Article - Insurance

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§19–509.1. IN EFFECT

(a) In this section, "underinsured motor vehicle" means a motor vehicle that has liability coverage in an amount less than, more than, or equal to the uninsured motorist coverage provided under the insured party's motor vehicle liability insurance policy.

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

(1) that insures a motor vehicle that:

(i) is not subject to registration under § 13–402 of the Transportation Article because it is not driven on a highway; or

(ii) is exempt from registration under § 13–402(c)(10) of the Transportation Article;

(2) if a first named insured under a new policy or binder of private passenger motor vehicle liability insurance issued on or after July 1, 2024, has waived enhanced underinsured motorist coverage under this section; or

(3) if a first named insured on a renewal policy issued before July 1, 2024, has not elected to obtain enhanced underinsured motorist coverage under this section.

(c) (1) Unless waived in accordance with this subsection, an insurer shall provide enhanced underinsured motorist coverage at the time of purchase of a private passenger motor vehicle liability insurance policy.

(2) (i) The first named insured under a policy or binder of private passenger motor vehicle liability insurance may elect to waive enhanced underinsured motorist coverage and instead maintain uninsured motorist coverage required under § 19–509 of this subtitle.

(ii) If the first named insured does not wish to obtain the enhanced underinsured motorist coverage under this section, the first named insured shall make an affirmative written statement waiving the coverage.

(iii) A waiver made under this subsection is not effective unless, before the waiver, the insurer gives the first named insured written notice of the nature, extent, benefit, and cost of the level of the enhanced underinsured motorist coverage being waived.

(iv) 1. A waiver made under this subsection shall be made on the form that the Commissioner requires.

2. The form may be part of the insurance contract.

3. The form shall clearly and concisely explain in at least 14 point boldface type:

A. the nature, extent, benefit, and cost of the level of the enhanced underinsured motorist coverage that would be provided under the policy if not waived by the first named insured;

B. that a failure of the first named insured to make a waiver requires the insurer to provide enhanced underinsured motorist coverage;

C. that the insurer may not refuse to underwrite a person because the person refuses to waive the enhanced underinsured motorist coverage under this subsection; and

D. that a waiver made under this subsection must be an affirmative written waiver.

(v) If the first named insured does not make an affirmative written statement waiving the enhanced underinsured motorist coverage, the insurer shall provide the coverage under this section.

(3) Unless the first named insured affirmatively makes a change in writing, the election to waive enhanced underinsured motorist coverage applies to all subsequent renewals of coverage and to all other policies or endorsements that extend, change, supersede, or replace an existing private passenger motor vehicle insurance policy issued to the first named insured.

(d) In addition to any other coverage required by this subtitle, each private passenger motor vehicle liability insurance policy issued, sold, or delivered in the State on or after July 1, 2024, to an insured that maintains enhanced underinsured motorist coverage instead of the uninsured motorist coverage required under § 19–509 of this subtitle shall contain coverage for damages, subject to the policy limits, that:

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

(2) the insured is entitled to recover from the owner or operator of an underinsured motor vehicle because of property damage, including loss of use of the insured vehicle; and

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

(e) The enhanced underinsured motorist coverage required by this section shall be on the form that the Commissioner requires.

(f) (1) The enhanced underinsured motorist coverage contained in a private passenger motor vehicle liability insurance policy:

(i) shall at least equal:

1. the amounts required by Title 17 of the Transportation Article for bodily injury and property damage, including loss of use of the insured vehicle; and

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

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

(2) The amount of enhanced underinsured motorist coverage provided under a private passenger motor vehicle liability insurance policy shall equal the amount of liability coverage provided under the policy.

(g) An insurer may exclude from the enhanced underinsured motorist coverage required by this section benefits for:

(1) the named insured or a family member of the named insured who resides in the named insured's household for an injury that occurs when the named insured or family member is occupying or is struck as a pedestrian by an underinsured motor vehicle that is owned by the named insured or an immediate

family member of the named insured who resides in the named insured's household; and

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

(h) The limit of liability for an insurer that provides enhanced underinsured motorist coverage under this section:

(1) is subject to § 19–511.1 of this subtitle; and

(2) is the amount of that coverage without any reduction for the amount paid to the insured, that exhausts any applicable liability insurance policies, bonds, and securities, on behalf of any person that may be held liable for the bodily injuries or death of the insured.

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

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

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

(k) A provision in a private passenger motor vehicle liability insurance policy issued on or after July 1, 2018, about coverage for damages sustained by the insured as a result of the operation of an underinsured motor vehicle that requires a dispute between the insured and the insurer to be submitted to binding arbitration is prohibited and is of no legal effect.

§19–509.1. // EFFECTIVE JUNE 30, 2029 PER CHAPTER 514 OF 2023 //

(a) In this section, "underinsured motor vehicle" means a motor vehicle that has liability coverage in an amount less than, more than, or equal to the uninsured motorist coverage provided under the insured party's motor vehicle liability insurance policy.

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

(1) that insures a motor vehicle that:

(i) is not subject to registration under § 13–402 of the Transportation Article because it is not driven on a highway; or

(ii) is exempt from registration under § 13–402(c)(10) of the Transportation Article; or

(2) when a first named insured under a policy or binder of private passenger motor vehicle liability insurance has not elected to obtain enhanced underinsured motorist coverage under this section instead of the uninsured motorist coverage required under § 19–509 of this subtitle.

(c) (1) An insurer shall offer enhanced underinsured motorist coverage at the time of purchase of a private passenger motor vehicle liability insurance policy.

(2) The first named insured under a policy or binder of private passenger motor vehicle liability insurance may elect to obtain enhanced underinsured motorist coverage instead of the uninsured motorist coverage required under § 19–509 of this subtitle.

(3) Unless the first named insured affirmatively makes a change in writing, the election to obtain enhanced underinsured motorist coverage applies to all subsequent renewals of coverage and to all other policies or endorsements that extend, change, supersede, or replace an existing private passenger motor vehicle insurance policy issued to the first named insured.

(d) In addition to any other coverage required by this subtitle, each private passenger motor vehicle liability insurance policy issued, sold, or delivered in the State on or after July 1, 2018, to an insured that elects to obtain enhanced underinsured motorist coverage instead of the uninsured motorist coverage required under § 19–509 of this subtitle shall contain coverage for damages, subject to the policy limits, that:

(1) the insured is entitled to recover from the owner or operator of an underinsured motor vehicle because of bodily injuries sustained in a motor vehicle

accident arising out of the ownership, maintenance, or use of the underinsured motor vehicle;

(2) the insured is entitled to recover from the owner or operator of an underinsured motor vehicle because of property damage, including loss of use of the insured vehicle; and

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

(e) The offer of enhanced underinsured motorist coverage required by this section shall be on the form that the Commissioner requires.

(f) (1) The enhanced underinsured motorist coverage contained in a private passenger motor vehicle liability insurance policy:

(i) shall at least equal:

1. the amounts required by Title 17 of the Transportation Article for bodily injury and property damage, including loss of use of the insured vehicle; and

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

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

(2) The amount of enhanced underinsured motorist coverage provided under a private passenger motor vehicle liability insurance policy shall equal the amount of liability coverage provided under the policy.

(g) An insurer may exclude from the enhanced underinsured motorist coverage required by this section benefits for:

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

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

(h) The limit of liability for an insurer that provides enhanced underinsured motorist coverage under this section:

(1) is subject to § 19–511.1 of this subtitle; and

(2) is the amount of that coverage without any reduction for the amount paid to the insured, that exhausts any applicable liability insurance policies, bonds, and securities, on behalf of any person that may be held liable for the bodily injuries or death of the insured.

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

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

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

(k) A provision in a private passenger motor vehicle liability insurance policy issued on or after July 1, 2018, about coverage for damages sustained by the insured as a result of the operation of an underinsured motor vehicle that requires a dispute between the insured and the insurer to be submitted to binding arbitration is prohibited and is of no legal effect.

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