

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 402

Short Title: Motor Vehicle Insurance Reform. (Public)

Sponsors: Representatives Stevens, Humphrey, and Gillespie (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Insurance, if favorable, Rules, Calendar, and Operations
of the House

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 reads as rewritten:

27 **"§ 20-279.5. Security required unless evidence of insurance; when security determined;
28 suspension; exceptions.**

29 ...

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

31 ...

32 No such policy or bond shall be effective under this section unless issued by an insurance
33 company or surety company authorized to do business in this State, except that if such motor
34 vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere



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1 than in this State at the effective date of the policy or bond, or the most recent renewal thereof,
 2 or if such operator not an owner was a nonresident of this State, such policy or bond shall not be
 3 effective under this section unless the insurance company or surety company if not authorized to
 4 do business in this State shall execute a power of attorney authorizing the Commissioner to accept
 5 service on its behalf of notice or process in any action upon such policy, or bond arising out of
 6 such accident, and unless said insurance company or surety company, if not authorized to do
 7 business in this State, is authorized to do business in the state or other jurisdiction where the
 8 motor vehicle is registered or, if such policy or bond is filed on behalf of an operator not an owner
 9 who was a nonresident of this State, unless said insurance company or surety company, if not
 10 authorized to do business in this State, is authorized to do business in the state or other jurisdiction
 11 of residence of such operator; provided, however, every such policy or bond is subject, if the
 12 accident has resulted in bodily injury or death, to a limit, exclusive of interest and cost, of not
 13 less than ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) because of bodily
 14 injury to or death of one person in any one accident and, subject to said limit for one person, to
 15 a limit of not less than ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000)
 16 because of bodily injury to or death of two or more persons in any one accident, and, if the
 17 accident has resulted in injury to or destruction of property, to a limit of not less than ~~twenty-five~~
 18 ~~thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction of
 19 property of others in any one accident."

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

21 "**§ 20-279.15. Payment sufficient to satisfy requirements.**

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

- 24 (1) When ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000) has
 25 been credited upon any judgment or judgments rendered in excess of that
 26 amount because of bodily injury to or death of one person as the result of any
 27 one accident; or
- 28 (2) When, subject to such limit of ~~thirty thousand dollars (\$30,000)~~ sixty thousand
 29 dollars (\$60,000) because of bodily injury to or death of one person, the sum
 30 of ~~sixty thousand dollars (\$60,000)~~ one hundred thousand dollars (\$100,000)
 31 has been credited upon any judgment or judgments rendered in excess of that
 32 amount because of bodily injury to or death of two or more persons as the
 33 result of any one accident; or
- 34 (3) When ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000)
 35 has been credited upon any judgment or judgments rendered in excess of that
 36 amount because of injury to or destruction of property of others as a result of
 37 any one accident;

38 Provided, however, payments made in settlement of any claims because of bodily injury,
 39 death or property damage arising from a motor vehicle accident shall be credited in reduction of
 40 the amounts provided for in this section."

41 **SECTION 4.** G.S. 20-279.21 reads as rewritten:

42 "**§ 20-279.21. "Motor vehicle liability policy" defined.**

43 ...

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

45 ...

- 46 (2) Shall insure the person named therein and any other person, as insured, using
 47 any such motor vehicle or motor vehicles with the express or implied
 48 permission of such named insured, or any other persons in lawful possession,
 49 against loss from the liability imposed by law for damages arising out of the
 50 ownership, maintenance or use of such motor vehicle or motor vehicles within
 51 the United States of America or the Dominion of Canada subject to limits

1 exclusive of interest and costs, with respect to each such motor vehicle, as
2 follows: ~~thirty thousand dollars (\$30,000)~~ fifty thousand dollars (\$50,000)
3 because of bodily injury to or death of one person in any one accident and,
4 subject to said limit for one person, ~~sixty thousand dollars (\$60,000)~~ one
5 hundred thousand dollars (\$100,000) because of bodily injury to or death of
6 two or more persons in any one accident, and ~~twenty five thousand dollars~~
7 ~~(\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction
8 of property of others in any one accident; and

- 9 (3) No policy of bodily injury liability insurance, covering liability arising out of
10 the ownership, maintenance, or use of any motor vehicle, shall be delivered
11 or issued for delivery in this State with respect to any motor vehicle registered
12 or principally garaged in this State unless coverage is provided therein or
13 supplemental thereto, under provisions filed with and approved by the
14 Commissioner of Insurance, for the protection of persons insured thereunder
15 who are legally entitled to recover damages from owners or operators of
16 uninsured motor vehicles and hit-and-run motor vehicles because of bodily
17 injury, sickness or disease, including death, resulting therefrom. The limits of
18 such uninsured motorist bodily injury coverage shall be equal to the highest
19 limits of bodily injury liability coverage for any one vehicle insured under the
20 policy; provided, however, that (i) the limits shall not exceed one million
21 dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per
22 accident regardless of whether the highest limits of bodily injury liability
23 coverage for any one vehicle insured under the policy exceed those limits and
24 (ii) a named insured may purchase greater or lesser limits, except that the
25 limits shall not be less than the bodily injury liability limits required pursuant
26 to subdivision (2) of this subsection, and in no event shall an insurer be
27 required by this subdivision to sell uninsured motorist bodily injury coverage
28 at limits that exceed one million dollars (\$1,000,000) per person and one
29 million dollars (\$1,000,000) per accident. When the policy is issued and
30 renewed, the insurer shall notify the named insured as provided in subsection
31 (m) of this section. The provisions shall include coverage for the protection of
32 persons insured under the policy who are legally entitled to recover damages
33 from owners or operators of uninsured motor vehicles because of injury to or
34 destruction of the property of such insured. The limits of such uninsured
35 motorist property damage coverage shall be equal to the highest limits of
36 property damage liability coverage for any one vehicle insured under the
37 policy; provided, however, that (i) the limits shall not exceed one million
38 dollars (\$1,000,000) per accident regardless of whether the highest limits of
39 property damage liability coverage for any one vehicle insured under the
40 policy exceed those limits and (ii) a named insured may purchase lesser limits,
41 except that the limits shall not be less than the property damage liability limits
42 required pursuant to subdivision (2) of this subsection. When the policy is
43 issued and renewed, the insurer shall notify the named insured as provided in
44 subsection (m) of this section. For uninsured motorist property damage
45 coverage, the limits purchased by the named insured shall be subject, for each
46 insured, to an exclusion of the first one hundred dollars (\$100.00) of such
47 damages. The provision shall further provide that a written statement by the
48 liability insurer, whose name appears on the certification of financial
49 responsibility made by the owner of any vehicle involved in an accident with
50 the insured, that the other motor vehicle was not covered by insurance at the
51 time of the accident with the insured shall operate as a prima facie

1 presumption that the operator of the other motor vehicle was uninsured at the
2 time of the accident with the insured for the purposes of recovery under this
3 provision of the insured's liability insurance policy.

4 ...

5 a. A provision that the insurer shall be bound by a final judgment taken
6 by the insured against an uninsured motorist if the insurer has been
7 served with copy of summons, complaint or other process in the action
8 against the uninsured motorist by registered or certified mail, return
9 receipt requested, or in any manner provided by law; ~~provided~~
10 ~~however, that the law.~~ The insurer may also be issued a summons,
11 complaint, or other process as an unnamed party and served by
12 registered or certified mail, return receipt requested, or in any manner
13 provided by law. Service outside of the statute of limitations shall be
14 valid so long as the summons has been properly issued, preserved, and
15 served pursuant to North Carolina Rule of Civil Procedure 4. The
16 determination of whether a motorist is uninsured may be decided only
17 by an action against the insurer alone. The insurer, upon being served
18 as herein provided, shall be a party to the action between the insured
19 and the uninsured motorist though not named in the caption of the
20 pleadings and may defend the suit in the name of the uninsured
21 motorist or in its own name. The insurer, upon being served with copy
22 of summons, complaint or other pleading, shall have the time allowed
23 by statute in which to answer, demur or otherwise plead (whether the
24 pleading is verified or not) to the summons, complaint or other process
25 served upon it. The consent of the insurer shall not be required for the
26 initiation of suit by the insured against the uninsured motorist:
27 Provided, however, no action shall be initiated by the insured until 60
28 days following the posting of notice to the insurer at the address shown
29 on the policy or after personal delivery of the notice to the insurer or
30 its agent setting forth the belief of the insured that the prospective
31 defendant or defendants are uninsured motorists. No default judgment
32 shall be entered when the insurer has timely filed an answer or other
33 pleading as required by law. The failure to post notice to the insurer
34 60 days in advance of the initiation of suit shall not be grounds for
35 dismissal of the action, but shall automatically extend the time for the
36 filing of an answer or other pleadings to 60 days after the time of
37 service of the summons, complaint, or other process on the insurer.

38 ...

39 (4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this
40 subsection, provide underinsured motorist coverage, to be used only with a
41 policy that is written at limits that exceed those prescribed by subdivision (2)
42 of this subsection. The limits of such underinsured motorist bodily injury
43 coverage shall be equal to the highest limits of bodily injury liability coverage
44 for any one vehicle insured under the policy; provided, however, that (i) the
45 limits shall not exceed one million dollars (\$1,000,000) per person and one
46 million dollars (\$1,000,000) per accident regardless of whether the highest
47 limits of bodily injury liability coverage for any one vehicle insured under the
48 policy exceed those limits, (ii) a named insured may purchase greater or lesser
49 limits, except that the limits shall exceed the bodily injury liability limits
50 required pursuant to subdivision (2) of this subsection, and in no event shall
51 an insurer be required by this subdivision to sell underinsured motorist bodily

1 injury coverage at limits that exceed one million dollars (\$1,000,000) per
2 person and one million dollars (\$1,000,000) per accident, and (iii) the limits
3 shall be equal to the limits of uninsured motorist bodily injury coverage
4 purchased pursuant to subdivision (3) of this subsection. When the policy is
5 issued and renewed, the insurer shall notify the named insured as provided in
6 subsection (m) of this section. An "uninsured motor vehicle," as described in
7 subdivision (3) of this subsection, includes an "underinsured highway
8 vehicle," which means a highway vehicle with respect to the ownership,
9 maintenance, or use of which, the sum of the limits of liability under all bodily
10 injury liability bonds and insurance policies applicable at the time of the
11 accident is less than ~~the applicable limits of underinsured motorist coverage~~
12 ~~for the vehicle involved in the accident and insured under the owner's policy.~~
13 the total damages sustained by an individual seeking payment of benefits
14 under this subdivision. For purposes of an underinsured motorist claim
15 asserted by a person injured in an accident where more than one person is
16 injured, a highway vehicle will also be an "underinsured highway vehicle" if
17 all bodily injury liability bonds and insurance policies applicable to such
18 highway vehicle at the time of the accident are exhausted and the total amount
19 actually paid to that person ~~under~~ from the exhaustion of all bodily injury
20 liability bonds and insurance policies applicable to such highway vehicle at
21 the time of the accident is less than ~~the applicable limits of underinsured~~
22 ~~motorist coverage for the vehicle involved in the accident and insured under~~
23 ~~the owner's policy.~~ the total damages sustained by such person seeking
24 payment of benefits under this subdivision. Notwithstanding the immediately
25 preceding sentence, a highway vehicle shall not be an "underinsured motor
26 vehicle" for purposes of an underinsured motorist claim under an owner's
27 policy insuring that vehicle unless the owner's policy insuring that vehicle
28 provides underinsured motorist coverage with limits that are greater than that
29 policy's bodily injury liability ~~limits.~~ limits, in which event the available
30 underinsured motorist coverage is that amount of underinsured motorist
31 coverage under the owner's policy insuring that vehicle which exceeds the
32 policy's bodily injury liability limits. For the purposes of this subdivision, the
33 term "highway vehicle" means a land motor vehicle or trailer other than (i) a
34 farm-type tractor or other vehicle designed for use principally off public roads
35 and while not upon public roads, (ii) a vehicle operated on rails or
36 crawler-treads, or (iii) a vehicle while located for use as a residence or
37 premises. The provisions of subdivision (3) of this subsection shall apply to
38 the coverage required by this subdivision. Underinsured motorist coverage is
39 deemed to apply when, by reason of payment of judgment or settlement, all
40 liability bonds or insurance policies providing coverage for bodily injury
41 caused by the ownership, maintenance, or use of the underinsured highway
42 vehicle have been exhausted. Exhaustion of that liability coverage for the
43 purpose of any single ~~liability~~ claim presented for underinsured motorist
44 coverage is deemed to occur when either (a) the limits of liability per claim
45 have been paid or tendered upon the claim, or (b) by reason of multiple claims,
46 the aggregate per occurrence limit of liability has been ~~paid.~~ paid or tendered.
47 Underinsured motorist coverage is deemed to apply to the first dollar of an
48 underinsured motorist coverage claim beyond amounts paid to the claimant
49 under the exhausted liability ~~policy.~~ policy or policies applicable to the
50 underinsured highway vehicle at the time of the accident. The amount of
51 underinsured motorist coverage applicable to any claim for benefits under this

subdivision shall not be reduced by a setoff or credit against any coverage, including liability insurance, except for workers' compensation coverage to the extent provided for in subsection (e) of this section. If a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the total amount of underinsured motorist coverage applicable to the claimant is the sum of the limits of the claimant's underinsured motorist coverages as determined by combining the highest limit available under each policy, and shall not be reduced by a setoff against any coverage, including liability insurance, except for workers' compensation coverage to the extent provided for in subsection (e) of this section.

~~In any event, the limit of underinsured motorist coverage applicable to any claim is determined to be the difference between the amount paid to the claimant under the exhausted liability policy or policies and the limit of underinsured motorist coverage applicable to the motor vehicle involved in the accident. Furthermore, if a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the limit of underinsured motorist coverage applicable to the claimant is the difference between the amount paid to the claimant under the exhausted liability policy or policies 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.~~

...

(m) Every insurer that sells motor vehicle liability policies subject to the requirements of subdivisions (b)(3) and (b)(4) of this section shall, when issuing and renewing a policy, give reasonable notice to the named insured of all of the following:

(1) The named insured is required to purchase uninsured motorist bodily injury coverage, uninsured motorist property damage coverage, ~~and, if applicable,~~ and underinsured motorist bodily injury coverage.

...

(4) The named insured's underinsured motorist bodily injury coverage ~~limits, if applicable, limits~~ shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy unless the insured elects to purchase greater or lesser limits for underinsured motorist bodily injury coverage.

...."

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

"§ 20-279.25. Money or securities as proof.

(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 reads as rewritten:

"§ 58-37-35. The Facility; functions; administration.

...

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

...."

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