

SENATE BILL 553

C4
SB 614/15 – FIN

6lr1339
CF HB 667

By: **Senators Astle, Benson, Feldman, Klausmeier, Manno, and Ramirez**

Introduced and read first time: February 4, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured**
3 **Motorist Coverage**

4 FOR the purpose of authorizing a certain insured to elect to obtain certain enhanced
5 underinsured motorist coverage, instead of certain uninsured motorist coverage,
6 under a private passenger motor vehicle liability insurance policy under certain
7 circumstances; requiring certain insurers to offer certain enhanced underinsured
8 motorist coverage under certain circumstances; providing for the characteristics of
9 the enhanced underinsured motorist coverage, including the amounts of the
10 coverage, what an insurer may exclude from the coverage, and the limits of liability
11 under the coverage; providing for waivers of certain coverage in certain manners
12 under certain circumstances; requiring an injured person and a certain insurer to
13 take certain actions regarding a certain settlement offer under certain
14 circumstances; establishing a certain exception to a certain limitation on duplicate
15 or supplemental recovery of certain benefits; defining a certain term; providing for
16 the application of this Act; and generally relating to private passenger motor vehicle
17 liability insurance and enhanced underinsured motorist coverage.

18 BY renumbering

19 Article – Insurance

20 Section 19–509.1

21 to be Section 19–509.2

22 Annotated Code of Maryland

23 (2011 Replacement Volume and 2015 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Insurance

26 Section 19–509, 19–510, 19–511, and 19–513

27 Annotated Code of Maryland

28 (2011 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Insurance
3 Section 19–509.1, 19–510.1, and 19–511.1
4 Annotated Code of Maryland
5 (2011 Replacement Volume and 2015 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Insurance
8 Section 19–509.2
9 Annotated Code of Maryland
10 (2011 Replacement Volume and 2015 Supplement)
11 (As enacted by Section 1 of this Act)

12 BY repealing and reenacting, with amendments,
13 Article – Transportation
14 Section 17–103(b)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2015 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That Section(s) 19–509.1 of Article – Insurance of the Annotated Code of Maryland be
19 renumbered to be Section(s) 19–509.2.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
21 as follows:

22 **Article – Insurance**

23 19–509.

24 (a) In this section, “uninsured motor vehicle” means a motor vehicle:

25 (1) the ownership, maintenance, or use of which has resulted in the bodily
26 injury or death of an insured; and

27 (2) for which the sum of the limits of liability under all valid and collectible
28 liability insurance policies, bonds, and securities applicable to bodily injury or death:

29 (i) is less than the amount of coverage provided under this section;
30 or

31 (ii) has been reduced by payment to other persons of claims arising
32 from the same occurrence to an amount less than the amount of coverage provided under
33 this section.

34 (b) The uninsured motorist coverage required by this section does not apply to a
35 motor vehicle liability insurance policy:

1 (1) that insures a motor vehicle that:

2 [(1)] (I) is not subject to registration under § 13-402 of the
3 Transportation Article because it is not driven on a highway; or

4 [(2)] (II) is exempt from registration under § 13-402(c)(10) of the
5 Transportation Article; OR

6 **(2) WHEN THE FIRST NAMED INSURED UNDER A POLICY OR BINDER**
7 **OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS ELECTED TO**
8 **OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE UNDER § 19-509.1 OF**
9 **THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED**
10 **UNDER THIS SECTION.**

11 (c) In addition to any other coverage required by this subtitle, each motor vehicle
12 liability insurance policy issued, sold, or delivered in the State after July 1, 1975, shall
13 contain coverage for damages, subject to the policy limits, that:

14 (1) the insured is entitled to recover from the owner or operator of an
15 uninsured motor vehicle because of bodily injuries sustained in a motor vehicle accident
16 arising out of the ownership, maintenance, or use of the uninsured motor vehicle; and

17 (2) a surviving relative of the insured, who is described in § 3-904 of the
18 Courts Article, is entitled to recover from the owner or operator of an uninsured motor
19 vehicle because the insured died as the result of a motor vehicle accident arising out of the
20 ownership, maintenance, or use of the uninsured motor vehicle.

21 (d) The uninsured motorist coverage required by this section shall be in the form
22 and subject to the conditions that the Commissioner approves.

23 (e) (1) The uninsured motorist coverage contained in a motor vehicle liability
24 insurance policy:

25 (i) shall at least equal:

26 1. the amounts required by Title 17 of the Transportation
27 Article; and

28 2. the coverage provided to a qualified person under Title 20,
29 Subtitle 6 of this article; and

30 (ii) may not exceed the amount of liability coverage provided under
31 the policy.

1 (2) Unless waived in accordance with § 19–510 of this subtitle, the amount
2 of uninsured motorist coverage provided under a private passenger motor vehicle liability
3 insurance policy shall equal the amount of liability coverage provided under the policy.

4 (f) An insurer may exclude from the uninsured motorist coverage required by this
5 section benefits for:

6 (1) the named insured or a family member of the named insured who
7 resides in the named insured's household for an injury that occurs when the named insured
8 or family member is occupying or is struck as a pedestrian by an uninsured motor vehicle
9 that is owned by the named insured or an immediate family member of the named insured
10 who resides in the named insured's household; and

11 (2) the named insured, a family member of the named insured who resides
12 in the named insured's household, and any other individual who has other applicable motor
13 vehicle insurance for an injury that occurs when the named insured, family member, or
14 other individual is occupying or is struck as a pedestrian by the insured motor vehicle while
15 the motor vehicle is operated or used by an individual who is excluded from coverage under
16 § 27–609 of this article.

17 (g) The limit of liability for an insurer that provides uninsured motorist coverage
18 under this section is the amount of that coverage less the amount paid to the insured, that
19 exhausts any applicable liability insurance policies, bonds, and securities, on behalf of any
20 person that may be held liable for the bodily injuries or death of the insured.

21 (h) (1) A policy that, as its primary purpose, provides coverage in excess of
22 other valid and collectible insurance or qualified self–insurance may include the uninsured
23 motorist coverage provided for in this section.

24 (2) The uninsured motorist coverage required by this section is primary to
25 any right to recovery from the Maryland Automobile Insurance Fund under Title 20,
26 Subtitle 6 of this article.

27 (i) An endorsement or provision that protects the insured against damages
28 caused by an uninsured motor vehicle that is contained in a policy issued and delivered in
29 the State is deemed to cover damages caused by a motor vehicle insured by a liability
30 insurer that is insolvent or otherwise unable to pay claims to the same extent and in the
31 same manner as if the damages were caused by an uninsured motor vehicle.

32 (j) A provision in a motor vehicle liability insurance policy issued after July 1,
33 1975, about coverage for damages sustained by the insured as a result of the operation of
34 an uninsured motor vehicle that requires a dispute between the insured and the insurer to
35 be submitted to binding arbitration is prohibited and is of no legal effect.

36 **19–509.1.**

1 **(A) IN THIS SECTION, “UNDERINSURED MOTOR VEHICLE” MEANS A MOTOR**
2 **VEHICLE:**

3 **(1) THE OWNERSHIP, MAINTENANCE, OR USE OF WHICH HAS**
4 **RESULTED IN THE BODILY INJURY OR DEATH OF AN INSURED; AND**

5 **(2) FOR WHICH THE SUM OF THE LIMITS OF LIABILITY UNDER ALL**
6 **VALID AND COLLECTIBLE LIABILITY INSURANCE POLICIES, BONDS, AND SECURITIES**
7 **APPLICABLE TO BODILY INJURY OR DEATH:**

8 **(I) MAY BE THE SAME AS OR DIFFERENT THAN THE AMOUNT OF**
9 **COVERAGE PROVIDED UNDER THIS SECTION; OR**

10 **(II) HAS BEEN REDUCED BY PAYMENT TO OTHER PERSONS OF**
11 **CLAIMS ARISING FROM THE SAME OCCURRENCE TO AN AMOUNT THAT MAY BE THE**
12 **SAME AS OR DIFFERENT THAN THE AMOUNT OF COVERAGE PROVIDED UNDER THIS**
13 **SECTION.**

14 **(B) THE ENHANCED UNDERINSURED MOTORIST COVERAGE REQUIRED BY**
15 **THIS SECTION DOES NOT APPLY TO A MOTOR VEHICLE LIABILITY INSURANCE**
16 **POLICY:**

17 **(1) THAT INSURES A MOTOR VEHICLE THAT:**

18 **(I) IS NOT SUBJECT TO REGISTRATION UNDER § 13-402 OF THE**
19 **TRANSPORTATION ARTICLE BECAUSE IT IS NOT DRIVEN ON A HIGHWAY; OR**

20 **(II) IS EXEMPT FROM REGISTRATION UNDER § 13-402(C)(10) OF**
21 **THE TRANSPORTATION ARTICLE; OR**

22 **(2) WHEN A FIRST NAMED INSURED UNDER A POLICY OR BINDER OF**
23 **PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS NOT ELECTED TO**
24 **OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE UNDER THIS SECTION**
25 **INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF**
26 **THIS SUBTITLE.**

27 **(C) (1) THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF**
28 **PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE MAY ELECT TO**
29 **OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE INSTEAD OF THE**
30 **UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.**

31 **(2) UNLESS THE FIRST NAMED INSURED AFFIRMATIVELY MAKES A**
32 **CHANGE IN WRITING, THE ELECTION TO OBTAIN ENHANCED UNDERINSURED**

1 MOTORIST COVERAGE APPLIES TO ALL SUBSEQUENT RENEWALS OF COVERAGE AND
2 TO ALL OTHER POLICIES OR ENDORSEMENTS THAT EXTEND, CHANGE, SUPERSEDE,
3 OR REPLACE AN EXISTING PRIVATE PASSENGER MOTOR VEHICLE INSURANCE
4 POLICY ISSUED TO THE FIRST NAMED INSURED.

5 (D) IN ADDITION TO ANY OTHER COVERAGE REQUIRED BY THIS SUBTITLE,
6 EACH PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED,
7 SOLD, OR DELIVERED IN THE STATE ON OR AFTER OCTOBER 1, 2016, TO AN INSURED
8 THAT ELECTS TO OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE
9 INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF
10 THIS SUBTITLE, SHALL CONTAIN COVERAGE FOR DAMAGES, SUBJECT TO THE
11 POLICY LIMITS, THAT:

12 (1) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR
13 OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE OF BODILY INJURIES
14 SUSTAINED IN A MOTOR VEHICLE ACCIDENT ARISING OUT OF THE OWNERSHIP,
15 MAINTENANCE, OR USE OF THE UNDERINSURED MOTOR VEHICLE; AND

16 (2) A SURVIVING RELATIVE OF THE INSURED, WHO IS DESCRIBED IN §
17 3-904 OF THE COURTS ARTICLE, IS ENTITLED TO RECOVER FROM THE OWNER OR
18 OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE THE INSURED DIED AS
19 THE RESULT OF A MOTOR VEHICLE ACCIDENT ARISING OUT OF THE OWNERSHIP,
20 MAINTENANCE, OR USE OF THE UNDERINSURED MOTOR VEHICLE.

21 (E) THE ENHANCED UNDERINSURED MOTORIST COVERAGE REQUIRED BY
22 THIS SECTION SHALL BE IN THE FORM AND SUBJECT TO THE CONDITIONS THAT THE
23 COMMISSIONER APPROVES.

24 (F) (1) THE ENHANCED UNDERINSURED MOTORIST COVERAGE
25 CONTAINED IN A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE
26 POLICY:

27 (I) SHALL AT LEAST EQUAL:

28 1. THE AMOUNTS REQUIRED BY TITLE 17 OF THE
29 TRANSPORTATION ARTICLE; AND

30 2. THE COVERAGE PROVIDED TO A QUALIFIED PERSON
31 UNDER TITLE 20, SUBTITLE 6 OF THIS ARTICLE; AND

32 (II) MAY NOT EXCEED THE AMOUNT OF LIABILITY COVERAGE
33 PROVIDED UNDER THE POLICY.

1 **(2) UNLESS WAIVED IN ACCORDANCE WITH § 19-510.1 OF THIS**
2 **SUBTITLE, THE AMOUNT OF ENHANCED UNDERINSURED MOTORIST COVERAGE**
3 **PROVIDED UNDER A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE**
4 **POLICY SHALL EQUAL THE AMOUNT OF LIABILITY COVERAGE PROVIDED UNDER THE**
5 **POLICY.**

6 **(G) AN INSURER MAY EXCLUDE FROM THE ENHANCED UNDERINSURED**
7 **MOTORIST COVERAGE REQUIRED BY THIS SECTION BENEFITS FOR:**

8 **(1) THE NAMED INSURED OR A FAMILY MEMBER OF THE NAMED**
9 **INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD FOR AN INJURY**
10 **THAT OCCURS WHEN THE NAMED INSURED OR FAMILY MEMBER IS OCCUPYING OR IS**
11 **STRUCK AS A PEDESTRIAN BY AN UNDERINSURED MOTOR VEHICLE THAT IS OWNED**
12 **BY THE NAMED INSURED OR AN IMMEDIATE FAMILY MEMBER OF THE NAMED**
13 **INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD; AND**

14 **(2) THE NAMED INSURED, A FAMILY MEMBER OF THE NAMED**
15 **INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD, AND ANY OTHER**
16 **INDIVIDUAL WHO HAS OTHER APPLICABLE MOTOR VEHICLE INSURANCE FOR AN**
17 **INJURY THAT OCCURS WHEN THE NAMED INSURED, FAMILY MEMBER, OR OTHER**
18 **INDIVIDUAL IS OCCUPYING OR IS STRUCK AS A PEDESTRIAN BY THE INSURED MOTOR**
19 **VEHICLE WHILE THE MOTOR VEHICLE IS OPERATED OR USED BY AN INDIVIDUAL**
20 **WHO IS EXCLUDED FROM COVERAGE UNDER § 27-609 OF THIS ARTICLE.**

21 **(H) THE LIMIT OF LIABILITY FOR AN INSURER THAT PROVIDES ENHANCED**
22 **UNDERINSURED MOTORIST COVERAGE UNDER THIS SECTION IS THE AMOUNT OF**
23 **THAT COVERAGE WITHOUT ANY REDUCTION FOR THE AMOUNT PAID TO THE**
24 **INSURED, THAT EXHAUSTS ANY APPLICABLE LIABILITY INSURANCE POLICIES,**
25 **BONDS, AND SECURITIES, ON BEHALF OF ANY PERSON THAT MAY BE HELD LIABLE**
26 **FOR THE BODILY INJURIES OR DEATH OF THE INSURED.**

27 **(I) (1) A POLICY THAT, AS ITS PRIMARY PURPOSE, PROVIDES COVERAGE**
28 **IN EXCESS OF OTHER VALID AND COLLECTIBLE INSURANCE OR QUALIFIED**
29 **SELF-INSURANCE MAY INCLUDE THE ENHANCED UNDERINSURED MOTORIST**
30 **COVERAGE PROVIDED FOR IN THIS SECTION.**

31 **(2) THE ENHANCED UNDERINSURED MOTORIST COVERAGE**
32 **REQUIRED BY THIS SECTION IS PRIMARY TO ANY RIGHT TO RECOVERY FROM THE**
33 **MARYLAND AUTOMOBILE INSURANCE FUND UNDER TITLE 20, SUBTITLE 6 OF THIS**
34 **ARTICLE.**

35 **(J) AN ENDORSEMENT OR A PROVISION THAT PROTECTS THE INSURED**
36 **AGAINST DAMAGES CAUSED BY AN UNDERINSURED MOTOR VEHICLE THAT IS**

1 CONTAINED IN A POLICY ISSUED AND DELIVERED IN THE STATE IS DEEMED TO
2 COVER DAMAGES CAUSED BY A MOTOR VEHICLE INSURED BY A LIABILITY INSURER
3 THAT IS INSOLVENT OR OTHERWISE UNABLE TO PAY CLAIMS TO THE SAME EXTENT
4 AND IN THE SAME MANNER AS IF THE DAMAGES WERE CAUSED BY AN
5 UNDERINSURED MOTOR VEHICLE.

6 (K) A PROVISION IN A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY
7 INSURANCE POLICY ISSUED ON OR AFTER OCTOBER 1, 2016, ABOUT COVERAGE FOR
8 DAMAGES SUSTAINED BY THE INSURED AS A RESULT OF THE OPERATION OF AN
9 UNDERINSURED MOTOR VEHICLE THAT REQUIRES A DISPUTE BETWEEN THE
10 INSURED AND THE INSURER TO BE SUBMITTED TO BINDING ARBITRATION IS
11 PROHIBITED AND IS OF NO LEGAL EFFECT.

12 19-509.2.

13 (A) A final judgment in an action for personal injury protection coverage under a
14 motor vehicle liability insurance policy does not preclude a subsequent action for uninsured
15 or underinsured motorist coverage arising out of the same motor vehicle accident or
16 occurrence.

17 (B) A FINAL JUDGMENT IN AN ACTION FOR PERSONAL INJURY PROTECTION
18 COVERAGE UNDER A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE
19 POLICY DOES NOT PRECLUDE A SUBSEQUENT ACTION FOR ENHANCED
20 UNDERINSURED MOTORIST COVERAGE ARISING OUT OF THE SAME MOTOR VEHICLE
21 ACCIDENT OR OCCURRENCE.

22 19-510.

23 (a) This section applies only when:

24 (1) the liability coverage under a policy or binder of private passenger
25 motor vehicle liability insurance exceeds the amount required under § 17-103 of the
26 Transportation Article; AND

27 (2) THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF
28 PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS NOT ELECTED TO
29 OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE UNDER § 19-509.1 OF
30 THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED
31 UNDER § 19-509 OF THIS SUBTITLE.

32 (b) (1) If the first named insured under a policy or binder of private passenger
33 motor vehicle liability insurance does not wish to obtain uninsured motorist coverage in the
34 same amount as the liability coverage provided under the policy or binder, the first named

1 insured shall make an affirmative written waiver of having uninsured motorist coverage in
2 the same amount as the liability coverage.

3 (2) If the first named insured does not make an affirmative written waiver
4 under this section, the insurer shall provide uninsured motorist coverage in an amount
5 equal to the amount of the liability coverage provided under the policy or binder.

6 (c) A waiver made under this section is not effective unless, prior to the waiver,
7 the insurer gives the first named insured written notice of the nature, extent, benefit, and
8 cost of the level of the uninsured motorist coverage being waived.

9 (d) (1) A waiver made under this section shall be made on the form that the
10 Commissioner requires.

11 (2) The form may be part of the insurance contract.

12 (3) The form shall clearly and concisely explain in 10 point boldface type:

13 (i) the nature, extent, benefit, and cost of the level of the uninsured
14 motorist coverage that would be provided under the policy if not waived by the first named
15 insured;

16 (ii) that a failure of the first named insured to make a waiver
17 requires an insurer to provide uninsured motorist coverage in an amount equal to the
18 amount of the liability coverage provided under the policy or binder of private passenger
19 motor vehicle liability insurance;

20 (iii) that an insurer may not refuse to underwrite a person because
21 the person refuses to waive the excess uninsured motorist coverage under this section; and

22 (iv) that a waiver made under this section must be an affirmative
23 written waiver.

24 (4) Subject to the Commissioner's approval, a waiver made under this
25 section may be made on the same form as the waiver made under § 19-506 of this subtitle.

26 (e) A waiver made under this section by a person that is insured continuously by
27 an insurer or by the Maryland Automobile Insurance Fund is effective until the waiver is
28 withdrawn in writing.

29 (f) (1) An insurer may not refuse to underwrite a person because the person
30 refuses to waive the excess uninsured motorist coverage under this section.

31 (2) An insurer that violates this subsection is subject to the penalties
32 provided by §§ 4-113 and 4-114 of this article.

33 **19-510.1.**

1 **(A) THIS SECTION APPLIES ONLY WHEN:**

2 **(1) THE LIABILITY COVERAGE UNDER A POLICY OR BINDER OF**
3 **PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE EXCEEDS THE**
4 **AMOUNT REQUIRED UNDER § 17-103 OF THE TRANSPORTATION ARTICLE; AND**

5 **(2) THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF**
6 **PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS ELECTED TO**
7 **OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE UNDER § 19-509.1 OF**
8 **THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED**
9 **UNDER § 19-509 OF THIS SUBTITLE.**

10 **(B) (1) IF THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF**
11 **PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE DOES NOT WISH TO**
12 **OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE IN THE SAME AMOUNT AS**
13 **THE LIABILITY COVERAGE PROVIDED UNDER THE POLICY OR BINDER, THE**
14 **FIRST NAMED INSURED SHALL MAKE AN AFFIRMATIVE WRITTEN WAIVER OF HAVING**
15 **ENHANCED UNDERINSURED MOTORIST COVERAGE IN THE SAME AMOUNT AS THE**
16 **LIABILITY COVERAGE.**

17 **(2) IF THE FIRST NAMED INSURED DOES NOT MAKE AN AFFIRMATIVE**
18 **WRITTEN WAIVER UNDER THIS SECTION, THE INSURER SHALL PROVIDE ENHANCED**
19 **UNDERINSURED MOTORIST COVERAGE IN AN AMOUNT EQUAL TO THE AMOUNT OF**
20 **THE LIABILITY COVERAGE PROVIDED UNDER THE POLICY OR BINDER.**

21 **(C) A WAIVER MADE UNDER THIS SECTION IS NOT EFFECTIVE UNLESS,**
22 **PRIOR TO THE WAIVER, THE INSURER GIVES THE FIRST NAMED INSURED WRITTEN**
23 **NOTICE OF THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF THE**
24 **ENHANCED UNDERINSURED MOTORIST COVERAGE BEING WAIVED.**

25 **(D) (1) A WAIVER MADE UNDER THIS SECTION SHALL BE MADE ON THE**
26 **FORM THAT THE COMMISSIONER REQUIRES.**

27 **(2) THE FORM MAY BE PART OF THE INSURANCE CONTRACT.**

28 **(3) THE FORM SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT**
29 **BOLDFACE TYPE:**

30 **(I) THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL**
31 **OF THE ENHANCED UNDERINSURED MOTORIST COVERAGE THAT WOULD BE**
32 **PROVIDED UNDER THE POLICY IF NOT WAIVED BY THE FIRST NAMED INSURED;**

1 **(II) THAT A FAILURE OF THE FIRST NAMED INSURED TO MAKE A**
2 **WAIVER REQUIRES AN INSURER TO PROVIDE ENHANCED UNDERINSURED MOTORIST**
3 **COVERAGE IN AN AMOUNT EQUAL TO THE AMOUNT OF THE LIABILITY COVERAGE**
4 **PROVIDED UNDER THE POLICY OR BINDER OF PRIVATE PASSENGER MOTOR**
5 **VEHICLE LIABILITY INSURANCE;**

6 **(III) THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE A**
7 **PERSON BECAUSE THE PERSON REFUSES TO WAIVE THE EXCESS ENHANCED**
8 **UNDERINSURED MOTORIST COVERAGE UNDER THIS SECTION; AND**

9 **(IV) THAT A WAIVER MADE UNDER THIS SECTION MUST BE AN**
10 **AFFIRMATIVE WRITTEN WAIVER.**

11 **(4) SUBJECT TO THE COMMISSIONER'S APPROVAL, A WAIVER MADE**
12 **UNDER THIS SECTION MAY BE MADE ON THE SAME FORM AS THE WAIVER MADE**
13 **UNDER § 19-506 OF THIS SUBTITLE.**

14 **(E) A WAIVER MADE UNDER THIS SECTION BY A PERSON THAT IS INSURED**
15 **CONTINUOUSLY BY AN INSURER OR BY THE MARYLAND AUTOMOBILE INSURANCE**
16 **FUND IS EFFECTIVE UNTIL THE WAIVER IS WITHDRAWN IN WRITING.**

17 **(F) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON**
18 **BECAUSE THE PERSON REFUSES TO WAIVE THE EXCESS ENHANCED UNDERINSURED**
19 **MOTORIST COVERAGE UNDER THIS SECTION.**

20 **(2) AN INSURER THAT VIOLATES THIS SUBSECTION IS SUBJECT TO**
21 **THE PENALTIES PROVIDED BY §§ 4-113 AND 4-114 OF THIS ARTICLE.**

22 19-511.

23 **(A) THIS SECTION DOES NOT APPLY WHEN THE FIRST NAMED INSURED**
24 **UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY**
25 **INSURANCE HAS ELECTED TO OBTAIN ENHANCED UNDERINSURED MOTORIST**
26 **COVERAGE UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED**
27 **MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.**

28 **[(a)] (B)** If an injured person receives a written offer from a motor vehicle
29 insurance liability insurer or that insurer's authorized agent to settle a claim for bodily
30 injury or death, and the amount of the settlement offer, in combination with any other
31 settlements arising out of the same occurrence, would exhaust the bodily injury or death
32 limits of the applicable liability insurance policies, bonds, and securities, the injured person
33 shall send by certified mail, to any insurer that provides uninsured motorist coverage for
34 the bodily injury or death, a copy of the liability insurer's written settlement offer.

1 **[(b)] (C)** Within 60 days after receipt of the notice required under subsection
2 **[(a)] (B)** of this section, the uninsured motorist insurer shall send to the injured person:

3 (1) written consent to acceptance of the settlement offer and to the
4 execution of releases; or

5 (2) written refusal to consent to acceptance of the settlement offer.

6 **[(c)] (D)** Within 30 days after a refusal to consent to acceptance of a settlement
7 offer under subsection **[(b)(2)] (C)(2)** of this section, the uninsured motorist insurer shall
8 pay to the injured person the amount of the settlement offer.

9 **[(d)] (E)** (1) Payment as described in subsection **[(c)] (D)** of this section shall
10 preserve the uninsured motorist insurer's subrogation rights against the liability insurer
11 and its insured.

12 (2) Receipt by the injured person of the payment described in subsection
13 **[(c)] (D)** of this section shall constitute the assignment, up to the amount of the payment,
14 of any recovery on behalf of the injured person that is subsequently paid from the applicable
15 liability insurance policies, bonds, and securities.

16 **[(e)] (F)** The injured person may accept the liability insurer's settlement offer
17 and execute releases in favor of the liability insurer and its insured without prejudice to
18 any claim the injured person may have against the uninsured motorist insurer:

19 (1) on receipt of written consent to acceptance of the settlement offer and
20 to the execution of releases; or

21 (2) if the uninsured motorist insurer has not met the requirements of
22 subsection **[(b)] (C)** or subsection **[(c)] (D)** of this section.

23 **[(f)] (G)** Written consent by an uninsured motorist insurer to acceptance of a
24 settlement offer under subsection **[(b)(1)](C)(1)** of this section:

25 (1) may not be construed to limit the right of the uninsured motorist
26 insurer to raise any issue relating to liability or damages in an action against the uninsured
27 motorist insurer; and

28 (2) does not constitute an admission by the uninsured motorist insurer as
29 to any issue raised in an action against the uninsured motorist insurer.

30 **19-511.1.**

31 **(A) THIS SECTION APPLIES ONLY WHEN THE FIRST NAMED INSURED UNDER**
32 **A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY**
33 **INSURANCE HAS ELECTED TO OBTAIN ENHANCED UNDERINSURED MOTORIST**

1 COVERAGE UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED
2 MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

3 (B) IF AN INJURED PERSON RECEIVES A WRITTEN OFFER FROM A MOTOR
4 VEHICLE LIABILITY INSURER OR THAT INSURER'S AUTHORIZED AGENT TO SETTLE A
5 CLAIM FOR BODILY INJURY OR DEATH, AND THE AMOUNT OF THE SETTLEMENT
6 OFFER, IN COMBINATION WITH ANY OTHER SETTLEMENTS ARISING OUT OF THE
7 SAME OCCURRENCE, WOULD EXHAUST THE BODILY INJURY OR DEATH LIMITS OF
8 THE APPLICABLE LIABILITY INSURANCE POLICIES, BONDS, AND SECURITIES, THE
9 INJURED PERSON SHALL SEND BY CERTIFIED MAIL, TO ANY INSURER THAT
10 PROVIDES ENHANCED UNDERINSURED MOTORIST COVERAGE FOR THE BODILY
11 INJURY OR DEATH, A COPY OF THE LIABILITY INSURER'S WRITTEN SETTLEMENT
12 OFFER.

13 (C) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER
14 SUBSECTION (B) OF THIS SECTION, THE ENHANCED UNDERINSURED MOTORIST
15 INSURER SHALL SEND TO THE INJURED PERSON:

16 (1) WRITTEN CONSENT TO ACCEPTANCE OF THE SETTLEMENT OFFER
17 AND TO THE EXECUTION OF RELEASES; OR

18 (2) WRITTEN REFUSAL TO CONSENT TO ACCEPTANCE OF THE
19 SETTLEMENT OFFER.

20 (D) WITHIN 30 DAYS AFTER A REFUSAL TO CONSENT TO ACCEPTANCE OF A
21 SETTLEMENT OFFER UNDER SUBSECTION (C)(2) OF THIS SECTION, THE ENHANCED
22 UNDERINSURED MOTORIST INSURER SHALL PAY TO THE INJURED PERSON THE
23 AMOUNT OF THE SETTLEMENT OFFER.

24 (E) (1) PAYMENT AS DESCRIBED IN SUBSECTION (D) OF THIS SECTION
25 SHALL PRESERVE THE EXTENDED ENHANCED UNDERINSURED MOTORIST
26 INSURER'S SUBROGATION RIGHTS AGAINST THE MOTOR VEHICLE LIABILITY
27 INSURER AND ITS INSURED.

28 (2) RECEIPT BY THE INJURED PERSON OF THE PAYMENT DESCRIBED
29 IN SUBSECTION (D) OF THIS SECTION SHALL CONSTITUTE THE ASSIGNMENT, UP TO
30 THE AMOUNT OF THE PAYMENT, OF ANY RECOVERY ON BEHALF OF THE INJURED
31 PERSON THAT IS SUBSEQUENTLY PAID FROM THE APPLICABLE LIABILITY
32 INSURANCE POLICIES, BONDS, AND SECURITIES.

33 (F) THE INJURED PERSON MAY ACCEPT THE MOTOR VEHICLE LIABILITY
34 INSURER'S SETTLEMENT OFFER AND EXECUTE RELEASES IN FAVOR OF THE
35 LIABILITY INSURER AND ITS INSURED WITHOUT PREJUDICE TO ANY CLAIM THE

1 INJURED PERSON MAY HAVE AGAINST THE ENHANCED UNDERINSURED MOTORIST
2 INSURER:

3 (1) ON RECEIPT OF WRITTEN CONSENT TO ACCEPTANCE OF THE
4 SETTLEMENT OFFER AND TO THE EXECUTION OF RELEASES; OR

5 (2) IF THE ENHANCED UNDERINSURED MOTORIST INSURER HAS NOT
6 MET THE REQUIREMENTS OF SUBSECTION (C) OR SUBSECTION (D) OF THIS SECTION.

7 (G) WRITTEN CONSENT BY AN ENHANCED UNDERINSURED MOTORIST
8 INSURER TO ACCEPTANCE OF A SETTLEMENT OFFER UNDER SUBSECTION (C)(1) OF
9 THIS SECTION:

10 (1) MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF THE ENHANCED
11 UNDERINSURED MOTORIST INSURER TO RAISE ANY ISSUE RELATING TO LIABILITY
12 OR DAMAGES IN AN ACTION AGAINST THE ENHANCED UNDERINSURED MOTORIST
13 INSURER; AND

14 (2) DOES NOT CONSTITUTE AN ADMISSION BY THE UNINSURED
15 MOTORIST INSURER AS TO ANY ISSUE RAISED IN AN ACTION AGAINST THE
16 ENHANCED UNDERINSURED MOTORIST INSURER.

17 19-513.

18 (a) This section does not prohibit a nonprofit health service plan or an authorized
19 insurer, with the approval of the Commissioner, from providing medical, hospital, and
20 disability benefits in connection with motor vehicle accidents.

21 (b) [Notwithstanding] EXCEPT AS PROVIDED IN § 19-509.1 OF THIS
22 SUBTITLE, AND NOTWITHSTANDING any other provision of this subtitle, a person may
23 not recover benefits under the coverages described in §§ 19-504, 19-505, 19-509, and
24 19-512 of this subtitle from more than one motor vehicle liability insurance policy or
25 insurer on a duplicative or supplemental basis.

26 (c) (1) The insurer of a motor vehicle for which the coverage described in §
27 19-505 of this subtitle is in effect shall pay the benefits described in § 19-505 of this subtitle
28 to an individual who is injured in a motor vehicle accident:

29 (i) while occupying the insured motor vehicle; or

30 (ii) by the insured motor vehicle as a pedestrian, while in, on, or
31 alighting from a vehicle powered by animal or muscular power, or while on or alighting
32 from an animal.

1 (5) For vehicles subject to the provisions of § 25–111.1 of this article, the
2 security requirements adopted under 49 C.F.R., Part 387.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to each policy
4 of private passenger motor vehicle insurance issued, sold, or delivered in the State on or
5 after October 1, 2016.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2016.