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Attorney Fees Amendments
 2026 GENERAL SESSION
 STATE OF UTAH
Chief Sponsor: Anthony E. Loubet
 Senate Sponsor: Brady Brammer

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LONG TITLE

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General Description:

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This bill addresses attorney fees.

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Highlighted Provisions:

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This bill:

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▸ clarifies the meaning of "bad faith" throughout the Utah Code with regard to attorney fees;

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▸ amends the requirements for awarding reasonable attorney fees in a civil action; and

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▸ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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18-1-4, as last amended by Laws of Utah 2024, Chapter 158

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31A-22-305, as last amended by Laws of Utah 2025, Chapter 261

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31A-22-305.3, as last amended by Laws of Utah 2025, Chapter 261

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31A-22-321, as last amended by Laws of Utah 2024, Chapter 158

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38-1a-308, as last amended by Laws of Utah 2024, Chapter 158

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78B-5-825, as last amended by Laws of Utah 2022, Chapter 272

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78B-10a-108, as enacted by Laws of Utah 2011, Chapter 197

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

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Section 1. Section **18-1-4** is amended to read:

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18-1-4 . Use of arbitration in personal injury from dog attack cases.

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(1) A person injured as a result of a dog attack may elect to submit all third party bodily

- 29 injury claims to arbitration by filing a notice of the submission of the claim to binding
30 arbitration in a court if:
- 31 (a) the claimant or the claimant's representative has:
- 32 (i) previously and timely filed a complaint in a court that includes a third party bodily
33 injury claim; and
- 34 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
35 has been answered; and
- 36 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
37 Subsection (1)(a)(i) is still pending.
- 38 (2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
39 party submitting the claim or the party's representative is limited to an arbitration
40 award that may not exceed \$50,000 in addition to any medical premise benefits and
41 any claim for property damage.
- 42 (b) A party who elects to proceed against a defendant under this section:
- 43 (i) waives the right to obtain a judgment against the personal assets of the defendant;
44 and
- 45 (ii) is limited to recovery only against available limits of insurance coverage.
- 46 (3) A claim for punitive damages may not be made in an arbitration proceeding under
47 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through
48 a trial de novo under Subsection (11).
- 49 (4)(a) A party who has elected arbitration under this section may rescind the party's
50 election if the rescission is made within:
- 51 (i) 90 days after the election to arbitrate; and
- 52 (ii) no less than 30 days before any scheduled arbitration hearing.
- 53 (b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:
- 54 (i) file a notice of the rescission of the election to arbitrate with the court in which the
55 matter was filed; and
- 56 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
57 of record to the action.
- 58 (c) All discovery completed in anticipation of the arbitration hearing shall be available
59 for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah
60 Rules of Evidence.
- 61 (d) A party who has elected to arbitrate under this section and then rescinded the
62 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim

- 63 under this section again.
- 64 (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
65 process elected under this section is subject to Rule 26, Utah Rules of Civil
66 Procedure.
- 67 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
68 completed within 150 days after the date arbitration is elected under this section or
69 the date the answer is filed, whichever is longer.
- 70 (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
71 arbitration under this section shall be resolved by a single arbitrator.
- 72 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
73 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the
74 answer of the defendant.
- 75 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
76 (6)(b), the parties shall select a panel of three arbitrators.
- 77 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):
78 (i) each side shall select one arbitrator; and
79 (ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional
80 arbitrator to be included in the panel.
- 81 (7) Unless otherwise agreed to in writing:
82 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
83 under Subsection (6)(a); and
84 (b) if an arbitration panel is selected under Subsection (6)(d):
85 (i) each party shall pay the fees and costs of the arbitrator selected by that party's
86 side; and
87 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
88 under Subsection (6)(d)(ii).
- 89 (8) Except as otherwise provided in this section and unless otherwise agreed to in writing
90 by the parties, an arbitration proceeding conducted under this section shall be governed
91 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 92 (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the
93 Utah Rules of Evidence apply to the arbitration proceeding.
- 94 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
95 liberally with the intent of concluding the claim in a timely and cost-efficient manner.
- 96 (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure

- 97 and shall be subject to the jurisdiction of the court in which the matter is filed.
- 98 (d) Dispositive motions shall be filed, heard, and decided by the court prior to the
99 arbitration proceeding in accordance with the court's scheduling order.
- 100 (10) A written decision by a single arbitrator or by a majority of the arbitration panel shall
101 constitute a final decision.
- 102 (11) An arbitration award issued under this section shall be the final resolution of all bodily
103 injury claims between the parties and may be reduced to judgment by the court upon
104 motion and notice unless:
- 105 (a) either party, within 20 days after service of the arbitration award:
- 106 (i) files a notice requesting a trial de novo in the court; and
107 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
108 under Subsection (11)(a)(i); or
- 109 (b) the arbitration award has been satisfied.
- 110 (12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):
- 111 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional
112 90 days shall be allowed for further discovery;
- 113 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
114 of appeal; and
- 115 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the
116 Utah Rules of Civil Procedure and the Utah Rules of Evidence in the court.
- 117 (b) In accordance with the Utah Rules of Civil Procedure, either party may request a jury
118 trial with a request for trial de novo filed under Subsection (11).
- 119 (13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection
120 (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
121 the arbitration award, the plaintiff is responsible for all of the nonmoving party's
122 costs.
- 123 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
124 include:
- 125 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
126 (ii) the costs of expert witnesses and depositions.
- 127 (c) An award of costs under this Subsection (13) may not exceed \$6,000.
- 128 (14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection
129 (11), does not obtain a verdict that is at least 30% less than the arbitration award, the
130 defendant is responsible for all of the nonmoving party's costs.

- 131 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
132 include:
- 133 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
134 (ii) the costs of expert witnesses and depositions.
- 135 (c) An award of costs under this Subsection (14) may not exceed \$6,000.
- 136 (15) For purposes of determining whether a party's verdict is greater or less than the
137 arbitration award under Subsections (13) and (14), a court may not consider any
138 recovery or other relief granted on a claim for damages if the claim for damages was not
139 disclosed in:
- 140 (a) writing prior to the arbitration proceeding; or
141 (b) response to discovery contrary to the Utah Rules of Civil Procedure.
- 142 [~~(16) If a court determines, upon a motion of the nonmoving party, that the moving party's
143 use of the trial de novo process was filed in bad faith, as described in Section 78B-5-825,
144 the court may award reasonable attorney fees to the nonmoving party.]~~
- 145 (16) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
146 to the nonmoving party if the court determines that the moving party requested a trial de
147 novo to harass, cause unreasonable delay, needlessly increase the cost of litigation, or
148 abuse the judicial process.
- 149 (17) Nothing in this section is intended to affect or prevent any first party claim from later
150 being brought under any first party insurance policy under which the injured person is a
151 covered person.
- 152 (18)(a) If a defendant requests a trial de novo under Subsection (11), the total verdict at
153 trial may not exceed \$15,000 above any available limits of insurance coverage and
154 the total verdict may not exceed \$65,000.
- 155 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
156 not exceed \$50,000.
- 157 (19) All arbitration awards issued under this section shall bear postjudgment interest [
158 pursuant to] in accordance with Section 15-1-4.
- 159 Section 2. Section **31A-22-305** is amended to read:
- 160 **31A-22-305 . Uninsured motorist coverage.**
- 161 (1) As used in this section, "covered persons" includes:
- 162 (a) the named insured;
163 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
164 children;

- 165 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
166 who are residents of the named insured's household, including those who usually
167 make their home in the same household but temporarily live elsewhere;
- 168 (d) any person occupying or using a motor vehicle:
169 (i) referred to in the policy; or
170 (ii) owned by a self-insured; and
- 171 (e) any person who is entitled to recover damages against the owner or operator of the
172 uninsured or underinsured motor vehicle because of bodily injury to or death of
173 persons under Subsection (1)(a), (b), (c), or (d).
- 174 (2) As used in this section, "uninsured motor vehicle" includes:
- 175 (a)(i) a motor vehicle, the operation, maintenance, or use of which is not covered
176 under a liability policy at the time of an injury-causing occurrence; or
177 (ii)(A) a motor vehicle covered with lower liability limits than required by Section
178 31A-22-304; and
179 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the
180 extent of the deficiency;
- 181 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
182 by the motor vehicle operator;
- 183 (c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed
184 by the liability insurer for more than 60 days or continues to be disputed for more
185 than 60 days; or
- 186 (d)(i) an insured motor vehicle if, before or after the accident, the liability insurer of
187 the motor vehicle is declared insolvent by a court of competent jurisdiction; and
188 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
189 that the claim against the insolvent insurer is not paid by a guaranty association or
190 fund.
- 191 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for
192 covered persons who are legally entitled to recover damages from owners or operators
193 of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
- 194 (4)(a) For new policies written on or after January 1, 2001, the limits of uninsured
195 motorist coverage shall be equal to the lesser of the limits of the named insured's
196 motor vehicle liability coverage or the maximum uninsured motorist coverage limits
197 available by the insurer under the named insured's motor vehicle policy, unless a
198 named insured rejects or purchases coverage in a lesser amount by signing an

- 199 acknowledgment form that:
- 200 (i) is filed with the department;
- 201 (ii) is provided by the insurer;
- 202 (iii) waives the higher coverage;
- 203 (iv) need only state in this or similar language that uninsured motorist coverage
204 provides benefits or protection to you and other covered persons for bodily injury
205 resulting from an accident caused by the fault of another party where the other
206 party has no liability insurance; and
- 207 (v) discloses the additional premiums required to purchase uninsured motorist
208 coverage with limits equal to the lesser of the limits of the named insured's motor
209 vehicle liability coverage or the maximum uninsured motorist coverage limits
210 available by the insurer under the named insured's motor vehicle policy.
- 211 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
212 liability coverage until the insured requests, in writing, a change of uninsured
213 motorist coverage from that liability insurer.
- 214 (c)(i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
215 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written
216 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 217 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
218 clarifies the application of law and does not enlarge, eliminate, or destroy vested
219 rights.
- 220 (d) For purposes of this Subsection (4), "new policy" means:
- 221 (i) any policy that is issued which does not include a renewal or reinstatement of an
222 existing policy; or
- 223 (ii) a change to an existing policy that results in:
- 224 (A) a named insured being added to or deleted from the policy; or
- 225 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 226 (e)(i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
227 that increases the total number of vehicles insured by the policy, and does not
228 include replacement, substitute, or temporary vehicles.
- 229 (ii) The adding of an additional motor vehicle to an existing personal lines or
230 commercial lines policy does not constitute a new policy for purposes of
231 Subsection (4)(d).
- 232 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured

- 233 motorist coverage has been rejected, or where uninsured motorist limits are lower
234 than the named insured's motor vehicle liability limits, the insurer shall provide a
235 notice to a named insured within 30 days that:
- 236 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose
237 of uninsured motorist coverage; and
- 238 (B) encourages the named insured to contact the insurance company or insurance
239 producer for quotes as to the additional premiums required to purchase
240 uninsured motorist coverage with limits equal to the lesser of the limits of the
241 named insured's motor vehicle liability coverage or the maximum uninsured
242 motorist coverage limits available by the insurer under the named insured's
243 motor vehicle policy.
- 244 (f) A change in policy number resulting from any policy change not identified under
245 Subsection (4)(d)(ii) does not constitute a new policy.
- 246 (g)(i) Subsection (4)(d) applies retroactively to any claim arising on or after January
247 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand
248 for arbitration or filed a complaint in a court of competent jurisdiction.
- 249 (ii) The Legislature finds that the retroactive application of this Subsection (4):
- 250 (A) does not enlarge, eliminate, or destroy vested rights; and
- 251 (B) clarifies the application of law.
- 252 (h) A self-insured, including a governmental entity, may elect to provide uninsured
253 motorist coverage in an amount that is less than its maximum self-insured retention
254 under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy
255 statement from the chief financial officer or chief risk officer that declares the:
- 256 (i) self-insured entity's coverage level; and
- 257 (ii) process for filing an uninsured motorist claim.
- 258 (i) Uninsured motorist coverage may not be sold with limits that are less than the
259 minimum bodily injury limits for motor vehicle liability policies under Section
260 31A-22-304.
- 261 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
262 uninsured motorist coverage until the named insured requests, in writing, different
263 uninsured motorist coverage from the insurer.
- 264 (k)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for
265 policies existing on that date, the insurer shall disclose in the same medium as the
266 premium renewal notice, an explanation of:

- 267 (A) the purpose of uninsured motorist coverage in the same manner as described
268 in Subsection (4)(a)(iv); and
- 269 (B) a disclosure of the additional premiums required to purchase uninsured
270 motorist coverage with limits equal to the lesser of the limits of the named
271 insured's motor vehicle liability coverage or the maximum uninsured motorist
272 coverage limits available by the insurer under the named insured's motor
273 vehicle policy.
- 274 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
275 insureds that carry uninsured motorist coverage limits in an amount less than the
276 named insured's motor vehicle liability policy limits or the maximum uninsured
277 motorist coverage limits available by the insurer under the named insured's motor
278 vehicle policy.
- 279 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
280 a household constitutes notice or disclosure to all insureds within the household.
- 281 (5)(a)(i) Except as provided in Subsection (5)(b), the named insured may reject
282 uninsured motorist coverage by an express writing to the insurer that provides
283 liability coverage under Subsection 31A-22-302(1)(a).
- 284 (ii) This rejection shall be on a form provided by the insurer that includes a
285 reasonable explanation of the purpose of uninsured motorist coverage.
- 286 (iii) This rejection continues for that issuer of the liability coverage until the insured
287 in writing requests uninsured motorist coverage from that liability insurer.
- 288 (b)(i) All persons, including governmental entities, that are engaged in the business
289 of, or that accept payment for, transporting natural persons by motor vehicle, and
290 all school districts that provide transportation services for their students, shall
291 provide coverage for all motor vehicles used for that purpose, by purchase of a
292 policy of insurance or by self-insurance, uninsured motorist coverage of at least
293 \$25,000 per person and \$500,000 per accident.
- 294 (ii) This coverage is secondary to any other insurance covering an injured covered
295 person.
- 296 (c) Uninsured motorist coverage:
- 297 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,
298 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
299 Occupational Disease Act, provided by the workers' compensation insurance
300 carrier, uninsured employer, the Uninsured Employers' Fund created in Section

- 301 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,
302 except that:
- 303 (A) the covered person is credited an amount described in Subsection
304 34A-2-106(5); and
- 305 (B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before
306 an uninsured motorist claim may be pursued and resolved;
- 307 (ii) may not be subrogated by the workers' compensation insurance carrier, uninsured
308 employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the
309 Employers' Reinsurance Fund created in Section 34A-2-702;
- 310 (iii) may not be reduced by any benefits provided by the workers' compensation
311 insurance carrier, uninsured employer, the Uninsured Employers' Fund created in
312 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section
313 34A-2-702;
- 314 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health
315 insurance subrogation only after the covered person has been made whole;
- 316 (v) may not be collected for bodily injury or death sustained by a person:
- 317 (A) while committing a violation of Section 41-1a-1314;
- 318 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
319 operated in violation of Section 41-1a-1314; or
- 320 (C) while committing a felony; and
- 321 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:
- 322 (A) for a person under 18 years old who is injured within the scope of Subsection
323 (5)(c)(v) but limited to medical and funeral expenses; or
- 324 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
325 within the course and scope of the law enforcement officer's duties.
- 326 (d) As used in this Subsection (5), "motor vehicle" means the same as that term is
327 defined in Section 41-1a-102.
- 328 (6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b)
329 proximately caused an accident without touching the covered person or the motor
330 vehicle occupied by the covered person, the covered person shall show the existence of
331 the uninsured motor vehicle by clear and convincing evidence consisting of more than
332 the covered person's testimony.
- 333 (7)(a) The limit of liability for uninsured motorist coverage for two or more motor
334 vehicles may not be added together, combined, or stacked to determine the limit of

- 335 insurance coverage available to an injured person for any one accident.
- 336 (b)(i) Subsection (7)(a) applies to all persons except a covered person as defined
337 under Subsection (8)(b).
- 338 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
339 limits of uninsured motorist coverage afforded for any one motor vehicle that the
340 covered person is the named insured or an insured family member.
- 341 (iii) This coverage shall be in addition to the coverage on the motor vehicle the
342 covered person is occupying.
- 343 (iv) Neither the primary nor the secondary coverage may be set off against the other.
- 344 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
345 coverage, and the coverage elected by a person described under Subsections (1)(a)
346 through (c) shall be secondary coverage.
- 347 (8)(a) Uninsured motorist coverage under this section applies to bodily injury, sickness,
348 disease, or death of covered persons while occupying or using a motor vehicle only if
349 the motor vehicle is described in the policy under which a claim is made, or if the
350 motor vehicle is a newly acquired or replacement motor vehicle covered under the
351 terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a
352 covered person injured in a motor vehicle described in a policy that includes
353 uninsured motorist benefits may not elect to collect uninsured motorist coverage
354 benefits from any other motor vehicle insurance policy under which the person is a
355 covered person.
- 356 (b) Each of the following persons may also recover uninsured motorist benefits under
357 any one other policy in which they are described as a "covered person" as defined in
358 Subsection (1):
- 359 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and
360 (ii) except as provided in Subsection (8)(c), a covered person injured while
361 occupying or using a motor vehicle that is not owned, leased, or furnished:
362 (A) to the covered person;
363 (B) to the covered person's spouse; or
364 (C) to the covered person's resident parent or resident sibling.
- 365 (c)(i) A covered person may recover benefits from no more than two additional
366 policies, one additional policy from each parent's household if the covered person
367 is:
368 (A) a dependent minor of parents who reside in separate households; and

- 369 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
370 furnished:
- 371 (I) to the covered person;
- 372 (II) to the covered person's resident parent; or
- 373 (III) to the covered person's resident sibling.
- 374 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage
375 of the damages that the limit of liability of each parent's policy of uninsured
376 motorist coverage bears to the total of both parents' uninsured coverage applicable
377 to the accident.
- 378 (d) A covered person's recovery under any available policies may not exceed the full
379 amount of damages.
- 380 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
381 elections if recovery is unavailable under previous elections.
- 382 (f)(i) As used in this section, "interpolicy stacking" means recovering benefits for a
383 single incident of loss under more than one insurance policy.
- 384 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
385 interpolicy stacking is prohibited for uninsured motorist coverage.
- 386 (9)(a) When a claim is brought by a named insured or a person described in Subsection
387 (1) and is asserted against the covered person's uninsured motorist carrier, the
388 claimant may elect to resolve the claim:
- 389 (i) by submitting the claim to binding arbitration; or
- 390 (ii) through litigation.
- 391 (b) Unless otherwise provided in the policy under which uninsured benefits are claimed,
392 the election provided in Subsection (9)(a) is available to the claimant only, except
393 that if the policy under which insured benefits are claimed provides that either an
394 insured or the insurer may elect arbitration, the insured or the insurer may elect
395 arbitration and that election to arbitrate shall stay the litigation of the claim under
396 Subsection (9)(a)(ii).
- 397 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the
398 claimant may not elect to resolve the claim through binding arbitration under this
399 section without the written consent of the uninsured motorist carrier.
- 400 (d) For purposes of the statute of limitations applicable to a claim described in
401 Subsection (9)(a), if the claimant does not elect to resolve the claim through
402 litigation, the claim is considered filed when the claimant submits the claim to

- 403 binding arbitration in accordance with this Subsection (9).
- 404 (e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
405 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single
406 arbitrator.
- 407 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).
- 408 (iii) If the parties are unable to agree on a single arbitrator as required under
409 Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.
- 410 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):
- 411 (i) each side shall select one arbitrator; and
- 412 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
413 arbitrator to be included in the panel.
- 414 (g) Unless otherwise agreed to in writing:
- 415 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
416 under Subsection (9)(e)(i); or
- 417 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):
- 418 (A) each party shall pay the fees and costs of the arbitrator selected by that party;
419 and
- 420 (B) each party shall pay an equal share of the fees and costs of the arbitrator
421 selected under Subsection (9)(f)(ii).
- 422 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing
423 by the parties, an arbitration proceeding conducted under this section shall be
424 governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 425 (i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through
426 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the
427 requirements of Subsections (10)(a) through (c) are satisfied.
- 428 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil
429 Procedure shall be determined based on the claimant's specific monetary amount
430 in the written demand for payment of uninsured motorist coverage benefits as
431 required in Subsection (10)(a)(i)(A).
- 432 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
433 arbitration claims under this part.
- 434 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
- 435 (k) A written decision by a single arbitrator or by a majority of the arbitration panel shall
436 constitute a final decision.

- 437 (l)(i) Except as provided in Subsection (10), the amount of an arbitration award may
438 not exceed the uninsured motorist policy limits of all applicable uninsured
439 motorist policies, including applicable uninsured motorist umbrella policies.
- 440 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
441 applicable uninsured motorist policies, the arbitration award shall be reduced to an
442 amount equal to the combined uninsured motorist policy limits of all applicable
443 uninsured motorist policies.
- 444 (m) The arbitrator or arbitration panel may not decide the issues of coverage or
445 extra-contractual damages, including:
- 446 (i) whether the claimant is a covered person;
447 (ii) whether the policy extends coverage to the loss; or
448 (iii) any allegations or claims asserting consequential damages or bad faith liability.
- 449 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
450 class-representative basis.
- 451 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or
452 defended in good faith, the arbitrator or arbitration panel may award reasonable
453 attorney fees and costs against the party that failed to bring, pursue, or defend the
454 claim in good faith.
- 455 (p) An arbitration award issued under this section shall be the final resolution of all
456 claims not excluded by Subsection (9)(m) between the parties unless:
- 457 (i) the award was procured by corruption, fraud, or other undue means; and
458 (ii) within 20 days after service of the arbitration award, a party:
- 459 (A) files a complaint requesting a trial de novo in a court with jurisdiction under
460 Title 78A, Judiciary and Judicial Administration; and
461 (B) serves the nonmoving party with a copy of the complaint requesting a trial de
462 novo under Subsection (9)(p)(ii)(A).
- 463 (q)(i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
464 shall proceed through litigation in accordance with the Utah Rules of Civil
465 Procedure and Utah Rules of Evidence.
- 466 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, a party may request a
467 jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).
- 468 (r)(i) If the claimant, as the moving party in a trial de novo requested under
469 Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least
470 20% greater than the arbitration award, the claimant is responsible for all of the

- 471 nonmoving party's costs.
- 472 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
473 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the
474 arbitration award, the uninsured motorist carrier is responsible for all of the
475 nonmoving party's costs.
- 476 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
477 shall include:
- 478 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
479 (B) the costs of expert witnesses and depositions.
- 480 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
481 Subsection (10)(h)(iii) applies.
- 482 (s) For purposes of determining whether a party's verdict is greater or less than the
483 arbitration award under Subsection (9)(r), a court may not consider any recovery or
484 other relief granted on a claim for damages if the claim for damages:
- 485 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
486 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
487 Procedure.
- 488 ~~[(t) If a court determines, upon a motion of the nonmoving party, that the moving party's
489 use of the trial de novo process was filed in bad faith in accordance with Section
490 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.]~~
- 491 (t) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
492 to the nonmoving party if the court determines that the moving party requested a trial
493 de novo to harass, cause unreasonable delay, needlessly increase the cost of litigation,
494 or abuse the judicial process.
- 495 (u) Nothing in this section is intended to limit any claim under any other portion of an
496 applicable insurance policy.
- 497 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
498 claimant may elect to arbitrate in one hearing the claims against all the uninsured
499 motorist carriers.
- 500 (10)(a) Within 30 days after a covered person elects to submit a claim for uninsured
501 motorist benefits to binding arbitration or files litigation, the covered person shall
502 provide to the uninsured motorist carrier:
- 503 (i) a written demand for payment of uninsured motorist coverage benefits, setting
504 forth:

- 505 (A) subject to Subsection (10)(I), the specific monetary amount of the demand,
506 including a computation of the covered person's claimed past medical
507 expenses, claimed past lost wages, and the other claimed past economic
508 damages; and
- 509 (B) the factual and legal basis and any supporting documentation for the demand;
- 510 (ii) a written statement under oath disclosing:
- 511 (A)(I) the names and last known addresses of all health care providers who
512 have rendered health care services to the covered person that are material to
513 the claims for which uninsured motorist benefits are sought for a period of
514 five years preceding the date of the event giving rise to the claim for
515 uninsured motorist benefits up to the time the election for arbitration or
516 litigation has been exercised; and
- 517 (II) the names and last known addresses of the health care providers who have
518 rendered health care services to the covered person, which the covered
519 person claims are immaterial to the claims for which uninsured motorist
520 benefits are sought, for a period of five years preceding the date of the event
521 giving rise to the claim for uninsured motorist benefits up to the time the
522 election for arbitration or litigation has been exercised that have not been
523 disclosed under Subsection (10)(a)(ii)(A)(I);
- 524 (B)(I) the names and last known addresses of all health insurers or other
525 entities to whom the covered person has submitted claims for health care
526 services or benefits material to the claims for which uninsured motorist
527 benefits are sought, for a period of five years preceding the date of the event
528 giving rise to the claim for uninsured motorist benefits up to the time the
529 election for arbitration or litigation has been exercised; and
- 530 (II) the names and last known addresses of the health insurers or other entities
531 to whom the covered person has submitted claims for health care services or
532 benefits, which the covered person claims are immaterial to the claims for
533 which uninsured motorist benefits are sought, for a period of five years
534 preceding the date of the event giving rise to the claim for uninsured
535 motorist benefits up to the time the election for arbitration or litigation have
536 not been disclosed;
- 537 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
538 employers of the covered person for a period of five years preceding the date

- 539 of the event giving rise to the claim for uninsured motorist benefits up to the
540 time the election for arbitration or litigation has been exercised;
- 541 (D) other documents to reasonably support the claims being asserted; and
- 542 (E) all state and federal statutory lienholders including a statement as to whether
543 the covered person is a recipient of Medicare or Medicaid benefits or Utah
544 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,
545 Utah Children's Health Insurance Program, or if the claim is subject to any
546 other state or federal statutory liens; and
- 547 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain
548 records and billings from the individuals or entities disclosed under Subsections
549 (10)(a)(ii)(A)(I), (B)(I), and (C).
- 550 (b)(i) If the uninsured motorist carrier determines that the disclosure of undisclosed
551 health care providers or health care insurers under Subsection (10)(a)(ii) is
552 reasonably necessary, the uninsured motorist carrier may:
- 553 (A) make a request for the disclosure of the identity of the health care providers or
554 health care insurers; and
- 555 (B) make a request for authorizations to allow the uninsured motorist carrier to
556 only obtain records and billings from the individuals or entities not disclosed.
- 557 (ii) If the covered person does not provide the requested information within 10 days:
- 558 (A) the covered person shall disclose, in writing, the legal or factual basis for the
559 failure to disclose the health care providers or health care insurers; and
- 560 (B) either the covered person or the uninsured motorist carrier may request the
561 arbitrator or arbitration panel to resolve the issue of whether the identities or
562 records are to be provided if the covered person has elected arbitration.
- 563 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution
564 of the dispute concerning the disclosure and production of records of the health
565 care providers or health care insurers.
- 566 (c)(i) An uninsured motorist carrier that receives an election for arbitration or a notice
567 of filing litigation and the demand for payment of uninsured motorist benefits
568 under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days
569 from the date of the demand and receipt of the items specified in Subsections
570 (10)(a)(i) through (iii), to:
- 571 (A) provide a written response to the written demand for payment provided for in
572 Subsection (10)(a)(i);

- 573 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of
574 the uninsured motorist carrier's determination of the amount owed to the
575 covered person; and
- 576 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
577 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,
578 Utah Children's Health Insurance Program, or if the claim is subject to any
579 other state or federal statutory liens, tender the amount, if any, of the uninsured
580 motorist carrier's determination of the amount owed to the covered person less:
- 581 (I) if the amount of the state or federal statutory lien is established, the amount
582 of the lien; or
- 583 (II) if the amount of the state or federal statutory lien is not established, two
584 times the amount of the medical expenses subject to the state or federal
585 statutory lien until such time as the amount of the state or federal statutory
586 lien is established.
- 587 (ii) If the amount tendered by the uninsured motorist carrier under Subsection
588 (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered
589 amount shall be accepted by the covered person.
- 590 (d) A covered person who receives a written response from an uninsured motorist carrier
591 as provided for in Subsection (10)(c)(i), may:
- 592 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of
593 all uninsured motorist claims; or
- 594 (ii) elect to:
- 595 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
596 uninsured motorist claims; and
- 597 (B) continue to litigate or arbitrate the remaining claim in accordance with the
598 election made under Subsections (9)(a) through (c).
- 599 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
600 as partial payment of all uninsured motorist claims, the final award obtained through
601 arbitration, litigation, or later settlement shall be reduced by any payment made by
602 the uninsured motorist carrier under Subsection (10)(c)(i).
- 603 (f) In an arbitration proceeding on the remaining uninsured claims:
- 604 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
605 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and
606 (ii) the parties may not disclose the amount of the limits of uninsured motorist

- 607 benefits provided by the policy.
- 608 (g) If the final award obtained through arbitration or litigation is greater than the average
609 of the covered person's initial written demand for payment provided for in Subsection
610 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
611 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:
- 612 (i) the final award obtained through arbitration or litigation, except that if the award
613 exceeds the policy limits of the subject uninsured motorist policy by more than
614 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus
615 \$15,000; and
- 616 (ii) any of the following applicable costs:
- 617 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 618 (B) the arbitrator or arbitration panel's fee; and
- 619 (C) the reasonable costs of expert witnesses and depositions used in the
620 presentation of evidence during arbitration or litigation.
- 621 (h)(i) The covered person shall provide an affidavit of costs within five days of an
622 arbitration award.
- 623 (ii)(A) Objection to the affidavit of costs shall specify with particularity the costs
624 to which the uninsured motorist carrier objects.
- 625 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 626 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
627 (10)(g)(ii) may not exceed \$5,000.
- 628 (i)(i) A covered person shall disclose all material information, other than rebuttal
629 evidence, within 30 days after a covered person elects to submit a claim for
630 uninsured motorist coverage benefits to binding arbitration or files litigation as
631 specified in Subsection (10)(a).
- 632 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
633 may not recover costs or any amounts in excess of the policy under Subsection
634 (10)(g).
- 635 (j) This Subsection (10) does not limit any other cause of action that arose or may arise
636 against the uninsured motorist carrier from the same dispute.
- 637 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that
638 occur on or after March 30, 2010.
- 639 (l)(i)(A) The written demand requirement in Subsection (10)(a)(i)(A) does not
640 affect the covered person's requirement to provide a computation of any other

641 economic damages claimed, and the one or more respondents shall have a
642 reasonable time after the receipt of the computation of any other economic
643 damages claimed to conduct fact and expert discovery as to any additional
644 damages claimed.

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

649 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
650 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim
651 submitted to binding arbitration or through litigation on or after May 13, 2014.

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

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

656 Section 3. Section **31A-22-305.3** is amended to read:

657 **31A-22-305.3 . Underinsured motorist coverage.**

658 (1) As used in this section:

659 (a) "Covered person" means the same as that term is defined in Section 31A-22-305.

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

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

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

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

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

669 (I) a named insured;

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

671 (III) a dependent of a named insured.

672 (2)(a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
673 coverage for a covered person who is legally entitled to recover damages from an
674 owner or operator of an underinsured motor vehicle because of bodily injury,

- 675 sickness, disease, or death.
- 676 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished to
677 the covered person, the covered person's spouse, or covered person's resident relative
678 may recover underinsured benefits only if the motor vehicle is:
- 679 (i) described in the policy under which a claim is made; or
680 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
681 policy.
- 682 (3)(a) For purposes of this Subsection (3), "new policy" means:
- 683 (i) any policy that is issued that does not include a renewal or reinstatement of an
684 existing policy; or
685 (ii) a change to an existing policy that results in:
686 (A) a named insured being added to or deleted from the policy; or
687 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 688 (b) For new policies written on or after January 1, 2001, the limits of underinsured
689 motorist coverage shall be equal to the lesser of the limits of the named insured's
690 motor vehicle liability coverage or the maximum underinsured motorist coverage
691 limits available by the insurer under the named insured's motor vehicle policy, unless
692 a named insured rejects or purchases coverage in a lesser amount by signing an
693 acknowledgment form that:
694 (i) is filed with the department;
695 (ii) is provided by the insurer;
696 (iii) waives the higher coverage;
697 (iv) need only state in this or similar language that "underinsured motorist coverage
698 provides benefits or protection to you and other covered persons for bodily injury
699 resulting from an accident caused by the fault of another party where the other
700 party has insufficient liability insurance"; and
701 (v) discloses the additional premiums required to purchase underinsured motorist
702 coverage with limits equal to the lesser of the limits of the named insured's motor
703 vehicle liability coverage or the maximum underinsured motorist coverage limits
704 available by the insurer under the named insured's motor vehicle policy.
- 705 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
706 liability coverage until the insured requests, in writing, a change of underinsured
707 motorist coverage from that liability insurer.
- 708 (d)(i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after

- 709 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written
710 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 711 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
712 clarifies the application of law and does not enlarge, eliminate, or destroy vested
713 rights.
- 714 (e)(i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
715 that increases the total number of vehicles insured by the policy, and does not
716 include replacement, substitute, or temporary vehicles.
- 717 (ii) The adding of an additional motor vehicle to an existing personal lines or
718 commercial lines policy does not constitute a new policy for purposes of
719 Subsection (3)(a).
- 720 (iii) If an additional motor vehicle is added to a personal lines policy where
721 underinsured motorist coverage has been rejected, or where underinsured motorist
722 limits are lower than the named insured's motor vehicle liability limits, the insurer
723 shall provide a notice to a named insured within 30 days that:
- 724 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
725 underinsured motorist coverage; and
- 726 (B) encourages the named insured to contact the insurance company or insurance
727 producer for quotes as to the additional premiums required to purchase
728 underinsured motorist coverage with limits equal to the lesser of the limits of
729 the named insured's motor vehicle liability coverage or the maximum
730 underinsured motorist coverage limits available by the insurer under the named
731 insured's motor vehicle policy.
- 732 (f) A change in policy number resulting from any policy change not identified under
733 Subsection (3)(a)(ii) does not constitute a new policy.
- 734 (g)(i) Subsection (3)(a) applies retroactively to any claim arising on or after January
735 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand
736 for arbitration or filed a complaint in a court of competent jurisdiction.
- 737 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):
- 738 (A) does not enlarge, eliminate, or destroy vested rights; and
739 (B) clarifies legislative intent.
- 740 (h) A self-insured, including a governmental entity, may elect to provide underinsured
741 motorist coverage in an amount that is less than its maximum self-insured retention
742 under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy

- 743 statement from the chief financial officer or chief risk officer that declares the:
- 744 (i) self-insured entity's coverage level; and
- 745 (ii) process for filing an underinsured motorist claim.
- 746 (i) Underinsured motorist coverage may not be sold with limits that are less than:
- 747 (i) \$10,000 for one person in any one accident; and
- 748 (ii) at least \$20,000 for two or more persons in any one accident.
- 749 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
- 750 underinsured motorist coverage until the named insured, in writing, requests different
- 751 underinsured motorist coverage from the insurer.
- 752 (k)(i) The named insured's underinsured motorist coverage, as described in
- 753 Subsection (2), is secondary to the liability coverage of an owner or operator of an
- 754 underinsured motor vehicle, as described in Subsection (1).
- 755 (ii) Underinsured motorist coverage may not be set off against the liability coverage
- 756 of the owner or operator of an underinsured motor vehicle, but shall be added to,
- 757 combined with, or stacked upon the liability coverage of the owner or operator of
- 758 the underinsured motor vehicle to determine the limit of coverage available to the
- 759 injured person.
- 760 (l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for
- 761 policies existing on that date, the insurer shall disclose in the same medium as the
- 762 premium renewal notice, an explanation of:
- 763 (A) the purpose of underinsured motorist coverage in the same manner as
- 764 described in Subsection (3)(b)(iv); and
- 765 (B) a disclosure of the additional premiums required to purchase underinsured
- 766 motorist coverage with limits equal to the lesser of the limits of the named
- 767 insured's motor vehicle liability coverage or the maximum underinsured
- 768 motorist coverage limits available by the insurer under the named insured's
- 769 motor vehicle policy.
- 770 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
- 771 insureds that carry underinsured motorist coverage limits in an amount less than
- 772 the named insured's motor vehicle liability policy limits or the maximum
- 773 underinsured motorist coverage limits available by the insurer under the named
- 774 insured's motor vehicle policy.
- 775 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in
- 776 a household constitutes notice or disclosure to all insureds within the household.

- 777 (4)(a)(i) Except as provided in this Subsection (4), a covered person injured in a
778 motor vehicle described in a policy that includes underinsured motorist benefits
779 may not elect to collect underinsured motorist coverage benefits from another
780 motor vehicle insurance policy.
- 781 (ii) The limit of liability for underinsured motorist coverage for two or more motor
782 vehicles may not be added together, combined, or stacked to determine the limit
783 of insurance coverage available to an injured person for any one accident.
- 784 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
785 under Subsections (4)(b)(i) and (ii).
- 786 (b)(i) A covered person injured as a pedestrian by an underinsured motor vehicle may
787 recover underinsured motorist benefits under any one other policy in which they
788 are described as a covered person.
- 789 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
790 occupying, using, or maintaining a motor vehicle that is not owned, leased, or
791 furnished to the covered person, the covered person's spouse, or the covered
792 person's resident parent or resident sibling, may also recover benefits under any
793 one other policy under which the covered person is also a covered person.
- 794 (iii)(A) A covered person may recover benefits from no more than two additional
795 policies, one additional policy from each parent's household if the covered
796 person is:
- 797 (I) a dependent minor of parents who reside in separate households; and
798 (II) injured while occupying or using a motor vehicle that is not owned, leased,
799 or furnished to the covered person, the covered person's resident parent, or
800 the covered person's resident sibling.
- 801 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
802 percentage of the damages that the limit of liability of each parent's policy of
803 underinsured motorist coverage bears to the total of both parents' underinsured
804 coverage applicable to the accident.
- 805 (iv) A covered person's recovery under any available policies may not exceed the full
806 amount of damages.
- 807 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
808 primary coverage, and the coverage elected by a person described under
809 Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.
- 810 (vi) The primary and the secondary coverage may not be set off against the other.

- 811 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
812 highest limits of underinsured motorist coverage under only one additional policy
813 per household applicable to that covered person as a named insured, spouse, or
814 relative.
- 815 (viii) A covered injured person is not barred against making subsequent elections if
816 recovery is unavailable under previous elections.
- 817 (ix)(A) As used in this section, "interpolicy stacking" means recovering benefits
818 for a single incident of loss under more than one insurance policy.
- 819 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
820 prohibited for underinsured motorist coverage.
- 821 (c) Underinsured motorist coverage:
- 822 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,
823 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
824 Occupational Disease Act, provided by the workers' compensation insurance
825 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
826 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,
827 except that:
- 828 (A) the covered person is credited an amount described in Subsection
829 34A-2-106(5); and
- 830 (B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before
831 an underinsured motorist claim may be pursued and resolved[-] ;
- 832 (ii) may not be subrogated by a workers' compensation insurance carrier, uninsured
833 employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the
834 Employers' Reinsurance Fund created in Section 34A-2-702;
- 835 (iii) may not be reduced by benefits provided by the workers' compensation insurance
836 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
837 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;
- 838 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health
839 insurance subrogation only after the covered person is made whole;
- 840 (v) may not be collected for bodily injury or death sustained by a person:
- 841 (A) while committing a violation of Section 41-1a-1314;
- 842 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
843 operated in violation of Section 41-1a-1314; or
- 844 (C) while committing a felony; and

- 845 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
- 846 (A) for a person younger than 18 years old who is injured within the scope of
- 847 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or
- 848 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
- 849 within the course and scope of the law enforcement officer's duties.
- 850 (5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for
- 851 underinsured motorist coverage shall be commenced within four years after the
- 852 inception of loss.
- 853 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist
- 854 claims occurs upon the date of the settlement check representing the last liability
- 855 policy payment.
- 856 (6) An underinsured motorist insurer does not have a right of reimbursement against a
- 857 person liable for the damages resulting from an injury-causing occurrence if the person's
- 858 liability insurer has tendered the policy limit and the limits have been accepted by the
- 859 claimant.
- 860 (7) Except as otherwise provided in this section, a covered person may seek, subject to the
- 861 terms and conditions of the policy, additional coverage under any policy:
- 862 (a) that provides coverage for damages resulting from motor vehicle accidents; and
- 863 (b) that is not required to conform to Section 31A-22-302.
- 864 (8)(a) When a claim is brought by a named insured or a person described in Subsection
- 865 31A-22-305(1) and is asserted against the covered person's underinsured motorist
- 866 carrier, the claimant may elect to resolve the claim:
- 867 (i) by submitting the claim to binding arbitration; or
- 868 (ii) through litigation.
- 869 (b) Unless otherwise provided in the policy under which underinsured benefits are
- 870 claimed, the election provided in Subsection (8)(a) is available to the claimant only,
- 871 except that if the policy under which insured benefits are claimed provides that either
- 872 an insured or the insurer may elect arbitration, the insured or the insurer may elect
- 873 arbitration and that election to arbitrate shall stay the litigation of the claim under
- 874 Subsection (8)(a)(ii).
- 875 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
- 876 claimant may not elect to resolve the claim through binding arbitration under this
- 877 section without the written consent of the underinsured motorist coverage carrier.
- 878 (d) For purposes of the statute of limitations applicable to a claim described in

- 879 Subsection (8)(a), if the claimant does not elect to resolve the claim through
880 litigation, the claim is considered filed when the claimant submits the claim to
881 binding arbitration in accordance with this Subsection (8).
- 882 (e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
883 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single
884 arbitrator.
- 885 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).
886 (iii) If the parties are unable to agree on a single arbitrator as required under
887 Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.
- 888 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):
889 (i) each side shall select one arbitrator; and
890 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
891 arbitrator to be included in the panel.
- 892 (g) Unless otherwise agreed to in writing:
893 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
894 under Subsection (8)(e)(i); or
895 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
896 (A) each party shall pay the fees and costs of the arbitrator selected by that party;
897 and
898 (B) each party shall pay an equal share of the fees and costs of the arbitrator
899 selected under Subsection (8)(f)(ii).
- 900 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing
901 by the parties, an arbitration proceeding conducted under this section is governed by
902 Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 903 (i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through
904 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the
905 requirements of Subsections (9)(a) through (c) are satisfied.
906 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil
907 Procedure shall be determined based on the claimant's specific monetary amount
908 in the written demand for payment of uninsured motorist coverage benefits as
909 required in Subsection (9)(a)(i)(A).
910 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
911 arbitration claims under this part.
- 912 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

- 913 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
914 constitutes a final decision.
- 915 (l)(i) Except as provided in Subsection (9), the amount of an arbitration award may
916 not exceed the underinsured motorist policy limits of all applicable underinsured
917 motorist policies, including applicable underinsured motorist umbrella policies.
- 918 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of
919 all applicable underinsured motorist policies, the arbitration award shall be
920 reduced to an amount equal to the combined underinsured motorist policy limits
921 of all applicable underinsured motorist policies.
- 922 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
923 extra-contractual damages, including:
- 924 (i) whether the claimant is a covered person;
925 (ii) whether the policy extends coverage to the loss; or
926 (iii) an allegation or claim asserting consequential damages or bad faith liability.
- 927 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
928 class-representative basis.
- 929 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
930 or defended in good faith, the arbitrator or arbitration panel may award reasonable
931 attorney fees and costs against the party that failed to bring, pursue, or defend the
932 arbitration in good faith.
- 933 (p) An arbitration award issued under this section shall be the final resolution of all
934 claims not excluded by Subsection (8)(m) between the parties unless:
- 935 (i) the award is procured by corruption, fraud, or other undue means; or
936 (ii) either party, within 20 days after service of the arbitration award:
- 937 (A) files a complaint requesting a trial de novo in the a court with jurisdiction
938 under Title 78A, Judiciary and Judicial Administration; and
939 (B) serves the nonmoving party with a copy of the complaint requesting a trial de
940 novo under Subsection (8)(p)(ii)(A).
- 941 (q)(i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim
942 shall proceed through litigation in accordance with the Utah Rules of Civil
943 Procedure and Utah Rules of Evidence.
- 944 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
945 request a jury trial with a complaint requesting a trial de novo under Subsection
946 (8)(p)(ii)(A).

- 947 (r)(i) If the claimant, as the moving party in a trial de novo requested under
948 Subsection (8)(p), does not obtain a verdict that is at least \$5,000 and is at least
949 20% greater than the arbitration award, the claimant is responsible for all of the
950 nonmoving party's costs.
- 951 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo
952 requested under Subsection (8)(p), does not obtain a verdict that is at least 20%
953 less than the arbitration award, the underinsured motorist carrier is responsible for
954 all of the nonmoving party's costs.
- 955 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
956 shall include:
- 957 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
958 (B) the costs of expert witnesses and depositions.
- 959 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
960 Subsection (9)(h)(iii) applies.
- 961 (s) For purposes of determining whether a party's verdict is greater or less than the
962 arbitration award under Subsection (8)(r), a court may not consider any recovery or
963 other relief granted on a claim for damages if the claim for damages:
- 964 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
965 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
966 Procedure.
- 967 ~~[(t) If a court determines, upon a motion of the nonmoving party, that a moving party's
968 use of the trial de novo process is filed in bad faith in accordance with Section
969 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.]~~
- 970 (t) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
971 to the nonmoving party if the court determines that the moving party requested a trial
972 de novo to harass, cause unreasonable delay, needlessly increase the cost of litigation,
973 or abuse the judicial process.
- 974 (u) Nothing in this section is intended to limit a claim under another portion of an
975 applicable insurance policy.
- 976 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the
977 claimant may elect to arbitrate in one hearing the claims against all the underinsured
978 motorist carriers.
- 979 (9)(a) Within 30 days after a covered person elects to submit a claim for underinsured
980 motorist benefits to binding arbitration or files litigation, the covered person shall

- 981 provide to the underinsured motorist carrier:
- 982 (i) a written demand for payment of underinsured motorist coverage benefits, setting
983 forth:
- 984 (A) subject to Subsection (9)(I), the specific monetary amount of the demand,
985 including a computation of the covered person's claimed past medical
986 expenses, claimed past lost wages, and all other claimed past economic
987 damages; and
- 988 (B) the factual and legal basis and any supporting documentation for the demand;
- 989 (ii) a written statement under oath disclosing:
- 990 (A)(I) the names and last known addresses of all health care providers who
991 have rendered health care services to the covered person that are material to
992 the claims for which the underinsured motorist benefits are sought for a
993 period of five years preceding the date of the event giving rise to the claim
994 for underinsured motorist benefits up to the time the election for arbitration
995 or litigation has been exercised; and
- 996 (II) the names and last known addresses of the health care providers who have
997 rendered health care services to the covered person, which the covered
998 person claims are immaterial to the claims for which underinsured motorist
999 benefits are sought, for a period of five years preceding the date of the event
1000 giving rise to the claim for underinsured motorist benefits up to the time the
1001 election for arbitration or litigation has been exercised that have not been
1002 disclosed under Subsection (9)(a)(ii)(A)(I);
- 1003 (B)(I) the names and last known addresses of all health insurers or other
1004 entities to whom the covered person has submitted claims for health care
1005 services or benefits material to the claims for which underinsured motorist
1006 benefits are sought, for a period of five years preceding the date of the event
1007 giving rise to the claim for underinsured motorist benefits up to the time the
1008 election for arbitration or litigation has been exercised; and
- 1009 (II) the names and last known addresses of the health insurers or other entities
1010 to whom the covered person has submitted claims for health care services or
1011 benefits, which the covered person claims are immaterial to the claims for
1012 which underinsured motorist benefits are sought, for a period of five years
1013 preceding the date of the event giving rise to the claim for underinsured
1014 motorist benefits up to the time the election for arbitration or litigation have

- 1015 not been disclosed;
- 1016 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
1017 employers of the covered person for a period of five years preceding the date
1018 of the event giving rise to the claim for underinsured motorist benefits up to the
1019 time the election for arbitration or litigation has been exercised;
- 1020 (D) other documents to reasonably support the claims being asserted; and
- 1021 (E) all state and federal statutory lienholders including a statement as to whether
1022 the covered person is a recipient of Medicare or Medicaid benefits or Utah
1023 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,
1024 Utah Children's Health Insurance Program, or if the claim is subject to any
1025 other state or federal statutory liens; and
- 1026 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
1027 records and billings from the individuals or entities disclosed under Subsections
1028 (9)(a)(ii)(A)(I), (B)(I), and (C).
- 1029 (b)(i) If the underinsured motorist carrier determines that the disclosure of
1030 undisclosed health care providers or health care insurers under Subsection
1031 (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:
- 1032 (A) make a request for the disclosure of the identity of the health care providers or
1033 health care insurers; and
- 1034 (B) make a request for authorizations to allow the underinsured motorist carrier to
1035 only obtain records and billings from the individuals or entities not disclosed.
- 1036 (ii) If the covered person does not provide the requested information within 10 days:
- 1037 (A) the covered person shall disclose, in writing, the legal or factual basis for the
1038 failure to disclose the health care providers or health care insurers; and
- 1039 (B) either the covered person or the underinsured motorist carrier may request the
1040 arbitrator or arbitration panel to resolve the issue of whether the identities or
1041 records are to be provided if the covered person has elected arbitration.
- 1042 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
1043 the dispute concerning the disclosure and production of records of the health care
1044 providers or health care insurers.
- 1045 (c)(i) An underinsured motorist carrier that receives an election for arbitration or a
1046 notice of filing litigation and the demand for payment of underinsured motorist
1047 benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60
1048 days from the date of the demand and receipt of the items specified in Subsections

- 1049 (9)(a)(i) through (iii), to:
- 1050 (A) provide a written response to the written demand for payment provided for in
- 1051 Subsection (9)(a)(i);
- 1052 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
- 1053 underinsured motorist carrier's determination of the amount owed to the
- 1054 covered person; and
- 1055 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
- 1056 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,
- 1057 Utah Children's Health Insurance Program, or if the claim is subject to any
- 1058 other state or federal statutory liens, tender the amount, if any, of the
- 1059 underinsured motorist carrier's determination of the amount owed to the
- 1060 covered person less:
- 1061 (I) if the amount of the state or federal statutory lien is established, the amount
- 1062 of the lien; or
- 1063 (II) if the amount of the state or federal statutory lien is not established, two
- 1064 times the amount of the medical expenses subject to the state or federal
- 1065 statutory lien until such time as the amount of the state or federal statutory
- 1066 lien is established.
- 1067 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
- 1068 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the
- 1069 tendered amount shall be accepted by the covered person.
- 1070 (d) A covered person who receives a written response from an underinsured motorist
- 1071 carrier as provided for in Subsection (9)(c)(i), may:
- 1072 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
- 1073 underinsured motorist claims; or
- 1074 (ii) elect to:
- 1075 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
- 1076 underinsured motorist claims; and
- 1077 (B) continue to litigate or arbitrate the remaining claim in accordance with the
- 1078 election made under Subsections (8)(a) through (c).
- 1079 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as
- 1080 partial payment of all underinsured motorist claims, the final award obtained through
- 1081 arbitration, litigation, or later settlement shall be reduced by any payment made by
- 1082 the underinsured motorist carrier under Subsection (9)(c)(i).

- 1083 (f) In an arbitration proceeding on the remaining underinsured claims:
1084 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
1085 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and
1086 (ii) the parties may not disclose the amount of the limits of underinsured motorist
1087 benefits provided by the policy.
- 1088 (g) If the final award obtained through arbitration or litigation is greater than the average
1089 of the covered person's initial written demand for payment provided for in Subsection
1090 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for
1091 in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:
1092 (i) the final award obtained through arbitration or litigation, except that if the award
1093 exceeds the policy limits of the subject underinsured motorist policy by more than
1094 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus
1095 \$15,000; and
1096 (ii) any of the following applicable costs:
1097 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
1098 (B) the arbitrator or arbitration panel's fee; and
1099 (C) the reasonable costs of expert witnesses and depositions used in the
1100 presentation of evidence during arbitration or litigation.
- 1101 (h)(i) The covered person shall provide an affidavit of costs within five days of an
1102 arbitration award.
1103 (ii)(A) Objection to the affidavit of costs shall specify with particularity the costs
1104 to which the underinsured motorist carrier objects.
1105 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 1106 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
1107 (9)(g)(ii) may not exceed \$5,000.
- 1108 (i)(i) A covered person shall disclose all material information, other than rebuttal
1109 evidence, within 30 days after a covered person elects to submit a claim for
1110 underinsured motorist coverage benefits to binding arbitration or files litigation as
1111 specified in Subsection (9)(a).
1112 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
1113 may not recover costs or any amounts in excess of the policy under Subsection
1114 (9)(g).
- 1115 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
1116 against the underinsured motorist carrier from the same dispute.

- 1117 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
1118 occur on or after March 30, 2010.
- 1119 (l)(i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
1120 covered person's requirement to provide a computation of any other economic
1121 damages claimed, and the one or more respondents shall have a reasonable time
1122 after the receipt of the computation of any other economic damages claimed to
1123 conduct fact and expert discovery as to any additional damages claimed. The
1124 changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300,
1125 Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim
1126 submitted to binding arbitration or through litigation on or after May 13, 2014.
- 1127 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
1128 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted
1129 to binding arbitration or through litigation on or after May 13, 2014.
- 1130 Section 4. Section **31A-22-321** is amended to read:
- 1131 **31A-22-321 . Use of arbitration in third party motor vehicle accident cases.**
- 1132 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
1133 party bodily injury claims to arbitration by filing a notice of the submission of the claim
1134 to binding arbitration in a court with jurisdiction under Title 78A, Judiciary and Judicial
1135 Administration, if:
- 1136 (a) the claimant or the claimant's representative has:
- 1137 (i) previously and timely filed a complaint in a court that includes a third party bodily
1138 injury claim; and
- 1139 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
1140 has been answered; and
- 1141 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
1142 Subsection (1)(a)(i) is still pending.
- 1143 (2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
1144 party submitting the claim or the party's representative is limited to an arbitration
1145 award that does not exceed \$75,000 or the defendant's per person limits of third party
1146 bodily insurance, whichever is less, in addition to any available personal injury
1147 protection benefits and any claim for property damage.
- 1148 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
1149 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).
- 1150 (c) A claim for property damage may not be made in an arbitration proceeding under

- 1151 Subsection (1) unless agreed upon by the parties in writing.
- 1152 (d) A party who elects to proceed against a defendant under this section:
- 1153 (i) waives the right to obtain a judgment against the personal assets of the defendant;
- 1154 and
- 1155 (ii) is limited to recovery only against available limits of insurance , plus a maximum
- 1156 \$15,000 in excess of policy limits, and available costs if appealed.
- 1157 (e)(i) This section does not prevent a party from pursuing an underinsured motorist
- 1158 claim as set out in Section 31A-22-305.3.
- 1159 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to
- 1160 the defendant's per person limits of third party bodily insurance coverage or the
- 1161 \$75,000 limit.
- 1162 (iii) There shall be no right of subrogation on the part of the underinsured motorist
- 1163 carrier for a claim submitted to arbitration under this section.
- 1164 (3) A claim for punitive damages may not be made in an arbitration proceeding under
- 1165 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through
- 1166 a trial de novo under Subsection (11).
- 1167 (4)(a) A person who has elected arbitration under this section may rescind the person's
- 1168 election if the rescission is made within:
- 1169 (i) 90 days after the election to arbitrate; and
- 1170 (ii) no less than 30 days before any scheduled arbitration hearing.
- 1171 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:
- 1172 (i) file a notice of the rescission of the election to arbitrate with the court in which the
- 1173 matter was filed; and
- 1174 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
- 1175 of record to the action.
- 1176 (c) All discovery completed in anticipation of the arbitration hearing shall be available
- 1177 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah
- 1178 Rules of Evidence.
- 1179 (d) A party who has elected to arbitrate under this section and then rescinded the
- 1180 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim
- 1181 under this section again.
- 1182 (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
- 1183 process elected under this section is subject to Rule 26, Utah Rules of Civil
- 1184 Procedure.

- 1185 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
1186 completed within 150 days after the date arbitration is elected under this section or
1187 the date the answer is filed, whichever is longer.
- 1188 (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
1189 arbitration under this section shall be resolved by a single arbitrator.
- 1190 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
1191 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the
1192 answer of the defendant.
- 1193 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
1194 (6)(b), the parties shall select a panel of three arbitrators.
- 1195 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):
- 1196 (i) each side shall select one arbitrator; and
- 1197 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional
1198 arbitrator to be included in the panel.
- 1199 (7) Unless otherwise agreed to in writing:
- 1200 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1201 under Subsection (6)(a); and
- 1202 (b) if an arbitration panel is selected under Subsection (6)(d):
- 1203 (i) each party shall pay the fees and costs of the arbitrator selected by that party's
1204 side; and
- 1205 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
1206 under Subsection (6)(d)(ii).
- 1207 (8) Except as otherwise provided in this section and unless otherwise agreed to in writing
1208 by the parties, an arbitration proceeding conducted under this section shall be governed
1209 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 1210 (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
1211 Utah Rules of Evidence apply to the arbitration proceeding.
- 1212 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied
1213 liberally with the intent of concluding the claim in a timely and cost-efficient manner.
- 1214 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah
1215 Rules of Civil Procedure and shall be subject to the jurisdiction of the court in which
1216 the matter is filed.
- 1217 (d) Dispositive motions shall be filed, heard, and decided by the court prior to the
1218 arbitration proceeding in accordance with the court's scheduling order.

- 1219 (10) A written decision by a single arbitrator or by a majority of the arbitration panel shall
1220 constitute a final decision.
- 1221 (11) An arbitration award issued under this section shall be the final resolution of all bodily
1222 injury claims between the parties and may be reduced to judgment by the court upon
1223 motion and notice unless:
- 1224 (a) either party, within 20 days after service of the arbitration award:
- 1225 (i) files a notice requesting a trial de novo in the court; and
- 1226 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
1227 under Subsection (11)(a)(i); or
- 1228 (b) the arbitration award has been satisfied.
- 1229 (12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):
- 1230 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional
1231 120 days shall be allowed for further discovery;
- 1232 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
1233 of appeal; and
- 1234 (iii) the claim shall proceed through litigation in accordance with the Utah Rules of
1235 Civil Procedure and Utah Rules of Evidence.
- 1236 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request
1237 a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).
- 1238 (13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection
1239 (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
1240 the damages awarded in arbitration, excluding the items listed in Subsection (19), the
1241 plaintiff is responsible for all of the nonmoving party's costs.
- 1242 (b) The costs described in Subsection (13)(a) include:
- 1243 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 1244 (ii) the costs of expert witnesses and depositions;
- 1245 (iii) the arbitration costs paid by the prevailing party under Subsection (7);
- 1246 (iv) prejudgment interest described in Section 78B-5-824; and
- 1247 (v) postjudgment interest described in Section 15-1-4.
- 1248 (14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection
1249 (11), does not obtain a verdict that is at least 30% less than the damages awarded in
1250 arbitration, excluding the items described in Subsection (19), the defendant is
1251 responsible for all of the nonmoving party's costs.
- 1252 (b) The costs described in Subsection (14)(a) include:

- 1253 (i) costs described in Rule 54(d), Utah Rules of Civil Procedure;
1254 (ii) the costs of expert witnesses and depositions;
1255 (iii) the arbitration costs paid by the prevailing party under Subsection (7);
1256 (iv) prejudgment interest described in Section 78B-5-824; and
1257 (v) postjudgment interest described in Section 15-1-4.
- 1258 (15) For purposes of determining whether a party's verdict is greater or less than the
1259 arbitration award under Subsections (13) and (14), a court may not consider any
1260 recovery or other relief granted on a claim for damages if the claim for damages:
1261 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
1262 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
1263 Procedure.
- 1264 [~~(16) If a court determines, upon a motion of the nonmoving party, that the moving party's~~
1265 ~~use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825,~~
1266 ~~the court may award reasonable attorney fees to the nonmoving party.]~~
- 1267 (16) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
1268 to the nonmoving party if the court determines that the moving party requested a trial de
1269 novo to harass, cause unreasonable delay, needlessly increase the cost of litigation, or
1270 abuse the judicial process.
- 1271 (17) Nothing in this section is intended to affect or prevent any first party claim from later
1272 being brought under any first party insurance policy under which the injured person is a
1273 covered person.
- 1274 (18)(a) If a defendant requests a trial de novo under Subsection (11), the total damages
1275 award at trial may not exceed \$15,000 above any available per person limits of
1276 insurance coverage, not including the costs described in Subsection (14)(b).
1277 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
1278 not exceed \$75,000, or the per person limits of insurance coverage, whichever is less.
- 1279 (19) All arbitration awards issued under this section shall include:
1280 (a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;
1281 (b) the arbitration costs paid by the prevailing party under Subsection (7);
1282 (c) prejudgment interest described in Section 78B-5-824; and
1283 (d) postjudgment interest described in Section 15-1-4.
- 1284 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of
1285 the notice requesting a trial de novo with the commissioner notifying the commissioner
1286 of the party's request for a trial de novo under Subsection (11).

1287 Section 5. Section **38-1a-308** is amended to read:

1288 **38-1a-308 . Intentional submission of excessive lien notice -- Criminal and civil**
1289 **liability.**

1290 (1) As used in this section, "residential project" means a project on real property:

1291 (a) for which a preconstruction service or construction work is provided; and

1292 (b) that consists of:

1293 (i) one single-family residence; or

1294 (ii) one multi-family residence that contains no more than four units.

1295 (2) A person is guilty of a class B misdemeanor if:

1296 (a) the person intentionally submits for recording a notice of preconstruction lien or

1297 notice of construction lien against any property containing a greater demand than the
1298 sum due; and

1299 (b) by submitting the notice, the person intends:

1300 (i) to cloud the title;

1301 (ii) to exact from the owner or person liable by means of the excessive notice of
1302 preconstruction or construction lien more than is due; or

1303 (iii) to procure any unjustified advantage or benefit.

1304 (3)(a) As used in this Subsection (3), "third party" means an owner, original contractor,
1305 or subcontractor.

1306 (b) In addition to any criminal penalty under Subsection (2), a person who submits a
1307 notice of preconstruction lien or notice of construction lien as described in

1308 Subsection (2) is liable to a third party who is affected by the notice of

1309 preconstruction lien or the notice of construction lien for twice the amount by which

1310 the lien notice exceeds the amount actually due or the actual damages incurred by the
1311 owner, original contractor, or subcontractor, whichever is greater.

1312 (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim

1313 shall arbitrate in accordance with Subsections (5) through (15) if the notice of

1314 preconstruction lien, or the notice of construction lien, that is the subject of the claim is:

1315 (a) for a residential project; and

1316 (b) for \$50,000 or less.

1317 (5)(a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration
1318 under this section shall be resolved by a single arbitrator.

1319 (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within
1320 60 days after the day on which an answer is filed.

- 1321 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
1322 (5)(b), the parties shall select a panel of three arbitrators.
- 1323 (d) If the parties select a panel of three arbitrators under Subsection (5)(c):
1324 (i) each side shall select one arbitrator; and
1325 (ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional
1326 arbitrator to be included in the panel.
- 1327 (6) Unless otherwise agreed to in writing:
1328 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1329 under Subsection (5)(b); or
1330 (b) if an arbitration panel is selected under Subsection (5)(d):
1331 (i) each party shall pay the fees and costs of that party's selected arbitrator; and
1332 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
1333 under Subsection (5)(d)(ii).
- 1334 (7) Except as otherwise provided in this section or otherwise agreed to by the parties, an
1335 arbitration proceeding conducted under this section shall be governed by Title 78B,
1336 Chapter 11, Utah Uniform Arbitration Act.
- 1337 (8)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the
1338 Utah Rules of Evidence shall apply to an arbitration proceeding under this section.
1339 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
1340 liberally with the intent of resolving the claim in a timely and cost-efficient manner.
1341 (c) Subject to the provisions of this section, the parties shall conduct discovery in
1342 accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.
1343 (d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an
1344 arbitration proceeding under this section shall be limited to the discovery available in
1345 a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.
- 1346 (9) A written decision by a single arbitrator or by a majority of the arbitration panel shall
1347 constitute a final decision.
- 1348 (10) An arbitration award issued under this section:
1349 (a) shall be the final resolution of all excessive notice claims described in Subsection
1350 (3)(b) that are:
1351 (i) between the parties;
1352 (ii) for a residential project; and
1353 (iii) for \$50,000 or less; and
1354 (b) may be reduced to judgment by the court upon motion and notice, unless:

- 1355 (i) any party, within 20 days after the day on which the arbitration award is served,
 1356 files a notice requesting a trial de novo in a court with jurisdiction under Title
 1357 78A, Judiciary and Judicial Administration; or
 1358 (ii) the arbitration award has been satisfied.
- 1359 (11)(a) Upon filing a notice requesting a trial de novo under Subsection (10)(b)(i):
 1360 (i) unless otherwise stipulated to by the parties or ordered by the court, the parties are
 1361 allowed an additional 60 days for discovery; and
 1362 (ii) the claim shall proceed through litigation in accordance with the Utah Rules of
 1363 Civil Procedure and the Utah Rules of Evidence.
- 1364 (b) The additional discovery time described in Subsection (11)(a)(i) shall run from the
 1365 day on which the notice requesting a trial de novo is filed.
- 1366 (12) If the plaintiff, as the moving party in a trial de novo requested under Subsection
 1367 (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration
 1368 award, the plaintiff is responsible for all of the nonmoving party's costs, including expert
 1369 witness fees.
- 1370 (13) If a defendant, as the moving party in a trial de novo requested under Subsection
 1371 (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,
 1372 the defendant is responsible for all of the nonmoving party's costs, including expert
 1373 witness fees.
- 1374 [~~(14) If a court determines, upon a motion of the nonmoving party, that the moving party's~~
 1375 ~~use of the trial de novo process was filed in bad faith, as defined in Section 78B-5-825,~~
 1376 ~~the court may award reasonable attorney fees to the nonmoving party.]~~
- 1377 (14) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
 1378 to the nonmoving party if the court determines that the moving party requested a trial de
 1379 novo to harass, cause unreasonable delay, needlessly increase the cost of litigation, or
 1380 abuse the judicial process.
- 1381 (15) All arbitration awards issued under this section shall bear postjudgment interest [
 1382 pursuant to] in accordance with Section 15-1-4.
- 1383 Section 6. Section **78B-5-825** is amended to read:
 1384 **78B-5-825 . Award of reasonable attorney fees in civil action -- Exceptions.**
- 1385 [~~(1) In civil actions, the court shall award reasonable attorney fees to a prevailing party if~~
 1386 ~~the court determines that the action or defense to the action was without merit and not~~
 1387 ~~brought or asserted in good faith, except under Subsection (2).]~~
- 1388 (1) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a

- 1389 prevailing party in a civil action if the court determines that:
- 1390 (a) the nonprevailing party's civil action, or defense to the civil action, is frivolous or has
- 1391 no reasonable basis in law or fact; and
- 1392 (b) the nonprevailing party brought the civil action, or defense to the civil action, to
- 1393 harass, cause unreasonable delay, needlessly increase the cost of litigation, or abuse
- 1394 the judicial process.
- 1395 (2) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a
- 1396 party in a civil action if:
- 1397 (a) the party incurred attorney fees in defense of a motion brought by the opposing
- 1398 party; and
- 1399 (b) the court determines that:
- 1400 (i) the opposing party's motion is frivolous or has no reasonable basis in law or fact;
- 1401 and
- 1402 (ii) the opposing party brought the motion to harass, cause unreasonable delay,
- 1403 needlessly increase the cost of litigation, or abuse the judicial process.
- 1404 [~~(2)~~] (3) The court, in the court's discretion, may award no fees or limited fees against a
- 1405 party under Subsection (1) [~~but only if the court~~] or (2) if the court:
- 1406 (a) finds the party has filed an affidavit of indigency under Section 78A-2-302 in the
- 1407 action before the court; or
- 1408 (b) [~~the court~~] enters in the record the reason for not awarding fees under the provisions
- 1409 of Subsection (1) or (2).
- 1410 Section 7. Section **78B-10a-108** is amended to read:
- 1411 **78B-10a-108 . Trial de novo.**
- 1412 (1)(a) Upon filing a notice requesting a trial de novo in accordance with Subsection
- 1413 78B-10a-107(2):
- 1414 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional
- 1415 90 days shall be allowed for further discovery;
- 1416 (ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice
- 1417 of the request for a trial de novo; and
- 1418 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the
- 1419 Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.
- 1420 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request
- 1421 a jury trial with a request for trial de novo filed in accordance with Subsection
- 1422 78B-10a-107(2)(a)(i).

- 1423 (2)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection
1424 78B-10a-107(2), does not obtain a verdict that is at least \$5,000 and 30% greater than
1425 the arbitration award, the plaintiff is responsible for all of the nonmoving party's
1426 costs.
- 1427 (b) Except as provided in Subsection (2)(c), the costs under Subsection (2)(a) shall
1428 include:
- 1429 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1430 (ii) the costs of expert witnesses and depositions.
- 1431 (c) An award of costs under this Subsection (2) may not exceed \$6,000.
- 1432 (3)(a) If a defendant, as the moving party in a trial de novo requested in accordance with
1433 Subsection 78B-10a-107(2), does not obtain a verdict that is at least 30% less than
1434 the arbitration award, the defendant is responsible for all of the nonmoving party's
1435 costs.
- 1436 (b) Except as provided in Subsection (3)(c), the costs under Subsection (3)(a) shall
1437 include:
- 1438 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1439 (ii) the costs of expert witnesses and depositions.
- 1440 (c) An award of costs in accordance with this Subsection (3) may not exceed \$6,000.
- 1441 (4) For purposes of determining whether a party's verdict is greater or less than the
1442 arbitration award under Subsections (2) and (3), a court may not consider any recovery
1443 or other relief granted on a claim for damages if the claim for damages:
- 1444 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
1445 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
1446 Procedure.
- 1447 [~~(5) If a district court determines, upon a motion of the nonmoving party, that the moving
1448 party's use of the trial de novo process was filed in bad faith as defined in Section
1449 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.]~~
- 1450 (5) Upon a motion of the nonmoving party, the district court may award reasonable attorney
1451 fees to the nonmoving party if the district court determines that the moving party
1452 requested a trial de novo to harass, cause unreasonable delay, needlessly increase the
1453 cost of litigation, or abuse the judicial process.
- 1454 (6)(a) If a defendant requests a trial de novo under Subsection 78B-10a-107(2), the total
1455 verdict at trial may not exceed \$15,000 above any available limits of insurance
1456 coverage and the total verdict may not exceed \$65,000.

1457 (b) If a plaintiff requests a trial de novo under Subsection 78B-10a-107(2), the verdict at
1458 trial may not exceed \$50,000.

1459 Section 8. **Effective Date.**

1460 This bill takes effect on May 6, 2026.