

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 354

Introduced by Raybould, 28.

Read first time January 12, 2023

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to amend section 44-6412,
- 2 Reissue Revised Statutes of Nebraska; to change underinsured motor
- 3 vehicle insurance provisions relating to offers and agreements to
- 4 settle; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-6412, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-6412 (1) In the event of payment under the uninsured or
4 underinsured motorist coverage, the insurer making such payment shall, to
5 the extent of such payment, be entitled to the proceeds of any settlement
6 or judgment to the extent such settlement or judgment exceeds the amount
7 paid under any applicable bodily injury liability policy or bond.

8 (2) If a tentative agreement to settle for liability limits has been
9 reached with the owner or operator of an underinsured motor vehicle,
10 written notice shall be given by certified or registered mail to the
11 underinsured motorist coverage insurer by its insured. Such notice shall
12 include written documentation of lost wages, medical bills, and written
13 authorization to obtain reports from all employers and medical providers.
14 Within thirty days of receipt of such notice, the underinsured motorist
15 coverage insurer may substitute its payment to the insured for the
16 tentative settlement amount. The underinsured motorist coverage insurer
17 shall then be subrogated to the insured's right of recovery to the extent
18 of such payment and any settlement under the underinsured motorist
19 coverage. If the underinsured motorist coverage insurer fails to pay the
20 insured the amount of the tentative settlement within thirty days of
21 receipt of such notice, the underinsured motorist coverage insurer shall
22 have no right of subrogation for any amount paid under the underinsured
23 motorist coverage.

24 (3) Subsection (2) of this section shall not prohibit an individual
25 covered by an uninsured or underinsured motorist policy from making an
26 offer to settle pursuant to section 45-103.02 for the full amount of the
27 underlying liability limits. Such an offer to settle may be made without
28 providing prior notice to the insured's uninsured or underinsured
29 motorist insurer. If an offer to settle pursuant to section 45-103.02 is
30 accepted by the liability insurer, the uninsured or underinsured motorist
31 insurer shall be provided notice and the opportunity to substitute its

1 payment pursuant to subsection (2) of this section prior to any payment
2 by the liability insurer.

3 (4) ~~(3)~~ Whenever an insurer makes payment under uninsured or
4 underinsured motorist coverage because of an insurer insolvency, as
5 described in section 44-2403, the paying insurer's right of recovery or
6 reimbursement shall not include any rights either against the insured of
7 such insolvent insurer, except for the amount which is in excess of the
8 limits of liability of the policy of the insolvent insurer, or against a
9 guaranty account established pursuant to the Nebraska Property and
10 Liability Insurance Guaranty Association Act.

11 Sec. 2. Original section 44-6412, Reissue Revised Statutes of
12 Nebraska, is repealed.