

28 Contracts in General, and Chapter 22, Part 2, Liability Insurance in General, a policy of motor
29 vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

30 (i) name the motor vehicle owner or operator in whose name the policy was purchased,
31 state that named insured's address, the coverage afforded, the premium charged, the policy
32 period, and the limits of liability;

33 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor
34 vehicles on which coverage is granted, insure the person named in the policy, insure any other
35 person using any named motor vehicle with the express or implied permission of the named
36 insured, and, except as provided in Subsection (7), insure any person included in Subsection
37 (1)(a)(iii) against loss from the liability imposed by law for damages arising out of the
38 ownership, maintenance, or use of these motor vehicles within the United States and Canada,
39 subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not less
40 than the minimum limits specified under Section 31A-22-304; or

41 (B) if it is an operator's policy, insure the person named as insured against loss from
42 the liability imposed upon him by law for damages arising out of the insured's use of any motor
43 vehicle not owned by him, within the same territorial limits and with the same limits of liability
44 as in an owner's policy under Subsection (1)(a)(ii)(A);

45 (iii) except as provided in Subsection (7), insure persons related to the named insured
46 by blood, marriage, adoption, or guardianship who are residents of the named insured's
47 household, including those who usually make their home in the same household but
48 temporarily live elsewhere, to the same extent as the named insured and the available coverage
49 of the policy may not be reduced to the persons described in this Subsection (1)(a)(iii) because:

50 (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;
51 or

52 (B) the named insured or any of the persons described in this Subsection (1)(a)(iii)
53 driving a covered motor vehicle is at fault in causing an accident; and

54 (iv) cover damages or injury resulting from a covered driver of a motor vehicle who is
55 stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not
56 reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the
57 extent that a person of ordinary prudence would not attempt to continue driving.

58 (b) The driver's liability under Subsection (1)(a)(iv) is limited to the insurance

59 coverage.

60 (2) (a) A policy containing motor vehicle liability coverage under Subsection
61 31A-22-302(1)(a) may:

62 (i) provide for the prorating of the insurance under that policy with other valid and
63 collectible insurance;

64 (ii) grant any lawful coverage in addition to the required motor vehicle liability
65 coverage;

66 (iii) if the policy is issued to a person other than a motor vehicle business, limit the
67 coverage afforded to a motor vehicle business or its officers, agents, or employees to the
68 minimum limits under Section 31A-22-304, and to those instances when there is no other valid
69 and collectible insurance with at least those limits, whether the other insurance is primary,
70 excess, or contingent; and

71 (iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other
72 than the motor vehicle business or its officers, agents, or employees to the minimum limits
73 under Section 31A-22-304, and to those instances when there is no other valid and collectible
74 insurance with at least those limits, whether the other insurance is primary, excess, or
75 contingent.

76 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned
77 by a motor vehicle business shall be primary coverage.

78 (ii) The liability insurance coverage of a motor vehicle business shall be secondary to
79 the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

80 (3) Motor vehicle liability coverage need not insure any liability:

81 (a) under any workers' compensation law under Title 34A, Utah Labor Code;

82 (b) resulting from bodily injury to or death of an employee of the named insured, other
83 than a domestic employee, while engaged in the employment of the insured, or while engaged
84 in the operation, maintenance, or repair of a designated vehicle; [or]

85 (c) resulting from damage to property owned by, rented to, bailed to, or transported by
86 the insured[-]; or

87 (d) arising out of acts by the insured that are intended to cause ~~property~~ damage
87a ~~property~~ [or], ~~bodily~~ injury ~~property~~, or death ~~property~~.

88 (4) An insurance carrier providing motor vehicle liability coverage has the right to
89 settle any claim covered by the policy, and if the settlement is made in good faith, the amount

90 of the settlement is deductible from the limits of liability specified under Section 31A-22-304.

91 (5) A policy containing motor vehicle liability coverage imposes on the insurer the
92 duty to defend, in good faith, any person insured under the policy against any claim or suit
93 seeking damages which would be payable under the policy.

94 (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with
95 the defense of lack of cooperation on the part of the insured, that defense is not effective
96 against a third person making a claim against the insurer, unless there was collusion between
97 the third person and the insured.

98 (b) If the defense of lack of cooperation is not effective against the claimant, after
99 payment, the insurer is subrogated to the injured person's claim against the insured to the extent
100 of the payment and is entitled to reimbursement by the insured after the injured third person has
101 been made whole with respect to the claim against the insured.

102 (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may
103 specifically exclude from coverage a person who is a resident of the named insured's
104 household, including a person who usually makes his home in the same household but
105 temporarily lives elsewhere, if:

106 (a) at the time of the proposed exclusion, each person excluded from coverage satisfies
107 the owner's or operator's security requirement of Section 41-12a-301, independently of the
108 named insured's proof of owner's or operator's security;

109 (b) the named insured and the person excluded from coverage each provide written
110 consent to the exclusion; and

111 (c) the insurer includes the name of each person excluded from coverage in the
112 evidence of insurance provided to an additional insured or loss payee.

113 (8) A policy of motor vehicle liability coverage may limit coverage to the policy
114 minimum limits under Section 31A-22-304 if the insured motor vehicle is operated by a person
115 who has consumed any alcohol or any illegal drug or illegal substance if the policy or a
116 specifically reduced premium was extended to the insured upon express written declaration
117 executed by the insured that the insured motor vehicle would not be so operated.

118 (9) (a) When a claim is brought exclusively by a named insured or a person described
119 in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual
120 described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:

- 121 (i) by submitting the claim to binding arbitration; or
- 122 (ii) through litigation.
- 123 (b) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
- 124 the claimant may not elect to resolve the claim through binding arbitration under this section
- 125 without the written consent of both parties and the defendant's liability insurer.
- 126 (c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to
- 127 binding arbitration under Subsection (9)(a)(i) shall be resolved by a panel of three arbitrators.
- 128 (ii) Unless otherwise agreed on in writing by the parties, each party shall select an
- 129 arbitrator. The arbitrators selected by the parties shall select a third arbitrator.
- 130 (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees
- 131 and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs
- 132 of the third arbitrator.
- 133 (e) Except as otherwise provided in this section, an arbitration procedure conducted
- 134 under this section shall be governed by Title 78, Chapter 31a, Utah Uniform Arbitration Act,
- 135 unless otherwise agreed on in writing by the parties.
- 136 (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah
- 137 Rules of Civil Procedure.
- 138 (ii) All issues of discovery shall be resolved by the arbitration panel.
- 139 (g) A written decision of two of the three arbitrators shall constitute a final decision of
- 140 the arbitration panel.
- 141 (h) Prior to the rendering of the arbitration award:
- 142 (i) the existence of a liability insurance policy may be disclosed to the arbitration
- 143 panel; and
- 144 (ii) the amount of all applicable liability insurance policy limits may not be disclosed to
- 145 the arbitration panel.
- 146 (i) The amount of the arbitration award may not exceed the liability limits of all the
- 147 defendant's applicable liability insurance policies, including applicable liability umbrella
- 148 policies. If the initial arbitration award exceeds the liability limits of all applicable liability
- 149 insurance policies, the arbitration award shall be reduced to an amount equal to the liability
- 150 limits of all applicable liability insurance policies.
- 151 (j) The arbitration award is the final resolution of all claims between the parties unless

152 the award was procured by corruption, fraud, or other undue means.

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

156 (l) Nothing in this section is intended to limit any claim under any other portion of an
157 applicable insurance policy.

158 (10) An at-fault driver or an insurer issuing a policy of insurance under this part that is
159 covering an at-fault driver may not reduce compensation to an injured party based on the
160 injured party not being covered by a policy of insurance that provides personal injury
161 protection coverage under Sections 31A-22-306 through 31A-22-309.

161a **§→ Section 2. Section 31A-22-305 is amended to read:**

161b **31A-22-305. Uninsured and underinsured motorist coverage.**

161c **(1) As used in this section, "covered persons" includes:**

161d **(a) the named insured;**

161e **(b) persons related to the named insured by blood, marriage, adoption, or**
161f **guardianship, who are residents of the named insured's household, including those who**
161g **usually make their home in the same household but temporarily live elsewhere;**

161h **(c) any person occupying or using a motor vehicle:**

161i **(i) referred to in the policy; or**

161j **(ii) owned by a self-insured; and**

161k **(d) any person who is entitled to recover damages against the owner or operator**
161l **of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons**
161m **under Subsection (1)(a), (b), or (c).**

161n **(2) As used in this section, "uninsured motor vehicle" includes:**

161o **(a) (i) a motor vehicle, the operation, maintenance, or use of which is not**
161p **covered under a liability policy at the time of an injury-causing occurrence; or**

161q **(ii) (A) a motor vehicle covered with lower liability limits than required by**
161r **Section 31A-22-304; and**

161s **(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the**
161t **extent of the deficiency;**

161u **(b) an unidentified motor vehicle that left the scene of an accident proximately**
161v **caused by the motor vehicle operator;**

161w **(c) a motor vehicle covered by a liability policy, but coverage for an accident is**
161x **disputed by the liability insurer for more than 60 days or continues to be disputed for ←§**

161y **Ŝ→ more than 60 days; {~~or~~}**

161z (d) (i) an insured motor vehicle if, before or after the accident, the liability
161aa insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

161ab (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the
161ac extent that the claim against the insolvent insurer is not paid by a guaranty association or
161ad fund {~~·~~} ; or

161ae (e) a motor vehicle covered by a liability policy, but coverage has been denied by the
161af liability insurer under Subsection 31A-22-303(3)(d).

161ag (3) (a) Uninsured motorist coverage under Subsection 31A-22-302(1)(b)
161ah provides coverage for covered persons who are legally entitled to recover damages from
161ai owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or
161aj death.

161ak (b) For new policies written on or after January 1, 2001, the limits of uninsured
161al motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle
161am liability coverage or the maximum uninsured motorist coverage limits available by the insurer
161an under the insured's motor vehicle policy, unless the insured purchases coverage in a lesser
161ao amount by signing an acknowledgment form provided by the insurer that:

161ap (i) waives the higher coverage;

161aq (ii) reasonably explains the purpose of uninsured motorist coverage; and

161ar (iii) discloses the additional premiums required to purchase uninsured motorist
161as coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
161at coverage or the maximum uninsured motorist coverage limits available by the insurer under
161au the insured's motor vehicle policy.

161av (c) A self-insured, including a governmental entity, may elect to provide
161aw uninsured motorist coverage in an amount that is less than its maximum self-insured retention
161ax under Subsections (3)(b) and (4)(a) by issuing a declaratory memorandum or policy statement
161ay from the chief financial officer or chief risk officer that declares the:

161az (i) self-insured entity's coverage level; and

161ba (ii) process for filing an uninsured motorist claim.

161bb (d) Uninsured motorist coverage may not be sold with limits that are less than
161bc the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

161bd (e) The acknowledgment under Subsection (3)(b) continues for that issuer of the
161be uninsured motorist coverage until the insured, in writing, requests different uninsured
161bf motorist coverage from the insurer. ←Ŝ

161bg **§→** (f) (i) In conjunction with the first two renewal notices sent after January 1,
161bh 2001, for policies existing on that date, the insurer shall disclose in the same medium as the
161bi premium renewal notice, an explanation of:

161bj (A) the purpose of uninsured motorist coverage; and

161bk (B) the costs associated with increasing the coverage in amounts up to and
161bl including the maximum amount available by the insurer under the insured's motor vehicle
161bm policy.

161bn (ii) The disclosure required under this Subsection (3)(f) shall be sent to all
161bo insureds that carry uninsured motorist coverage limits in an amount less than the insured's
161bp motor vehicle liability policy limits or the maximum uninsured motorist coverage limits
161bq available by the insurer under the insured's motor vehicle policy.

161br (4) (a) (i) Except as provided in Subsection (4)(b), the named insured may reject
161bs uninsured motorist coverage by an express writing to the insurer that provides liability
161bt coverage under Subsection 31A-22-302(1)(a).

161bu (ii) This rejection shall be on a form provided by the insurer that includes a
161bv reasonable explanation of the purpose of uninsured motorist coverage.

161bw (iii) This rejection continues for that issuer of the liability coverage until the
161bx insured in writing requests uninsured motorist coverage from that liability insurer.

161by (b) (i) All persons, including governmental entities, that are engaged in the
161bz business of, or that accept payment for, transporting natural persons by motor vehicle, and all
161ca school districts that provide transportation services for their students, shall provide coverage
161cb for all motor vehicles used for that purpose, by purchase of a policy of insurance or by
161cc self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per
161cd accident.

161ce (ii) This coverage is secondary to any other insurance covering an injured
161cf covered person.

161cg (c) Uninsured motorist coverage:

161ch (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
161ci Compensation Act;

161cj (ii) may not be subrogated by the workers' compensation insurance carrier;

161ck (iii) may not be reduced by any benefits provided by workers' compensation
161cl insurance;

161cm (iv) may be reduced by health insurance subrogation only after the covered
161cn person has been made whole; ←**§**

161co **§→** (v) may not be collected for bodily injury or death sustained by a person:

161cp (A) while committing a violation of Section 41-1a-1314;

161cq (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being

161cr operated in violation of Section 41-1a-1314; or

161cs (C) while committing a felony; and

161ct (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

161cu (A) for a person under 18 years of age who is injured within the scope of

161cv Subsection (4)(c)(v) but limited to medical and funeral expenses; or

161cw (B) by a law enforcement officer as defined in Section 53-13-103, who is injured

161cx within the course and scope of the law enforcement officer's duties.

161cy (d) As used in this Subsection (4), "motor vehicle" has the same meaning as

161cz under Section 41-1a-102.

161da (5) When a covered person alleges that an uninsured motor vehicle under

161db Subsection (2)(b) proximately caused an accident without touching the covered person or the

161dc motor vehicle occupied by the covered person, the covered person must show the existence of

161dd the uninsured motor vehicle by clear and convincing evidence consisting of more than the

161de covered person's testimony.

161df (6) (a) The limit of liability for uninsured motorist coverage for two or more

161dg motor vehicles may not be added together, combined, or stacked to determine the limit of

161dh insurance coverage available to an injured person for any one accident.

161di (b) (i) Subsection (6)(a) applies to all persons except a covered person as defined

161dj under Subsection (7)(b)(ii).

161dk (ii) A covered person as defined under Subsection (7)(b)(ii) is entitled to the

161dl highest limits of uninsured motorist coverage afforded for any one motor vehicle that the

161dm covered person is the named insured or an insured family member.

161dn (iii) This coverage shall be in addition to the coverage on the motor vehicle the

161do covered person is occupying.

161dp (iv) Neither the primary nor the secondary coverage may be set off against the

161dq other.

161dr (c) Coverage on a motor vehicle occupied at the time of an accident shall be

161ds primary coverage, and the coverage elected by a person described under Subsections (1)(a)

161dt and (b) shall be secondary coverage.

161du (7) (a) Uninsured motorist coverage under this section applies to bodily injury,

161dv sickness, disease, or death of covered persons while occupying or using a motor vehicle only←§

161dw **§→ if the motor vehicle is described in the policy under which a claim is made, or if the motor**
 161dx **vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.**
 161dy **Except as provided in Subsection (6) or this Subsection (7), a covered person injured in a**
 161dz **motor vehicle described in a policy that includes uninsured motorist benefits may not elect to**
 161ea **collect uninsured motorist coverage benefits from any other motor vehicle insurance policy**
 161eb **under which the person is a covered person.**

161ec **(b) Each of the following persons may also recover uninsured motorist benefits**
 161ed **under any one other policy in which they are described as a "covered person" as defined in**
 161ee **Subsection (1):**

161ef **(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and**
 161eg **(ii) except as provided in Subsection (7)(c), a covered person injured while**
 161eh **occupying or using a motor vehicle that is not owned, leased, or furnished:**

161ei **(A) to the covered person;**

161ej **(B) to the covered person's spouse; or**

161ek **(C) to the covered person's resident parent or resident sibling.**

161el **(c) (i) A covered person may recover benefits from no more than two additional**
 161em **policies, one additional policy from each parent's household if the covered person is:**

161en **(A) a dependent minor of parents who reside in separate households; and**

161eo **(B) injured while occupying or using a motor vehicle that is not owned, leased,**
 161ep **or furnished:**

161eq **(I) to the covered person;**

161er **(II) to the covered person's resident parent; or**

161es **(III) to the covered person's resident sibling.**

161et **(ii) Each parent's policy under this Subsection (7)(c) is liable only for the**
 161eu **percentage of the damages that the limit of liability of each parent's policy of uninsured**
 161ev **motorist coverage bears to the total of both parents' uninsured coverage applicable to the**
 161ew **accident.**

161ex **(d) A covered person's recovery under any available policies may not exceed the**
 161ey **full amount of damages.**

161ez **(e) A covered person in Subsection (7)(b) is not barred against making**
 161fa **subsequent elections if recovery is unavailable under previous elections.**

161fb **(f) (i) As used in this section, "interpolicy stacking" means recovering benefits**
 161fc **for a single incident of loss under more than one insurance policy.**

161fd **(ii) Except to the extent permitted by Subsection (6) and this Subsection ←§**

- 161fe **Ŝ→ (7), interpolicy stacking is prohibited for uninsured motorist coverage.**
- 161ff **(8) (a) As used in this section, "underinsured motor vehicle" includes a motor**
- 161fg **vehicle, the operation, maintenance, or use of which is covered under a liability policy at the**
- 161fh **time of an injury-causing occurrence, but which has insufficient liability coverage to**
- 161fi **compensate fully the injured party for all special and general damages.**
- 161fj **(b) The term "underinsured motor vehicle" does not include:**
- 161fk **(i) a motor vehicle that is covered under the liability coverage of the same policy**
- 161fl **that also contains the underinsured motorist coverage;**
- 161fm **(ii) an uninsured motor vehicle as defined in Subsection (2); or**
- 161fn **(iii) a motor vehicle owned or leased by:**
- 161fo **(A) the named insured;**
- 161fp **(B) the named insured's spouse; or**
- 161fq **(C) any dependent of the named insured.**
- 161fr **(9) (a) (i) Underinsured motorist coverage under Subsection 31A-22-302(1)(c)**
- 161fs **provides coverage for covered persons who are legally entitled to recover damages from**
- 161ft **owners or operators of underinsured motor vehicles because of bodily injury, sickness, disease,**
- 161fu **or death.**
- 161fv **(ii) A covered person occupying or using a motor vehicle owned, leased, or**
- 161fw **furnished to the covered person, the covered person's spouse, or covered person's resident**
- 161fx **relative may recover underinsured benefits only if the motor vehicle is:**
- 161fy **(A) described in the policy under which a claim is made; or**
- 161fz **(B) a newly acquired or replacement motor vehicle covered under the terms of**
- 161ga **the policy.**
- 161gb **(b) For new policies written on or after January 1, 2001, the limits of**
- 161gc **underinsured motorist coverage shall be equal to the lesser of the limits of the insured's motor**
- 161gd **vehicle liability coverage or the maximum underinsured motorist coverage limits available by**
- 161ge **the insurer under the insured's motor vehicle policy, unless the insured purchases coverage in**
- 161gf **a lesser amount by signing an acknowledgment form provided by the insurer that:**
- 161gg **(i) waives the higher coverage;**
- 161gh **(ii) reasonably explains the purpose of underinsured motorist coverage; and**
- 161gi **(iii) discloses the additional premiums required to purchase underinsured**
- 161gj **motorist coverage with limits equal to the lesser of the limits of the insured's motor vehicle**
- 161gk **liability coverage or the maximum underinsured motorist coverage limits available by the**
- 161gl **insurer under the insured's motor vehicle policy. ←Ŝ**

161gm **§→** (c) A self-insured, including a governmental entity, may elect to provide
 161gn underinsured motorist coverage in an amount that is less than its maximum self-insured
 161go retention under Subsections (9)(b) and (9)(g) by issuing a declaratory memorandum or policy
 161gp statement from the chief financial officer or chief risk officer that declares the:

161gq (i) self-insured entity's coverage level; and
 161gr (ii) process for filing an underinsured motorist claim.

161gs (d) Underinsured motorist coverage may not be sold with limits that are less
 161gt **than:**

161gu (i) \$10,000 for one person in any one accident; and
 161gv (ii) at least \$20,000 for two or more persons in any one accident.

161gw (e) The acknowledgment under Subsection (9)(b) continues for that issuer of the
 161gx underinsured motorist coverage until the insured, in writing, requests different underinsured
 161gy motorist coverage from the insurer.

161gz (f) (i) The named insured's underinsured motorist coverage, as described in
 161ha Subsection (9)(a), is secondary to the liability coverage of an owner or operator of an
 161hb underinsured motor vehicle, as described in Subsection (8).
 161hc (ii) Underinsured motorist coverage may not be set off against the liability
 161hd coverage of the owner or operator of an underinsured motor vehicle, but shall be added to,
 161he combined with, or stacked upon the liability coverage of the owner or operator of the
 161hf underinsured motor vehicle to determine the limit of coverage available to the injured person.

161hg (g) (i) A named insured may reject underinsured motorist coverage by an
 161hh express writing to the insurer that provides liability coverage under Subsection
 161hi 31A-22-302(1)(a).
 161hj (ii) This written rejection shall be on a form provided by the insurer that
 161hk includes a reasonable explanation of the purpose of underinsured motorist coverage and when
 161hl it would be applicable.

161hm (iii) This rejection continues for that issuer of the liability coverage until the
 161hn insured in writing requests underinsured motorist coverage from that liability insurer.

161ho (h) (i) In conjunction with the first two renewal notices sent after January 1,
 161hp 2001, for policies existing on that date, the insurer shall disclose in the same medium as the
 161hq premium renewal notice, an explanation of:

161hr (A) the purpose of underinsured motorist coverage; and
 161hs (B) the costs associated with increasing the coverage in amounts up to and
 161ht including the maximum amount available by the insurer under the insured's motor ←**§**

161hu **Ŝ→ vehicle policy.**

161hv **(ii) The disclosure required by this Subsection (9)(h) shall be sent to all insureds**
 161hw **that carry underinsured motorist coverage limits in an amount less than the insured's motor**
 161hx **vehicle liability policy limits or the maximum underinsured motorist coverage limits available**
 161hy **by the insurer under the insured's motor vehicle policy.**

161hz **(10) (a) (i) Except as provided in this Subsection (10), a covered person injured**
 161ia **in a motor vehicle described in a policy that includes underinsured motorist benefits may not**
 161ib **elect to collect underinsured motorist coverage benefits from any other motor vehicle**
 161ic **insurance policy.**

161id **(ii) The limit of liability for underinsured motorist coverage for two or more**
 161ie **motor vehicles may not be added together, combined, or stacked to determine the limit of**
 161if **insurance coverage available to an injured person for any one accident.**

161ig **(iii) Subsection (10)(a)(ii) applies to all persons except a covered person**
 161ih **described under Subsections (10)(b)(i) and (ii).**

161ii **(b) (i) Except as provided in Subsection (10)(b)(ii), a covered person injured**
 161ij **while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished**
 161ik **to the covered person, the covered person's spouse, or the covered person's resident parent or**
 161il **resident sibling, may also recover benefits under any one other policy under which they are a**
 161im **covered person.**

161in **(ii) (A) A covered person may recover benefits from no more than two**
 161io **additional policies, one additional policy from each parent's household if the covered person is:**

161ip **(I) a dependent minor of parents who reside in separate households; and**

161iq **(II) injured while occupying or using a motor vehicle that is not owned, leased,**
 161ir **or furnished to the covered person, the covered person's resident parent, or the covered**
 161is **person's resident sibling.**

161it **(B) Each parent's policy under this Subsection (10)(b)(ii) is liable only for the**
 161iu **percentage of the damages that the limit of liability of each parent's policy of underinsured**
 161iv **motorist coverage bears to the total of both parents' underinsured coverage applicable to the**
 161iw **accident.**

161ix **(iii) A covered person's recovery under any available policies may not exceed**
 161iy **the full amount of damages.**

161iz **(iv) Underinsured coverage on a motor vehicle occupied at the time of an**
 161ja **accident shall be primary coverage, and the coverage elected by a person described under**
 161jb **Subsections (1)(a) and (b) shall be secondary coverage. ←Ŝ**

- 161jc **§→** (v) The primary and the secondary coverage may not be set off against the
 161jd other.
- 161je (vi) A covered person as described under Subsection (10)(b)(i) is entitled to the
 161jf highest limits of underinsured motorist coverage under only one additional policy per
 161jg household applicable to that covered person as a named insured, spouse, or relative.
- 161jh (vii) A covered injured person is not barred against making subsequent
 161ji elections if recovery is unavailable under previous elections.
- 161jj (viii) (A) As used in this section, "interpolicy stacking" means recovering
 161jk benefits for a single incident of loss under more than one insurance policy.
- 161jl (B) Except to the extent permitted by this Subsection (10), interpolicy stacking is
 161jm prohibited for underinsured motorist coverage.
- 161jn (c) Underinsured motorist coverage:
- 161jo (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
 161jp Compensation Act;
- 161jq (ii) may not be subrogated by the workers' compensation insurance carrier;
- 161jr (iii) may not be reduced by any benefits provided by workers' compensation
 161js insurance;
- 161jt (iv) may be reduced by health insurance subrogation only after the covered
 161ju person has been made whole;
- 161jv (v) may not be collected for bodily injury or death sustained by a person:
- 161jw (A) while committing a violation of Section 41-1a-1314;
- 161jx (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being
 161jy operated in violation of Section 41-1a-1314; or
- 161jz (C) while committing a felony; and
- 161ka (vi) notwithstanding Subsection (10)(c)(v), may be recovered:
- 161kb (A) for a person under 18 years of age who is injured within the scope of
 161kc Subsection (10)(c)(v) but limited to medical and funeral expenses; or
- 161kd (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
 161ke within the course and scope of the law enforcement officer's duties.
- 161kf (11) The inception of the loss under Subsection 31A-21-313(1) for underinsured
 161kg motorist claims occurs upon the date of the last liability policy payment.
- 161kh (12) (a) Within five business days after notification in a manner specified by the
 161ki department that all liability insurers have tendered their liability policy limits, the
 161kj underinsured carrier shall either: ←**§**

- 161kk **§→** (i) waive any subrogation claim the underinsured carrier may have against the
- 161kl person liable for the injuries caused in the accident; or
- 161km (ii) pay the insured an amount equal to the policy limits tendered by the liability
- 161kn carrier.
- 161ko (b) If neither option is exercised under Subsection (12)(a), the subrogation claim
- 161kp is considered to be waived by the underinsured carrier.
- 161kq (13) Except as otherwise provided in this section, a covered person may seek,
- 161kr subject to the terms and conditions of the policy, additional coverage under any policy:
- 161ks (a) that provides coverage for damages resulting from motor vehicle accidents;
- 161kt and
- 161ku (b) that is not required to conform to Section 31A-22-302. ←**§**

Legislative Review Note
as of 1-20-05 2:00 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0049

Motor Vehicle Liability Coverage Amendments

28-Jan-05

3:53 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst