

Representative Nelson T. Abbott proposes the following substitute bill:

MOTOR VEHICLE INSURANCE MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to uninsured and underinsured motorist coverage.

Highlighted Provisions:

This bill:

► clarifies that certain benefits related to the Utah Labor Commission do not need to be exhausted before uninsured or underinsured motorist coverage can be paid.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327

31A-22-305.3, as last amended by Laws of Utah 2023, Chapters 69, 327

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

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

31A-22-305. Uninsured motorist coverage.



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

27 (a) the named insured;

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

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

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

34 (i) referred to in the policy; or

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

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

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

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

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

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

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

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

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

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

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

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

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

63 (i) is filed with the department;

64 (ii) is provided by the insurer;

65 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

111 (B) clarifies legislative intent.

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

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

117 (ii) process for filing an uninsured motorist claim.

118 (i) Uninsured motorist coverage may not be sold with limits that are less than the

119 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

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

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

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

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

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

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

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

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

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

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

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

152 (c) Uninsured motorist coverage:

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

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

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

163 (B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before an
164 uninsured motorist claim may be pursued and resolved;

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

168 (iii) may not be reduced by any benefits provided by the workers' compensation
169 insurance carrier, uninsured employer, the Uninsured Employers Fund created in Section
170 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

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

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

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

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

177 (C) while committing a felony; and

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

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

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

183 (d) As used in this Subsection (5), "motor vehicle" [~~has the same meaning as under~~]
184 means the same as that term is defined in Section 41-1a-102.

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

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

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

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

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

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

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

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

212 (b) Each of the following persons may also recover uninsured motorist benefits under
213 any one other policy in which they are described as a "covered person" as defined in Subsection
214 (1):

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

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

218 (A) to the covered person;

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

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

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

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

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

226 (I) to the covered person;

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

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

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

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

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

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

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

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

243 (i) by submitting the claim to binding arbitration; or
244 (ii) through litigation.

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

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

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

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

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

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

262 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

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

264 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
265 arbitrator to be included in the panel.

266 (g) Unless otherwise agreed to in writing:

267 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
268 under Subsection (9)(e)(i); or

269 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

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

271 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
272 under Subsection (9)(f)(ii).

273 (h) Except as otherwise provided in this section or unless otherwise agreed to in

274 writing by the parties, an arbitration proceeding conducted under this section shall be governed
275 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

276 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
277 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
278 Subsections (10)(a) through (c) are satisfied.

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

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

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

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

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

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

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

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

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

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

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

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

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

305 claims not excluded by Subsection (9)(m) between the parties unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

334 (t) If a district court determines, upon a motion of the nonmoving party, that the
335 moving party's use of the trial de novo process was filed in bad faith in accordance with

336 Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving
337 party.

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

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

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

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

347 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,
348 including a computation of the covered person's claimed past medical expenses, claimed past
349 lost wages, and the other claimed past economic damages; and

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

351 (ii) a written statement under oath disclosing:

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

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

363 (B) (I) the names and last known addresses of all health insurers or other entities to
364 whom the covered person has submitted claims for health care services or benefits material to
365 the claims for which uninsured motorist benefits are sought, for a period of five years
366 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the

367 time the election for arbitration or litigation has been exercised; and

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

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

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

378 (E) all state and federal statutory lienholders including a statement as to whether the
379 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
380 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
381 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

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

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

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

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

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

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

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

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

401 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
402 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
403 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
404 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

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

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

409 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
410 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
411 Children's Health Insurance Program, or if the claim is subject to any other state or federal
412 statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of
413 the amount owed to the covered person less:

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

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

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

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

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

426 (ii) elect to:

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

429 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
430 made under Subsections (9)(a) through (c).

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

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

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

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

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

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

447 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

459 (i) (i) A covered person shall disclose all material information, other than rebuttal

460 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist
461 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

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

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

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

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

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

476 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
477 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
478 binding arbitration or through litigation on or after May 13, 2014.

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

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

483 Section 2. Section 31A-22-305.3 is amended to read:

484 **31A-22-305.3. Underinsured motorist coverage.**

485 (1) As used in this section:

486 (a) "Covered person" [~~has the same meaning as~~] means the same as that term is defined
487 in Section 31A-22-305.

488 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
489 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
490 occurrence, but which has insufficient liability coverage to compensate fully the injured party

491 for all special and general damages.

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

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

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

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

497 (I) a named insured;

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

499 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

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

520 (i) is filed with the department;

521 (ii) is provided by the insurer;

522 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

550 (B) encourages the named insured to contact the insurance company or insurance
551 producer for quotes as to the additional premiums required to purchase underinsured motorist
552 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle

553 liability coverage or the maximum underinsured motorist coverage limits available by the
554 insurer under the named insured's motor vehicle policy.

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

557 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
558 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
559 filed a complaint in a court of competent jurisdiction.

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

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

562 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

584 renewal notice, an explanation of:

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

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

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

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

597 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
598 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
599 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

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

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

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

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

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

615 (I) a dependent minor of parents who reside in separate households; and
616 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
617 furnished to the covered person, the covered person's resident parent, or the covered person's
618 resident sibling.

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

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

625 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
626 primary coverage, and the coverage elected by a person described under Subsections
627 [31A-22-305\(1\)\(a\), \(b\), and \(c\)](#) is secondary coverage.

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

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

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

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

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

638 (c) Underinsured motorist coverage:

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

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

646 created in Section 34A-2-702, except that:

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

648 and

649 (B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before an
650 underinsured motorist claim may be pursued and resolved.

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

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

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

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

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

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

663 (C) while committing a felony; and

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

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

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

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

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

675 (6) An underinsured motorist insurer does not have a right of reimbursement against a
676 person liable for the damages resulting from an injury-causing occurrence if the person's

677 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

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

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

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

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

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

686 (ii) through litigation.

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

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

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

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

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

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

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

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

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

- 708 (g) Unless otherwise agreed to in writing:
- 709 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
710 under Subsection (8)(e)(i); or
- 711 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
- 712 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
- 713 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
714 under Subsection (8)(f)(ii).
- 715 (h) Except as otherwise provided in this section or unless otherwise agreed to in
716 writing by the parties, an arbitration proceeding conducted under this section is governed by
717 Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 718 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
719 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
720 Subsections (9)(a) through (c) are satisfied.
- 721 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
722 shall be determined based on the claimant's specific monetary amount in the written demand
723 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).
- 724 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
725 arbitration claims under this part.
- 726 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.
- 727 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
728 constitutes a final decision.
- 729 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
730 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
731 including applicable underinsured motorist umbrella policies.
- 732 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
733 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
734 equal to the combined underinsured motorist policy limits of all applicable underinsured
735 motorist policies.
- 736 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
737 extra-contractual damages, including:
- 738 (i) whether the claimant is a covered person;

- 739 (ii) whether the policy extends coverage to the loss; or
740 (iii) an allegation or claim asserting consequential damages or bad faith liability.
- 741 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
742 class-representative basis.
- 743 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
744 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
745 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.
- 746 (p) An arbitration award issued under this section shall be the final resolution of all
747 claims not excluded by Subsection (8)(m) between the parties unless:
- 748 (i) the award is procured by corruption, fraud, or other undue means; or
749 (ii) either party, within 20 days after service of the arbitration award:
750 (A) files a complaint requesting a trial de novo in the district court; and
751 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
752 under Subsection (8)(p)(ii)(A).
- 753 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall
754 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of
755 Evidence in the district court.
- 756 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
757 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).
- 758 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
759 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
760 arbitration award, the claimant is responsible for all of the nonmoving party's costs.
- 761 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
762 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
763 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.
- 764 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
765 shall include:
- 766 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
767 (B) the costs of expert witnesses and depositions.
- 768 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
769 Subsection (9)(h)(iii) applies.

770 (s) For purposes of determining whether a party's verdict is greater or less than the
771 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief
772 granted on a claim for damages if the claim for damages:

773 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
774 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
775 Procedure.

776 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
777 party's use of the trial de novo process is filed in bad faith in accordance with Section
778 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

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

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

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

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

793 (ii) a written statement under oath disclosing:

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

799 (II) the names and last known addresses of the health care providers who have rendered
800 health care services to the covered person, which the covered person claims are immaterial to

801 the claims for which underinsured motorist benefits are sought, for a period of five years
802 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
803 the time the election for arbitration or litigation has been exercised that have not been disclosed
804 under Subsection (9)(a)(ii)(A)(I);

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

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

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

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

821 (E) all state and federal statutory lienholders including a statement as to whether the
822 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
823 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
824 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

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

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

831 (A) make a request for the disclosure of the identity of the health care providers or

832 health care insurers; and

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

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

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

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

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

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

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

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

852 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
853 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
854 Children's Health Insurance Program, or if the claim is subject to any other state or federal
855 statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of
856 the amount owed to the covered person less:

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

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

862 (ii) If the amount tendered by the underinsured motorist carrier under Subsection

863 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
864 shall be accepted by the covered person.

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

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

869 (ii) elect to:

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

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

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

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

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

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

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

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

890 (ii) any of the following applicable costs:

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

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

893 (C) the reasonable costs of expert witnesses and depositions used in the presentation of

894 evidence during arbitration or litigation.

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

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

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

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

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

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

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

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

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

919 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
920 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
921 binding arbitration or through litigation on or after May 13, 2014.

922 Section 3. **Effective date.**

923 This bill takes effect on May 1, 2024.