

1 **MOTOR VEHICLE INSURANCE MODIFICATIONS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Nelson T. Abbott**
5 Senate Sponsor: Curtis S. Bramble

6
7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to uninsured and underinsured motorist coverage.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▸ clarifies that certain benefits related to the Utah Labor Commission do not need to be exhausted before uninsured or underinsured motorist coverage can be paid.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **31A-22-305**, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327

20 **31A-22-305.3**, as last amended by Laws of Utah 2023, Chapters 69, 327

21 *Be it enacted by the Legislature of the state of Utah:*

22 Section 1. Section **31A-22-305** is amended to read:

23 **31A-22-305 . Uninsured motorist coverage.**

24 (1) As used in this section, "covered persons" includes:

- 25 (a) the named insured;
- 26 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;
- 27 (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

- 29 (d) any person occupying or using a motor vehicle:
30 (i) referred to in the policy; or
31 (ii) owned by a self-insured; and
32 (e) any person who is entitled to recover damages against the owner or operator of the
33 uninsured or underinsured motor vehicle because of bodily injury to or death of
34 persons under Subsection (1)(a), (b), (c), or (d).
- 35 (2) As used in this section, "uninsured motor vehicle" includes:
36 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
37 under a liability policy at the time of an injury-causing occurrence; or
38 (ii) (A) a motor vehicle covered with lower liability limits than required by
39 Section 31A-22-304; and
40 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the
41 extent of the deficiency;
42 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
43 by the motor vehicle operator;
44 (c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed
45 by the liability insurer for more than 60 days or continues to be disputed for more
46 than 60 days; or
47 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
48 the motor vehicle is declared insolvent by a court of competent jurisdiction; and
49 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
50 that the claim against the insolvent insurer is not paid by a guaranty association or
51 fund.
- 52 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for
53 covered persons who are legally entitled to recover damages from owners or operators
54 of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
- 55 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
56 motorist coverage shall be equal to the lesser of the limits of the named insured's
57 motor vehicle liability coverage or the maximum uninsured motorist coverage limits
58 available by the insurer under the named insured's motor vehicle policy, unless a
59 named insured rejects or purchases coverage in a lesser amount by signing an
60 acknowledgment form that:
61 (i) is filed with the department;
62 (ii) is provided by the insurer;

- 63 (iii) waives the higher coverage;
- 64 (iv) need only state in this or similar language that uninsured motorist coverage
65 provides benefits or protection to you and other covered persons for bodily injury
66 resulting from an accident caused by the fault of another party where the other
67 party has no liability insurance; and
- 68 (v) discloses the additional premiums required to purchase uninsured motorist
69 coverage with limits equal to the lesser of the limits of the named insured's motor
70 vehicle liability coverage or the maximum uninsured motorist coverage limits
71 available by the insurer under the named insured's motor vehicle policy.
- 72 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
73 liability coverage until the insured requests, in writing, a change of uninsured
74 motorist coverage from that liability insurer.
- 75 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
76 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written
77 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 78 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
79 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.
- 80 (d) For purposes of this Subsection (4), "new policy" means:
- 81 (i) any policy that is issued which does not include a renewal or reinstatement of an
82 existing policy; or
- 83 (ii) a change to an existing policy that results in:
- 84 (A) a named insured being added to or deleted from the policy; or
85 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 86 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
87 that increases the total number of vehicles insured by the policy, and does not
88 include replacement, substitute, or temporary vehicles.
- 89 (ii) The adding of an additional motor vehicle to an existing personal lines or
90 commercial lines policy does not constitute a new policy for purposes of
91 Subsection (4)(d).
- 92 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured
93 motorist coverage has been rejected, or where uninsured motorist limits are lower
94 than the named insured's motor vehicle liability limits, the insurer shall provide a
95 notice to a named insured within 30 days that:
- 96 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose

- 97 of uninsured motorist coverage; and
- 98 (B) encourages the named insured to contact the insurance company or insurance
99 producer for quotes as to the additional premiums required to purchase
100 uninsured motorist coverage with limits equal to the lesser of the limits of the
101 named insured's motor vehicle liability coverage or the maximum uninsured
102 motorist coverage limits available by the insurer under the named insured's
103 motor vehicle policy.
- 104 (f) A change in policy number resulting from any policy change not identified under
105 Subsection (4)(d)(ii) does not constitute a new policy.
- 106 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January
107 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand
108 for arbitration or filed a complaint in a court of competent jurisdiction.
- 109 (ii) The Legislature finds that the retroactive application of Subsection (4):
- 110 (A) does not enlarge, eliminate, or destroy vested rights; and
111 (B) clarifies legislative intent.
- 112 (h) A self-insured, including a governmental entity, may elect to provide uninsured
113 motorist coverage in an amount that is less than its maximum self-insured retention
114 under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy
115 statement from the chief financial officer or chief risk officer that declares the:
- 116 (i) self-insured entity's coverage level; and
117 (ii) process for filing an uninsured motorist claim.
- 118 (i) Uninsured motorist coverage may not be sold with limits that are less than the
119 minimum bodily injury limits for motor vehicle liability policies under Section
120 31A-22-304.
- 121 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
122 uninsured motorist coverage until the named insured requests, in writing, different
123 uninsured motorist coverage from the insurer.
- 124 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
125 policies existing on that date, the insurer shall disclose in the same medium as the
126 premium renewal notice, an explanation of:
- 127 (A) the purpose of uninsured motorist coverage in the same manner as described
128 in Subsection (4)(a)(iv); and
129 (B) a disclosure of the additional premiums required to purchase uninsured
130 motorist coverage with limits equal to the lesser of the limits of the named

131 insured's motor vehicle liability coverage or the maximum uninsured motorist
132 coverage limits available by the insurer under the named insured's motor
133 vehicle policy.

134 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
135 insureds that carry uninsured motorist coverage limits in an amount less than the
136 named insured's motor vehicle liability policy limits or the maximum uninsured
137 motorist coverage limits available by the insurer under the named insured's motor
138 vehicle policy.

139 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
140 a household constitutes notice or disclosure to all insureds within the household.

141 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
142 uninsured motorist coverage by an express writing to the insurer that provides
143 liability coverage under Subsection 31A-22-302(1)(a).

144 (ii) This rejection shall be on a form provided by the insurer that includes a
145 reasonable explanation of the purpose of uninsured motorist coverage.

146 (iii) This rejection continues for that issuer of the liability coverage until the insured
147 in writing requests uninsured motorist coverage from that liability insurer.

148 (b) (i) All persons, including governmental entities, that are engaged in the business
149 of, or that accept payment for, transporting natural persons by motor vehicle, and
150 all school districts that provide transportation services for their students, shall
151 provide coverage for all motor vehicles used for that purpose, by purchase of a
152 policy of insurance or by self-insurance, uninsured motorist coverage of at least
153 \$25,000 per person and \$500,000 per accident.

154 (ii) This coverage is secondary to any other insurance covering an injured covered
155 person.

156 (c) Uninsured motorist coverage:

157 [~~(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'~~
158 ~~Compensation Act, except that the covered person is credited an amount described~~
159 ~~in Subsection 34A-2-106(5);]~~

160 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,
161 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
162 Occupational Disease Act, provided by the workers' compensation insurance
163 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
164 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,

- 165 except that:
- 166 (A) the covered person is credited an amount described in Subsection 34A-2-106
- 167 (5); and
- 168 (B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before
- 169 an uninsured motorist claim may be pursued and resolved;
- 170 (ii) may not be subrogated by the workers' compensation insurance carrier, [~~workers'~~
- 171 ~~compensation insurance,~~] uninsured employer, the Uninsured Employers' Fund
- 172 created in Section 34A-2-704, or the Employers' Reinsurance Fund created in
- 173 Section 34A-2-702;
- 174 (iii) may not be reduced by any benefits provided by the workers' compensation
- 175 insurance carrier, uninsured employer, the Uninsured Employers' Fund created in
- 176 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section
- 177 34A-2-702;
- 178 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health
- 179 insurance subrogation only after the covered person has been made whole;
- 180 (v) may not be collected for bodily injury or death sustained by a person:
- 181 (A) while committing a violation of Section 41-1a-1314;
- 182 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
- 183 operated in violation of Section 41-1a-1314; or
- 184 (C) while committing a felony; and
- 185 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:
- 186 (A) for a person under 18 years old who is injured within the scope of Subsection
- 187 (5)(c)(v) but limited to medical and funeral expenses; or
- 188 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
- 189 within the course and scope of the law enforcement officer's duties.
- 190 (d) As used in this Subsection (5), "motor vehicle" [~~has the same meaning as under~~]
- 191 means the same as that term is defined in Section 41-1a-102.
- 192 (6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b)
- 193 proximately caused an accident without touching the covered person or the motor
- 194 vehicle occupied by the covered person, the covered person shall show the existence of
- 195 the uninsured motor vehicle by clear and convincing evidence consisting of more than
- 196 the covered person's testimony.
- 197 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
- 198 vehicles may not be added together, combined, or stacked to determine the limit of

- 199 insurance coverage available to an injured person for any one accident.
- 200 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined
201 under Subsection (8)(b).
- 202 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
203 limits of uninsured motorist coverage afforded for any one motor vehicle that the
204 covered person is the named insured or an insured family member.
- 205 (iii) This coverage shall be in addition to the coverage on the motor vehicle the
206 covered person is occupying.
- 207 (iv) Neither the primary nor the secondary coverage may be set off against the other.
- 208 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
209 coverage, and the coverage elected by a person described under Subsections (1)(a)
210 through (c) shall be secondary coverage.
- 211 (8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness,
212 disease, or death of covered persons while occupying or using a motor vehicle only if
213 the motor vehicle is described in the policy under which a claim is made, or if the
214 motor vehicle is a newly acquired or replacement motor vehicle covered under the
215 terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a
216 covered person injured in a motor vehicle described in a policy that includes
217 uninsured motorist benefits may not elect to collect uninsured motorist coverage
218 benefits from any other motor vehicle insurance policy under which the person is a
219 covered person.
- 220 (b) Each of the following persons may also recover uninsured motorist benefits under
221 any one other policy in which they are described as a "covered person" as defined in
222 Subsection (1):
- 223 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and
224 (ii) except as provided in Subsection (8)(c), a covered person injured while
225 occupying or using a motor vehicle that is not owned, leased, or furnished:
226 (A) to the covered person;
227 (B) to the covered person's spouse; or
228 (C) to the covered person's resident parent or resident sibling.
- 229 (c) (i) A covered person may recover benefits from no more than two additional
230 policies, one additional policy from each parent's household if the covered person
231 is:
232 (A) a dependent minor of parents who reside in separate households; and

- 233 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
234 furnished:
- 235 (I) to the covered person;
- 236 (II) to the covered person's resident parent; or
- 237 (III) to the covered person's resident sibling.
- 238 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage
239 of the damages that the limit of liability of each parent's policy of uninsured
240 motorist coverage bears to the total of both parents' uninsured coverage applicable
241 to the accident.
- 242 (d) A covered person's recovery under any available policies may not exceed the full
243 amount of damages.
- 244 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
245 elections if recovery is unavailable under previous elections.
- 246 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
247 single incident of loss under more than one insurance policy.
- 248 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
249 interpolicy stacking is prohibited for uninsured motorist coverage.
- 250 (9) (a) When a claim is brought by a named insured or a person described in Subsection
251 (1) and is asserted against the covered person's uninsured motorist carrier, the
252 claimant may elect to resolve the claim:
- 253 (i) by submitting the claim to binding arbitration; or
- 254 (ii) through litigation.
- 255 (b) Unless otherwise provided in the policy under which uninsured benefits are claimed,
256 the election provided in Subsection (9)(a) is available to the claimant only, except
257 that if the policy under which insured benefits are claimed provides that either an
258 insured or the insurer may elect arbitration, the insured or the insurer may elect
259 arbitration and that election to arbitrate shall stay the litigation of the claim under
260 Subsection (9)(a)(ii).
- 261 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the
262 claimant may not elect to resolve the claim through binding arbitration under this
263 section without the written consent of the uninsured motorist carrier.
- 264 (d) For purposes of the statute of limitations applicable to a claim described in
265 Subsection (9)(a), if the claimant does not elect to resolve the claim through
266 litigation, the claim is considered filed when the claimant submits the claim to

- 267 binding arbitration in accordance with this Subsection (9).
- 268 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted
269 to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single
270 arbitrator.
- 271 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).
- 272 (iii) If the parties are unable to agree on a single arbitrator as required under
273 Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.
- 274 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):
- 275 (i) each side shall select one arbitrator; and
- 276 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
277 arbitrator to be included in the panel.
- 278 (g) Unless otherwise agreed to in writing:
- 279 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
280 under Subsection (9)(e)(i); or
- 281 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):
- 282 (A) each party shall pay the fees and costs of the arbitrator selected by that party;
283 and
- 284 (B) each party shall pay an equal share of the fees and costs of the arbitrator
285 selected under Subsection (9)(f)(ii).
- 286 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing
287 by the parties, an arbitration proceeding conducted under this section shall be
288 governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 289 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through
290 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the
291 requirements of Subsections (10)(a) through (c) are satisfied.
- 292 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil
293 Procedure shall be determined based on the claimant's specific monetary amount
294 in the written demand for payment of uninsured motorist coverage benefits as
295 required in Subsection (10)(a)(i)(A).
- 296 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
297 arbitration claims under this part.
- 298 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
- 299 (k) A written decision by a single arbitrator or by a majority of the arbitration panel shall
300 constitute a final decision.

- 301 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may
302 not exceed the uninsured motorist policy limits of all applicable uninsured
303 motorist policies, including applicable uninsured motorist umbrella policies.
- 304 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
305 applicable uninsured motorist policies, the arbitration award shall be reduced to an
306 amount equal to the combined uninsured motorist policy limits of all applicable
307 uninsured motorist policies.
- 308 (m) The arbitrator or arbitration panel may not decide the issues of coverage or
309 extra-contractual damages, including:
- 310 (i) whether the claimant is a covered person;
- 311 (ii) whether the policy extends coverage to the loss; or
- 312 (iii) any allegations or claims asserting consequential damages or bad faith liability.
- 313 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
314 class-representative basis.
- 315 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or
316 defended in good faith, the arbitrator or arbitration panel may award reasonable
317 attorney fees and costs against the party that failed to bring, pursue, or defend the
318 claim in good faith.
- 319 (p) An arbitration award issued under this section shall be the final resolution of all
320 claims not excluded by Subsection (9)(m) between the parties unless:
- 321 (i) the award was procured by corruption, fraud, or other undue means;
- 322 (ii) either party, within 20 days after service of the arbitration award:
- 323 (A) files a complaint requesting a trial de novo in the district court; and
- 324 (B) serves the nonmoving party with a copy of the complaint requesting a trial de
325 novo under Subsection (9)(p)(ii)(A).
- 326 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
327 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and
328 Utah Rules of Evidence in the district court.
- 329 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
330 request a jury trial with a complaint requesting a trial de novo under Subsection
331 (9)(p)(ii)(A).
- 332 (r) (i) If the claimant, as the moving party in a trial de novo requested under
333 Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least
334 20% greater than the arbitration award, the claimant is responsible for all of the

- 335 nonmoving party's costs.
- 336 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
337 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the
338 arbitration award, the uninsured motorist carrier is responsible for all of the
339 nonmoving party's costs.
- 340 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
341 shall include:
- 342 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
343 (B) the costs of expert witnesses and depositions.
- 344 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
345 Subsection (10)(h)(iii) applies.
- 346 (s) For purposes of determining whether a party's verdict is greater or less than the
347 arbitration award under Subsection (9)(r), a court may not consider any recovery or
348 other relief granted on a claim for damages if the claim for damages:
- 349 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
350 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
351 Procedure.
- 352 (t) If a district court determines, upon a motion of the nonmoving party, that the moving
353 party's use of the trial de novo process was filed in bad faith in accordance with
354 Section 78B-5-825, the district court may award reasonable attorney fees to the
355 nonmoving party.
- 356 (u) Nothing in this section is intended to limit any claim under any other portion of an
357 applicable insurance policy.
- 358 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
359 claimant may elect to arbitrate in one hearing the claims against all the uninsured
360 motorist carriers.
- 361 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured
362 motorist benefits to binding arbitration or files litigation, the covered person shall
363 provide to the uninsured motorist carrier:
- 364 (i) a written demand for payment of uninsured motorist coverage benefits, setting
365 forth:
- 366 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,
367 including a computation of the covered person's claimed past medical
368 expenses, claimed past lost wages, and the other claimed past economic

- 369 damages; and
- 370 (B) the factual and legal basis and any supporting documentation for the demand;
- 371 (ii) a written statement under oath disclosing:
- 372 (A) (I) the names and last known addresses of all health care providers who
- 373 have rendered health care services to the covered person that are material to
- 374 the claims for which uninsured motorist benefits are sought for a period of
- 375 five years preceding the date of the event giving rise to the claim for
- 376 uninsured motorist benefits up to the time the election for arbitration or
- 377 litigation has been exercised; and
- 378 (II) the names and last known addresses of the health care providers who have
- 379 rendered health care services to the covered person, which the covered
- 380 person claims are immaterial to the claims for which uninsured motorist
- 381 benefits are sought, for a period of five years preceding the date of the event
- 382 giving rise to the claim for uninsured motorist benefits up to the time the
- 383 election for arbitration or litigation has been exercised that have not been
- 384 disclosed under Subsection (10)(a)(ii)(A)(I);
- 385 (B) (I) the names and last known addresses of all health insurers or other
- 386 entities to whom the covered person has submitted claims for health care
- 387 services or benefits material to the claims for which uninsured motorist
- 388 benefits are sought, for a period of five years preceding the date of the event
- 389 giving rise to the claim for uninsured motorist benefits up to the time the
- 390 election for arbitration or litigation has been exercised; and
- 391 (II) the names and last known addresses of the health insurers or other entities
- 392 to whom the covered person has submitted claims for health care services or
- 393 benefits, which the covered person claims are immaterial to the claims for
- 394 which uninsured motorist benefits are sought, for a period of five years
- 395 preceding the date of the event giving rise to the claim for uninsured
- 396 motorist benefits up to the time the election for arbitration or litigation have
- 397 not been disclosed;
- 398 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
- 399 employers of the covered person for a period of five years preceding the date
- 400 of the event giving rise to the claim for uninsured motorist benefits up to the
- 401 time the election for arbitration or litigation has been exercised;
- 402 (D) other documents to reasonably support the claims being asserted; and

- 403 (E) all state and federal statutory lienholders including a statement as to whether
404 the covered person is a recipient of Medicare or Medicaid benefits or Utah
405 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
406 9, Utah Children's Health Insurance Program, or if the claim is subject to any
407 other state or federal statutory liens; and
- 408 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain
409 records and billings from the individuals or entities disclosed under Subsections
410 (10)(a)(ii)(A)(I), (B)(I), and (C).
- 411 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
412 health care providers or health care insurers under Subsection (10)(a)(ii) is
413 reasonably necessary, the uninsured motorist carrier may:
- 414 (A) make a request for the disclosure of the identity of the health care providers or
415 health care insurers; and
- 416 (B) make a request for authorizations to allow the uninsured motorist carrier to
417 only obtain records and billings from the individuals or entities not disclosed.
- 418 (ii) If the covered person does not provide the requested information within 10 days:
- 419 (A) the covered person shall disclose, in writing, the legal or factual basis for the
420 failure to disclose the health care providers or health care insurers; and
- 421 (B) either the covered person or the uninsured motorist carrier may request the
422 arbitrator or arbitration panel to resolve the issue of whether the identities or
423 records are to be provided if the covered person has elected arbitration.
- 424 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution
425 of the dispute concerning the disclosure and production of records of the health
426 care providers or health care insurers.
- 427 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a
428 notice of filing litigation and the demand for payment of uninsured motorist
429 benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60
430 days from the date of the demand and receipt of the items specified in Subsections
431 (10)(a)(i) through (iii), to:
- 432 (A) provide a written response to the written demand for payment provided for in
433 Subsection (10)(a)(i);
- 434 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of
435 the uninsured motorist carrier's determination of the amount owed to the
436 covered person; and

- 437 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
438 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
439 9, Utah Children's Health Insurance Program, or if the claim is subject to any
440 other state or federal statutory liens, tender the amount, if any, of the uninsured
441 motorist carrier's determination of the amount owed to the covered person less:
442 (I) if the amount of the state or federal statutory lien is established, the amount
443 of the lien; or
444 (II) if the amount of the state or federal statutory lien is not established, two
445 times the amount of the medical expenses subject to the state or federal
446 statutory lien until such time as the amount of the state or federal statutory
447 lien is established.
- 448 (ii) If the amount tendered by the uninsured motorist carrier under Subsection
449 (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered
450 amount shall be accepted by the covered person.
- 451 (d) A covered person who receives a written response from an uninsured motorist carrier
452 as provided for in Subsection (10)(c)(i), may:
- 453 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of
454 all uninsured motorist claims; or
455 (ii) elect to:
- 456 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
457 uninsured motorist claims; and
458 (B) continue to litigate or arbitrate the remaining claim in accordance with the
459 election made under Subsections (9)(a) through (c).
- 460 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
461 as partial payment of all uninsured motorist claims, the final award obtained through
462 arbitration, litigation, or later settlement shall be reduced by any payment made by
463 the uninsured motorist carrier under Subsection (10)(c)(i).
- 464 (f) In an arbitration proceeding on the remaining uninsured claims:
- 465 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
466 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and
467 (ii) the parties may not disclose the amount of the limits of uninsured motorist
468 benefits provided by the policy.
- 469 (g) If the final award obtained through arbitration or litigation is greater than the average
470 of the covered person's initial written demand for payment provided for in Subsection

- 471 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
472 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:
- 473 (i) the final award obtained through arbitration or litigation, except that if the award
474 exceeds the policy limits of the subject uninsured motorist policy by more than
475 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus
476 \$15,000; and
- 477 (ii) any of the following applicable costs:
- 478 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 479 (B) the arbitrator or arbitration panel's fee; and
- 480 (C) the reasonable costs of expert witnesses and depositions used in the
481 presentation of evidence during arbitration or litigation.
- 482 (h) (i) The covered person shall provide an affidavit of costs within five days of an
483 arbitration award.
- 484 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs
485 to which the uninsured motorist carrier objects.
- 486 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 487 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
488 (10)(g)(ii) may not exceed \$5,000.
- 489 (i) (i) A covered person shall disclose all material information, other than rebuttal
490 evidence, within 30 days after a covered person elects to submit a claim for
491 uninsured motorist coverage benefits to binding arbitration or files litigation as
492 specified in Subsection (10)(a).
- 493 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
494 may not recover costs or any amounts in excess of the policy under Subsection
495 (10)(g).
- 496 (j) This Subsection (10) does not limit any other cause of action that arose or may arise
497 against the uninsured motorist carrier from the same dispute.
- 498 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that
499 occur on or after March 30, 2010.
- 500 (l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not
501 affect the covered person's requirement to provide a computation of any other
502 economic damages claimed, and the one or more respondents shall have a
503 reasonable time after the receipt of the computation of any other economic
504 damages claimed to conduct fact and expert discovery as to any additional

505 damages claimed.

506 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and
 507 Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a
 508 claim submitted to binding arbitration or through litigation on or after May 13, 2014.

509 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
 510 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
 511 binding arbitration or through litigation on or after May 13, 2014.

512 (11) (a) A person shall commence an action on a written policy or contract for uninsured
 513 motorist coverage within four years after the inception of loss.

514 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by
 515 Subsection 31A-21-313(1)(a) as of May 14, 2019.

516 Section 2. Section **31A-22-305.3** is amended to read:

517 **31A-22-305.3 . Underinsured motorist coverage.**

518 (1) As used in this section:

519 (a) "Covered person" [~~has the same meaning as~~] means the same as that term is defined
 520 in Section 31A-22-305.

521 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
 522 maintenance, or use of which is covered under a liability policy at the time of an
 523 injury-causing occurrence, but which has insufficient liability coverage to
 524 compensate fully the injured party for all special and general damages.

525 (ii) The term "underinsured motor vehicle" does not include:

526 (A) a motor vehicle that is covered under the liability coverage of the same policy
 527 that also contains the underinsured motorist coverage;

528 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

529 (C) a motor vehicle owned or leased by:

530 (I) a named insured;

531 (II) a named insured's spouse; or

532 (III) a dependent of a named insured.

533 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
 534 coverage for a covered person who is legally entitled to recover damages from an
 535 owner or operator of an underinsured motor vehicle because of bodily injury,
 536 sickness, disease, or death.

537 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished to
 538 the covered person, the covered person's spouse, or covered person's resident relative

- 539 may recover underinsured benefits only if the motor vehicle is:
- 540 (i) described in the policy under which a claim is made; or
- 541 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
- 542 policy.
- 543 (3) (a) For purposes of this Subsection (3), "new policy" means:
- 544 (i) any policy that is issued that does not include a renewal or reinstatement of an
- 545 existing policy; or
- 546 (ii) a change to an existing policy that results in:
- 547 (A) a named insured being added to or deleted from the policy; or
- 548 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 549 (b) For new policies written on or after January 1, 2001, the limits of underinsured
- 550 motorist coverage shall be equal to the lesser of the limits of the named insured's
- 551 motor vehicle liability coverage or the maximum underinsured motorist coverage
- 552 limits available by the insurer under the named insured's motor vehicle policy, unless
- 553 a named insured rejects or purchases coverage in a lesser amount by signing an
- 554 acknowledgment form that:
- 555 (i) is filed with the department;
- 556 (ii) is provided by the insurer;
- 557 (iii) waives the higher coverage;
- 558 (iv) need only state in this or similar language that "underinsured motorist coverage
- 559 provides benefits or protection to you and other covered persons for bodily injury
- 560 resulting from an accident caused by the fault of another party where the other
- 561 party has insufficient liability insurance"; and
- 562 (v) discloses the additional premiums required to purchase underinsured motorist
- 563 coverage with limits equal to the lesser of the limits of the named insured's motor
- 564 vehicle liability coverage or the maximum underinsured motorist coverage limits
- 565 available by the insurer under the named insured's motor vehicle policy.
- 566 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
- 567 liability coverage until the insured requests, in writing, a change of underinsured
- 568 motorist coverage from that liability insurer.
- 569 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after
- 570 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written
- 571 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 572 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)

- 573 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.
- 574 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
575 that increases the total number of vehicles insured by the policy, and does not
576 include replacement, substitute, or temporary vehicles.
- 577 (ii) The adding of an additional motor vehicle to an existing personal lines or
578 commercial lines policy does not constitute a new policy for purposes of
579 Subsection (3)(a).
- 580 (iii) If an additional motor vehicle is added to a personal lines policy where
581 underinsured motorist coverage has been rejected, or where underinsured motorist
582 limits are lower than the named insured's motor vehicle liability limits, the insurer
583 shall provide a notice to a named insured within 30 days that:
- 584 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
585 underinsured motorist coverage; and
- 586 (B) encourages the named insured to contact the insurance company or insurance
587 producer for quotes as to the additional premiums required to purchase
588 underinsured motorist coverage with limits equal to the lesser of the limits of
589 the named insured's motor vehicle liability coverage or the maximum
590 underinsured motorist coverage limits available by the insurer under the named
591 insured's motor vehicle policy.
- 592 (f) A change in policy number resulting from any policy change not identified under
593 Subsection (3)(a)(ii) does not constitute a new policy.
- 594 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January
595 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand
596 for arbitration or filed a complaint in a court of competent jurisdiction.
- 597 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):
- 598 (A) does not enlarge, eliminate, or destroy vested rights; and
599 (B) clarifies legislative intent.
- 600 (h) A self-insured, including a governmental entity, may elect to provide underinsured
601 motorist coverage in an amount that is less than its maximum self-insured retention
602 under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy
603 statement from the chief financial officer or chief risk officer that declares the:
- 604 (i) self-insured entity's coverage level; and
605 (ii) process for filing an underinsured motorist claim.
- 606 (i) Underinsured motorist coverage may not be sold with limits that are less than:

- 607 (i) \$10,000 for one person in any one accident; and
608 (ii) at least \$20,000 for two or more persons in any one accident.
- 609 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
610 underinsured motorist coverage until the named insured, in writing, requests different
611 underinsured motorist coverage from the insurer.
- 612 (k) (i) The named insured's underinsured motorist coverage, as described in
613 Subsection (2), is secondary to the liability coverage of an owner or operator of an
614 underinsured motor vehicle, as described in Subsection (1).
- 615 (ii) Underinsured motorist coverage may not be set off against the liability coverage
616 of the owner or operator of an underinsured motor vehicle, but shall be added to,
617 combined with, or stacked upon the liability coverage of the owner or operator of
618 the underinsured motor vehicle to determine the limit of coverage available to the
619 injured person.
- 620 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
621 policies existing on that date, the insurer shall disclose in the same medium as the
622 premium renewal notice, an explanation of:
- 623 (A) the purpose of underinsured motorist coverage in the same manner as
624 described in Subsection (3)(b)(iv); and
- 625 (B) a disclosure of the additional premiums required to purchase underinsured
626 motorist coverage with limits equal to the lesser of the limits of the named
627 insured's motor vehicle liability coverage or the maximum underinsured
628 motorist coverage limits available by the insurer under the named insured's
629 motor vehicle policy.
- 630 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
631 insureds that carry underinsured motorist coverage limits in an amount less than
632 the named insured's motor vehicle liability policy limits or the maximum
633 underinsured motorist coverage limits available by the insurer under the named
634 insured's motor vehicle policy.
- 635 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in
636 a household constitutes notice or disclosure to all insureds within the household.
- 637 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
638 motor vehicle described in a policy that includes underinsured motorist benefits
639 may not elect to collect underinsured motorist coverage benefits from another
640 motor vehicle insurance policy.

- 641 (ii) The limit of liability for underinsured motorist coverage for two or more motor
642 vehicles may not be added together, combined, or stacked to determine the limit
643 of insurance coverage available to an injured person for any one accident.
- 644 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
645 under Subsections (4)(b)(i) and (ii).
- 646 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle
647 may recover underinsured motorist benefits under any one other policy in which
648 they are described as a covered person.
- 649 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
650 occupying, using, or maintaining a motor vehicle that is not owned, leased, or
651 furnished to the covered person, the covered person's spouse, or the covered
652 person's resident parent or resident sibling, may also recover benefits under any
653 one other policy under which the covered person is also a covered person.
- 654 (iii) (A) A covered person may recover benefits from no more than two additional
655 policies, one additional policy from each parent's household if the covered
656 person is:
- 657 (I) a dependent minor of parents who reside in separate households; and
658 (II) injured while occupying or using a motor vehicle that is not owned, leased,
659 or furnished to the covered person, the covered person's resident parent, or
660 the covered person's resident sibling.
- 661 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
662 percentage of the damages that the limit of liability of each parent's policy of
663 underinsured motorist coverage bears to the total of both parents' underinsured
664 coverage applicable to the accident.
- 665 (iv) A covered person's recovery under any available policies may not exceed the full
666 amount of damages.
- 667 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
668 primary coverage, and the coverage elected by a person described under
669 Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.
- 670 (vi) The primary and the secondary coverage may not be set off against the other.
- 671 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
672 highest limits of underinsured motorist coverage under only one additional policy
673 per household applicable to that covered person as a named insured, spouse, or
674 relative.

- 675 (viii) A covered injured person is not barred against making subsequent elections if
676 recovery is unavailable under previous elections.
- 677 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits
678 for a single incident of loss under more than one insurance policy.
- 679 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
680 prohibited for underinsured motorist coverage.
- 681 (c) Underinsured motorist coverage:
- 682 [~~(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'~~
683 ~~Compensation Act, except that the covered person is credited an amount described~~
684 ~~in Subsection 34A-2-106(5);]~~
- 685 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,
686 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
687 Occupational Disease Act, provided by the workers' compensation insurance
688 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
689 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,
690 except that:
- 691 (A) the covered person is credited an amount described in Subsection 34A-2-106
692 (5); and
- 693 (B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before
694 an underinsured motorist claim may be pursued and resolved.
- 695 (ii) may not be subrogated by a workers' compensation insurance carrier, [~~workers'~~
696 ~~compensation insurance,]~~ uninsured employer, the Uninsured Employers' Fund
697 created in Section 34A-2-704, or the Employers' Reinsurance Fund created in
698 Section 34A-2-702;
- 699 (iii) may not be reduced by benefits provided by the workers' compensation insurance
700 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
701 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;
- 702 (iv) notwithstanding Subsection 31A-1-103(3)(f) may be reduced by health insurance
703 subrogation only after the covered person is made whole;
- 704 (v) may not be collected for bodily injury or death sustained by a person:
- 705 (A) while committing a violation of Section 41-1a-1314;
- 706 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
707 operated in violation of Section 41-1a-1314; or
- 708 (C) while committing a felony; and

- 709 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
- 710 (A) for a person younger than 18 years old who is injured within the scope of
- 711 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or
- 712 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
- 713 within the course and scope of the law enforcement officer's duties.
- 714 (5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
- 715 for underinsured motorist coverage shall be commenced within four years after the
- 716 inception of loss.
- 717 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist
- 718 claims occurs upon the date of the settlement check representing the last liability
- 719 policy payment.
- 720 (6) An underinsured motorist insurer does not have a right of reimbursement against a
- 721 person liable for the damages resulting from an injury-causing occurrence if the person's
- 722 liability insurer has tendered the policy limit and the limits have been accepted by the
- 723 claimant.
- 724 (7) Except as otherwise provided in this section, a covered person may seek, subject to the
- 725 terms and conditions of the policy, additional coverage under any policy:
- 726 (a) that provides coverage for damages resulting from motor vehicle accidents; and
- 727 (b) that is not required to conform to Section 31A-22-302.
- 728 (8) (a) When a claim is brought by a named insured or a person described in Subsection
- 729 31A-22-305(1) and is asserted against the covered person's underinsured motorist
- 730 carrier, the claimant may elect to resolve the claim:
- 731 (i) by submitting the claim to binding arbitration; or
- 732 (ii) through litigation.
- 733 (b) Unless otherwise provided in the policy under which underinsured benefits are
- 734 claimed, the election provided in Subsection (8)(a) is available to the claimant only,
- 735 except that if the policy under which insured benefits are claimed provides that either
- 736 an insured or the insurer may elect arbitration, the insured or the insurer may elect
- 737 arbitration and that election to arbitrate shall stay the litigation of the claim under
- 738 Subsection (8)(a)(ii).
- 739 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
- 740 claimant may not elect to resolve the claim through binding arbitration under this
- 741 section without the written consent of the underinsured motorist coverage carrier.
- 742 (d) For purposes of the statute of limitations applicable to a claim described in

- 743 Subsection (8)(a), if the claimant does not elect to resolve the claim through
744 litigation, the claim is considered filed when the claimant submits the claim to
745 binding arbitration in accordance with this Subsection (8).
- 746 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted
747 to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single
748 arbitrator.
- 749 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).
750 (iii) If the parties are unable to agree on a single arbitrator as required under
751 Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.
- 752 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):
753 (i) each side shall select one arbitrator; and
754 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
755 arbitrator to be included in the panel.
- 756 (g) Unless otherwise agreed to in writing:
757 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
758 under Subsection (8)(e)(i); or
759 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
760 (A) each party shall pay the fees and costs of the arbitrator selected by that party;
761 and
762 (B) each party shall pay an equal share of the fees and costs of the arbitrator
763 selected under Subsection (8)(f)(ii).
- 764 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing
765 by the parties, an arbitration proceeding conducted under this section is governed by
766 Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 767 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through
768 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the
769 requirements of Subsections (9)(a) through (c) are satisfied.
770 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil
771 Procedure shall be determined based on the claimant's specific monetary amount
772 in the written demand for payment of uninsured motorist coverage benefits as
773 required in Subsection (9)(a)(i)(A).
- 774 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
775 arbitration claims under this part.
- 776 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

- 777 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
778 constitutes a final decision.
- 779 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may
780 not exceed the underinsured motorist policy limits of all applicable underinsured
781 motorist policies, including applicable underinsured motorist umbrella policies.
782 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of
783 all applicable underinsured motorist policies, the arbitration award shall be
784 reduced to an amount equal to the combined underinsured motorist policy limits
785 of all applicable underinsured motorist policies.
- 786 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
787 extra-contractual damages, including:
788 (i) whether the claimant is a covered person;
789 (ii) whether the policy extends coverage to the loss; or
790 (iii) an allegation or claim asserting consequential damages or bad faith liability.
- 791 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
792 class-representative basis.
- 793 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
794 or defended in good faith, the arbitrator or arbitration panel may award reasonable
795 attorney fees and costs against the party that failed to bring, pursue, or defend the
796 arbitration in good faith.
- 797 (p) An arbitration award issued under this section shall be the final resolution of all
798 claims not excluded by Subsection (8)(m) between the parties unless:
799 (i) the award is procured by corruption, fraud, or other undue means; or
800 (ii) either party, within 20 days after service of the arbitration award:
801 (A) files a complaint requesting a trial de novo in the district court; and
802 (B) serves the nonmoving party with a copy of the complaint requesting a trial de
803 novo under Subsection (8)(p)(ii)(A).
- 804 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim
805 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and
806 Utah Rules of Evidence in the district court.
807 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
808 request a jury trial with a complaint requesting a trial de novo under Subsection
809 (8)(p)(ii)(A).
- 810 (r) (i) If the claimant, as the moving party in a trial de novo requested under

- 811 Subsection (8)(p), does not obtain a verdict that is at least \$5,000 and is at least
812 20% greater than the arbitration award, the claimant is responsible for all of the
813 nonmoving party's costs.
- 814 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo
815 requested under Subsection (8)(p), does not obtain a verdict that is at least 20%
816 less than the arbitration award, the underinsured motorist carrier is responsible for
817 all of the nonmoving party's costs.
- 818 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
819 shall include:
- 820 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
821 (B) the costs of expert witnesses and depositions.
- 822 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
823 Subsection (9)(h)(iii) applies.
- 824 (s) For purposes of determining whether a party's verdict is greater or less than the
825 arbitration award under Subsection (8)(r), a court may not consider any recovery or
826 other relief granted on a claim for damages if the claim for damages:
- 827 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
828 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
829 Procedure.
- 830 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
831 party's use of the trial de novo process is filed in bad faith in accordance with Section
832 78B-5-825, the district court may award reasonable attorney fees to the nonmoving
833 party.
- 834 (u) Nothing in this section is intended to limit a claim under another portion of an
835 applicable insurance policy.
- 836 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the
837 claimant may elect to arbitrate in one hearing the claims against all the underinsured
838 motorist carriers.
- 839 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured
840 motorist benefits to binding arbitration or files litigation, the covered person shall
841 provide to the underinsured motorist carrier:
- 842 (i) a written demand for payment of underinsured motorist coverage benefits, setting
843 forth:
- 844 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,

- 845 including a computation of the covered person's claimed past medical
846 expenses, claimed past lost wages, and all other claimed past economic
847 damages; and
- 848 (B) the factual and legal basis and any supporting documentation for the demand;
- 849 (ii) a written statement under oath disclosing:
- 850 (A) (I) the names and last known addresses of all health care providers who
851 have rendered health care services to the covered person that are material to
852 the claims for which the underinsured motorist benefits are sought for a
853 period of five years preceding the date of the event giving rise to the claim
854 for underinsured motorist benefits up to the time the election for arbitration
855 or litigation has been exercised; and
- 856 (II) the names and last known addresses of the health care providers who have
857 rendered health care services to the covered person, which the covered
858 person claims are immaterial to the claims for which underinsured motorist
859 benefits are sought, for a period of five years preceding the date of the event
860 giving rise to the claim for underinsured motorist benefits up to the time the
861 election for arbitration or litigation has been exercised that have not been
862 disclosed under Subsection (9)(a)(ii)(A)(I);
- 863 (B) (I) the names and last known addresses of all health insurers or other
864 entities to whom the covered person has submitted claims for health care
865 services or benefits material to the claims for which underinsured motorist
866 benefits are sought, for a period of five years preceding the date of the event
867 giving rise to the claim for underinsured motorist benefits up to the time the
868 election for arbitration or litigation has been exercised; and
- 869 (II) the names and last known addresses of the health insurers or other entities
870 to whom the covered person has submitted claims for health care services or
871 benefits, which the covered person claims are immaterial to the claims for
872 which underinsured motorist benefits are sought, for a period of five years
873 preceding the date of the event giving rise to the claim for underinsured
874 motorist benefits up to the time the election for arbitration or litigation have
875 not been disclosed;
- 876 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
877 employers of the covered person for a period of five years preceding the date
878 of the event giving rise to the claim for underinsured motorist benefits up to the

- 879 time the election for arbitration or litigation has been exercised;
- 880 (D) other documents to reasonably support the claims being asserted; and
- 881 (E) all state and federal statutory lienholders including a statement as to whether
- 882 the covered person is a recipient of Medicare or Medicaid benefits or Utah
- 883 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
- 884 9, Utah Children's Health Insurance Program, or if the claim is subject to any
- 885 other state or federal statutory liens; and
- 886 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
- 887 records and billings from the individuals or entities disclosed under Subsections
- 888 (9)(a)(ii)(A)(I), (B)(I), and (C).
- 889 (b) (i) If the underinsured motorist carrier determines that the disclosure of
- 890 undisclosed health care providers or health care insurers under Subsection
- 891 (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:
- 892 (A) make a request for the disclosure of the identity of the health care providers or
- 893 health care insurers; and
- 894 (B) make a request for authorizations to allow the underinsured motorist carrier to
- 895 only obtain records and billings from the individuals or entities not disclosed.
- 896 (ii) If the covered person does not provide the requested information within 10 days:
- 897 (A) the covered person shall disclose, in writing, the legal or factual basis for the
- 898 failure to disclose the health care providers or health care insurers; and
- 899 (B) either the covered person or the underinsured motorist carrier may request the
- 900 arbitrator or arbitration panel to resolve the issue of whether the identities or
- 901 records are to be provided if the covered person has elected arbitration.
- 902 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
- 903 the dispute concerning the disclosure and production of records of the health care
- 904 providers or health care insurers.
- 905 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
- 906 notice of filing litigation and the demand for payment of underinsured motorist
- 907 benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60
- 908 days from the date of the demand and receipt of the items specified in Subsections
- 909 (9)(a)(i) through (iii), to:
- 910 (A) provide a written response to the written demand for payment provided for in
- 911 Subsection (9)(a)(i);
- 912 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the

- 913 underinsured motorist carrier's determination of the amount owed to the
914 covered person; and
- 915 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
916 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
917 9, Utah Children's Health Insurance Program, or if the claim is subject to any
918 other state or federal statutory liens, tender the amount, if any, of the
919 underinsured motorist carrier's determination of the amount owed to the
920 covered person less:
- 921 (I) if the amount of the state or federal statutory lien is established, the amount
922 of the lien; or
- 923 (II) if the amount of the state or federal statutory lien is not established, two
924 times the amount of the medical expenses subject to the state or federal
925 statutory lien until such time as the amount of the state or federal statutory
926 lien is established.
- 927 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
928 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the
929 tendered amount shall be accepted by the covered person.
- 930 (d) A covered person who receives a written response from an underinsured motorist
931 carrier as provided for in Subsection (9)(c)(i), may:
- 932 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
933 underinsured motorist claims; or
- 934 (ii) elect to:
- 935 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
936 underinsured motorist claims; and
- 937 (B) continue to litigate or arbitrate the remaining claim in accordance with the
938 election made under Subsections (8)(a) through (c).
- 939 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as
940 partial payment of all underinsured motorist claims, the final award obtained through
941 arbitration, litigation, or later settlement shall be reduced by any payment made by
942 the underinsured motorist carrier under Subsection (9)(c)(i).
- 943 (f) In an arbitration proceeding on the remaining underinsured claims:
- 944 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
945 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and
- 946 (ii) the parties may not disclose the amount of the limits of underinsured motorist

- 947 benefits provided by the policy.
- 948 (g) If the final award obtained through arbitration or litigation is greater than the average
949 of the covered person's initial written demand for payment provided for in Subsection
950 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for
951 in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:
- 952 (i) the final award obtained through arbitration or litigation, except that if the award
953 exceeds the policy limits of the subject underinsured motorist policy by more than
954 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus
955 \$15,000; and
- 956 (ii) any of the following applicable costs:
- 957 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
958 (B) the arbitrator or arbitration panel's fee; and
959 (C) the reasonable costs of expert witnesses and depositions used in the
960 presentation of evidence during arbitration or litigation.
- 961 (h) (i) The covered person shall provide an affidavit of costs within five days of an
962 arbitration award.
- 963 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs
964 to which the underinsured motorist carrier objects.
965 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 966 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
967 (9)(g)(ii) may not exceed \$5,000.
- 968 (i) (i) A covered person shall disclose all material information, other than rebuttal
969 evidence, within 30 days after a covered person elects to submit a claim for
970 underinsured motorist coverage benefits to binding arbitration or files litigation as
971 specified in Subsection (9)(a).
- 972 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
973 may not recover costs or any amounts in excess of the policy under Subsection
974 (9)(g).
- 975 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
976 against the underinsured motorist carrier from the same dispute.
- 977 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
978 occur on or after March 30, 2010.
- 979 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
980 covered person's requirement to provide a computation of any other economic

981 damages claimed, and the one or more respondents shall have a reasonable time
982 after the receipt of the computation of any other economic damages claimed to
983 conduct fact and expert discovery as to any additional damages claimed. The
984 changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300,
985 Section 11, to this Subsection (9)(1) and Subsection (9)(a)(i)(A) apply to a claim
986 submitted to binding arbitration or through litigation on or after May 13, 2014.

987 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
988 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
989 binding arbitration or through litigation on or after May 13, 2014.

990 Section 3. **Effective date.**

991 This bill takes effect on May 1, 2024.