

1 **UNINSURED MOTORIST AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Nelson T. Abbott**

5 Senate Sponsor: Curtis S. Bramble

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to underinsured motorist coverage.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends provisions related to the commencement of an action related to an  
13 underinsured motorist claim; and  
14 ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **31A-22-305**, as last amended by Laws of Utah 2022, Chapter 163

22 **31A-22-305.3**, as last amended by Laws of Utah 2022, Chapters 163, 198

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

25 Section 1. Section **31A-22-305** is amended to read:

26 **31A-22-305. Uninsured motorist coverage.**

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

28 (a) the named insured;

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

30 children;

31 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,  
32 who are residents of the named insured's household, including those who usually make their  
33 home in the same household but temporarily live elsewhere;

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

35 (i) referred to in the policy; or

36 (ii) owned by a self-insured; and

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

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

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

43 (ii) (A) a motor vehicle covered with lower liability limits than required by Section  
44 [31A-22-304](#); and

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

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

49 (c) a motor vehicle covered by a liability policy, but coverage for an accident is  
50 disputed by the liability insurer for more than 60 days or continues to be disputed for more than  
51 60 days; or

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

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

56 (3) Uninsured motorist coverage under Subsection [31A-22-302\(1\)\(b\)](#) provides  
57 coverage for covered persons who are legally entitled to recover damages from owners or

58 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

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

64 (i) is filed with the department;

65 (ii) is provided by the insurer;

66 (iii) waives the higher coverage;

67 (iv) need only state in this or similar language that uninsured motorist coverage  
68 provides benefits or protection to you and other covered persons for bodily injury resulting  
69 from an accident caused by the fault of another party where the other party has no liability  
70 insurance; and

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

75 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the  
76 liability coverage until the insured requests, in writing, a change of uninsured motorist  
77 coverage from that liability insurer.

78 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after  
79 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for  
80 arbitration or filed a complaint in a court of competent jurisdiction.

81 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)  
82 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

83 (d) For purposes of this Subsection (4), "new policy" means:

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

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

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

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

89 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change  
90 that increases the total number of vehicles insured by the policy, and does not include  
91 replacement, substitute, or temporary vehicles.

92 (ii) The adding of an additional motor vehicle to an existing personal lines or  
93 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

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

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

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

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

107 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,  
108 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration  
109 or filed a complaint in a court of competent jurisdiction.

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

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

112 (B) clarifies legislative intent.

113 (h) A self-insured, including a governmental entity, may elect to provide uninsured

114 motorist coverage in an amount that is less than its maximum self-insured retention under  
115 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from  
116 the chief financial officer or chief risk officer that declares the:

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

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

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

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

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

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

133 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named  
134 insureds that carry uninsured motorist coverage limits in an amount less than the named  
135 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage  
136 limits available by the insurer under the named insured's motor vehicle policy.

137 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in  
138 a household constitutes notice or disclosure to all insureds within the household.

139 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject  
140 uninsured motorist coverage by an express writing to the insurer that provides liability  
141 coverage under Subsection [31A-22-302\(1\)\(a\)](#).

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

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

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

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

153 (c) Uninsured motorist coverage:

154 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'  
155 Compensation Act, except that the covered person is credited an amount described in  
156 Subsection [34A-2-106\(5\)](#);

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

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

163 (iv) notwithstanding Subsection [31A-1-103\(3\)\(f\)](#), may be reduced by health insurance  
164 subrogation only after the covered person has been made whole;

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

166 (A) while committing a violation of Section [41-1a-1314](#);

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

169 (C) while committing a felony; and

170 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

171 (A) for a person under 18 years old who is injured within the scope of Subsection  
172 (5)(c)(v) but limited to medical and funeral expenses; or

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

175 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under  
176 Section 41-1a-102.

177 (6) When a covered person alleges that an uninsured motor vehicle under Subsection  
178 (2)(b) proximately caused an accident without touching the covered person or the motor  
179 vehicle occupied by the covered person, the covered person shall show the existence of the  
180 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered  
181 person's testimony.

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

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

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

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

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

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

196 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,  
197 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if

198 the motor vehicle is described in the policy under which a claim is made, or if the motor  
199 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.  
200 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a  
201 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to  
202 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy  
203 under which the person is a covered person.

204 (b) Each of the following persons may also recover uninsured motorist benefits under  
205 any one other policy in which they are described as a "covered person" as defined in Subsection  
206 (1):

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

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

210 (A) to the covered person;

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

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

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

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

216 (B) injured while occupying or using a motor vehicle that is not owned, leased, or  
217 furnished:

218 (I) to the covered person;

219 (II) to the covered person's resident parent; or

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

221 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of  
222 the damages that the limit of liability of each parent's policy of uninsured motorist coverage  
223 bears to the total of both parents' uninsured coverage applicable to the accident.

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



226 (e) A covered person in Subsection (8)(b) is not barred against making subsequent  
227 elections if recovery is unavailable under previous elections.

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

230 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),  
231 interpolicy stacking is prohibited for uninsured motorist coverage.

232 (9) (a) When a claim is brought by a named insured or a person described in  
233 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the  
234 claimant may elect to resolve the claim:

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

236 (ii) through litigation.

237 (b) Unless otherwise provided in the policy under which uninsured benefits are  
238 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that  
239 if the policy under which insured benefits are claimed provides that either an insured or the  
240 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to  
241 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

242 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),  
243 the claimant may not elect to resolve the claim through binding arbitration under this section  
244 without the written consent of the uninsured motorist carrier.

245 (d) For purposes of the statute of limitations applicable to a claim described in  
246 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the  
247 claim is considered filed when the claimant submits the claim to binding arbitration in  
248 accordance with this Subsection (9).

249 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
250 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

251 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

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

254 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):  
255 (i) each side shall select one arbitrator; and  
256 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional  
257 arbitrator to be included in the panel.

258 (g) Unless otherwise agreed to in writing:  
259 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
260 under Subsection (9)(e)(i); or  
261 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):  
262 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and  
263 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected  
264 under Subsection (9)(f)(ii).

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

268 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
269 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
270 Subsections (10)(a) through (c) are satisfied.

271 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure  
272 shall be determined based on the claimant's specific monetary amount in the written demand  
273 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

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

276 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

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

279 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may  
280 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,  
281 including applicable uninsured motorist umbrella policies.

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

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

- 288 (i) whether the claimant is a covered person;
- 289 (ii) whether the policy extends coverage to the loss; or
- 290 (iii) any allegations or claims asserting consequential damages or bad faith liability.

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

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

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

- 298 (i) the award was procured by corruption, fraud, or other undue means;
- 299 (ii) either party, within 20 days after service of the arbitration award:
  - 300 (A) files a complaint requesting a trial de novo in the district court; and
  - 301 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
  - 302 under Subsection (9)(p)(ii)(A).

303 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim  
304 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules  
305 of Evidence in the district court.

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

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

310 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

311 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested  
312 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration  
313 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

314 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)  
315 shall include:

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

317 (B) the costs of expert witnesses and depositions.

318 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless  
319 Subsection (10)(h)(iii) applies.

320 (s) For purposes of determining whether a party's verdict is greater or less than the  
321 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief  
322 granted on a claim for damages if the claim for damages:

323 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

324 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
325 Procedure.

326 (t) If a district court determines, upon a motion of the nonmoving party, that the  
327 moving party's use of the trial de novo process was filed in bad faith in accordance with  
328 Section [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving  
329 party.

330 (u) Nothing in this section is intended to limit any claim under any other portion of an  
331 applicable insurance policy.

332 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the  
333 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist  
334 carriers.

335 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured  
336 motorist benefits to binding arbitration or files litigation, the covered person shall provide to  
337 the uninsured motorist carrier:

338 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

339 (A) subject to Subsection [~~(10)(m)~~], (10)(l), the specific monetary amount of the  
340 demand, including a computation of the covered person's claimed past medical expenses,  
341 claimed past lost wages, and the other claimed past economic damages; and

342 (B) the factual and legal basis and any supporting documentation for the demand;

343 (ii) a written statement under oath disclosing:

344 (A) (I) the names and last known addresses of all health care providers who have  
345 rendered health care services to the covered person that are material to the claims for which  
346 uninsured motorist benefits are sought for a period of five years preceding the date of the event  
347 giving rise to the claim for uninsured motorist benefits up to the time the election for  
348 arbitration or litigation has been exercised; and

349 (II) the names and last known addresses of the health care providers who have rendered  
350 health care services to the covered person, which the covered person claims are immaterial to  
351 the claims for which uninsured motorist benefits are sought, for a period of five years  
352 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the  
353 time the election for arbitration or litigation has been exercised that have not been disclosed  
354 under Subsection (10)(a)(ii)(A)(I);

355 (B) (I) the names and last known addresses of all health insurers or other entities to  
356 whom the covered person has submitted claims for health care services or benefits material to  
357 the claims for which uninsured motorist benefits are sought, for a period of five years  
358 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the  
359 time the election for arbitration or litigation has been exercised; and

360 (II) the names and last known addresses of the health insurers or other entities to whom  
361 the covered person has submitted claims for health care services or benefits, which the covered  
362 person claims are immaterial to the claims for which uninsured motorist benefits are sought,  
363 for a period of five years preceding the date of the event giving rise to the claim for uninsured  
364 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

365 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all

366 employers of the covered person for a period of five years preceding the date of the event  
367 giving rise to the claim for uninsured motorist benefits up to the time the election for  
368 arbitration or litigation has been exercised;

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

370 (E) all state and federal statutory lienholders including a statement as to whether the  
371 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
372 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,  
373 or if the claim is subject to any other state or federal statutory liens; and

374 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records  
375 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),  
376 (B)(I), and (C).

377 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed  
378 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably  
379 necessary, the uninsured motorist carrier may:

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

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

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

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

387 (B) either the covered person or the uninsured motorist carrier may request the  
388 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be  
389 provided if the covered person has elected arbitration.

390 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of  
391 the dispute concerning the disclosure and production of records of the health care providers or  
392 health care insurers.

393 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice

394 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection  
395 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and  
396 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

397 (A) provide a written response to the written demand for payment provided for in  
398 Subsection (10)(a)(i);

399 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the  
400 uninsured motorist carrier's determination of the amount owed to the covered person; and

401 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
402 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's  
403 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,  
404 tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed  
405 to the covered person less:

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

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

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

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

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

418 (ii) elect to:

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

421 (B) continue to litigate or arbitrate the remaining claim in accordance with the election

422 made under Subsections [~~(9)(a), (b), and~~] (9)(a) through (c).

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

427 (f) In an arbitration proceeding on the remaining uninsured claims:

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

430 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits  
431 provided by the policy.

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

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

439 (ii) any of the following applicable costs:

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

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

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

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

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

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

449 (iii) The award of costs by the arbitrator or arbitration panel under Subsection



450 (10)(g)(ii) may not exceed \$5,000.

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

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

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

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

460 (l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect  
461 the covered person's requirement to provide a computation of any other economic damages  
462 claimed, and the one or more respondents shall have a reasonable time after the receipt of the  
463 computation of any other economic damages claimed to conduct fact and expert discovery as to  
464 any additional damages claimed.

465 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
466 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim  
467 submitted to binding arbitration or through litigation on or after May 13, 2014.

468 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
469 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to  
470 binding arbitration or through litigation on or after May 13, 2014.

471 (11) (a) Notwithstanding Section [31A-21-313](#), an action on a written policy or contract  
472 for uninsured motorist coverage shall be commenced within four years after the inception of  
473 loss.

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

476 Section 2. Section [31A-22-305.3](#) is amended to read:

477 **[31A-22-305.3](#). Underinsured motorist coverage.**

478 (1) As used in this section:

479 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

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

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

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

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

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

489 (I) a named insured;

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

491 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

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

512 (i) is filed with the department;

513 (ii) is provided by the insurer;

514 (iii) waives the higher coverage;

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

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

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

526 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after  
527 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for  
528 arbitration or filed a complaint in a court of competent jurisdiction.

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

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

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

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

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

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

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

549 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,  
550 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or  
551 filed a complaint in a court of competent jurisdiction.

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

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

554 (B) clarifies legislative intent.

555 (h) A self-insured, including a governmental entity, may elect to provide underinsured  
556 motorist coverage in an amount that is less than its maximum self-insured retention under  
557 Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the  
558 chief financial officer or chief risk officer that declares the:

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

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

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

- 562 (i) \$10,000 for one person in any one accident; and  
563 (ii) at least \$20,000 for two or more persons in any one accident.
- 564 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the  
565 underinsured motorist coverage until the named insured, in writing, requests different  
566 underinsured motorist coverage from the insurer.
- 567 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection  
568 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor  
569 vehicle, as described in Subsection (1).
- 570 (ii) Underinsured motorist coverage may not be set off against the liability coverage of  
571 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,  
572 or stacked upon the liability coverage of the owner or operator of the underinsured motor  
573 vehicle to determine the limit of coverage available to the injured person.
- 574 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for  
575 policies existing on that date, the insurer shall disclose in the same medium as the premium  
576 renewal notice, an explanation of:
- 577 (A) the purpose of underinsured motorist coverage in the same manner as described in  
578 Subsection (3)(b)(iv); and
- 579 (B) a disclosure of the additional premiums required to purchase underinsured motorist  
580 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
581 liability coverage or the maximum underinsured motorist coverage limits available by the  
582 insurer under the named insured's motor vehicle policy.
- 583 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named  
584 insureds that carry underinsured motorist coverage limits in an amount less than the named  
585 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage  
586 limits available by the insurer under the named insured's motor vehicle policy.
- 587 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured  
588 in a household constitutes notice or disclosure to all insureds within the household.
- 589 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a

590 motor vehicle described in a policy that includes underinsured motorist benefits may not elect  
591 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

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

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

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

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

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

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

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

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

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

617 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is

618 primary coverage, and the coverage elected by a person described under Subsections  
619 31A-22-305(1)(a), (b), and (c) is secondary coverage.

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

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

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

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

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

630 (c) Underinsured motorist coverage:

631 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'  
632 Compensation Act, except that the covered person is credited an amount described in  
633 Subsection 34A-2-106(5);

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

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

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

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

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

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

646 (C) while committing a felony; and

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

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

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

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

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

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

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

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

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

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

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

669 (ii) through litigation.

670 (b) Unless otherwise provided in the policy under which underinsured benefits are  
671 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that  
672 if the policy under which insured benefits are claimed provides that either an insured or the  
673 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to



674 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

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

678 (d) For purposes of the statute of limitations applicable to a claim described in  
679 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the  
680 claim is considered filed when the claimant submits the claim to binding arbitration in  
681 accordance with this Subsection (8).

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

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

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

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

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

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

691 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

701 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),

702 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
703 Subsections (9)(a) through (c) are satisfied.

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

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

709 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

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

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

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

719 (m) The arbitrator or arbitration panel may not decide an issue of coverage or  
720 extra-contractual damages, including:

721 (i) whether the claimant is a covered person;

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

723 (iii) an allegation or claim asserting consequential damages or bad faith liability.

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

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

729 (p) An arbitration award issued under this section shall be the final resolution of all

730 claims not excluded by Subsection (8)(m) between the parties unless:

731 (i) the award is procured by corruption, fraud, or other undue means; or

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

733 (A) files a complaint requesting a trial de novo in the district court; and

734 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo

735 under Subsection (8)(p)(ii)(A).

736 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall

737 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of

738 Evidence in the district court.

739 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may

740 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

741 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection

742 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the

743 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

744 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested

745 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration

746 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

747 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)

748 shall include:

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

750 (B) the costs of expert witnesses and depositions.

751 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless

752 Subsection (9)(h)(iii) applies.

753 (s) For purposes of determining whether a party's verdict is greater or less than the

754 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief

755 granted on a claim for damages if the claim for damages:

756 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

757 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil

758 Procedure.

759 (t) If a district court determines, upon a motion of the nonmoving party, that a moving  
760 party's use of the trial de novo process is filed in bad faith in accordance with Section  
761 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

762 (u) Nothing in this section is intended to limit a claim under another portion of an  
763 applicable insurance policy.

764 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),  
765 the claimant may elect to arbitrate in one hearing the claims against all the underinsured  
766 motorist carriers.

767 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured  
768 motorist benefits to binding arbitration or files litigation, the covered person shall provide to  
769 the underinsured motorist carrier:

770 (i) a written demand for payment of underinsured motorist coverage benefits, setting  
771 forth:

772 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,  
773 including a computation of the covered person's claimed past medical expenses, claimed past  
774 lost wages, and all other claimed past economic damages; and

775 (B) the factual and legal basis and any supporting documentation for the demand;

776 (ii) a written statement under oath disclosing:

777 (A) (I) the names and last known addresses of all health care providers who have  
778 rendered health care services to the covered person that are material to the claims for which the  
779 underinsured motorist benefits are sought for a period of five years preceding the date of the  
780 event giving rise to the claim for underinsured motorist benefits up to the time the election for  
781 arbitration or litigation has been exercised; and

782 (II) the names and last known addresses of the health care providers who have rendered  
783 health care services to the covered person, which the covered person claims are immaterial to  
784 the claims for which underinsured motorist benefits are sought, for a period of five years  
785 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to

786 the time the election for arbitration or litigation has been exercised that have not been disclosed  
787 under Subsection (9)(a)(ii)(A)(I);

788 (B) (I) the names and last known addresses of all health insurers or other entities to  
789 whom the covered person has submitted claims for health care services or benefits material to  
790 the claims for which underinsured motorist benefits are sought, for a period of five years  
791 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to  
792 the time the election for arbitration or litigation has been exercised; and

793 (II) the names and last known addresses of the health insurers or other entities to whom  
794 the covered person has submitted claims for health care services or benefits, which the covered  
795 person claims are immaterial to the claims for which underinsured motorist benefits are sought,  
796 for a period of five years preceding the date of the event giving rise to the claim for  
797 underinsured motorist benefits up to the time the election for arbitration or litigation have not  
798 been disclosed;

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

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

804 (E) all state and federal statutory lienholders including a statement as to whether the  
805 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
806 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,  
807 or if the claim is subject to any other state or federal statutory liens; and

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

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

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

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

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

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

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

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

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

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

833 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the  
834 underinsured motorist carrier's determination of the amount owed to the covered person; and

835 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
836 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's  
837 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,  
838 tender the amount, if any, of the underinsured motorist carrier's determination of the amount  
839 owed to the covered person less:

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

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

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

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

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

852 (ii) elect to:

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

855 (B) continue to litigate or arbitrate the remaining claim in accordance with the election  
856 made under Subsections [~~(8)(a), (b), and~~] (8)(a) through (c).

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

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

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

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

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

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

873 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

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

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

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

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

895 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the  
896 covered person's requirement to provide a computation of any other economic damages  
897 claimed, and the one or more respondents shall have a reasonable time after the receipt of the



898 computation of any other economic damages claimed to conduct fact and expert discovery as to  
899 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,  
900 Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A)  
901 apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

902 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter  
903 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to  
904 binding arbitration or through litigation on or after May 13, 2014.