicle or trailer operated on rails or crawler treads; a motor vehicle
28 used as a residence or stationary structure and not as a vehicle; or
29 equipment or vehicles designed for use principally off public roads,
30 except while actually upon public roads.

31 f. Notwithstanding the provisions of this section or any other
32 law to the contrary, a motor vehicle liability policy or renewal of
33 such policy of insurance, insuring against loss resulting from
34 liability imposed by law for bodily injury or death, sustained by any
35 person arising out of the ownership, maintenance or use of a motor
36 vehicle, issued in this State to a corporate or business entity with
37 respect to any motor vehicle registered or principally garaged in this
38 State, shall not provide less uninsured or underinsured motorist
39 coverage for an individual employed by the corporate or business
40 entity than the coverage provided to the named insured under the
41 policy. A policy that names a corporate or business entity as a
42 named insured shall be deemed to provide the maximum uninsured
43 or underinsured motorist coverage available under the policy to an
44 individual employed by the corporate or business entity, regardless
45 of whether the individual is an additional named insured under that
46 policy or is a named insured or is covered under any other policy
47 providing uninsured or underinsured motorist coverage.

48 (cf: P.L.2003, c.89, s.59)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill prohibits the use of "step-down" provisions in motor
7 vehicle liability policies issued to corporate or business entities to
8 lower uninsured or underinsured motorist coverage for employees
9 to the limits of coverage available to the employees under their
10 personal policies.

11 This bill is in response to the New Jersey Supreme Court's
12 decision in Pinto v. New Jersey Manufacturers Insurance Company,
13 183 N.J. 205 (2005). In Pinto, the court held that as to a motor
14 vehicle liability policy that names a corporate or business entity as a
15 named insured, step-down provisions which limit uninsured or
16 underinsured motorist coverage for employees of that entity that are
17 not individually named on the policy are valid and enforceable.
18 Thus, the court's ruling allows an employee's coverage under an
19 employer's business motor vehicle insurance policy to be limited to
20 the lower limits of uninsured or underinsured motorist coverage
21 contained in the employee's individual motor vehicle liability
22 policy, even in situations in which the employee is injured in a
23 covered vehicle in a work-related accident, if the employer's policy
24 so provides.

25 This bill reverses the effect of the Pinto decision by prohibiting
26 step-down provisions in these policies. Further, the bill expressly
27 provides that a policy that names a corporate or business entity as a
28 named insured shall be deemed to provide the maximum uninsured
29 or underinsured motorist coverage available under the policy to any
30 individual employed by the corporate or business entity, regardless
31 of whether the individual is an additional named insured under that
32 policy or is a named insured or is covered under any other policy
33 providing uninsured or underinsured motorist coverage.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

SENATE, No. 1666

STATE OF NEW JERSEY

DATED: MAY 10, 2007

The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill No. 1666.

This bill prohibits the use of "step-down" provisions in motor vehicle liability policies issued to corporate or business entities to lower uninsured or underinsured motorist coverage for employees to the limits of coverage available to the employees under their personal policies.

This bill is in response to the New Jersey Supreme Court's decision in Pinto v. New Jersey Manufacturers Insurance Company, 183 N.J. 405 (2005). In Pinto, the court held that as to a motor vehicle liability policy that names a corporate or business entity as a named insured, step-down provisions which limit uninsured or underinsured motorist coverage for employees of that entity that are not individually named on the policy are valid and enforceable. Thus, the court's ruling, which upholds earlier case law on the subject, allows an employee's coverage under an employer's business motor vehicle insurance policy to be limited to the lower limits of uninsured or underinsured motorist coverage contained in the employee's individual motor vehicle liability policy, even in situations in which the employee is injured in a covered vehicle in a work-related accident, if the employer's policy so provides.

This bill reverses the effect of the Pinto decision by prohibiting step-down provisions in these policies. Further, the bill expressly provides that a policy that names a corporate or business entity as a named insured shall be deemed to provide the maximum uninsured or underinsured motorist coverage available under that particular policy to any individual employed by the corporate or business entity, regardless of whether the individual is an additional named insured under that policy, or is a named insured, or is covered under any other policy providing uninsured or underinsured motorist coverage.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1666

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 2006

The Senate Commerce Committee reports favorably Senate Bill No. 1666.

This bill prohibits the use of "step-down" provisions in motor vehicle liability policies issued to corporate or business entities to lower uninsured or underinsured motorist coverage for employees to the limits of coverage available to the employees under their personal policies.

This bill is in response to the New Jersey Supreme Court's decision in Pinto v. New Jersey Manufacturers Insurance Company, 183 N.J. 405 (2005). In Pinto, the court held that as to a motor vehicle liability policy that names a corporate or business entity as a named insured, step-down provisions which limit uninsured or underinsured motorist coverage for employees of that entity that are not individually named on the policy are valid and enforceable. Thus, the court's ruling, which upholds earlier case law on the subject, allows an employee's coverage under an employer's business motor vehicle insurance policy to be limited to the lower limits of uninsured or underinsured motorist coverage contained in the employee's individual motor vehicle liability policy, even in situations in which the employee is injured in a covered vehicle in a work-related accident, if the employer's policy so provides.

This bill reverses the effect of the Pinto decision by prohibiting step-down provisions in these policies. Further, the bill expressly provides that a policy that names a corporate or business entity as a named insured shall be deemed to provide the maximum uninsured or underinsured motorist coverage available under that particular policy to any individual employed by the corporate or business entity, regardless of whether the individual is an additional named insured under that policy, or is a named insured, or is covered under any other policy providing uninsured or underinsured motorist coverage.

ASSEMBLY, No. 3038

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)

SYNOPSIS

Prohibits use of "step-down" provisions to limit uninsured and underinsured motorist coverage in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning uninsured and underinsured motorist coverage
2 and amending P.L.1968, c.385.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read
8 as follows:

9 2. a. Except for a basic automobile insurance policy, no motor
10 vehicle liability policy or renewal of such policy of insurance,
11 including a standard liability policy for an automobile as defined in
12 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss
13 resulting from liability imposed by law for bodily injury or death,
14 sustained by any person arising out of the ownership, maintenance
15 or use of a motor vehicle, shall be issued in this State with respect
16 to any motor vehicle registered or principally garaged in this State
17 unless it includes coverage in limits for bodily injury or death as
18 follows:

19 (1) an amount or limit of \$15,000.00, exclusive of interest and
20 costs, on account of injury to, or death of, one person, in any one
21 accident, and

22 (2) an amount or limit, subject to such limit for any one person
23 so injured or killed, of \$30,000.00, exclusive of interest and costs,
24 on account of injury to or death of more than one person, in any one
25 accident, under provisions approved by the Commissioner of
26 Banking and Insurance, for payment of all or part of the sums which
27 the insured or his legal representative shall be legally entitled to
28 recover as damages from the operator or owner of an uninsured
29 motor vehicle, or hit and run motor vehicle, as defined in section 18
30 of P.L.1952, c.174 (C.39:6-78), because of bodily injury, sickness
31 or disease, including death resulting therefrom, sustained by the
32 insured, caused by accident and arising out of the ownership,
33 maintenance, operation or use of such uninsured or hit and run
34 motor vehicle anywhere within the United States or Canada; except
35 that uninsured motorist coverage shall provide that in order to
36 recover for non-economic loss, as defined in section 2 of P.L.1972,
37 c.70 (C.39:6A-2), for accidents to which the benefits of section 4
38 (C.39:6A-4) of that act apply, the tort option elected pursuant to
39 section 8 (C.39:6A-8) of that act shall apply to that injured person.

40 All motor vehicle liability policies, except basic automobile
41 insurance policies, shall also include coverage for the payment of
42 all or part of the sums which persons insured thereunder shall be
43 legally entitled to recover as damages from owners or operators of
44 uninsured motor vehicles, other than hit and run motor vehicles,
45 because of injury to or destruction to the personal property of such

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 insured, with a limit in the aggregate for all insurers involved in any
2 one accident of \$5,000.00, and subject, for each insured, to an
3 exclusion of the first \$500.00 of such damages.

4 b. Uninsured and underinsured motorist coverage shall be
5 provided as an option by an insurer to the named insured electing a
6 standard automobile insurance policy up to at least the following
7 limits: \$250,000.00 each person and \$500,000.00 each accident for
8 bodily injury; \$100,000.00 each accident for property damage or
9 \$500,000.00 single limit, subject to an exclusion of the first \$500.00
10 of such damage to property for each accident, except that the limits
11 for uninsured and underinsured motorist coverage shall not exceed
12 the insured's motor vehicle liability policy limits for bodily injury
13 and property damage, respectively.

14 Rates for uninsured and underinsured motorist coverage for the
15 same limits shall, for each filer, be uniform on a Statewide basis
16 without regard to classification or territory.

17 c. Uninsured and underinsured motorist coverage provided for in
18 this section shall not be increased by stacking the limits of coverage
19 of multiple motor vehicles covered under the same policy of
20 insurance nor shall these coverages be increased by stacking the
21 limits of coverage of multiple policies available to the insured. If
22 the insured had uninsured motorist coverage available under more
23 than one policy, any recovery shall not exceed the higher of the
24 applicable limits of the respective coverages and the recovery shall
25 be prorated between the applicable coverages as the limits of each
26 coverage bear to the total of the limits.

27 d. Uninsured and underinsured motorist coverage shall be
28 subject to the policy terms, conditions and exclusions approved by
29 the Commissioner of Banking and Insurance, including, but not
30 limited to, unauthorized settlements, non-duplication of coverage,
31 subrogation and arbitration.

32 e. For the purpose of this section, (1) "underinsured motorist
33 coverage" means insurance for damages because of bodily injury
34 and property damage resulting from an accident arising out of the
35 ownership, maintenance, operation or use of an underinsured motor
36 vehicle. Underinsured motorist coverage shall not apply to an
37 uninsured motor vehicle. A motor vehicle is underinsured when the
38 sum of the limits of liability under all bodily injury and property
39 damage liability bonds and insurance policies available to a person
40 against whom recovery is sought for bodily injury or property
41 damage is, at the time of the accident, less than the applicable limits
42 for underinsured motorist coverage afforded under the motor
43 vehicle insurance policy held by the person seeking that recovery.
44 A motor vehicle shall not be considered an underinsured motor
45 vehicle under this section unless the limits of all bodily injury
46 liability insurance or bonds applicable at the time of the accident
47 have been exhausted by payment of settlements or judgments. The
48 limits of underinsured motorist coverage available to an injured

1 person shall be reduced by the amount he has recovered under all
2 bodily injury liability insurance or bonds;

3 (2) "uninsured motor vehicle" means:

4 (a) a motor vehicle with respect to the ownership, operation,
5 maintenance, or use of which there is no bodily injury liability
6 insurance or bond applicable at the time of the accident;

7 (b) a motor vehicle with respect to the ownership, operation,
8 maintenance, or use of which there is bodily injury liability
9 insurance in existence but the liability insurer denies coverage or is
10 unable to make payment with respect to the legal liability of its
11 insured because the insurer has become insolvent or bankrupt, or
12 the Commissioner of Banking and Insurance has undertaken control
13 of the insurer for the purpose of liquidation;

14 (c) a hit and run motor vehicle as described in section 18 of
15 P.L.1952, c.174 (C.39:6-78); or

16 (d) an automobile covered by a special automobile insurance
17 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

18 "Uninsured motor vehicle" shall not include an automobile
19 covered by a basic automobile insurance policy; an underinsured
20 motor vehicle; a motor vehicle owned by or furnished for the
21 regular use of the named insured or any resident of the same
22 household; a self-insurer within the meaning of any financial
23 responsibility or similar law of the state in which the motor vehicle
24 is registered or principally garaged; a motor vehicle which is owned
25 by the United States or Canada, or a state, political subdivision or
26 agency of those governments or any of the foregoing; a land motor
27 vehicle or trailer operated on rails or crawler treads; a motor vehicle
28 used as a residence or stationary structure and not as a vehicle; or
29 equipment or vehicles designed for use principally off public roads,
30 except while actually upon public roads.

31 f. Notwithstanding the provisions of this section or any other
32 law to the contrary, a motor vehicle liability policy or renewal of
33 such policy of insurance, insuring against loss resulting from
34 liability imposed by law for bodily injury or death, sustained by any
35 person arising out of the ownership, maintenance or use of a motor
36 vehicle, issued in this State to a corporate or business entity with
37 respect to any motor vehicle registered or principally garaged in this
38 State, shall not provide less uninsured or underinsured motorist
39 coverage for an individual employed by the corporate or business
40 entity than the coverage provided to the named insured under the
41 policy. A policy that names a corporate or business entity as a
42 named insured shall be deemed to provide the maximum uninsured
43 or underinsured motorist coverage available under the policy to an
44 individual employed by the corporate or business entity, regardless
45 of whether the individual is an additional named insured under that
46 policy or is a named insured or is covered under any other policy
47 providing uninsured or underinsured motorist coverage.

48 (cf: P.L.2003, c.89, s.59)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill prohibits the use of "step-down" provisions in motor
7 vehicle liability policies issued to corporate or business entities to
8 lower uninsured or underinsured motorist coverage for employees
9 to the limits of coverage available to the employees under their
10 personal policies.

11 This bill is in response to the New Jersey Supreme Court's
12 decision in Pinto v. New Jersey Manufacturers Insurance Company,
13 183 N.J. 405 (2005). In Pinto, the court held that as to a motor
14 vehicle liability policy that names a corporate or business entity as a
15 named insured, step-down provisions which limit uninsured or
16 underinsured motorist coverage for employees of that entity that are
17 not individually named on the policy are valid and enforceable.
18 Thus, the court's ruling allows an employee's coverage under an
19 employer's business motor vehicle insurance policy to be limited to
20 the lower limits of uninsured or underinsured motorist coverage
21 contained in the employee's individual motor vehicle liability
22 policy, even in situations in which the employee is injured in a
23 covered vehicle in a work-related accident, if the employer's policy
24 so provides.

25 This bill reverses the effect of the Pinto decision by prohibiting
26 step-down provisions in these policies. Further, the bill expressly
27 provides that a policy that names a corporate or business entity as a
28 named insured shall be deemed to provide the maximum uninsured
29 or underinsured motorist coverage available under the policy to any
30 individual employed by the corporate or business entity, regardless
31 of whether the individual is an additional named insured under that
32 policy or is a named insured or is covered under any other policy
33 providing uninsured or underinsured motorist coverage.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3038

STATE OF NEW JERSEY

DATED: MAY 10, 2007

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3038.

This bill prohibits the use of "step-down" provisions in motor vehicle liability policies issued to corporate or business entities to lower uninsured or underinsured motorist coverage for employees to the limits of coverage available to the employees under their personal policies.

This bill is in response to the New Jersey Supreme Court's decision in Pinto v. New Jersey Manufacturers Insurance Company, 183 N.J. 405 (2005). In Pinto, the court held that as to a motor vehicle liability policy that names a corporate or business entity as a named insured, step-down provisions which limit uninsured or underinsured motorist coverage for employees of that entity that are not individually named on the policy are valid and enforceable. Thus, the court's ruling, which upholds earlier case law on the subject, allows an employee's coverage under an employer's business motor vehicle insurance policy to be limited to the lower limits of uninsured or underinsured motorist coverage contained in the employee's individual motor vehicle liability policy, even in situations in which the employee is injured in a covered vehicle in a work-related accident, if the employer's policy so provides.

This bill reverses the effect of the Pinto decision by prohibiting step-down provisions in these policies. Further, the bill expressly provides that a policy that names a corporate or business entity as a named insured shall be deemed to provide the maximum uninsured or underinsured motorist coverage available under that particular policy to any individual employed by the corporate or business entity, regardless of whether the individual is an additional named insured under that policy, or is a named insured, or is covered under any other policy providing uninsured or underinsured motorist coverage.