

Anthony E. Loubet proposes the following substitute bill:

**Attorney Fees Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Anthony E. Loubet**

Senate Sponsor: Brady Brammer

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**LONG TITLE**

**General Description:**

This bill addresses attorney fees.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

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

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

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

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

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

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

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

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

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

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

- (1) A person injured as a result of a dog attack may elect to submit all third party bodily injury claims to arbitration by filing a notice of the submission of the claim to binding

arbitration in a court if:

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

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

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

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

(2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that may not exceed \$50,000 in addition to any medical premise benefits and any claim for property damage.

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

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

(ii) is limited to recovery only against available limits of insurance coverage.

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

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

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

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

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

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

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

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

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

- (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.
- (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected under this section or the date the answer is filed, whichever is longer.
- (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.
- (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of the defendant.
- (c) If the parties are unable to agree on a single arbitrator as required under Subsection (6)(b), the parties shall select a panel of three arbitrators.
- (d) If the parties select a panel of three arbitrators under Subsection (6)(c):
- (i) each side shall select one arbitrator; and
  - (ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional arbitrator to be included in the panel.
- (7) Unless otherwise agreed to in writing:
- (a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(a); and
  - (b) if an arbitration panel is selected under Subsection (6)(d):
    - (i) each party shall pay the fees and costs of the arbitrator selected by that party's side; and
    - (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(d)(ii).
- (8) Except as otherwise provided in this section and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence apply to the arbitration proceeding.
- (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied liberally with the intent of concluding the claim in a timely and cost-efficient manner.
- (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the court in which the matter is filed.

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

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

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

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

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

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

(b) the arbitration award has been satisfied.

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

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;

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

(iii) the claim shall proceed through litigation ~~[pursuant to]~~ in accordance with the Utah Rules of Civil Procedure and the Utah Rules of Evidence in the court.

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

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

(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall include:

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

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (13) may not exceed \$6,000.

(14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall

include:

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

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (14) may not exceed \$6,000.

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages was not disclosed in:

(a) writing prior to the arbitration proceeding; or

(b) response to discovery contrary to the Utah Rules of Civil Procedure.

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

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

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

(18)(a) If a defendant requests a trial de novo under Subsection (11), the total verdict at trial may not exceed \$15,000 above any available limits of insurance coverage and the total verdict may not exceed \$65,000.

(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may not exceed \$50,000.

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

Section 2. Section **31A-22-305** is amended to read:

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

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

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship,

who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a)(i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii)(A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d)(i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4)(a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an 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

than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

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

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g)(i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of this Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies the application of law.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

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

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(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,

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

(b)(i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a) through (c) shall be secondary coverage.

(8)(a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

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

(A) a dependent minor of parents who reside in separate households; and

(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).

- (e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.
- (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).
- (iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.
- (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):
- (i) each side shall select one arbitrator; and
- (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.
- (g) Unless otherwise agreed to in writing:
- (i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or
- (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):
- (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
- (B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).
- (h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.
- (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).
- (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.
- (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
- (k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.
- (l)(i) Except as provided in Subsection (10), the amount of an arbitration award may

not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

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

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

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

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

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; and

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

(A) files a complaint requesting a trial de novo in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q)(i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, a party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r)(i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the 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

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

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

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

(ii) any of the following applicable costs:

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

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

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

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

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

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

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i)(i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l)(i)(A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a

reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed.

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

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

sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

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

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

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

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

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

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

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

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

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

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

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

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

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

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

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

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

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

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

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

(ii) process for filing an underinsured motorist claim.

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

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

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

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k)(i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

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



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

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

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

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

(c) Underinsured motorist coverage:

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

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

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

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

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

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

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

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

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

(C) while committing a felony; and

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

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

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

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

(8)(a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

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

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

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

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

(e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(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).

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

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

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured 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 underinsured 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.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by 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.

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

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

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

(i) each side shall select one arbitrator; and

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

(7) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

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

(d) Dispositive motions shall be filed, heard, and decided by the court prior to the 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:

- (i) costs described in Rule 54(d), Utah Rules of Civil Procedure;
- (ii) the costs of expert witnesses and depositions;
- (iii) the arbitration costs paid by the prevailing party under Subsection (7);
- (iv) prejudgment interest described in Section 78B-5-824; and
- (v) postjudgment interest described in Section 15-1-4.

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

- (a) was not fully disclosed in writing prior to the arbitration proceeding; or
- (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

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

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

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

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

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

(19) All arbitration awards issued under this section shall include:

- (a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;
- (b) the arbitration costs paid by the prevailing party under Subsection (7);
- (c) prejudgment interest described in Section 78B-5-824; and
- (d) postjudgment interest described in Section 15-1-4.

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

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

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

- (1) As used in this section, "residential project" means a project on real property:
  - (a) for which a preconstruction service or construction work is provided; and
  - (b) that consists of:
    - (i) one single-family residence; or
    - (ii) one multi-family residence that contains no more than four units.
- (2) A person is guilty of a class B misdemeanor if:
  - (a) the person intentionally submits for recording a notice of preconstruction lien or notice of construction lien against any property containing a greater demand than the sum due; and
  - (b) by submitting the notice, the person intends:
    - (i) to cloud the title;
    - (ii) to exact from the owner or person liable by means of the excessive notice of preconstruction or construction lien more than is due; or
    - (iii) to procure any unjustified advantage or benefit.
- (3)(a) As used in this Subsection (3), "third party" means an owner, original contractor, or subcontractor.
- (b) In addition to any criminal penalty under Subsection (2), a person who submits a notice of preconstruction lien or notice of construction lien as described in Subsection (2) is liable to a third party who is affected by the notice of preconstruction lien or the notice of construction lien for twice the amount by which the lien notice exceeds the amount actually due or the actual damages incurred by the owner, original contractor, or subcontractor, whichever is greater.
- (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of preconstruction lien, or the notice of construction lien, that is the subject of the claim is:
  - (a) for a residential project; and
  - (b) for \$50,000 or less.
- (5)(a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.
- (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within 60 days after the day on which an answer is filed.

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

(d) If the parties select a panel of three arbitrators under Subsection (5)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional arbitrator to be included in the panel.

(6) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(b); or

(b) if an arbitration panel is selected under Subsection (5)(d):

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

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(d)(ii).

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

(8)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.

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

(c) Subject to the provisions of this section, the parties shall conduct discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.

(d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an arbitration proceeding under this section shall be limited to the discovery available in a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.

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

(10) An arbitration award issued under this section:

(a) shall be the final resolution of all excessive notice claims described in Subsection (3)(b) that are:

(i) between the parties;

(ii) for a residential project; and

(iii) for \$50,000 or less; and

(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

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

(a) the nonprevailing party's civil action, or defense to the civil action, is frivolous or has no reasonable basis in law or fact; and

(b) the nonprevailing party brought the civil action, or defense to the civil action, to harass, cause unreasonable delay, needlessly increase the cost of litigation, or abuse the judicial process.

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

(a) the party incurred attorney fees in defense of a motion brought by the opposing party; and

(b) the court determines that:

(i) the opposing party's motion is frivolous or has no reasonable basis in law or fact; and

(ii) the opposing party brought the motion to harass, cause unreasonable delay, needlessly increase the cost of litigation, or abuse the judicial process.

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

(a) finds the party has filed an affidavit of indigency under Section 78A-2-302 in the action before the court; or

(b) ~~[the court]~~ enters in the record the reason for not awarding fees under the provisions of Subsection (1) or (2).

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

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

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

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;

(ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice of the request for a trial de novo; and

(iii) the claim shall proceed through litigation ~~[pursuant to]~~ in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

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

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