



General Assembly

**Substitute Bill No. 954**

January Session, 2013



**AN ACT CONCERNING PAYMENTS MADE UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) (1) Each automobile liability insurance policy shall provide  
4 insurance, herein called uninsured and underinsured motorist  
5 coverage, in accordance with the regulations adopted pursuant to  
6 section 38a-334, with limits for bodily injury or death not less than  
7 those specified in subsection (a) of section 14-112, for the protection of  
8 persons insured thereunder who are legally entitled to recover  
9 damages from owners or operators of uninsured motor vehicles and  
10 underinsured motor vehicles and insured motor vehicles, the insurer  
11 of which becomes insolvent prior to payment of such damages,  
12 because of bodily injury, including death resulting therefrom. Each  
13 insurer licensed to write automobile liability insurance in this state  
14 shall provide uninsured and underinsured motorists coverage with  
15 limits requested by any named insured upon payment of the  
16 appropriate premium, provided each such insurer shall offer such  
17 coverage with limits that are twice the limits of the bodily injury  
18 coverage of the policy issued to the named insured. The insured's  
19 selection of uninsured and underinsured motorist coverage shall apply

20 to all subsequent renewals of coverage and to all policies or  
21 endorsements which extend, change, supersede or replace an existing  
22 policy issued to the named insured, unless changed in writing by any  
23 named insured. No insurer shall be required to provide uninsured and  
24 underinsured motorist coverage to (A) a named insured or relatives  
25 residing in his household when occupying, or struck as a pedestrian  
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is  
27 owned by the named insured, or (B) any insured occupying an  
28 uninsured or underinsured motor vehicle or motorcycle that is owned  
29 by such insured.

30 (2) Notwithstanding any provision of this section, each automobile  
31 liability insurance policy issued or renewed on and after January 1,  
32 1994, shall provide uninsured and underinsured motorist coverage  
33 with limits for bodily injury and death equal to those purchased to  
34 protect against loss resulting from the liability imposed by law unless  
35 any named insured requests in writing a lesser amount, but not less  
36 than the limits specified in subsection (a) of section 14-112. Such  
37 written request shall apply to all subsequent renewals of coverage and  
38 to all policies or endorsements that extend, change, supersede or  
39 replace an existing policy issued to the named insured, unless changed  
40 in writing by any named insured. No such written request for a lesser  
41 amount shall be effective unless any named insured has signed an  
42 informed consent form that shall contain: (A) An explanation of  
43 uninsured and underinsured motorist insurance approved by the  
44 commissioner; (B) a list of uninsured and underinsured motorist  
45 coverage options available from the insurer; and (C) the premium cost  
46 for each of the coverage options available from the insurer. Such  
47 informed consent form shall contain a heading in twelve-point type  
48 and shall state: "WHEN YOU SIGN THIS FORM, YOU ARE  
49 CHOOSING A REDUCED PREMIUM, BUT YOU ARE ALSO  
50 CHOOSING NOT TO PURCHASE CERTAIN VALUABLE  
51 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU  
52 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT  
53 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE

54 AGENT OR ANOTHER QUALIFIED ADVISER."

55 (b) An insurance company shall be obligated to make payment to its  
56 insured up to the limits of the policy's uninsured and underinsured  
57 motorist coverage after the limits of liability under all bodily injury  
58 liability bonds or insurance policies applicable at the time of the  
59 accident have been exhausted by payment of judgments or settlements,  
60 but in no event shall the total amount of recovery from all policies,  
61 including any amount recovered under the insured's uninsured and  
62 underinsured motorist coverage, exceed the limits of the insured's  
63 uninsured and underinsured motorist coverage. In no event shall there  
64 be any reduction of uninsured or underinsured motorist coverage  
65 limits or benefits payable for amounts received by the insured for  
66 Social Security disability benefits paid or payable pursuant to the  
67 Social Security Act, 42 USC Section 301, et seq. The limitation on the  
68 total amount of recovery from all policies shall not apply to  
69 underinsured motorist conversion coverage purchased pursuant to  
70 section 38a-336a.

71 (c) If an insurance company reduces uninsured and underinsured  
72 motorist coverage limits or benefits payable for amounts paid by such  
73 insurance company to any other claimant other than the insured or for  
74 amounts paid by or on behalf of any tortfeasor for property damage,  
75 each automobile liability insurance policy delivered, issued for  
76 delivery, renewed, amended or endorsed by such company on or after  
77 October 1, 2013, shall include a prominent disclosure on the front page  
78 of such policy in not less than twelve-point type that includes (1) a  
79 statement that such insurance company reduces uninsured and  
80 underinsured motorist coverage limits or benefits and that such  
81 reduction may be substantial, and (2) the types of payments for which  
82 such insurance company may reduce such coverage limits or benefits.

83 [(c)] (d) Each automobile liability insurance policy issued on or after  
84 October 1, 1971, which contains a provision for binding arbitration  
85 shall include a provision for final determination of insurance coverage  
86 in such arbitration proceeding. With respect to any claim submitted to

87 arbitration on or after October 1, 1983, the arbitration proceeding shall  
88 be conducted by a single arbitrator if the amount in demand is forty  
89 thousand dollars or less or by a panel of three arbitrators if the amount  
90 in demand is more than forty thousand dollars.

91     ~~[(d)]~~ (e) Regardless of the number of policies issued, vehicles or  
92 premiums shown on a policy, premiums paid, persons covered,  
93 vehicles involved in an accident, or claims made, in no event shall the  
94 limit of liability for uninsured and underinsured motorist coverage  
95 applicable to two or more motor vehicles covered under the same or  
96 separate policies be added together to determine the limit of liability  
97 for such coverage available to an injured person or persons for any one  
98 accident. If a person insured for uninsured and underinsured motorist  
99 coverage is an occupant of a nonowned vehicle covered by a policy  
100 also providing uninsured and underinsured motorist coverage, the  
101 coverage of the occupied vehicle shall be primary and any coverage for  
102 which such person is a named insured shall be secondary. All other  
103 applicable policies shall be excess. The total amount of uninsured and  
104 underinsured motorist coverage recoverable is limited to the highest  
105 amount recoverable under the primary policy, the secondary policy or  
106 any one of the excess policies. The amount paid under the excess  
107 policies shall be apportioned in accordance with the proportion that  
108 the limits of each excess policy bear to the total limits of the excess  
109 policies. If any person insured for uninsured and underinsured  
110 motorist coverage is an occupant of an owned vehicle, the uninsured  
111 and underinsured motorist coverage afforded by the policy covering  
112 the vehicle occupied at the time of the accident shall be the only  
113 uninsured and underinsured motorist coverage available.

114     ~~[(e)]~~ (f) For the purposes of this section, an "underinsured motor  
115 vehicle" means a motor vehicle with respect to which the sum of the  
116 limits of liability under all bodily injury liability bonds and insurance  
117 policies applicable at the time of the accident is less than the applicable  
118 limits of liability under the uninsured motorist portion of the policy  
119 against which claim is made under subsection (b) of this section.

120     ~~[(f)]~~ (g) Notwithstanding subsection (a) of section 31-284, an  
121 employee of a named insured injured while occupying a covered  
122 motor vehicle in the course of employment shall be covered by such  
123 insured's otherwise applicable uninsured and underinsured motorist  
124 coverage.

125     ~~[(g)]~~ (h) (1) No insurance company doing business in this state may  
126 limit the time within which any suit may be brought against it or any  
127 demand for arbitration on a claim may be made on the uninsured or  
128 underinsured motorist provisions of an automobile liability insurance  
129 policy to a period of less than three years from the date of accident,  
130 provided, in the case of an underinsured motorist claim the insured  
131 may toll any applicable limitation period (A) by notifying such insurer  
132 prior to the expiration of the applicable limitation period, in writing, of  
133 any claim which the insured may have for underinsured motorist  
134 benefits and (B) by commencing suit or demanding arbitration under  
135 the terms of the policy not more than one hundred eighty days from  
136 the date of exhaustion of the limits of liability under all automobile  
137 bodily injury liability bonds or automobile insurance policies  
138 applicable at the time of the accident by settlements or final judgments  
139 after any appeals.

140     (2) Notwithstanding the provisions of subdivision (1) of this  
141 subsection, in the case of an uninsured motorist claim, if the motor  
142 vehicle of a tortfeasor is an uninsured motor vehicle because the  
143 automobile liability insurance company of such tortfeasor becomes  
144 insolvent or denies coverage, no insurance company doing business in  
145 this state may limit the time within which any suit may be brought  
146 against it or any demand for arbitration on a claim may be made on  
147 the uninsured motorist provisions of an automobile liability insurance  
148 policy to a period of less than one year from the date of receipt by the  
149 insured of written notice of such insolvency of, or denial of coverage  
150 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	38a-336
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**INS**      *Joint Favorable Subst.*

**JUD**      *Joint Favorable*