

Bill No.: \_\_\_\_\_

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

Drafted by: Departmental

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By: **Leave Blank (By Request – Departmental – Maryland Insurance Administration)**

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Uninsured or Enhanced Underinsured Motorist Coverage –**  
3 **Property Damage**

4 FOR the purpose of clarifying that certain motor vehicle liability insurance policies must  
5 contain coverage for damages, subject to the policy limits, that the insured is entitled  
6 to recover from the owner or operator of certain motor vehicles because of property  
7 damage, including the loss of the insured vehicle; altering the amounts to which  
8 certain motorist coverage in certain policies must be equal; and generally relating to  
9 motor vehicle liability insurance.

10 BY repealing and reenacting, with amendments,  
11 Article – Insurance  
12 Section 19–509 and 19–509.1  
13 Annotated Code of Maryland  
14 (2017 Replacement Volume and 2019 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Insurance**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 19-509.

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

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

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

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

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

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

14 (1) that insures a motor vehicle that:

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

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

19 (2) if the first named insured under a policy or binder of private passenger  
20 motor vehicle liability insurance has elected to obtain enhanced underinsured motorist  
21 coverage under § 19-509.1 of this subtitle instead of the uninsured motorist coverage  
22 required under this section.

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

26 (1) the insured is entitled to recover from the owner or operator of an

1 uninsured motor vehicle because of bodily injuries sustained in a motor vehicle accident  
2 arising out of the ownership, maintenance, or use of the uninsured motor vehicle; [and]

3 **(2) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR**  
4 **OPERATOR OF AN UNINSURED MOTOR VEHICLE BECAUSE OF PROPERTY DAMAGE,**  
5 **INCLUDING LOSS OF USE OF THE INSURED VEHICLE; AND**

6 **[(2)] (3)** a surviving relative of the insured, who is described in § 3–904 of  
7 the Courts Article, is entitled to recover from the owner or operator of an uninsured motor  
8 vehicle because the insured died as the result of a motor vehicle accident arising out of the  
9 ownership, maintenance, or use of the uninsured motor vehicle.

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

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

14 (i) shall at least equal:

15 1. the amounts required by Title 17 of the Transportation  
16 Article **FOR BODILY INJURY AND PROPERTY DAMAGE, INCLUDING LOSS OF USE OF**  
17 **THE INSURED VEHICLE; and**

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

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

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

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

27 (1) the named insured or a family member of the named insured who

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

5 (2) the named insured, a family member of the named insured who resides  
6 in the named insured's household, and any other individual who has other applicable motor  
7 vehicle insurance for an injury that occurs when the named insured, family member, or  
8 other individual is occupying or is struck as a pedestrian by the insured motor vehicle while  
9 the motor vehicle is operated or used by an individual who is excluded from coverage under  
10 § 27-609 of this article.

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

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

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

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

26 (j) A provision in a motor vehicle liability insurance policy issued after July 1,  
27 1975, about coverage for damages sustained by the insured as a result of the operation of  
28 an uninsured motor vehicle that requires a dispute between the insured and the insurer to  
29 be submitted to binding arbitration is prohibited and is of no legal effect.

30 19-509.1.

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

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

6 (1) that insures a motor vehicle that:

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

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

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

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

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

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

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

1 subtitle, shall contain coverage for damages, subject to the policy limits, that:

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

5 **(2) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR**  
6 **OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE OF PROPERTY**  
7 **DAMAGE, INCLUDING LOSS OF USE OF THE INSURED VEHICLE; AND**

8 **[(2)] (3)** a surviving relative of the insured, who is described in § 3-904 of  
9 the Courts Article, is entitled to recover from the owner or operator of an underinsured  
10 motor vehicle because the insured died as the result of a motor vehicle accident arising out  
11 of the ownership, maintenance, or use of the underinsured motor vehicle.

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

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

16 (i) shall at least equal:

17 1. the amounts required by Title 17 of the Transportation  
18 Article **FOR BODILY INJURY AND PROPERTY DAMAGE, INCLUDING LOSS OF USE OF**  
19 **THE INSURED VEHICLE;** and

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

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

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

27 (g) An insurer may exclude from the enhanced underinsured motorist coverage

1 required by this section benefits for:

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

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

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

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

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

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

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2020.

DRAFT