

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 402
PROPOSED COMMITTEE SUBSTITUTE H402-PCS40418-CL-19

Short Title: Motor Vehicle Insurance Reform.

(Public)

Sponsors:

Referred to:

March 20, 2023

1 A BILL TO BE ENTITLED
2 AN ACT MAKING VARIOUS CHANGES TO THE MOTOR VEHICLE INSURANCE AND
3 SERVICE OF PROCESS LAWS OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 20-279.1 reads as rewritten:

6 "**§ 20-279.1. Definitions.**

7 The following words and phrases, when used in this Article, shall, for the purposes of this
8 Article, have the meanings respectively ascribed to them in this section, except in those instances
9 where the context clearly indicates a different meaning:

10 ...

11 (11) "Proof of financial responsibility": Proof of ability to respond in damages for
12 liability, on account of accidents occurring subsequent to the effective date of
13 said proof, arising out of the ownership, maintenance or use of a motor
14 vehicle, in the amount of ~~thirty thousand dollars (\$30,000)~~ fifty thousand
15 dollars (\$50,000) because of bodily injury to or death of one person in any one
16 accident, and, subject to said limit for one person, in the amount of ~~sixty~~
17 ~~thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000) because
18 of bodily injury to or death of two or more persons in any one accident, and
19 in the amount of ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars
20 (\$50,000) because of injury to or destruction of property of others in any one
21 accident. Nothing contained herein shall prevent an insurer and an insured
22 from entering into a contract, not affecting third parties, providing for a
23 deductible as to property damage at a rate approved by the Commissioner of
24 Insurance.

25"

26 **SECTION 2.** G.S. 20-279.5(c) reads as rewritten:

27 "(c) This section shall not apply under the conditions stated in G.S. 20-279.6 nor:

- 28 (1) To such operator or owner if such owner had in effect at the time of such
29 accident an automobile liability policy with respect to the motor vehicle
30 involved in such accident;
- 31 (2) To such operator, if not the owner of such motor vehicle, if there was in effect
32 at the time of such accident a motor vehicle liability policy or bond with
33 respect to his operation of motor vehicles not owned by him;
- 34 (3) To such operator or owner if the liability of such operator or owner for
35 damages resulting from such accident is, in the judgment of the



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- 1 Commissioner, covered by any other form of liability insurance policy or bond
 2 or sinking fund or group assumption of liability;
- 3 (4) To any person qualifying as a self-insurer, nor to any operator for a self-insurer
 4 if, in the opinion of the Commissioner from the information furnished him,
 5 the operator at the time of the accident was probably operating the vehicle in
 6 the course of the operator's employment as an employee or officer of the
 7 self-insurer; nor
- 8 (5) To any employee of the United States government while operating a vehicle
 9 in its service and while acting within the scope of his employment, such
 10 operations being fully protected by the Federal Tort Claims Act of 1946,
 11 which affords ample security to all persons sustaining personal injuries or
 12 property damage through the negligence of such federal employee.

13 No such policy or bond shall be effective under this section unless issued by an insurance
 14 company or surety company authorized to do business in this State, except that if such motor
 15 vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere
 16 than in this State at the effective date of the policy or bond, or the most recent renewal thereof,
 17 or if such operator not an owner was a nonresident of this State, such policy or bond shall not be
 18 effective under this section unless the insurance company or surety company if not authorized to
 19 do business in this State shall execute a power of attorney authorizing the Commissioner to accept
 20 service on its behalf of notice or process in any action upon such policy, or bond arising out of
 21 such accident, and unless said insurance company or surety company, if not authorized to do
 22 business in this State, is authorized to do business in the state or other jurisdiction where the
 23 motor vehicle is registered or, if such policy or bond is filed on behalf of an operator not an owner
 24 who was a nonresident of this State, unless said insurance company or surety company, if not
 25 authorized to do business in this State, is authorized to do business in the state or other jurisdiction
 26 of residence of such operator; provided, however, every such policy or bond is subject, if the
 27 accident has resulted in bodily injury or death, to a limit, exclusive of interest and cost, of not
 28 less than ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) because of bodily
 29 injury to or death of one person in any one accident and, subject to said limit for one person, to
 30 a limit of not less than ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000)
 31 because of bodily injury to or death of two or more persons in any one accident, and, if the
 32 accident has resulted in injury to or destruction of property, to a limit of not less than ~~twenty-five~~
 33 ~~thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction of
 34 property of others in any one accident."

35 **SECTION 3.** G.S. 20-279.15 reads as rewritten:

36 **"§ 20-279.15. Payment sufficient to satisfy requirements.**

37 In addition to other methods of satisfaction provided by law, judgments herein referred to
 38 shall, for the purpose of this Article, be deemed satisfied:

- 39 (1) When ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) has
 40 been credited upon any judgment or judgments rendered in excess of that
 41 amount because of bodily injury to or death of one person as the result of any
 42 one accident; or
- 43 (2) When, subject to such limit of ~~thirty thousand dollars (\$30,000)~~ fifty thousand
 44 dollars (\$50,000) because of bodily injury to or death of one person, the sum
 45 of ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000)
 46 has been credited upon any judgment or judgments rendered in excess of that
 47 amount because of bodily injury to or death of two or more persons as the
 48 result of any one accident; or
- 49 (3) When ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000)
 50 has been credited upon any judgment or judgments rendered in excess of that

1 amount because of injury to or destruction of property of others as a result of
2 any one accident;
3 Provided, however, payments made in settlement of any claims because of bodily injury,
4 death or property damage arising from a motor vehicle accident shall be credited in reduction of
5 the amounts provided for in this section."

6 **SECTION 4.** G.S. 20-279.21(b) reads as rewritten:

7 "(b) Except as provided in G.S. 20-309(a2), such owner's policy of liability insurance:

8 ...

9 (2) Shall insure the person named therein and any other person, as insured, using
10 any such motor vehicle or motor vehicles with the express or implied
11 permission of such named insured, or any other persons in lawful possession,
12 against loss from the liability imposed by law for damages arising out of the
13 ownership, maintenance or use of such motor vehicle or motor vehicles within
14 the United States of America or the Dominion of Canada subject to limits
15 exclusive of interest and costs, with respect to each such motor vehicle, as
16 follows: ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000)
17 because of bodily injury to or death of one person in any one accident and,
18 subject to said limit for one person, ~~sixty thousand dollars (\$60,000)~~ one
19 hundred thousand dollars (\$100,000) because of bodily injury to or death of
20 two or more persons in any one accident, and ~~twenty five thousand dollars~~
21 ~~(\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction
22 of property of others in any one accident; and

23 (3) No policy of bodily injury liability insurance, covering liability arising out of
24 the ownership, maintenance, or use of any motor vehicle, shall be delivered
25 or issued for delivery in this State with respect to any motor vehicle registered
26 or principally garaged in this State unless coverage is provided therein or
27 supplemental thereto, under provisions filed with and approved by the
28 Commissioner of Insurance, for the protection of persons insured thereunder
29 who are legally entitled to recover damages from owners or operators of
30 uninsured motor vehicles and hit-and-run motor vehicles because of bodily
31 injury, sickness or disease, including death, resulting therefrom. The limits of
32 such uninsured motorist bodily injury coverage shall be equal to the highest
33 limits of bodily injury liability coverage for any one vehicle insured under the
34 policy; provided, however, that (i) the limits shall not exceed one million
35 dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per
36 accident regardless of whether the highest limits of bodily injury liability
37 coverage for any one vehicle insured under the policy exceed those limits and
38 (ii) a named insured may purchase greater or lesser limits, except that the
39 limits shall not be less than the bodily injury liability limits required pursuant
40 to subdivision (2) of this subsection, and in no event shall an insurer be
41 required by this subdivision to sell uninsured motorist bodily injury coverage
42 at limits that exceed one million dollars (\$1,000,000) per person and one
43 million dollars (\$1,000,000) per accident. When the policy is issued and
44 renewed, the insurer shall notify the named insured as provided in subsection
45 (m) of this section. The provisions shall include coverage for the protection of
46 persons insured under the policy who are legally entitled to recover damages
47 from owners or operators of uninsured motor vehicles because of injury to or
48 destruction of the property of such insured. The limits of such uninsured
49 motorist property damage coverage shall be equal to the highest limits of
50 property damage liability coverage for any one vehicle insured under the
51 policy; provided, however, that (i) the limits shall not exceed one million

1 dollars (\$1,000,000) per accident regardless of whether the highest limits of
2 property damage liability coverage for any one vehicle insured under the
3 policy exceed those limits and (ii) a named insured may purchase lesser limits,
4 except that the limits shall not be less than the property damage liability limits
5 required pursuant to subdivision (2) of this subsection. When the policy is
6 issued and renewed, the insurer shall notify the named insured as provided in
7 subsection (m) of this section. For uninsured motorist property damage
8 coverage, the limits purchased by the named insured shall be subject, for each
9 insured, to an exclusion of the first one hundred dollars (\$100.00) of such
10 damages. The provision shall further provide that a written statement by the
11 liability insurer, whose name appears on the certification of financial
12 responsibility made by the owner of any vehicle involved in an accident with
13 the insured, that the other motor vehicle was not covered by insurance at the
14 time of the accident with the insured shall operate as a prima facie
15 presumption that the operator of the other motor vehicle was uninsured at the
16 time of the accident with the insured for the purposes of recovery under this
17 provision of the insured's liability insurance policy.

18 If a person who is legally entitled to recover damages from the owner or
19 operator of an uninsured motor vehicle is an insured under the uninsured
20 motorist coverage of a policy that insures more than one motor vehicle, that
21 person shall not be permitted to combine the uninsured motorist limit
22 applicable to any one motor vehicle with the uninsured motorist limit
23 applicable to any other motor vehicle to determine the total amount of
24 uninsured motorist coverage available to that person. If a person who is legally
25 entitled to recover damages from the owner or operator of an uninsured motor
26 vehicle is an insured under the uninsured motorist coverage of more than one
27 policy, that person may combine the highest applicable uninsured motorist
28 limit available under each policy to determine the total amount of uninsured
29 motorist coverage available to that person. The previous sentence shall apply
30 only to insurance on nonfleet private passenger motor vehicles as described in
31 G.S. 58-40-10(1) and (2).

32 In addition to the above requirements relating to uninsured motorist
33 insurance, every policy of bodily injury liability insurance covering liability
34 arising out of the ownership, maintenance or use of any motor vehicle, which
35 policy is delivered or issued for delivery in this State, shall be subject to the
36 following provisions which need not be contained therein.

37 a. A provision that the insurer shall be bound by a final judgment taken
38 by the insured against an uninsured motorist if the insurer has been
39 served with copy of summons, complaint or other process in the action
40 against the uninsured motorist by registered or certified mail, return
41 receipt requested, or in any manner provided by law; ~~provided~~
42 ~~however, that the law. The insurer may also be issued a summons,~~
43 complaint, or other process as an unnamed party and served by
44 registered or certified mail, return receipt requested, or in any manner
45 provided by law. Service outside of the statute of limitations shall be
46 valid so long as the summons has been properly issued, preserved, and
47 served pursuant to North Carolina Rule of Civil Procedure 4. The
48 determination of whether a motorist is uninsured may be decided only
49 by an action against the insurer alone. The insurer, upon being served
50 as herein provided, shall be a party to the action between the insured
51 and the uninsured motorist though not named in the caption of the

1 pleadings and may defend the suit in the name of the uninsured
 2 motorist or in its own name. The insurer, upon being served with copy
 3 of summons, complaint or other pleading, shall have the time allowed
 4 by statute in which to answer, demur or otherwise plead (whether the
 5 pleading is verified or not) to the summons, complaint or other process
 6 served upon it. The consent of the insurer shall not be required for the
 7 initiation of suit by the insured against the uninsured motorist:
 8 Provided, however, no action shall be initiated by the insured until 60
 9 days following the posting of notice to the insurer at the address shown
 10 on the policy or after personal delivery of the notice to the insurer or
 11 its agent setting forth the belief of the insured that the prospective
 12 defendant or defendants are uninsured motorists. No default judgment
 13 shall be entered when the insurer has timely filed an answer or other
 14 pleading as required by law. The failure to post notice to the insurer
 15 60 days in advance of the initiation of suit shall not be grounds for
 16 dismissal of the action, but shall automatically extend the time for the
 17 filing of an answer or other pleadings to 60 days after the time of
 18 service of the summons, complaint, or other process on the insurer.

- 19 ...
- 20 (4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this
 21 subsection, provide underinsured motorist coverage, to be used only with a
 22 policy that is written at limits that exceed those prescribed by subdivision (2)
 23 of this subsection. The limits of such underinsured motorist bodily injury
 24 coverage shall be equal to the highest limits of bodily injury liability coverage
 25 for any one vehicle insured under the policy; provided, however, that (i) the
 26 limits shall not exceed one million dollars (\$1,000,000) per person and one
 27 million dollars (\$1,000,000) per accident regardless of whether the highest
 28 limits of bodily injury liability coverage for any one vehicle insured under the
 29 policy exceed those limits, (ii) a named insured may purchase greater or lesser
 30 limits, except that the limits shall exceed the bodily injury liability limits
 31 required pursuant to subdivision (2) of this subsection, and in no event shall
 32 an insurer be required by this subdivision to sell underinsured motorist bodily
 33 injury coverage at limits that exceed one million dollars (\$1,000,000) per
 34 person and one million dollars (\$1,000,000) per accident, and (iii) the limits
 35 shall be equal to the limits of uninsured motorist bodily injury coverage
 36 purchased pursuant to subdivision (3) of this subsection. When the policy is
 37 issued and renewed, the insurer shall notify the named insured as provided in
 38 subsection (m) of this section. An "uninsured motor vehicle," as described in
 39 subdivision (3) of this subsection, includes an "underinsured highway
 40 vehicle," which means a highway vehicle with respect to the ownership,
 41 maintenance, or use of which, the sum of the limits of liability under all bodily
 42 injury liability bonds and insurance policies applicable at the time of the
 43 accident is less than ~~the applicable limits of underinsured motorist coverage~~
 44 ~~for the vehicle involved in the accident and insured under the owner's policy.~~
 45 the total damages sustained by an individual seeking payment of benefits
 46 under this subdivision. For purposes of an underinsured motorist claim
 47 asserted by a person injured in an accident where more than one person is
 48 injured, a highway vehicle will also be an "underinsured highway vehicle" if
 49 all bodily injury liability bonds and insurance policies applicable to such
 50 highway vehicle at the time of the accident are exhausted and the total amount
 51 actually paid to that person under ~~from the exhaustion of~~ all bodily injury

1 liability bonds and insurance policies applicable to such highway vehicle at
2 the time of the accident is less than ~~the applicable limits of underinsured~~
3 ~~motorist coverage for the vehicle involved in the accident and insured under~~
4 ~~the owner's policy.~~ the total damages sustained by such person seeking
5 payment of benefits under this subdivision. Notwithstanding the immediately
6 preceding sentence, a highway vehicle shall not be an "underinsured motor
7 vehicle" for purposes of an underinsured motorist claim under an owner's
8 policy insuring that vehicle unless the owner's policy insuring that vehicle
9 provides underinsured motorist coverage with limits that are greater than that
10 policy's bodily injury liability ~~limits.~~ limits, in which event the available
11 underinsured motorist coverage is that amount of underinsured motorist
12 coverage under the owner's policy insuring that vehicle which exceeds the
13 policy's bodily injury liability limits. For the purposes of this subdivision, the
14 term "highway vehicle" means a land motor vehicle or trailer other than (i) a
15 farm-type tractor or other vehicle designed for use principally off public roads
16 and while not upon public roads, (ii) a vehicle operated on rails or
17 crawler-treads, or (iii) a vehicle while located for use as a residence or
18 premises. The provisions of subdivision (3) of this subsection shall apply to
19 the coverage required by this subdivision. Underinsured motorist coverage is
20 deemed to apply when, by reason of payment of judgment or settlement, all
21 liability bonds or insurance policies providing coverage for bodily injury
22 caused by the ownership, maintenance, or use of the underinsured highway
23 vehicle have been exhausted. Exhaustion of that liability coverage for the
24 purpose of any single ~~liability~~ claim presented for underinsured motorist
25 coverage is deemed to occur when either (a) the limits of liability per claim
26 have been paid or tendered upon the claim, or (b) by reason of multiple claims,
27 the aggregate per occurrence limit of liability has been ~~paid.~~ paid or tendered.
28 Underinsured motorist coverage is deemed to apply to the first dollar of an
29 underinsured motorist coverage claim beyond amounts paid to the claimant
30 under the exhausted liability ~~policy.~~ policy or policies applicable to the
31 underinsured highway vehicle at the time of the accident. The amount of
32 underinsured motorist coverage applicable to any claim for benefits under this
33 subdivision shall not be reduced by a setoff or credit against any coverage,
34 including liability insurance, except for workers' compensation coverage to
35 the extent provided for in subsection (e) of this section. If a claimant is an
36 insured under the underinsured motorist coverage on separate or additional
37 policies, the total amount of underinsured motorist coverage applicable to the
38 claimant is the sum of the limits of the claimant's underinsured motorist
39 coverages as determined by combining the highest limit available under each
40 policy, and shall not be reduced by a setoff against any coverage, including
41 liability insurance, except for workers' compensation coverage to the extent
42 provided for in subsection (e) of this section.

43 ~~In any event, the limit of underinsured motorist coverage applicable to any~~
44 ~~claim is determined to be the difference between the amount paid to the~~
45 ~~claimant under the exhausted liability policy or policies and the limit of~~
46 ~~underinsured motorist coverage applicable to the motor vehicle involved in~~
47 ~~the accident. Furthermore, if a claimant is an insured under the underinsured~~
48 ~~motorist coverage on separate or additional policies, the limit of underinsured~~
49 ~~motorist coverage applicable to the claimant is the difference between the~~
50 ~~amount paid to the claimant under the exhausted liability policy or policies~~
51 ~~and the total limits of the claimant's underinsured motorist coverages as~~

determined by combining the highest limit available under each policy; provided that this sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-15(9) and (10). The underinsured motorist limits applicable to any one motor vehicle under a policy shall not be combined with or added to the limits applicable to any other motor vehicle under that policy."

SECTION 5. G.S. 20-279.25(a) reads as rewritten:

"(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him ~~eighty five thousand dollars (\$85,000)~~ one hundred twenty-five thousand dollars (\$125,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of ~~eighty five thousand dollars (\$85,000)~~ one hundred twenty-five thousand dollars (\$125,000). The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides."

SECTION 6. G.S. 20-281 reads as rewritten:

"§ 20-281. Liability insurance prerequisite to engaging in business; coverage of policy.

From and after July 1, 1953, it shall be unlawful for any person, firm or corporation to engage in the business of renting or leasing motor vehicles to the public for operation by the rentee or lessee unless such person, firm or corporation has secured insurance for his own liability and that of his rentee or lessee, in such an amount as is hereinafter provided, from an insurance company duly licensed to sell motor vehicle liability insurance in this State. Each such motor vehicle leased or rented must be covered by a policy of liability insurance insuring the owner and rentee or lessee and their agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident arising out of the operation of such motor vehicle, subject to the following minimum limits: ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) because of bodily injury to or death of one person in any one accident, and ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000) because of bodily injury to or death of two or more persons in any one accident, and ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction of property of others in any one accident. Provided, however, that nothing in this Article shall prevent such operators from qualifying as self-insurers under terms and conditions to be prepared and prescribed by the Commissioner of Motor Vehicles or by giving bond with personal or corporate surety, as now provided by G.S. 20-279.24, in lieu of securing the insurance policy hereinbefore provided for."

SECTION 7. G.S. 58-37-35(b) reads as rewritten:

"(b) The Facility shall reinsure for each coverage available in the Facility to the standard percentage of one hundred percent (100%) or lesser equitable percentage established in the Facility's plan of operation as follows:

- (1) For the following coverages of motor vehicle insurance and in at least the following amounts of insurance:
 - a. Bodily injury liability: ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) each person, ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000) each accident;
 - b. Property damage liability: ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) each accident;
 - c. Medical payments: one thousand dollars (\$1,000) each person; except that this coverage shall not be available for motorcycles or mopeds;
 - d. Uninsured motorist: ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) each person; ~~sixty thousand dollars (\$60,000)~~ one

1 hundred thousand dollars (\$100,000) each accident for bodily injury;
2 ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars
3 (\$50,000) each accident property damage (one hundred dollars
4 (\$100.00) deductible);
5 e. Any other motor vehicle insurance or financial responsibility limits in
6 the amounts required by any federal law or federal agency regulation;
7 by any law of this State; or by any rule duly adopted under Chapter
8 150B of the General Statutes or by the North Carolina Utilities
9 Commission.

10 "

11 **SECTION 8.** This act becomes effective October 1, 2023, and applies to policies
12 issued, amended, or renewed on or after that date.