

HOUSE BILL No. 2348

By Committee on Judiciary

2-10

1 AN ACT concerning insurance; relating to automobile liability insurance;
2 modifying uninsured and underinsured motorist coverage liability
3 limitations for bodily injury or death; amending K.S.A. 40-284 and
4 repealing the existing section.
5

6 WHEREAS, The provisions of K.S.A. 40-284, as amended by this act,
7 shall be known as the UIM transparency in insurance act.

8 Now, therefore:

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 40-284 is hereby amended to read as follows: 40-
11 284. (a) No automobile liability insurance policy covering liability arising
12 out of the ownership, maintenance, or use of any motor vehicle shall be
13 *renewed*, delivered or issued for delivery in this state *on or after January*
14 *1, 2022*, with respect to any motor vehicle registered or principally
15 garaged in this state, unless the policy contains or has endorsed thereon, a
16 provision with coverage limits equal to the limits of liability coverage for
17 bodily injury or death in such automobile liability insurance policy sold to
18 the named insured for payment of part or all sums ~~which~~ *that* the insured
19 or the insured's legal representative shall be legally entitled to recover as
20 damages from the uninsured owner or operator of a motor vehicle because
21 of bodily injury, sickness or disease, including death, resulting therefrom,
22 sustained by the insured, caused by accident and arising out of ownership,
23 maintenance or use of such motor vehicle, or providing for such payment
24 irrespective of legal liability of the insured or any other person or
25 organization. No insurer shall be required to offer, provide or make
26 available coverage conforming to this section in connection with any
27 excess policy, umbrella policy or any other policy ~~which~~ *that* does not
28 provide primary motor vehicle insurance for liabilities arising out of the
29 ownership, maintenance, operation or use of a specifically insured motor
30 vehicle.

31 (b) Any uninsured motorist coverage shall include an underinsured
32 motorist provision ~~which enables~~ *that has coverage limits equal to the*
33 *limits of liability provided by such uninsured motorist coverage enabling*
34 the insured or the insured's legal representative to recover from the insurer
35 the amount of damages for bodily injury or death to which the insured is
36 legally entitled from the owner or operator of another motor vehicle ~~with~~

1 ~~coverage limits equal to the limits of liability provided by such uninsured~~
2 ~~motorist coverage to the extent such coverage exceeds the limits of~~
3 ~~damages exceed the proceeds reasonably available to the insured from the~~
4 bodily injury coverage carried by the owner or operator of the other motor
5 vehicle. *In no event shall the amount of underinsured motorist coverage*
6 *be reduced because of any liability limit or payment by or on behalf of the*
7 *owner or operator of the other motor vehicle or any third party.*

8 (c) The insured named in the policy shall have the right to reject, in
9 writing, the uninsured motorist coverage required by subsections (a) and
10 (b) ~~which~~ *that* is in excess of the limits for bodily injury or death set forth
11 in K.S.A. 40-3107, and amendments thereto. A rejection by an insured
12 named in the policy of the uninsured motorist coverage shall be a rejection
13 on behalf of all parties insured by the policy. Unless the insured named in
14 the policy requests such coverage in writing, such coverage need not be
15 provided in any subsequent policy issued by the same insurer for motor
16 vehicles owned by the named insured, including, but not limited to,
17 supplemental, renewal, reinstated, transferred or substitute policies where
18 the named insured had rejected the coverage in connection with a policy
19 previously issued to the insured by the same insurer.

20 (d) Coverage under the policy shall be limited to the extent that the
21 total limits available cannot exceed the highest limits of any single
22 applicable policy, regardless of the number of policies involved, persons
23 covered, claims made, vehicles or premiums shown on the policy or
24 premiums paid or vehicles involved in an accident.

25 (e) Any insurer may provide for the exclusion or limitation of
26 coverage:

27 (1) When the insured is occupying or struck by an uninsured
28 automobile or trailer owned or provided for the insured's regular use;

29 (2) when the uninsured automobile is owned by a self-insurer or any
30 governmental entity;

31 (3) when there is no evidence of physical contact with the uninsured
32 motor vehicle and when there is no reliable competent evidence to prove
33 the facts of the accident from a disinterested witness not making claim
34 under the policy;

35 (4) to the extent that workers' compensation benefits apply;

36 (5) when suit is filed against the uninsured motorist without notice to
37 the insurance carrier; and

38 (6) to the extent that personal injury protection benefits apply.

39 (f) An underinsured motorist coverage insurer shall have subrogation
40 rights under the provisions of K.S.A. 40-287, and amendments thereto. If a
41 tentative agreement to settle for liability limits has been reached with an
42 underinsured tortfeasor, written notice ~~must~~ *shall* be given by certified
43 mail to the underinsured motorist coverage insurer by its insured. Such

1 written notice shall include written documentation of pecuniary losses
2 incurred, including copies of all medical bills and written authorization or
3 a court order to obtain reports from all employers and medical providers.
4 Within 60 days of receipt of this written notice, the underinsured motorist
5 coverage insurer may substitute its payment to the insured for the tentative
6 settlement amount. The underinsured motorist coverage insurer ~~is~~ *shall*
7 then *be* subrogated to the insured's right of recovery to the extent of such
8 payment and any settlement under the underinsured motorist coverage. If
9 the underinsured motorist coverage insurer fails to pay the insured the
10 amount of the tentative tort settlement within 60 days, the underinsured
11 motorist coverage insurer ~~has~~ *shall have* no right of subrogation for any
12 amount paid under the underinsured motorist coverage.

13 Sec. 2. K.S.A. 40-284 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after
15 January 1, 2022, and its publication in the statute book.