

1 **PROPERTY AND CASUALTY INSURANCE LAW**

2 **AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Todd E. Kiser**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Insurance Code related to property and casualty insurance.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ addresses procedures for rate filings;
- 13 ▶ expands prohibition of premium increases for certain claims or inquiries to property
- 14 and casualty insurance;
- 15 ▶ modifies provisions related to uninsured and underinsured motorist coverage;
- 16 ▶ addresses personal injury protection coverages and benefits;
- 17 ▶ addresses title insurance producer's business; and
- 18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25 **31A-19a-203**, as renumbered and amended by Chapter 130, Laws of Utah 1999

26 **31A-19a-212**, as last amended by Chapter 252, Laws of Utah 2003

27 **31A-22-305**, as last amended by Chapters 76 and 218, Laws of Utah 2003



28 **31A-22-307**, as last amended by Chapters 59 and 116, Laws of Utah 2001
29 **31A-23a-406**, as renumbered and amended by Chapter 298, Laws of Utah 2003



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

32 Section 1. Section **31A-19a-203** is amended to read:

33 **31A-19a-203. Rate filings.**

34 (1) (a) Except as provided in Subsections (4) and (5), every authorized insurer and
35 every rate service organization licensed under Section 31A-19a-301 that has been designated
36 by any insurer for the filing of pure premium rates under Subsection 31A-19a-205(2) shall file
37 with the commissioner the following for use in this state:

- 38 (i) all rates;
- 39 (ii) all supplementary information; and
- 40 (iii) all changes and amendments to rates and supplementary information.
- 41 (b) An insurer shall file its rates by filing:
 - 42 (i) its final rates; or
 - 43 (ii) either of the following to be applied to pure premium rates that have been filed by a
44 rate service organization on behalf of the insurer as permitted by Section 31A-19a-205:
 - 45 (A) a multiplier; or
 - 46 (B) (I) a multiplier; and
 - 47 (II) an expense constant adjustment.
- 48 (c) Every filing under this Subsection (1) shall state:
 - 49 (i) the effective date of the rates; and
 - 50 (ii) the character and extent of the coverage contemplated.
- 51 (d) Except for workers' compensation rates filed under Sections 31A-19a-405 and
52 31A-19a-406, each filing shall be within 30 days after the rates and supplementary information,
53 changes, and amendments are effective.

54 (e) A rate filing is considered filed when it has been received [~~by the commissioner~~]:

- 55 (i) with the applicable filing fee as prescribed under Section 31A-3-103; and
- 56 (ii) pursuant to procedures established by the commissioner.
- 57 (f) The commissioner may by rule prescribe procedures for submitting rate filings by
58 electronic means.

59 (2) (a) To show compliance with Section 31A-19a-201, at the same time as the filing
60 of the rate and supplementary rate information, an insurer shall file all supporting information
61 to be used in support of or in conjunction with a rate.

62 (b) If the rate filing provides for a modification or revision of a previously filed rate,
63 the insurer is required to file only the supporting information that supports the modification or
64 revision.

65 (c) If the commissioner determines that the insurer did not file sufficient supporting
66 information, the commissioner shall inform the insurer in writing of the lack of sufficient
67 supporting information.

68 (d) If the insurer does not provide the necessary supporting information within 45
69 calendar days of the date on which the commissioner mailed notice under Subsection (2)(c), the
70 rate filing may be:

71 (i) considered incomplete and unfiled; and

72 (ii) returned to the insurer as:

73 (A) not filed; and

74 (B) not available for use.

75 (e) Notwithstanding Subsection (2)(d), the commissioner may extend the time period
76 for filing supporting information.

77 (f) If a rate filing is returned to an insurer as not filed and not available for use under
78 Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or
79 after 60 calendar days from the date the rate filing was returned.

80 (3) At the request of the commissioner, an insurer using the services of a rate service
81 organization shall provide a description of the rationale for using the services of the rate service
82 organization, including the insurer's:

83 (a) own information; and

84 (b) method of use of the rate service organization's information.

85 (4) (a) An insurer may not make or issue a contract or policy except in accordance with
86 the rate filings that are in effect for the insurer as provided in this chapter.

87 (b) Subsection (4)(a) does not apply to contracts or policies for inland marine risks for
88 which filings are not required.

89 (5) Subsection (1) does not apply to inland marine risks, which, by general custom, are

90 not written according to standardized manual rules or rating plans.

91 (6) (a) The insurer may file a written application, stating the insurer's reasons for using
92 a higher rate than that otherwise applicable to a specific risk.

93 (b) If the application described in Subsection (6)(a) is filed with and not disapproved
94 by the commissioner within ten days after filing, the higher rate may be applied to the specific
95 risk.

96 (c) The rate described in this Subsection (6) may be disapproved without a hearing.

97 (d) If disapproved, the rate otherwise applicable applies from the effective date of the
98 policy, but the insurer may cancel the policy pro rata on ten days' notice to the policyholder.

99 (e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall
100 refund any excess premium from the effective date of the policy.

101 (7) (a) Agreements may be made between insurers on the use of reasonable rate
102 modifications for insurance provided under Section 31A-22-310.

103 (b) [~~These~~] The rate modifications described in Subsection (7)(a) shall be filed [~~with~~
104 ~~the commissioner~~] immediately upon agreement by the insurers.

105 Section 2. Section **31A-19a-212** is amended to read:

106 **31A-19a-212. Premium increases prohibited for certain claims or inquiries.**

107 (1) Each rate, rating schedule, and rating manual filed [~~with the commissioner~~] for
108 personal lines insurance [~~covering a vehicle or the operation of a vehicle~~] may not permit a
109 premium increase due to:

110 (a) a telephone call or other inquiry that does not result in the insured ~~h~~ [~~demanding~~]
110a **REQUESTING h**

111 payment of a claim; or

112 (b) a claim ~~h~~ **UNDER A POLICY OF INSURANCE COVERING A MOTOR VEHICLE OR THE**
112a **OPERATION OF A MOTOR VEHICLE h** resulting from any incident, including acts of vandalism, in

112b which the

113 person named in the policy or any other person using ~~h~~ [~~f~~] the [~~j~~] [~~an~~] ~~h~~ insured motor vehicle with
113a the

114 express or implied permission of the named insured is not at fault.

115 (2) Subsection (1) prohibits a premium increase when:

116 (a) a policy is issued; or

117 (b) a policy is renewed.

118 (3) This section is an exception to Section 31A-19a-201.

119 Section 3. Section **31A-22-305** is amended to read:

120 **31A-22-305. Uninsured and underinsured motorist coverage.**

- 121 (1) As used in this section, "covered persons" includes:
- 122 (a) the named insured;
- 123 (b) persons related to the named insured by blood, marriage, adoption, or guardianship,
- 124 who are residents of the named insured's household, including those who usually make their
- 125 home in the same household but temporarily live elsewhere;
- 126 (c) any person occupying or using a motor vehicle:
- 127 (i) referred to in the policy; or
- 128 (ii) owned by a [~~self-insurer~~] self-insured; and
- 129 (d) any person who is entitled to recover damages against the owner or operator of the
- 130 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
- 131 Subsection (1)(a), (b), or (c).
- 132 (2) As used in this section, "uninsured motor vehicle" includes:
- 133 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
- 134 under a liability policy at the time of an injury-causing occurrence; or
- 135 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
- 136 31A-22-304; and
- 137 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
- 138 the deficiency;
- 139 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
- 140 by the motor vehicle operator;
- 141 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
- 142 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
- 143 60 days; or
- 144 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
- 145 the motor vehicle is declared insolvent by a court of competent jurisdiction; and
- 146 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
- 147 that the claim against the insolvent insurer is not paid by a guaranty association or fund.
- 148 (3) (a) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
- 149 coverage for covered persons who are legally entitled to recover damages from owners or
- 150 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
- 151 (b) For new policies written on or after January 1, 2001, the limits of uninsured

152 motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle
153 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
154 under the insured's motor vehicle policy, unless the insured purchases coverage in a lesser
155 amount by signing an acknowledgment form provided by the insurer that:

- 156 (i) waives the higher coverage;
- 157 (ii) reasonably explains the purpose of uninsured motorist coverage; and
- 158 (iii) discloses the additional premiums required to purchase uninsured motorist
159 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
160 coverage or the maximum uninsured motorist coverage limits available by the insurer under the
161 insured's motor vehicle policy.

162 (c) [~~Self-insurers~~] A self-insured, including a governmental [~~entities~~] entity, may elect
163 to provide uninsured motorist coverage in an amount that is less than [~~their~~] its maximum
164 self-insured retention under Subsections (3)(b) and (4)(a) by issuing a declaratory
165 memorandum or policy statement from the chief financial officer or chief risk officer that
166 declares the:

- 167 (i) self-insured entity's coverage level; and
- 168 (ii) process for filing an uninsured motorist claim.

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

171 (e) The acknowledgment under Subsection (3)(b) continues for that issuer of the
172 uninsured motorist coverage until the insured, in writing, requests different uninsured motorist
173 coverage from the insurer.

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

- 177 (A) the purpose of uninsured motorist coverage; and
- 178 (B) the costs associated with increasing the coverage in amounts up to and including
179 the maximum amount available by the insurer under the insured's motor vehicle policy.

180 (ii) The disclosure required under this Subsection (3)(f) shall be sent to all insureds that
181 carry uninsured motorist coverage limits in an amount less than the insured's motor vehicle
182 liability policy limits or the maximum uninsured motorist coverage limits available by the

183 insurer under the insured's motor vehicle policy.

184 (4) (a) (i) Except as provided in Subsection (4)(b), the named insured may reject
185 uninsured motorist coverage by an express writing to the insurer that provides liability
186 coverage under Subsection 31A-22-302(1)(a).

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

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

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

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

198 (c) Uninsured motorist coverage:

199 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
200 Compensation Act;

201 (ii) may not be subrogated by the workers' compensation insurance carrier;

202 (iii) may not be reduced by any benefits provided by workers' compensation insurance;

203 (iv) may be reduced by health insurance subrogation only after the covered person has
204 been made whole;

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

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

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

209 (C) while committing a felony; and

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

211 (A) for a person under 18 years of age who is injured within the scope of Subsection
212 (4)(c)(v) but limited to medical and funeral expenses; or

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

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

215 (d) As used in this Subsection (4):

216 (i) "Governmental entity" has the same meaning as under Section 63-30-2.

217 (ii) "Motor vehicle" has the same meaning as under Section 41-1a-102.

218 (5) When a covered person alleges that an uninsured motor vehicle under Subsection
219 (2)(b) proximately caused an accident without touching the covered person or the motor
220 vehicle occupied by the covered person, the covered person must show the existence of the
221 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
222 person's testimony.

223 (6) (a) The limit of liability for uninsured motorist coverage for two or more motor
224 vehicles may not be added together, combined, or stacked to determine the limit of insurance
225 coverage available to an injured person for any one accident.

226 (b) (i) Subsection (6)(a) applies to all persons except a covered person as defined under
227 Subsection (7)(b)(ii).

228 (ii) A covered person as defined under Subsection (7)(b)(ii) is entitled to the highest
229 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
230 person is the named insured or an insured family member.

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

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

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

237 (7) (a) Uninsured motorist coverage under this section applies to bodily injury,
238 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
239 the motor vehicle is described in the policy under which a claim is made, or if the motor
240 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
241 Except as provided in Subsection (6) or this Subsection (7), a covered person injured in a
242 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
243 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
244 under which ~~he~~ the person is a covered person.

245 (b) Each of the following persons may also recover uninsured motorist benefits under
246 any one other policy in which they are described as a "covered person" as defined in Subsection
247 (1):

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

249 (ii) except as provided in Subsection (7)(c), a covered person injured while occupying
250 or using a motor vehicle that is not owned, leased, or furnished[;];

251 (A) to the covered person[;];

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

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

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

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

257 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
258 furnished;

259 (I) to the covered person[;];

260 (II) to the covered person's resident parent[;]; or

261 (III) to the covered person's resident sibling.

262 (ii) Each parent's policy under this Subsection (7)(c) is liable only for the percentage of
263 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
264 bears to the total of ~~all~~ both parent's uninsured coverage applicable to the accident.

265 (d) A covered person's recovery under any available policies may not exceed the full
266 amount of damages.

267 (e) A covered person in Subsection (7)(b) is not barred against making subsequent
268 elections if recovery is unavailable under previous elections.

269 (8) (a) As used in this section, "underinsured motor vehicle" includes a motor vehicle,
270 the operation, maintenance, or use of which is covered under a liability policy at the time of an
271 injury-causing occurrence, but which has insufficient liability coverage to compensate fully the
272 injured party for all special and general damages.

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

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

276 (ii) an uninsured motor vehicle as defined in Subsection (2); or

277 (iii) a motor vehicle owned or leased by:

278 (A) the named insured[;];

279 (B) the named insured's spouse[;]; or

280 (C) any dependant of the named insured.

281 (9) (a) (i) Underinsured motorist coverage under Subsection 31A-22-302(1)(c)
282 provides coverage for covered persons who are legally entitled to recover damages from
283 owners or operators of underinsured motor vehicles because of bodily injury, sickness, disease,
284 or death.

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

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

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

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

296 (i) waives the higher coverage;

297 (ii) reasonably explains the purpose of underinsured motorist coverage; and

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

302 (c) [~~Self-insurers~~] A self-insured, including a governmental [~~entities~~] entity, may elect
303 to provide underinsured motorist coverage in an amount that is less than [~~their~~] its maximum
304 self-insured retention under Subsections (9)(b) and (9)(g) by issuing a declaratory
305 memorandum or policy statement from the chief financial officer or chief risk officer that
306 declares the:

- 307 (i) self-insured entity's coverage level; and
308 (ii) process for filing an underinsured motorist claim.
- 309 (d) Underinsured motorist coverage may not be sold with limits that are less than:
310 (i) \$10,000 for one person in any one accident; and
311 (ii) at least \$20,000 for two or more persons in any one accident.
- 312 (e) The acknowledgment under Subsection (9)(b) continues for that issuer of the
313 underinsured motorist coverage until the insured, in writing, requests different underinsured
314 motorist coverage from the insurer.
- 315 (f) (i) The named insured's underinsured motorist coverage, as described in Subsection
316 (9)(a), is secondary to the liability coverage of an owner or operator of an underinsured motor
317 vehicle, as described in Subsection (8).
- 318 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
319 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
320 or stacked upon the liability coverage of the owner or operator of the underinsured motor
321 vehicle to determine the limit of coverage available to the injured person.
- 322 (g) (i) A named insured may reject underinsured motorist coverage by an express
323 writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).
- 324 (ii) This written rejection shall be on a form provided by the insurer that includes a
325 reasonable explanation of the purpose of underinsured motorist coverage and when it would be
326 applicable.
- 327 (iii) This rejection continues for that issuer of the liability coverage until the insured in
328 writing requests underinsured motorist coverage from that liability insurer.
- 329 (h) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
330 policies existing on that date, the insurer shall disclose in the same medium as the premium
331 renewal notice, an explanation of:
- 332 (A) the purpose of underinsured motorist coverage; and
333 (B) the costs associated with increasing the coverage in amounts up to and including
334 the maximum amount available by the insurer under the insured's motor vehicle policy.
- 335 (ii) The disclosure required by this Subsection (9)(h) shall be sent to all insureds that
336 carry underinsured motorist coverage limits in an amount less than the insured's motor vehicle
337 liability policy limits or the maximum underinsured motorist coverage limits available by the

338 insurer under the insured's motor vehicle policy.

339 (10) (a) (i) Except as provided in this Subsection (10), a covered person injured in a
340 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
341 to collect underinsured motorist coverage benefits from any other motor vehicle insurance
342 policy.

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

346 (iii) Subsection (10)(a)(ii) applies to all persons except a covered person [~~as defined~~]
347 described under Subsections (10)(b)(i) and (ii).

348 (b) (i) Except as provided in Subsection (10)(b)(ii), a covered person injured while
349 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
350 covered person, the covered person's spouse, or the covered person's resident parent or resident
351 sibling, may also recover benefits under any one other policy under which they are a covered
352 person.

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

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

356 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
357 furnished to the covered person, the covered person's resident parent, or the covered person's
358 resident sibling.

359 (B) Each parent's policy under this Subsection (10)(b)(ii) is liable only for the
360 percentage of the damages that the limit of liability of each parent's policy of underinsured
361 motorist coverage bears to the total of [~~all~~] both parents' underinsured coverage applicable to
362 the accident.

363 (iii) A covered person's recovery under any available policies may not exceed the full
364 amount of damages.

365 (iv) Underinsured coverage on a motor vehicle occupied at the time of an accident shall
366 be primary coverage, and the coverage elected by a person described under Subsections (1)(a)
367 and (b) shall be secondary coverage.

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

369 (vi) A covered person as [~~defined~~] described under Subsection (10)(b)(i) is entitled to
370 the highest limits of underinsured motorist coverage under only one additional policy per
371 household applicable to that covered person as a named insured, spouse, or relative.

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

374 (c) Underinsured motorist coverage:

375 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
376 Compensation Act;

377 (ii) may not be subrogated by the workers' compensation insurance carrier;

378 (iii) may not be reduced by any benefits provided by workers' compensation insurance;

379 (iv) may be reduced by health insurance subrogation only after the covered person has
380 been made whole;

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

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

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

385 (C) while committing a felony; and

386 (vi) notwithstanding Subsection (10)(c)(v), may be recovered:

387 (A) for a person under 18 years of age who is injured within the scope of Subsection
388 (10)(c)(v) but limited to medical and funeral expenses; or

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

391 (11) The inception of the loss under Subsection 31A-21-313(1) for underinsured
392 motorist claims occurs upon the date of the last liability policy payment.

393 (12) (a) Within five business days after notification in a manner specified by the
394 department that all liability insurers have tendered their liability policy limits, the underinsured
395 carrier shall either:

396 (i) waive any subrogation claim the underinsured carrier may have against the person
397 liable for the injuries caused in the accident; or

398 (ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

399 (b) If neither option is exercised under Subsection (12)(a), the subrogation claim is

400 [~~deemed~~] considered to be waived by the underinsured carrier.

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

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

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

405 Section 4. Section **31A-22-307** is amended to read:

406 **31A-22-307. Personal injury protection coverages and benefits.**

407 (1) Personal injury protection coverages and benefits include:

408 (a) the reasonable value of all expenses for necessary medical, surgical, X-ray, dental,
409 rehabilitation, including prosthetic devices, ambulance, hospital, and nursing services, not to
410 exceed [a] the total minimum required coverage of \$3,000 per person;

411 (b) (i) the lesser of \$250 per week or 85% of any loss of gross income and loss of
412 earning capacity per person from inability to work, for a maximum of 52 consecutive weeks
413 after the loss, except that this benefit need not be paid for the first three days of disability,
414 unless the disability continues for longer than two consecutive weeks after the date of injury;
415 and

416 (ii) a special damage allowance not exceeding \$20 per day for a maximum of 365 days,
417 for services actually rendered or expenses reasonably incurred for services that, but for the
418 injury, the injured person would have performed for [his] the injured person's household,
419 except that this benefit need not be paid for the first three days after the date of injury unless
420 the person's inability to perform these services continues for more than two consecutive weeks;

421 (c) funeral, burial, or cremation benefits not to exceed a total of \$1,500 per person; and

422 (d) compensation on account of death of a person, payable to [his] the person's heirs, in
423 the total of \$3,000.

424 (2) (a) (i) To determine the reasonable value of the medical expenses provided for in
425 Subsection (1) and under Subsection 31A-22-309(1)(a)(v), the commissioner shall conduct a
426 relative value study of services and accommodations for the diagnosis, care, recovery, or
427 rehabilitation of an injured person in the most populous county in the state to assign a unit
428 value and determine the 75th percentile charge for each type of service and accommodation.

429 (ii) The relative value study shall be updated every other year.

430 (iii) In conducting the relative value study, the department may consult or contract with

431 appropriate public and private medical and health agencies or other technical experts.

432 (iv) The costs and expenses incurred in conducting, maintaining, and administering the
433 relative value study shall be funded by the tax created under Section 59-9-105.

434 (v) Upon completion of the relative value study, the department shall prepare and
435 publish a relative value study which sets forth the unit value and the 75th percentile charge
436 assigned to each type of service and accommodation.

437 (b) (i) The reasonable value of any service or accommodation is determined by
438 applying the unit value and the 75th percentile charge assigned to the service or
439 accommodation under the relative value study.

440 (ii) If a service or accommodation is not assigned a unit value or the 75th percentile
441 charge under the relative value study, the value of the service or accommodation shall equal the
442 reasonable cost of the same or similar service or accommodation in the most populous county
443 of this state.

444 (c) This Subsection (2) does not preclude the department from adopting a schedule
445 already established or a schedule prepared by persons outside the department, if it meets the
446 requirements of this Subsection (2).

447 (d) Every insurer shall report to the commissioner [~~of Insurance~~] any [~~patterns~~] pattern
448 of overcharging, excessive treatment, or other improper actions by a health provider within 30
449 days after [~~such~~] the insurer has knowledge of [~~such~~] the pattern.

450 (e) (i) In disputed cases, a court on its own motion or on the motion of either party may
451 designate an impartial medical panel of not more than three licensed physicians to examine the
452 claimant and testify on the issue of the reasonable value of the claimant's medical services or
453 expenses.

454 (ii) An impartial medical panel designated under Subsection (2)(e)(i) shall consist of a
455 majority of health care professionals within the same license classification and specialty as the
456 provider of the claimant's medical services or expenses.

457 (3) Medical expenses as provided for in Subsection (1)(a) and in Subsection
458 31A-22-309 (1)(a)(v) include expenses for any nonmedical remedial care and treatment
459 rendered in accordance with a recognized religious method of healing.

460 (4) The insured may waive for the named insured and the named insured's spouse only
461 the loss of gross income benefits of Subsection (1)(b)(i) if the insured states in writing that:

462 (a) within 31 days of applying for coverage, neither the insured nor the insured's spouse
463 received any earned income from regular employment; and

464 (b) for at least 180 days from the date of the writing and during the period of insurance,
465 neither the insured nor the insured's spouse will receive earned income from regular
466 employment.

467 (5) This section does not;

468 (a) prohibit the issuance of policies of insurance providing coverages greater than the
469 minimum coverage required under this chapter [~~nor does it~~]; or

470 (b) require the segregation of those minimum coverages from other coverages in the
471 same policy.

472 (6) Deductibles are not permitted with respect to the insurance coverages required
473 under this section.

474 Section 5. Section **31A-23a-406** is amended to read:

475 **31A-23a-406. Title insurance producer's business.**

476 (1) A title insurance producer may do escrow involving real property transactions if all
477 of the following exist:

478 (a) the title insurance producer is licensed with;

479 (i) the title line of authority; and

480 (ii) the escrow subline of authority;

481 (b) the title insurance producer is appointed by a title insurer authorized to do business
482 in the state;

483 (c) one or more of the following is to be issued as part of the transaction:

484 (i) an owner's policy of title insurance; or

485 (ii) a lender's policy of title insurance;

486 (d) (i) all funds deposited with the producer in connection with any escrow:

487 (A) are deposited:

488 (I) in a federally insured financial institution; and

489 (II) in a trust account that is separate from all other trust account funds that are not
490 related to real estate transactions; and

491 (B) are the property of the persons entitled to them under the provisions of the escrow;

492 and

- 493 (ii) are segregated escrow by escrow in the records of the producer;
- 494 (e) earnings on funds held in escrow may be paid out of the escrow account to any
495 person in accordance with the conditions of the escrow; and
- 496 (f) the escrow does not require the producer to hold:
- 497 (i) construction funds; or
- 498 (ii) funds held for exchange under Section 1031, Internal Revenue Code.
- 499 (2) Notwithstanding Subsection (1), a title insurance producer may engage in the
500 escrow business if:
- 501 (a) the escrow involves:
- 502 (i) a mobile home;
- 503 (ii) a grazing right;
- 504 (iii) a water right; or
- 505 (iv) other personal property authorized by the commissioner; and
- 506 (b) the title insurance producer complies with all the requirements of this section
507 except for the requirement of Subsection (1)(c).
- 508 (3) Funds held in escrow:
- 509 (a) are not subject to any debts of the producer;
- 510 (b) may only be used to fulfill the terms of the individual escrow under which the funds
511 were accepted; and
- 512 (c) may not be used until all conditions of the escrow have been met.
- 513 (4) Assets or property other than escrow funds received by a producer in accordance
514 with an escrow shall be maintained in a manner that will:
- 515 (a) reasonably preserve and protect the asset or property from loss, theft, or damages;
516 and
- 517 (b) otherwise comply with all general duties and responsibilities of a fiduciary or
518 bailee.
- 519 (5) (a) A check may not be drawn, executed, or dated, or funds otherwise disbursed
520 unless the segregated escrow account from which funds are to be disbursed contains a
521 sufficient credit balance consisting of collected or cleared funds at the time the check is drawn,
522 executed, or dated, or funds are otherwise disbursed.
- 523 (b) As used in this Subsection (5), funds are considered to be "collected or cleared,"

524 and may be disbursed as follows:

- 525 (i) cash may be disbursed on the same day the cash is deposited;
- 526 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 527 (iii) the following may be disbursed on the day following the date of deposit:
- 528 (A) a cashier's check;
- 529 (B) a certified check;
- 530 (C) a teller's check;
- 531 (D) a U.S. Postal Service money order; and
- 532 (E) a check drawn on a Federal Reserve Bank or Federal Home Loan Bank; and
- 533 (iv) any other check or deposit may be disbursed:

534 (A) within the time limits provided under the Expedited Funds Availability Act, 12
 535 U.S.C. Section 4001 et seq., as amended, and related regulations of the Federal Reserve
 536 System; or

537 (B) upon written notification from the financial institution to which the funds have
 538 been deposited, that final settlement has occurred on the deposited item.

539 (c) Subject to Subsections (5)(a) and (b), before the disbursement of funds any changes
 540 to any settlement statement made after the final closing documents are executed shall be

540a **Ĥ AUTHORIZED OR ĥ**

541 acknowledged by signature of Ĥ [:] THE PARTY OR PARTIES AFFECTED BY THE CHANGE. ĥ

542 **Ĥ ~~(i) all buyers or borrowers;~~**

543 ~~**(ii) all sellers; and**~~

544 ~~**(iii) the escrow officer;**~~ ĥ

545 (6) The title insurance producer shall maintain records of all receipts and
 546 disbursements of escrow funds.

547 (7) The title insurance producer shall comply with:

548 (a) Section 31A-23a-409; and

549 (b) any rules adopted by the commissioner in accordance with Title 63, Chapter 46a,
 550 Utah Administrative Rulemaking Act, that govern escrows.

Legislative Review Note
as of 1-12-04 12:45 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0250

Property and Casualty Insurance Law Amendments

29-Jan-04

4:26 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst