



General Assembly

February Session, 2014

***Raised Bill No. 5364***

LCO No. 1557



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

***AN ACT REQUIRING UNINSURED AND UNDERINSURED MOTORIST  
COVERAGE TO BE OPTIONAL AND CONCERNING UNDERINSURED  
MOTORIST CONVERSION 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 Section 38a-336 of the general statutes is repealed and the  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 January 1, 2015*):

3 (a) (1) (A) Each insurer licensed to write automobile liability  
4 insurance [policy shall provide insurance] in this state shall offer, for  
5 each automobile liability insurance policy issued or renewed on or  
6 after January 1, 2015, and for an additional premium, insurance, herein  
7 called uninsured and underinsured motorist coverage, in accordance  
8 with the regulations adopted pursuant to section 38a-334, with limits  
9 for bodily injury or death not less than those specified in subsection (a)  
10 of section 14-112, for the protection of persons insured thereunder who  
11 are legally entitled to recover damages from owners or operators of  
12 uninsured motor vehicles and underinsured motor vehicles and  
13 insured motor vehicles, the insurer of which becomes insolvent prior  
14 to payment of such damages, because of bodily injury, including death

15 resulting therefrom. The insurer shall disclose to an insured the  
16 availability of, the premium cost and a description of uninsured and  
17 underinsured motorist coverage. Each insured who declines uninsured  
18 and underinsured motorist coverage shall sign an informed consent  
19 form as specified in subparagraph (A) of subdivision (2) of this section.

20 (B) Each insurer licensed to write automobile liability insurance in  
21 this state shall [provide] offer uninsured and underinsured [motorists]  
22 motorist coverage with limits requested by any named insured upon  
23 payment of the appropriate premium, provided each such insurer shall  
24 offer such coverage with limits that are twice the limits of the bodily  
25 injury coverage of the policy issued to the named insured. The  
26 insured's selection of uninsured and underinsured motorist coverage  
27 shall apply to all subsequent renewals of coverage and to all policies or  
28 endorsements [which] that extend, change, supersede or replace an  
29 existing policy issued to the named insured, unless changed in writing  
30 by any named insured. No insurer shall be required to provide  
31 uninsured and underinsured motorist coverage to [(A)] (i) a named  
32 insured or relatives residing in his household when occupying, or  
33 struck as a pedestrian by, an uninsured or underinsured motor vehicle  
34 or a motorcycle that is owned by the named insured, or [(B)] (ii) any  
35 insured occupying an uninsured or underinsured motor vehicle or  
36 motorcycle that is owned by such insured.

37 (2) [Notwithstanding any provision of this section, each] (A) Each  
38 insurer licensed to write automobile liability insurance [policy issued  
39 or renewed on and after January 1, 1994, shall provide] in this state  
40 shall offer, for each automobile liability insurance policy issued or  
41 renewed on or after January 1, 2015, uninsured and underinsured  
42 motorist coverage with limits for bodily injury and death equal to  
43 those purchased to protect against loss resulting from the liability  
44 imposed by law unless any named insured requests in writing a lesser  
45 amount, but not less than the limits specified in subsection (a) of  
46 section 14-112. Such written request shall apply to all subsequent  
47 renewals of coverage and to all policies or endorsements that extend,

48 change, supersede or replace an existing policy issued to the named  
49 insured, unless changed in writing by any named insured. No such  
50 written request for a lesser amount shall be effective unless any named  
51 insured has signed an informed consent form that [shall contain: (A)  
52 An explanation of uninsured and underinsured motorist insurance  
53 approved by the commissioner; (B)] contains: (i) Explanations,  
54 approved by the commissioner, of (I) uninsured and underinsured  
55 motorist coverage, and (II) underinsured motorist conversion  
56 coverage; (ii) a list of uninsured and underinsured motorist coverage  
57 options and underinsured motorist conversion coverage options  
58 available from the insurer; and [(C)] (iii) the premium cost for each of  
59 the coverage options available from the insurer. Such informed  
60 consent form shall contain a heading in twelve-point type and shall  
61 state: "WHEN YOU SIGN THIS FORM, YOU ARE CHOOSING A  
62 REDUCED PREMIUM, BUT YOU ARE ALSO CHOOSING NOT TO  
63 PURCHASE CERTAIN VALUABLE COVERAGE WHICH PROTECTS  
64 YOU AND YOUR FAMILY. IF YOU ARE UNCERTAIN ABOUT HOW  
65 THIS DECISION WILL AFFECT YOU, YOU SHOULD GET ADVICE  
66 FROM YOUR INSURANCE AGENT OR ANOTHER QUALIFIED  
67 ADVISER."

68 (B) Each insured who declines uninsured and underinsured  
69 motorist coverage or underinsured motorist conversion coverage or  
70 both shall sign an informed consent form as set forth in subparagraph  
71 (A) of this subdivision.

72 (b) An insurance company shall be obligated to make payment to its  
73 insured up to the limits of the policy's uninsured and underinsured  
74 motorist coverage after the limits of liability under all bodily injury  
75 liability bonds or insurance policies applicable at the time of the  
76 accident have been exhausted by payment of judgments or settlements,  
77 but in no event shall the total amount of recovery from all policies,  
78 including any amount recovered under the insured's uninsured and  
79 underinsured motorist coverage, exceed the limits of the insured's  
80 uninsured and underinsured motorist coverage. In no event shall there

81 be any reduction of uninsured or underinsured motorist coverage  
82 limits or benefits payable for amounts received by the insured for  
83 Social Security disability benefits paid or payable pursuant to the  
84 Social Security Act, 42 USC Section 301, et seq. The limitation on the  
85 total amount of recovery from all policies shall not apply to  
86 underinsured motorist conversion coverage purchased pursuant to  
87 section 38a-336a.

88 (c) Each automobile liability insurance policy issued on or after  
89 October 1, 1971, [which] that contains a provision for binding  
90 arbitration shall include a provision for final determination of  
91 insurance coverage in such arbitration proceeding. With respect to any  
92 claim submitted to arbitration on or after October 1, 1983, the  
93 arbitration proceeding shall be conducted by a single arbitrator if the  
94 amount in demand is forty thousand dollars or less or by a panel of  
95 three arbitrators if the amount in demand is more than forty thousand  
96 dollars.

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

114 the limits of each excess policy bear to the total limits of the excess  
115 policies. If any person insured for uninsured and underinsured  
116 motorist coverage is an occupant of an owned vehicle, the uninsured  
117 and underinsured motorist coverage afforded by the policy covering  
118 the vehicle occupied at the time of the accident shall be the only  
119 uninsured and underinsured motorist coverage available.

120 (e) For the purposes of this section, an "underinsured motor vehicle"  
121 means a motor vehicle with respect to which the sum of the limits of  
122 liability under all bodily injury liability bonds and insurance policies  
123 applicable at the time of the accident is less than the applicable limits  
124 of liability under the uninsured motorist portion of the policy against  
125 which claim is made under subsection (b) of this section.

126 (f) Notwithstanding subsection (a) of section 31-284, an employee of  
127 a named insured injured while occupying a covered motor vehicle in  
128 the course of employment shall be covered by such insured's otherwise  
129 applicable uninsured and underinsured motorist coverage.

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

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

156 Sec. 2. Section 38a-336b of the general statutes is repealed and the  
157 following is substituted in lieu thereof (*Effective January 1, 2015*):

158 No insurer providing underinsured motorist coverage [as required  
159 under this title] shall have any right of subrogation against the owner  
160 or operator of the underinsured motor vehicle for underinsured  
161 motorist benefits paid or payable by the insurer.

162 Sec. 3. Section 38a-336a of the general statutes is repealed and the  
163 following is substituted in lieu thereof (*Effective January 1, 2015*):

164 (a) (1) Each insurer licensed to write automobile liability insurance  
165 in this state shall offer, for an additional premium, underinsured  
166 motorist conversion coverage with limits in accordance with section  
167 38a-336, as amended by this act. The purchase of such underinsured  
168 motorist conversion coverage shall be in lieu of underinsured motorist  
169 coverage pursuant to section 38a-336, as amended by this act. For each  
170 new automobile liability insurance policy issued on or after January 1,  
171 2015, the insurer shall disclose to an insured at the time of sale or  
172 issuance the availability of, the premium cost and a description of  
173 underinsured motorist conversion coverage. [Such description of  
174 coverage shall be included in a conspicuous manner with the] Each  
175 insured who declines underinsured motorist conversion coverage shall

176 sign an informed consent form as specified in subparagraph (A) of  
177 subdivision (2) of subsection (a) of section 38a-336, as amended by this  
178 act.

179 (2) If such insurer fails to offer, or fails to disclose to an insured the  
180 availability of, underinsured motorist conversion coverage or fails to  
181 procure a signed informed consent form from an insured who has  
182 declined such coverage, such insurer shall provide such coverage to  
183 such insured at no cost to the insured.

184 (b) Such underinsured motorist conversion coverage shall provide  
185 for the protection of persons insured thereunder who are legally  
186 entitled to recover damages from owners or operators of underinsured  
187 motor vehicles.

188 (c) Each insurer shall be obligated to pay to the insured, up to the  
189 limits of the policy's underinsured motorist conversion coverage, after  
190 the limits of liability under all bodily injury liability bonds or  
191 insurance policies applicable at the time of the accident have been  
192 exhausted by payment of judgments or settlements. If the insured  
193 purchases such underinsured motorist conversion coverage, then in no  
194 event shall the underinsured motorist coverage be reduced on account  
195 of any payment by or on behalf of the tortfeasor or by any third party.

196 (d) The selection of coverage under this section shall apply to all  
197 subsequent renewals of coverage and to all policies or endorsements  
198 [which] that extend, change, supersede or replace an existing policy  
199 issued to the named insured, unless changed in writing by any named  
200 insured.

201 (e) For purposes of this section, an "underinsured motor vehicle"  
202 means a motor vehicle with respect to which the sum of all payments  
203 received by or on behalf of the covered person from or on behalf of the  
204 tortfeasor are less than the fair, just and reasonable damages of the  
205 covered person.

206 Sec. 4. Section 38a-389 of the general statutes is repealed and the  
207 following is substituted in lieu thereof (*Effective January 1, 2015*):

208 (a) (1) The General Assembly finds and concludes that the system of  
209 bodily injury liability, basic and added reparations benefits and  
210 uninsured and underinsured motorist insurance, as amended by the  
211 provisions of public act 93-297, will generate premium savings for  
212 policyholders with such coverages.

213 [(b)] (2) Each insurer licensed to sell private passenger automobile  
214 insurance in this state shall refile, with the Insurance Commissioner, its  
215 base rates for such coverages to reflect the elimination of mandatory  
216 basic and added reparations benefits pursuant to public act 93-297 and  
217 any additional premium savings attributable to said act. Such rates  
218 shall be refiled, as soon as practicable, for use with policies effective on  
219 or after January 1, 1994.

220 [(c)] (3) Upon receipt of the initial base rate filing made under this  
221 section, the Insurance Commissioner, before permitting such filing to  
222 become effective, shall consult with an independent actuary for the  
223 purpose of assuring that such rates reflect both [(1)] (A) the insurer's  
224 rates on file on May 1, 1993, adjusted for cost trends from the date of  
225 filing to January 1, 1994; and [(2)] (B) the elimination of mandatory  
226 basic and added reparations benefits pursuant to public act 93-297 and  
227 any additional premium savings attributable to said act. Such revised  
228 rates shall be applicable to all new and renewal policies effective on or  
229 after January 1, 1994.

230 [(d)] (4) The base rates for bodily injury liability coverage and  
231 uninsured and underinsured motorist coverage that are filed  
232 subsequent to the initial filing of base rates pursuant to this section  
233 shall be subject to prior rate approval in the same manner as in a  
234 noncompetitive market pursuant to subdivision (2) of subsection (a) of  
235 section 38a-688.

236 (b) (1) Each insurer licensed to sell private passenger automobile

237 insurance in this state shall refile, with the Insurance Commissioner, its  
238 base rates for such coverages to reflect the elimination of mandatory  
239 uninsured and underinsured motorist coverage and any additional  
240 premium savings attributable to such elimination. Such rates shall be  
241 refiled, as soon as practicable, for use with policies effective on or after  
242 January 1, 2015.

243 (2) Upon receipt of the initial base rate filing made under this  
244 section, the Insurance Commissioner, before permitting such filing to  
245 become effective, shall consult with an independent actuary for the  
246 purpose of assuring that such rates reflect both (A) the insurer's rates  
247 on file on May 1, 2014, adjusted for cost trends from the date of filing  
248 to January 1, 2015; and (B) the elimination of mandatory uninsured  
249 and underinsured motorist coverage and any additional premium  
250 savings attributable to such elimination. Such revised rates shall be  
251 applicable to all new and renewal policies effective on or after January  
252 1, 2015.

253 (3) The base rates for bodily injury liability coverage and uninsured  
254 and underinsured motorist coverage that are filed subsequent to the  
255 initial filing of base rates pursuant to this section shall be subject to  
256 prior rate approval in the same manner as in a noncompetitive market  
257 pursuant to subdivision (2) of subsection (a) of section 38a-688.

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|---|-----------------|----------|
| This act shall take effect as follows and shall amend the following sections: |                 |          |
| Section 1   | January 1, 2015 | 38a-336  |
| Sec. 2  | January 1, 2015 | 38a-336b |
| Sec. 3  | January 1, 2015 | 38a-336a |
| Sec. 4  | January 1, 2015 | 38a-389  |

**Statement of Purpose:**

To (1) make uninsured and underinsured motorist coverage optional rather than compulsory, and (2) require insurers that write automobile liability insurance policies in this state to provide underinsured motorist conversion coverage to an insured at no cost if such insurer

fails to offer, or disclose the availability of, such coverage or fails to procure a signed informed consent form from an insured who declines such coverage.

***[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]***