

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2129

AN ACT

AMENDING SECTION 20-259.01, ARIZONA REVISED STATUTES; RELATING TO MOTOR
VEHICLE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-259.01, Arizona Revised Statutes, is amended to
3 read:

4 20-259.01. Motor vehicle liability policy: uninsured optional;
5 underinsured optional: subrogation: medical
6 payments liens: definitions

7 A. Every insurer writing automobile liability or motor vehicle
8 liability policies shall make available to the named insured thereunder and
9 by written notice offer the insured and at the request of the insured shall
10 include within the policy uninsured motorist coverage ~~which~~ THAT extends to
11 and covers all persons insured under the policy, in limits not less than the
12 liability limits for bodily injury or death contained within the policy. The
13 selection of limits or rejection of coverage by a named insured or applicant
14 on a form approved by the director is valid for all insureds under the
15 policy. AN INSURANCE PRODUCER THAT USES SUCH A FORM IN OFFERING UNINSURED
16 MOTORIST COVERAGE AND CONFIRMING THE SELECTION OF LIMITS OR REJECTION OF
17 COVERAGE BY A NAMED INSURED OR APPLICANT SATISFIES THE INSURANCE PRODUCER'S
18 STANDARD OF CARE IN OFFERING AND EXPLAINING THE NATURE AND APPLICABILITY OF
19 UNINSURED MOTORIST COVERAGE. A NAMED INSURED'S SELECTION OF LIMITS OR
20 REJECTION OF UNINSURED MOTORIST COVERAGE ON A FORM APPROVED BY THE DIRECTOR
21 CONSTITUTES THE FINAL EXPRESSION OF THE NAMED INSURED'S DECISION TO PURCHASE
22 OR REJECT UNINSURED MOTORIST COVERAGE. The completion of such form is not
23 required where the insured purchases such coverage in an amount equal to the
24 limits for bodily injury or death contained in the policy. The offer need
25 not be made in the event of the reinstatement of a lapsed policy or the
26 transfer, substitution, modification or renewal of an existing policy. At
27 the request of the insured, the insured may purchase and the insurer shall
28 then include within the policy uninsured motorist coverage that extends to
29 and covers all persons insured under the policy in any amount up to the
30 liability limits for bodily injury or death contained within the policy but
31 not less than the limits prescribed in section 28-4009.

32 B. Every insurer writing automobile liability or motor vehicle
33 liability policies shall also make available to the named insured thereunder
34 and shall by written notice offer the insured and at the request of the
35 insured shall include within the policy underinsured motorist coverage ~~which~~
36 THAT extends to and covers all persons insured under the policy, in limits
37 not less than the liability limits for bodily injury or death contained
38 within the policy. The selection of limits or rejection of coverage by a
39 named insured or applicant on a form approved by the director shall be valid
40 for all insureds under the policy. AN INSURANCE PRODUCER THAT USES SUCH A
41 FORM IN OFFERING UNDERINSURED MOTORIST COVERAGE AND CONFIRMING THE SELECTION
42 OF LIMITS OR REJECTION OF COVERAGE BY A NAMED INSURED OR APPLICANT SATISFIES
43 THE INSURANCE PRODUCER'S STANDARD OF CARE IN OFFERING AND EXPLAINING THE
44 NATURE AND APPLICABILITY OF UNDERINSURED MOTORIST COVERAGE. A NAMED
45 INSURED'S SELECTION OF LIMITS OR REJECTION OF UNDERINSURED MOTORIST COVERAGE

1 ON A FORM APPROVED BY THE DIRECTOR CONSTITUTES THE FINAL EXPRESSION OF THE
2 NAMED INSURED'S DECISION TO PURCHASE OR REJECT UNDERINSURED MOTORIST
3 COVERAGE. The completion of such form is not required where the insured
4 purchases such coverage in an amount equal to the limits for bodily injury or
5 death contained in the policy. The offer need not be made in the event of
6 the reinstatement of a lapsed policy or the transfer, substitution,
7 modification or renewal of an existing policy. At the request of the
8 insured, the insured may purchase and the insurer shall then include within
9 the policy underinsured motorist coverage that extends to and covers all
10 persons insured under the policy in any amount authorized by the insured up
11 to the liability limits for bodily injury or death contained within the
12 policy.

13 C. Any insurer writing automobile liability or motor vehicle liability
14 policies may make available the coverages required by subsections A and B of
15 this section to owners and operators of motor vehicles that are used as
16 public or livery conveyances or rented to others or that are used in the
17 business primarily to transport property or equipment. ~~The provisions of~~
18 Subsections A and B of this section ~~shall~~ DO not preclude an insurer writing
19 automobile liability or motor vehicle liability policies in this state from
20 requiring that all motor vehicles that are owned by or registered to the
21 named insured and that are insured by the same insurer or group of insurers
22 under a common management have the same limits of coverage for uninsured and
23 underinsured motorist coverage in amounts as selected or rejected by the
24 named insured.

25 D. "Uninsured motor vehicles", subject to the terms and conditions of
26 that coverage, includes any insured motor vehicle if the liability insurer of
27 the vehicle is unable to make payment on the liability of its insured, within
28 the limits of the coverage, because of insolvency.

29 E. "Uninsured motorist coverage", subject to the terms and conditions
30 of that coverage, means coverage for damages due to bodily injury or death if
31 the motor vehicle that caused the bodily injury or death is not insured by a
32 motor vehicle liability policy that contains at least the limits prescribed
33 in section 28-4009. For the purposes of uninsured motorist coverage, an
34 uninsured motorist does not include a person who is insured under a motor
35 vehicle liability policy that complies with section 28-4009.

36 F. Any payment made under the bodily injury liability portion of a
37 motor vehicle liability policy insuring the motor vehicle that caused the
38 bodily injury or death in an amount equal to or less than the per person or
39 per occurrence bodily injury limits of that policy, regardless of the number
40 of persons receiving payments, precludes any payment under the uninsured
41 motorist coverage based ~~upon~~ ON the fault of the person who is insured under
42 the motor vehicle liability policy.

43 G. "Underinsured motorist coverage" includes coverage for a person if
44 the sum of the limits of liability under all bodily injury or death liability
45 bonds and liability insurance policies applicable at the time of the accident

1 is less than the total damages for bodily injury or death resulting from the
2 accident. To the extent that the total damages exceed the total applicable
3 liability limits, the underinsured motorist coverage provided in subsection B
4 of this section is applicable to the difference.

5 H. Uninsured and underinsured motorist coverages are separate and
6 distinct and apply to different accident situations. Underinsured motorist
7 coverage shall not provide coverage for a claim against an uninsured motorist
8 in addition to any applicable uninsured motorist coverage. If multiple
9 policies or coverages purchased by one insured on different vehicles apply to
10 an accident or claim, the insurer may limit the coverage so that only one
11 policy or coverage, selected by the insured, shall be applicable to any one
12 accident. If the policy does not contain a statement that informs the
13 insured of the insured's right to select one policy or coverage as required
14 by this subsection, within thirty days after the insurer receives notice of
15 an accident, the insurer shall notify the insured in writing of the insured's
16 right to select one policy or coverage. For the purposes of this subsection,
17 "insurer" includes every insurer within a group of insurers under a common
18 management.

19 I. Insurers that make payments for damages to insureds for uninsured
20 motorist coverage may subrogate and sue for reimbursement of the total amount
21 of the payments in the name of the insured against any uninsured motorist
22 responsible for the damages to the insured.

23 J. Any automobile liability or motor vehicle liability insurer that
24 makes a payment under the medical payments coverage of a motor vehicle
25 insurance policy to or on behalf of any insured for an injury that arises out
26 of an accident that occurs after December 31, 1998 may have a lien against
27 any amount in excess of five thousand dollars that is paid to or on behalf of
28 that insured under the medical payments coverage of the policy for that
29 accident. The insurer shall compromise the lien in a fair and equitable
30 manner. In order to perfect a lien granted pursuant to this subsection,
31 within sixty days after issuing a payment that is more than five thousand
32 dollars to the insured under medical payments coverage, the insurer or the
33 insurer's authorized representative shall record in the office of the
34 recorder of the county in which the accident occurred a written statement
35 that sets forth the name and address of the insured as they appear in the
36 records of the insurer, the name and address of the insurer at the insurer's
37 principal office in this state, the amount claimed pursuant to this
38 subsection and, to the best of the insurer's knowledge, the names and
39 addresses of all persons, firms and corporations and their insurance carriers
40 that the insured or the insured's legal representative alleges are liable for
41 damages arising from the accident. Within five days after recording the
42 lien, the insurer shall also mail a copy of the lien, postage prepaid, to the
43 insured and to each person, firm and corporation and their insurance carriers
44 alleged to be liable for damages at the address given in the statement. The
45 recording of the lien is notice of the lien to all persons, firms and

1 corporations that are liable for damages regardless of whether they are named
2 in the lien. The recorder shall endorse on the lien recorded pursuant to
3 this subsection the date and hour of receipt and all facts that are necessary
4 to indicate that the lien has been recorded. The lien may be amended to
5 reflect payments to the insured made after the lien is recorded. Within
6 thirty days after the lien is satisfied, the lienholder shall issue and
7 record a release of the lien.

8 K. Any common law prohibition against assignments of causes of action
9 for personal injuries is abrogated to the extent provided in subsection I of
10 this section.

11 L. An insurer is not required to offer, provide or make available
12 coverage conforming to this section in connection with any general commercial
13 liability policy, excess policy, umbrella policy or other policy that does
14 not provide primary motor vehicle insurance for liabilities arising out of
15 the ownership, maintenance, operation or use of a specifically insured motor
16 vehicle.

17 M. If an insured makes a bodily injury or death claim under uninsured
18 or underinsured motorist coverage based on an accident that involved an
19 unidentified motor vehicle and no physical contact with the motor vehicle
20 occurred, the insured shall provide corroboration that the unidentified motor
21 vehicle caused the accident. For the purposes of this subsection,
22 "corroboration" means any additional and confirming testimony, fact or
23 evidence that strengthens and adds weight or credibility to the insured's
24 representation of the accident.