

Anthony E. Loubet proposes the following substitute bill:

1 **Attorney Fees Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Anthony E. Loubet

Senate Sponsor: Brady Brammer

2 **LONG TITLE**

3 **General Description:**

4 This bill addresses attorney fees.

5 **Highlighted Provisions:**

6 This bill:

7

- 8 ▶ clarifies the meaning of "bad faith" throughout the Utah Code with regard to attorney fees;
- 9 ▶ amends the requirements for awarding reasonable attorney fees in a civil action; and
- 10 ▶ makes technical and conforming changes.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 **AMENDS:**

17 **18-1-4**, as last amended by Laws of Utah 2024, Chapter 158

18 **31A-22-305**, as last amended by Laws of Utah 2025, Chapter 261

19 **31A-22-305.3**, as last amended by Laws of Utah 2025, Chapter 261

20 **31A-22-321**, as last amended by Laws of Utah 2024, Chapter 158

21 **38-1a-308**, as last amended by Laws of Utah 2024, Chapter 158

22 **78B-5-825**, as last amended by Laws of Utah 2022, Chapter 272

23 **78B-10a-108**, as enacted by Laws of Utah 2011, Chapter 197

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

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

27 **18-1-4 . Use of arbitration in personal injury from dog attack cases.**

28 (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)(l), 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
545 9, 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

the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

covered person who receives a written response from an uninsured motorist carrier provided for in Subsection (10)(c)(i), may:

elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a) through (c).

covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

in arbitration proceeding on the remaining uninsured claims:

the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

the parties may not disclose the amount of the limits of uninsured motorist 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
647 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through
648 litigation on or 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
651 claim submitted to binding arbitration or through litigation on or after May 13,
652 2014.

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

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

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

658 **31A-22-305.3 . Underinsured motorist coverage.**

659 (1) As used in this section:

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

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

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

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

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

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

670 (I) a named insured;

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

672 (III) a dependent of a named insured.

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

676 sickness, disease, or death.

677 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished to
678 the covered person, the covered person's spouse, or covered person's resident relative
679 may recover underinsured benefits only if the motor vehicle is:
680 (i) described in the policy under which a claim is made; or
681 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
682 policy.

683 (3)(a) For purposes of this Subsection (3), "new policy" means:

684 (i) any policy that is issued that does not include a renewal or reinstatement of an
685 existing policy; or
686 (ii) a change to an existing policy that results in:
687 (A) a named insured being added to or deleted from the policy; or
688 (B) a change in the limits of the named insured's motor vehicle liability coverage.

689 (b) For new policies written on or after January 1, 2001, the limits of underinsured
690 motorist coverage shall be equal to the lesser of the limits of the named insured's
691 motor vehicle liability coverage or the maximum underinsured motorist coverage
692 limits available by the insurer under the named insured's motor vehicle policy, unless
693 a named insured rejects or purchases coverage in a lesser amount by signing an
694 acknowledgment form that:

695 (i) is filed with the department;
696 (ii) is provided by the insurer;
697 (iii) waives the higher coverage;
698 (iv) need only state in this or similar language that "underinsured motorist coverage
699 provides benefits or protection to you and other covered persons for bodily injury
700 resulting from an accident caused by the fault of another party where the other
701 party has insufficient liability insurance"; and
702 (v) discloses the additional premiums required to purchase underinsured motorist
703 coverage with limits equal to the lesser of the limits of the named insured's motor
704 vehicle liability coverage or the maximum underinsured motorist coverage limits
705 available by the insurer under the named insured's motor vehicle policy.

706 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
707 liability coverage until the insured requests, in writing, a change of underinsured
708 motorist coverage from that liability insurer.

709 (d)(i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after

710 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written
711 demand for arbitration or filed a complaint in a court of competent jurisdiction.

712 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
713 clarifies the application of law and does not enlarge, eliminate, or destroy vested
714 rights.

715 (e)(i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
716 that increases the total number of vehicles insured by the policy, and does not
717 include replacement, substitute, or temporary vehicles.

718 (ii) The adding of an additional motor vehicle to an existing personal lines or
719 commercial lines policy does not constitute a new policy for purposes of
720 Subsection (3)(a).

721 (iii) If an additional motor vehicle is added to a personal lines policy where
722 underinsured motorist coverage has been rejected, or where underinsured motorist
723 limits are lower than the named insured's motor vehicle liability limits, the insurer
724 shall provide a notice to a named insured within 30 days that:

725 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
726 underinsured motorist coverage; and

727 (B) encourages the named insured to contact the insurance company or insurance
728 producer for quotes as to the additional premiums required to purchase
729 underinsured motorist coverage with limits equal to the lesser of the limits of
730 the named insured's motor vehicle liability coverage or the maximum
731 underinsured motorist coverage limits available by the insurer under the named
732 insured's motor vehicle policy.

733 (f) A change in policy number resulting from any policy change not identified under
734 Subsection (3)(a)(ii) does not constitute a new policy.

735 (g)(i) Subsection (3)(a) applies retroactively to any claim arising on or after January
736 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand
737 for arbitration or filed a complaint in a court of competent jurisdiction.

738 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):
739 (A) does not enlarge, eliminate, or destroy vested rights; and
740 (B) clarifies legislative intent.

741 (h) A self-insured, including a governmental entity, may elect to provide underinsured
742 motorist coverage in an amount that is less than its maximum self-insured retention
743 under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy

744 statement from the chief financial officer or chief risk officer that declares the:

745 (i) self-insured entity's coverage level; and

746 (ii) process for filing an underinsured motorist claim.

747 (i) Underinsured motorist coverage may not be sold with limits that are less than:

748 (i) \$10,000 for one person in any one accident; and

749 (ii) at least \$20,000 for two or more persons in any one accident.

750 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the

751 underinsured motorist coverage until the named insured, in writing, requests different

752 underinsured motorist coverage from the insurer.

753 (k)(i) The named insured's underinsured motorist coverage, as described in

754 Subsection (2), is secondary to the liability coverage of an owner or operator of an

755 underinsured motor vehicle, as described in Subsection (1).

756 (ii) Underinsured motorist coverage may not be set off against the liability coverage

757 of the owner or operator of an underinsured motor vehicle, but shall be added to,

758 combined with, or stacked upon the liability coverage of the owner or operator of

759 the underinsured motor vehicle to determine the limit of coverage available to the

760 injured person.

761 (l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for

762 policies existing on that date, the insurer shall disclose in the same medium as the

763 premium renewal notice, an explanation of:

764 (A) the purpose of underinsured motorist coverage in the same manner as

765 described in Subsection (3)(b)(iv); and

766 (B) a disclosure of the additional premiums required to purchase underinsured

767 motorist coverage with limits equal to the lesser of the limits of the named

768 insured's motor vehicle liability coverage or the maximum underinsured

769 motorist coverage limits available by the insurer under the named insured's

770 motor vehicle policy.

771 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named

772 insureds that carry underinsured motorist coverage limits in an amount less than

773 the named insured's motor vehicle liability policy limits or the maximum

774 underinsured motorist coverage limits available by the insurer under the named

775 insured's motor vehicle policy.

776 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in

777 a household constitutes notice or disclosure to all insureds within the household.

778 (4)(a)(i) Except as provided in this Subsection (4), a covered person injured in a
779 motor vehicle described in a policy that includes underinsured motorist benefits
780 may not elect to collect underinsured motorist coverage benefits from another
781 motor vehicle insurance policy.

782 (ii) The limit of liability for underinsured motorist coverage for two or more motor
783 vehicles may not be added together, combined, or stacked to determine the limit
784 of insurance coverage available to an injured person for any one accident.

785 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
786 under Subsections (4)(b)(i) and (ii).

787 (b)(i) A covered person injured as a pedestrian by an underinsured motor vehicle may
788 recover underinsured motorist benefits under any one other policy in which they
789 are described as a covered person.

790 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
791 occupying, using, or maintaining a motor vehicle that is not owned, leased, or
792 furnished to the covered person, the covered person's spouse, or the covered
793 person's resident parent or resident sibling, may also recover benefits under any
794 one other policy under which the covered person is also a covered person.

795 (iii)(A) A covered person may recover benefits from no more than two additional
796 policies, one additional policy from each parent's household if the covered
797 person is:

798 (I) a dependent minor of parents who reside in separate households; and
799 (II) injured while occupying or using a motor vehicle that is not owned, leased,
800 or furnished to the covered person, the covered person's resident parent, or
801 the covered person's resident sibling.

802 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
803 percentage of the damages that the limit of liability of each parent's policy of
804 underinsured motorist coverage bears to the total of both parents' underinsured
805 coverage applicable to the accident.

806 (iv) A covered person's recovery under any available policies may not exceed the full
807 amount of damages.

808 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
809 primary coverage, and the coverage elected by a person described under
810 Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

811 (vi) The primary and the secondary coverage may not be set off against the other.

812 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
813 highest limits of underinsured motorist coverage under only one additional policy
814 per household applicable to that covered person as a named insured, spouse, or
815 relative.

816 (viii) A covered injured person is not barred against making subsequent elections if
817 recovery is unavailable under previous elections.

818 (ix)(A) As used in this section, "interpolicy stacking" means recovering benefits
819 for a single incident of loss under more than one insurance policy.

820 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
821 prohibited for underinsured motorist coverage.

822 (c) Underinsured motorist coverage:

823 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,
824 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
825 Occupational Disease Act, provided by the workers' compensation insurance
826 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
827 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,
828 except that:

829 (A) the covered person is credited an amount described in Subsection
830 34A-2-106(5); and

831 (B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before
832 an underinsured motorist claim may be pursued and resolved[.];

833 (ii) may not be subrogated by a workers' compensation insurance carrier, uninsured
834 employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the
835 Employers' Reinsurance Fund created in Section 34A-2-702;

836 (iii) may not be reduced by benefits provided by the workers' compensation insurance
837 carrier, uninsured employer, the Uninsured Employers' Fund created in Section
838 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

839 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health
840 insurance subrogation only after the covered person is made whole;

841 (v) may not be collected for bodily injury or death sustained by a person:

842 (A) while committing a violation of Section 41-1a-1314;

843 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
844 operated in violation of Section 41-1a-1314; or

845 (C) while committing a felony; and

846 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

847 (A) for a person younger than 18 years old who is injured within the scope of

848 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

849 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured

850 within the course and scope of the law enforcement officer's duties.

851 (5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for

852 underinsured motorist coverage shall be commenced within four years after the

853 inception of loss.

854 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist

855 claims occurs upon the date of the settlement check representing the last liability

856 policy payment.

857 (6) An underinsured motorist insurer does not have a right of reimbursement against a

858 person liable for the damages resulting from an injury-causing occurrence if the person's

859 liability insurer has tendered the policy limit and the limits have been accepted by the

860 claimant.

861 (7) Except as otherwise provided in this section, a covered person may seek, subject to the

862 terms and conditions of the policy, additional coverage under any policy:

863 (a) that provides coverage for damages resulting from motor vehicle accidents; and

864 (b) that is not required to conform to Section 31A-22-302.

865 (8)(a) When a claim is brought by a named insured or a person described in Subsection

866 31A-22-305(1) and is asserted against the covered person's underinsured motorist

867 carrier, the claimant may elect to resolve the claim:

868 (i) by submitting the claim to binding arbitration; or

869 (ii) through litigation.

870 (b) Unless otherwise provided in the policy under which underinsured benefits are

871 claimed, the election provided in Subsection (8)(a) is available to the claimant only,

872 except that if the policy under which insured benefits are claimed provides that either

873 an insured or the insurer may elect arbitration, the insured or the insurer may elect

874 arbitration and that election to arbitrate shall stay the litigation of the claim under

875 Subsection (8)(a)(ii).

876 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the

877 claimant may not elect to resolve the claim through binding arbitration under this

878 section without the written consent of the underinsured motorist coverage carrier.

879 (d) For purposes of the statute of limitations applicable to a claim described in

880 Subsection (8)(a), if the claimant does not elect to resolve the claim through
881 litigation, the claim is considered filed when the claimant submits the claim to
882 binding arbitration in accordance with this Subsection (8).

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

914 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
915 constitutes a final decision.

916 (l)(i) Except as provided in Subsection (9), the amount of an arbitration award may
917 not exceed the underinsured motorist policy limits of all applicable underinsured
918 motorist policies, including applicable underinsured motorist umbrella policies.

919 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of
920 all applicable underinsured motorist policies, the arbitration award shall be
921 reduced to an amount equal to the combined underinsured motorist policy limits
922 of all applicable underinsured motorist policies.

923 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
924 extra-contractual damages, including:
925 (i) whether the claimant is a covered person;
926 (ii) whether the policy extends coverage to the loss; or
927 (iii) an allegation or claim asserting consequential damages or bad faith liability.

928 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
929 class-representative basis.

930 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
931 or defended in good faith, the arbitrator or arbitration panel may award reasonable
932 attorney fees and costs against the party that failed to bring, pursue, or defend the
933 arbitration in good faith.

934 (p) An arbitration award issued under this section shall be the final resolution of all
935 claims not excluded by Subsection (8)(m) between the parties unless:
936 (i) the award is procured by corruption, fraud, or other undue means; or
937 (ii) either party, within 20 days after service of the arbitration award:
938 (A) files a complaint requesting a trial de novo in the a court with jurisdiction
939 under Title 78A, Judiciary and Judicial Administration; and
940 (B) serves the nonmoving party with a copy of the complaint requesting a trial de
941 novo under Subsection (8)(p)(ii)(A).

942 (q)(i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim
943 shall proceed through litigation in accordance with the Utah Rules of Civil
944 Procedure and Utah Rules of Evidence.
945 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
946 request a jury trial with a complaint requesting a trial de novo under Subsection
947 (8)(p)(ii)(A).

948 (r)(i) If the claimant, as the moving party in a trial de novo requested under
949 Subsection (8)(p), does not obtain a verdict that is at least \$5,000 and is at least
950 20% greater than the arbitration award, the claimant is responsible for all of the
951 nonmoving party's costs.

952 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo
953 requested under Subsection (8)(p), does not obtain a verdict that is at least 20%
954 less than the arbitration award, the underinsured motorist carrier is responsible for
955 all of the nonmoving party's costs.

956 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
957 shall include:
958 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
959 (B) the costs of expert witnesses and depositions.

960 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
961 Subsection (9)(h)(iii) applies.

962 (s) For purposes of determining whether a party's verdict is greater or less than the
963 arbitration award under Subsection (8)(r), a court may not consider any recovery or
964 other relief granted on a claim for damages if the claim for damages:
965 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
966 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
967 Procedure.
968 [(t) ~~If a court determines, upon a motion of the nonmoving party, that a moving party's
969 use of the trial de novo process is filed in bad faith in accordance with Section
970 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.]~~
971 (t) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
972 to the nonmoving party if the court determines that the moving party requested a trial
973 de novo to harass, cause unreasonable delay, needlessly increase the cost of litigation,
974 or abuse the judicial process.
975 (u) Nothing in this section is intended to limit a claim under another portion of an
976 applicable insurance policy.
977 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the
978 claimant may elect to arbitrate in one hearing the claims against all the underinsured
979 motorist carriers.
980 (9)(a) Within 30 days after a covered person elects to submit a claim for underinsured
981 motorist benefits to binding arbitration or files litigation, the covered person shall

982 provide to the underinsured motorist carrier:

- 983 (i) a written demand for payment of underinsured motorist coverage benefits, setting
984 forth:
 - 985 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,
986 including a computation of the covered person's claimed past medical
987 expenses, claimed past lost wages, and all other claimed past economic
988 damages; and
 - 989 (B) the factual and legal basis and any supporting documentation for the demand;
- 990 (ii) a written statement under oath disclosing:
 - 991 (A)(I) the names and last known addresses of all health care providers who
992 have rendered health care services to the covered person that are material to
993 the claims for which the underinsured motorist benefits are sought for a
994 period of five years preceding the date of the event giving rise to the claim
995 for underinsured motorist benefits up to the time the election for arbitration
996 or litigation has been exercised; and
 - 997 (II) the names and last known addresses of the health care providers who have
998 rendered health care services to the covered person, which the covered
999 person claims are immaterial to the claims for which underinsured motorist
1000 benefits are sought, for a period of five years preceding the date of the event
1001 giving rise to the claim for underinsured motorist benefits up to the time the
1002 election for arbitration or litigation has been exercised that have not been
1003 disclosed under Subsection (9)(a)(ii)(A)(I);
 - 1004 (B)(I) the names and last known addresses of all health insurers or other
1005 entities to whom the covered person has submitted claims for health care
1006 services or benefits material to the claims for which underinsured motorist
1007 benefits are sought, for a period of five years preceding the date of the event
1008 giving rise to the claim for underinsured motorist benefits up to the time the
1009 election for arbitration or litigation has been exercised; and
 - 1010 (II) the names and last known addresses of the health insurers or other entities
1011 to whom the covered person has submitted claims for health care services or
1012 benefits, which the covered person claims are immaterial to the claims for
1013 which underinsured motorist benefits are sought, for a period of five years
1014 preceding the date of the event giving rise to the claim for underinsured
1015 motorist benefits up to the time the election for arbitration or litigation have

1016 not been disclosed;

1017 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
1018 employers of the covered person for a period of five years preceding the date
1019 of the event giving rise to the claim for underinsured motorist benefits up to the
1020 time the election for arbitration or litigation has been exercised;

1021 (D) other documents to reasonably support the claims being asserted; and

1022 (E) all state and federal statutory lienholders including a statement as to whether
1023 the covered person is a recipient of Medicare or Medicaid benefits or Utah
1024 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
1025 9, Utah Children's Health Insurance Program, or if the claim is subject to any
1026 other state or federal statutory liens; and

1027 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
1028 records and billings from the individuals or entities disclosed under Subsections
1029 (9)(a)(ii)(A)(I), (B)(I), and (C).

1030 (b)(i) If the underinsured motorist carrier determines that the disclosure of
1031 undisclosed health care providers or health care insurers under Subsection
1032 (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

1033 (A) make a request for the disclosure of the identity of the health care providers or
1034 health care insurers; and

1035 (B) make a request for authorizations to allow the underinsured motorist carrier to
1036 only obtain records and billings from the individuals or entities not disclosed.

1037 (ii) If the covered person does not provide the requested information within 10 days:

1038 (A) the covered person shall disclose, in writing, the legal or factual basis for the
1039 failure to disclose the health care providers or health care insurers; and

1040 (B) either the covered person or the underinsured motorist carrier may request the
1041 arbitrator or arbitration panel to resolve the issue of whether the identities or
1042 records are to be provided if the covered person has elected arbitration.

1043 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
1044 the dispute concerning the disclosure and production of records of the health care
1045 providers or health care insurers.

1046 (c)(i) An underinsured motorist carrier that receives an election for arbitration or a
1047 notice of filing litigation and the demand for payment of underinsured motorist
1048 benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60
1049 days from the date of the demand and receipt of the items specified in Subsections

1050 (9)(a)(i) through (iii), to:

1051 (A) provide a written response to the written demand for payment provided for in
1052 Subsection (9)(a)(i);
1053 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
1054 underinsured motorist carrier's determination of the amount owed to the
1055 covered person; and
1056 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
1057 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part
1058 9, Utah Children's Health Insurance Program, or if the claim is subject to any
1059 other state or federal statutory liens, tender the amount, if any, of the
1060 underinsured motorist carrier's determination of the amount owed to the
1061 covered person less:
1062 (I) if the amount of the state or federal statutory lien is established, the amount
1063 of the lien; or
1064 (II) if the amount of the state or federal statutory lien is not established, two
1065 times the amount of the medical expenses subject to the state or federal
1066 statutory lien until such time as the amount of the state or federal statutory
1067 lien is established.
1068 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
1069 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the
1070 tendered amount shall be accepted by the covered person.
1071 (d) A covered person who receives a written response from an underinsured motorist
1072 carrier as provided for in Subsection (9)(c)(i), may:
1073 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
1074 underinsured motorist claims; or
1075 (ii) elect to:
1076 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
1077 underinsured motorist claims; and
1078 (B) continue to litigate or arbitrate the remaining claim in accordance with the
1079 election made under Subsections (8)(a) through (c).
1080 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as
1081 partial payment of all underinsured motorist claims, the final award obtained through
1082 arbitration, litigation, or later settlement shall be reduced by any payment made by
1083 the underinsured motorist carrier under Subsection (9)(c)(i).

1084 (f) In an arbitration proceeding on the remaining underinsured claims:

1085 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
1086 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

1087 (ii) the parties may not disclose the amount of the limits of underinsured motorist
1088 benefits provided by the policy.

1089 (g) If the final award obtained through arbitration or litigation is greater than the average
1090 of the covered person's initial written demand for payment provided for in Subsection
1091 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for
1092 in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

1093 (i) the final award obtained through arbitration or litigation, except that if the award
1094 exceeds the policy limits of the subject underinsured motorist policy by more than
1095 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus
1096 \$15,000; and

1097 (ii) any of the following applicable costs:

1098 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

1099 (B) the arbitrator or arbitration panel's fee; and

1100 (C) the reasonable costs of expert witnesses and depositions used in the
1101 presentation of evidence during arbitration or litigation.

1102 (h)(i) The covered person shall provide an affidavit of costs within five days of an
1103 arbitration award.

1104 (ii)(A) Objection to the affidavit of costs shall specify with particularity the costs
1105 to which the underinsured motorist carrier objects.

1106 (B) The objection shall be resolved by the arbitrator or arbitration panel.

1107 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
1108 (9)(g)(ii) may not exceed \$5,000.

1109 (i)(i) A covered person shall disclose all material information, other than rebuttal
1110 evidence, within 30 days after a covered person elects to submit a claim for
1111 underinsured motorist coverage benefits to binding arbitration or files litigation as
1112 specified in Subsection (9)(a).

1113 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
1114 may not recover costs or any amounts in excess of the policy under Subsection
1115 (9)(g).

1116 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
1117 against the underinsured motorist carrier from the same dispute.

1118 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
1119 occur on or after March 30, 2010.

1120 (l)(i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
1121 covered person's requirement to provide a computation of any other economic
1122 damages claimed, and the one or more respondents shall have a reasonable time
1123 after the receipt of the computation of any other economic damages claimed to
1124 conduct fact and expert discovery as to any additional damages claimed. The
1125 changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300,
1126 Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim
1127 submitted to binding arbitration or through litigation on or after May 13, 2014.

1128 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
1129 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted
1130 to binding arbitration or through litigation on or after May 13, 2014.

1131 Section 4. Section **31A-22-321** is amended to read:

31A-22-321 . Use of arbitration in third party motor vehicle accident cases.

1133 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
1134 party bodily injury claims to arbitration by filing a notice of the submission of the claim
1135 to binding arbitration in a court with jurisdiction under Title 78A, Judiciary and Judicial
1136 Administration, if:

1137 (a) the claimant or the claimant's representative has:

1138 (i) previously and timely filed a complaint in a court that includes a third party bodily
1139 injury claim; and

1140 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
1141 has been answered; and

1142 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
1143 Subsection (1)(a)(i) is still pending.

1144 (2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
1145 party submitting the claim or the party's representative is limited to an arbitration
1146 award that does not exceed \$75,000 or the defendant's per person limits of third party
1147 bodily insurance, whichever is less, in addition to any available personal injury
1148 protection benefits and any claim for property damage.

1149 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
1150 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

1151 (c) A claim for property damage may not be made in an arbitration proceeding under

1152 Subsection (1) unless agreed upon by the parties in writing.

1153 (d) A party who elects to proceed against a defendant under this section:

1154 (i) waives the right to obtain a judgment against the personal assets of the defendant;
1155 and

1156 (ii) is limited to recovery only against available limits of insurance , plus a maximum
1157 \$15,000 in excess of policy limits, and available costs if appealed.

1158 (e)(i) This section does not prevent a party from pursuing an underinsured motorist
1159 claim as set out in Section 31A-22-305.3.

1160 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to
1161 the defendant's per person limits of third party bodily insurance coverage or the
1162 \$75,000 limit.

1163 (iii) There shall be no right of subrogation on the part of the underinsured motorist
1164 carrier for a claim submitted to arbitration under this section.

1165 (3) A claim for punitive damages may not be made in an arbitration proceeding under
1166 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through
1167 a trial de novo under Subsection (11).

1168 (4)(a) A person who has elected arbitration under this section may rescind the person's
1169 election if the rescission is made within:

1170 (i) 90 days after the election to arbitrate; and

1171 (ii) no less than 30 days before any scheduled arbitration hearing.

1172 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:

1173 (i) file a notice of the rescission of the election to arbitrate with the court in which the
1174 matter was filed; and

1175 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
1176 of record to the action.

1177 (c) All discovery completed in anticipation of the arbitration hearing shall be available
1178 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah
1179 Rules of Evidence.

1180 (d) A party who has elected to arbitrate under this section and then rescinded the
1181 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim
1182 under this section again.

1183 (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
1184 process elected under this section is subject to Rule 26, Utah Rules of Civil
1185 Procedure.

1186 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
1187 completed within 150 days after the date arbitration is elected under this section or
1188 the date the answer is filed, whichever is longer.

1189 (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
1190 arbitration under this section shall be resolved by a single arbitrator.

1191 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
1192 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the
1193 answer of the defendant.

1194 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
1195 (6)(b), the parties shall select a panel of three arbitrators.

1196 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):

1197 (i) each side shall select one arbitrator; and

1198 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional
1199 arbitrator to be included in the panel.

1200 (7) Unless otherwise agreed to in writing:

1201 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1202 under Subsection (6)(a); and

1203 (b) if an arbitration panel is selected under Subsection (6)(d):

1204 (i) each party shall pay the fees and costs of the arbitrator selected by that party's
1205 side; and

1206 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
1207 under Subsection (6)(d)(ii).

1208 (8) Except as otherwise provided in this section and unless otherwise agreed to in writing
1209 by the parties, an arbitration proceeding conducted under this section shall be governed
1210 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

1211 (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
1212 Utah Rules of Evidence apply to the arbitration proceeding.

1213 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied
1214 liberally with the intent of concluding the claim in a timely and cost-efficient manner.

1215 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah
1216 Rules of Civil Procedure and shall be subject to the jurisdiction of the court in which
1217 the matter is filed.

1218 (d) Dispositive motions shall be filed, heard, and decided by the court prior to the
1219 arbitration proceeding in accordance with the court's scheduling order.

1220 (10) A written decision by a single arbitrator or by a majority of the arbitration panel shall
1221 constitute a final decision.

1222 (11) An arbitration award issued under this section shall be the final resolution of all bodily
1223 injury claims between the parties and may be reduced to judgment by the court upon
1224 motion and notice unless:

1225 (a) either party, within 20 days after service of the arbitration award:

1226 (i) files a notice requesting a trial de novo in the court; and

1227 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
1228 under Subsection (11)(a)(i); or

1229 (b) the arbitration award has been satisfied.

1230 (12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):

1231 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional
1232 120 days shall be allowed for further discovery;

1233 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
1234 of appeal; and

1235 (iii) the claim shall proceed through litigation in accordance with the Utah Rules of
1236 Civil Procedure and Utah Rules of Evidence.

1237 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request
1238 a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

1239 (13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection
1240 (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
1241 the damages awarded in arbitration, excluding the items listed in Subsection (19), the
1242 plaintiff is responsible for all of the nonmoving party's costs.

1243 (b) The costs described in Subsection (13)(a) include:

1244 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure;

1245 (ii) the costs of expert witnesses and depositions;

1246 (iii) the arbitration costs paid by the prevailing party under Subsection (7);

1247 (iv) prejudgment interest described in Section 78B-5-824; and

1248 (v) postjudgment interest described in Section 15-1-4.

1249 (14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection
1250 (11), does not obtain a verdict that is at least 30% less than the damages awarded in
1251 arbitration, excluding the items described in Subsection (19), the defendant is
1252 responsible for all of the nonmoving party's costs.

1253 (b) The costs described in Subsection (14)(a) include:

1254 (i) costs described in Rule 54(d), Utah Rules of Civil Procedure;

1255 (ii) the costs of expert witnesses and depositions;

1256 (iii) the arbitration costs paid by the prevailing party under Subsection (7);

1257 (iv) prejudgment interest described in Section 78B-5-824; and

1258 (v) postjudgment interest described in Section 15-1-4.

1259 (15) For purposes of determining whether a party's verdict is greater or less than the
1260 arbitration award under Subsections (13) and (14), a court may not consider any
1261 recovery or other relief granted on a claim for damages if the claim for damages:
1262 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
1263 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
1264 Procedure.

1265 [~~(16) If a court determines, upon a motion of the nonmoving party, that the moving party's
1266 use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825,
1267 the court may award reasonable attorney fees to the nonmoving party.]~~

1268 (16) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
1269 to the nonmoving party if the court determines that the moving party requested a trial de
1270 novo to harass, cause unreasonable delay, needlessly increase the cost of litigation, or
1271 abuse the judicial process.

1272 (17) Nothing in this section is intended to affect or prevent any first party claim from later
1273 being brought under any first party insurance policy under which the injured person is a
1274 covered person.

1275 (18)(a) If a defendant requests a trial de novo under Subsection (11), the total damages
1276 award at trial may not exceed \$15,000 above any available per person limits of
1277 insurance coverage, not including the costs described in Subsection (14)(b).

1278 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
1279 not exceed \$75,000, or the per person limits of insurance coverage, whichever is less.

1280 (19) All arbitration awards issued under this section shall include:
1281 (a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;
1282 (b) the arbitration costs paid by the prevailing party under Subsection (7);
1283 (c) prejudgment interest described in Section 78B-5-824; and
1284 (d) postjudgment interest described in Section 15-1-4.

1285 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of
1286 the notice requesting a trial de novo with the commissioner notifying the commissioner
1287 of the party's request for a trial de novo under Subsection (11).

1288 Section 5. Section **38-1a-308** is amended to read:

1289 **38-1a-308 . Intentional submission of excessive lien notice -- Criminal and civil**
1290 **liability.**

1291 (1) As used in this section, "residential project" means a project on real property:
1292 (a) for which a preconstruction service or construction work is provided; and
1293 (b) that consists of:
1294 (i) one single-family residence; or
1295 (ii) one multi-family residence that contains no more than four units.

1296 (2) A person is guilty of a class B misdemeanor if:
1297 (a) the person intentionally submits for recording a notice of preconstruction lien or
1298 notice of construction lien against any property containing a greater demand than the
1299 sum due; and
1300 (b) by submitting the notice, the person intends:
1301 (i) to cloud the title;
1302 (ii) to exact from the owner or person liable by means of the excessive notice of
1303 preconstruction or construction lien more than is due; or
1304 (iii) to procure any unjustified advantage or benefit.

1305 (3)(a) As used in this Subsection (3), "third party" means an owner, original contractor,
1306 or subcontractor.
1307 (b) In addition to any criminal penalty under Subsection (2), a person who submits a
1308 notice of preconstruction lien or notice of construction lien as described in
1309 Subsection (2) is liable to a third party who is affected by the notice of
1310 preconstruction lien or the notice of construction lien for twice the amount by which
1311 the lien notice exceeds the amount actually due or the actual damages incurred by the
1312 owner, original contractor, or subcontractor, whichever is greater.

1313 (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim
1314 shall arbitrate in accordance with Subsections (5) through (15) if the notice of
1315 preconstruction lien, or the notice of construction lien, that is the subject of the claim is:
1316 (a) for a residential project; and
1317 (b) for \$50,000 or less.

1318 (5)(a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration
1319 under this section shall be resolved by a single arbitrator.
1320 (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within
1321 60 days after the day on which an answer is filed.

1322 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
1323 (5)(b), the parties shall select a panel of three arbitrators.

1324 (d) If the parties select a panel of three arbitrators under Subsection (5)(c):
1325 (i) each side shall select one arbitrator; and
1326 (ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional
1327 arbitrator to be included in the panel.

1328 (6) Unless otherwise agreed to in writing:
1329 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1330 under Subsection (5)(b); or
1331 (b) if an arbitration panel is selected under Subsection (5)(d):
1332 (i) each party shall pay the fees and costs of that party's selected arbitrator; and
1333 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
1334 under Subsection (5)(d)(ii).

1335 (7) Except as otherwise provided in this section or otherwise agreed to by the parties, an
1336 arbitration proceeding conducted under this section shall be governed by Title 78B,
1337 Chapter 11, Utah Uniform Arbitration Act.

1338 (8)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the
1339 Utah Rules of Evidence shall apply to an arbitration proceeding under this section.
1340 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
1341 liberally with the intent of resolving the claim in a timely and cost-efficient manner.
1342 (c) Subject to the provisions of this section, the parties shall conduct discovery in
1343 accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.
1344 (d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an
1345 arbitration proceeding under this section shall be limited to the discovery available in
1346 a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.

1347 (9) A written decision by a single arbitrator or by a majority of the arbitration panel shall
1348 constitute a final decision.

1349 (10) An arbitration award issued under this section:
1350 (a) shall be the final resolution of all excessive notice claims described in Subsection
1351 (3)(b) that are:
1352 (i) between the parties;
1353 (ii) for a residential project; and
1354 (iii) for \$50,000 or less; and
1355 (b) may be reduced to judgment by the court upon motion and notice, unless:

1356 (i) any party, within 20 days after the day on which the arbitration award is served,
1357 files a notice requesting a trial de novo in a court with jurisdiction under Title
1358 78A, Judiciary and Judicial Administration; or
1359 (ii) the arbitration award has been satisfied.

1360 (11)(a) Upon filing a notice requesting a trial de novo under Subsection (10)(b)(i):
1361 (i) unless otherwise stipulated to by the parties or ordered by the court, the parties are
1362 allowed an additional 60 days for discovery; and
1363 (ii) the claim shall proceed through litigation in accordance with the Utah Rules of
1364 Civil Procedure and the Utah Rules of Evidence.

1365 (b) The additional discovery time described in Subsection (11)(a)(i) shall run from the
1366 day on which the notice requesting a trial de novo is filed.

1367 (12) If the plaintiff, as the moving party in a trial de novo requested under Subsection
1368 (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration
1369 award, the plaintiff is responsible for all of the nonmoving party's costs, including expert
1370 witness fees.

1371 (13) If a defendant, as the moving party in a trial de novo requested under Subsection
1372 (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,
1373 the defendant is responsible for all of the nonmoving party's costs, including expert
1374 witness fees.

1375 [(14) If a court determines, upon a motion of the nonmoving party, that the moving party's
1376 use of the trial de novo process was filed in bad faith, as defined in Section 78B-5-825,
1377 the court may award reasonable attorney fees to the nonmoving party.]

1378 (14) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
1379 to the nonmoving party if the court determines that the moving party requested a trial de
1380 novo to harass, cause unreasonable delay, needlessly increase the cost of litigation, or
1381 abuse the judicial process.

1382 (15) All arbitration awards issued under this section shall bear postjudgment interest [
1383 pursuant to] in accordance with Section 15-1-4.

1384 Section 6. Section **78B-5-825** is amended to read:

1385 **78B-5-825 . Award of reasonable attorney fees in civil action -- Exceptions.**

1386 [(1) In civil actions, the court shall award reasonable attorney fees to a prevailing party if
1387 the court determines that the action or defense to the action was without merit and not
1388 brought or asserted in good faith, except under Subsection (2).]

1389 (1) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a

1390 prevailing party in a civil action if the court determines that:

1391 (a) the nonprevailing party's civil action, or defense to the civil action, is frivolous or has
1392 no reasonable basis in law or fact; and
1393 (b) the nonprevailing party brought the civil action, or defense to the civil action, to
1394 harass, cause unreasonable delay, needlessly increase the cost of litigation, or abuse
1395 the judicial process.

1396 (2) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a
1397 party in a civil action if:

1398 (a) the party incurred attorney fees in defense of a motion brought by the opposing
1399 party; and
1400 (b) the court determines that:
1401 (i) the opposing party's motion is frivolous or has no reasonable basis in law or fact;
1402 and
1403 (ii) the opposing party brought the motion to harass, cause unreasonable delay,
1404 needlessly increase the cost of litigation, or abuse the judicial process.

1405 [(2)] (3) The court, in the court's discretion, may award no fees or limited fees against a
1406 party under Subsection (1)[, but only if the court] or (2) if the court:

1407 (a) finds the party has filed an affidavit of indigency under Section 78A-2-302 in the
1408 action before the court; or
1409 (b) [the court] enters in the record the reason for not awarding fees under the provisions
1410 of Subsection (1) or (2).

1411 Section 7. Section **78B-10a-108** is amended to read:

1412 **78B-10a-108 . Trial de novo.**

1413 (1)(a) Upon filing a notice requesting a trial de novo in accordance with Subsection
1414 78B-10a-107(2):

1415 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional
1416 90 days shall be allowed for further discovery;
1417 (ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice
1418 of the request for a trial de novo; and
1419 (iii) the claim shall proceed through litigation [pursuant to] in accordance with the
1420 Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

1421 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request
1422 a jury trial with a request for trial de novo filed in accordance with Subsection
1423 78B-10a-107(2)(a)(i).

1424 (2)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection
1425 78B-10a-107(2), does not obtain a verdict that is at least \$5,000 and 30% greater than
1426 the arbitration award, the plaintiff is responsible for all of the nonmoving party's
1427 costs.

1428 (b) Except as provided in Subsection (2)(c), the costs under Subsection (2)(a) shall
1429 include:

1430 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1431 (ii) the costs of expert witnesses and depositions.

1432 (c) An award of costs under this Subsection (2) may not exceed \$6,000.

1433 (3)(a) If a defendant, as the moving party in a trial de novo requested in accordance with
1434 Subsection 78B-10a-107(2), does not obtain a verdict that is at least 30% less than
1435 the arbitration award, the defendant is responsible for all of the nonmoving party's
1436 costs.

1437 (b) Except as provided in Subsection (3)(c), the costs under Subsection (3)(a) shall
1438 include:

1439 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1440 (ii) the costs of expert witnesses and depositions.

1441 (c) An award of costs in accordance with this Subsection (3) may not exceed \$6,000.

1442 (4) For purposes of determining whether a party's verdict is greater or less than the
1443 arbitration award under Subsections (2) and (3), a court may not consider any recovery
1444 or other relief granted on a claim for damages if the claim for damages:
1445 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
1446 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
1447 Procedure.

1448 ~~(5) If a district court determines, upon a motion of the nonmoving party, that the moving
1449 party's use of the trial de novo process was filed in bad faith as defined in Section
1450 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.]~~

1451 (5) Upon a motion of the nonmoving party, the district court may award reasonable attorney
1452 fees to the nonmoving party if the district court determines that the moving party
1453 requested a trial de novo to harass, cause unreasonable delay, needlessly increase the
1454 cost of litigation, or abuse the judicial process.

1455 (6)(a) If a defendant requests a trial de novo under Subsection 78B-10a-107(2), the total
1456 verdict at trial may not exceed \$15,000 above any available limits of insurance
1457 coverage and the total verdict may not exceed \$65,000.

1458 (b) If a plaintiff requests a trial de novo under Subsection 78B-10a-107(2), the verdict at
1459 trial may not exceed \$50,000.

1460 **Section 8. Effective Date.**

1461 This bill takes effect on May 6, 2026.