

1 AN ACT related to motor vehicle insurance.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.39-320 is amended to read as follows:

4 (1) As used in this section, "underinsured motorist" means a party with motor vehicle  
5 liability insurance coverage in an amount less than a judgment recovered against  
6 that party for damages on account of injury due to a motor vehicle accident.

7 (2) **(a) Subject to the provisions of paragraph (b) of this subsection, no automobile**  
8 **liability or motor vehicle liability policy of insurance insuring against loss**  
9 **resulting from liability imposed by law for bodily injury or death suffered by**  
10 **any person arising out of the ownership, maintenance, or use of a motor**  
11 **vehicle shall be delivered or issued for delivery in this state with respect to**  
12 **any motor vehicle registered or principally garaged in this state unless**  
13 **underinsured motorist coverage is provided in the insurance policy or**  
14 **supplemental to it,**~~Every insurer shall make available upon request to its~~  
15 ~~insureds underinsured motorist coverage, whereby~~ subject to ~~the~~ terms and  
16 conditions ~~of such coverage~~ not inconsistent with this section.  
17 **Underinsured motorist coverage shall require** the insurance company  
18 ~~agrees~~ to pay its own insured for **any** ~~such~~ uncompensated damages as he **or**  
19 **she** may recover on account of injury due to a motor vehicle accident because  
20 the judgment recovered against the owner of the other vehicle exceeds the  
21 liability ~~policy~~ limits **under the owner's policy of insurance** ~~thereon~~, to the  
22 extent of the underinsurance policy limits on the vehicle of the party  
23 recovering.

24 **(b) A named insured may reject underinsured motorist coverage. Any named**  
25 **insured who rejects underinsured motorist coverage shall do so in writing**  
26 **and the rejection shall be valid for all insureds under the policy following**  
27 **submission of the written rejection, unless a named insured requests**

1                   *underinsured motorist coverage in writing, the rejection shall be valid for*  
2                   *any renewal, reinstatement, substitute, replacement, or amended policy*  
3                   *issued to the same named insured by the same insurer or any of its affiliates*  
4                   *or subsidiaries.*

5 (3) If an injured person or, in the case of death, the personal representative agrees to  
6 settle a claim with a liability insurer and its insured, and the settlement would not  
7 fully satisfy the claim for personal injuries or wrongful death so as to create an  
8 underinsured motorist claim, then written notice of the proposed settlement must be  
9 submitted by certified or registered mail to all underinsured motorist insurers that  
10 provide coverage. The underinsured motorist insurer then has a period of thirty (30)  
11 days to consent to the settlement or retention of subrogation rights. An injured  
12 person, or in the case of death, the personal representative, may agree to settle a  
13 claim with a liability insurer and its insured for less than the underinsured motorist's  
14 full liability policy limits. If an underinsured motorist insurer consents to settlement  
15 or fails to respond as required by subsection (4) of this section to the settlement  
16 request within the thirty (30) day period, the injured party may proceed to execute a  
17 full release in favor of the underinsured motorist's liability insurer and its insured  
18 and finalize the proposed settlement without prejudice to any underinsured motorist  
19 claim.

20 (4) If an underinsured motorist insurer chooses to preserve its subrogation rights by  
21 refusing to consent to settle, the underinsured motorist insurer must, within thirty  
22 (30) days after receipt of the notice of the proposed settlement, pay to the injured  
23 party the amount of the written offer from the underinsured motorist's liability  
24 insurer. Thereafter, upon final resolution of the underinsured motorist claim, the  
25 underinsured motorist insurer is entitled to seek subrogation against the liability  
26 insurer to the extent of its limits of liability insurance, and the underinsured  
27 motorist for the amounts paid to the injured party.

1 (5) The underinsured motorist insurer is entitled to a credit against total damages in the  
 2 amount of the limits of the underinsured motorist's liability policies in all cases to  
 3 which this section applies, even if the settlement with the underinsured motorist  
 4 under subsection (3) of this section or the payment by the underinsured motorist  
 5 insurer under subsection (4) of this section is for less than the underinsured  
 6 motorist's full liability policy limits. The term "total damages" as used in this  
 7 section means the full amount of damages determined to have been sustained by the  
 8 injured party, regardless of the amount of underinsured motorist coverage. Nothing  
 9 in this section, including any payment or credit under this subsection, reduces or  
 10 affects the total amount of underinsured motorist coverage available to the injured  
 11 party.

12 **(6) The department shall promulgate administrative regulations in accordance with**  
 13 **KRS Chapter 13A to establish a single form, to be signed by the insured, for**  
 14 **rejection of uninsured motorist coverage, required by KRS 304.20-020,**  
 15 **underinsured motorist coverage required by this section, or both.**

16 ➔Section 2. KRS 304.39-040 is amended to read as follows:

- 17 (1) Basic reparation benefits shall be paid without regard to fault.
- 18 (2) Basic reparation obligors and the assigned claims plan shall pay basic reparation  
 19 benefits, under the terms and conditions stated in this subtitle, for loss from injury  
 20 arising out of maintenance or use of a motor vehicle. This obligation exists without  
 21 regard to immunity from liability or suit which might otherwise be applicable.
- 22 (3) **(a) Subject to the provisions of paragraph (b) of this subsection,** every insurer  
 23 writing liability insurance coverage for motorcycles in this Commonwealth  
 24 shall **include as**~~make available for purchase as a~~ part of every policy of  
 25 insurance covering the ownership, use, and operation of motorcycles **coverage**  
 26 **for**~~the option of~~ basic reparations benefits,~~added reparations benefits,~~  
 27 uninsured motorist **coverage**, and underinsured motorist coverages. **An**

1 insurer issuing liability coverage under this paragraph shall also make  
 2 available, as part of the policy, coverage for added reparation benefits.

3 (b) A named insured may reject coverage for basic reparations benefits,  
 4 uninsured motorists coverage, and underinsured motorist coverage. Any  
 5 named insured who rejects one (1) or more coverages under this paragraph  
 6 shall do so in writing and the rejection shall be valid for all insureds under  
 7 the policy, following submission of the written rejection. Unless a named  
 8 insured requests basic reparation benefits, uninsured motorists coverage or  
 9 underinsured motorist coverage in writing, the rejection shall be valid for  
 10 any renewal, reinstatement, substitute, replacement, or amended policy  
 11 issued to the same named insured by the same insurer or any of its affiliates  
 12 or subsidiaries.

13 (4) Notwithstanding any other provisions of this subtitle, no operator or passenger on a  
 14 motorcycle is entitled to basic reparation benefits from any source for injuries  
 15 arising out of the maintenance or use of such a motorcycle unless basic~~[such]~~  
 16 reparation benefits are included in the liability policy covering~~[have been~~  
 17 ~~purchased as optional coverage for]~~ the motorcycle, or if~~[by]~~ the individual so  
 18 injured has purchased optional coverage including basic reparation benefits.

19 (5) The department shall promulgate administrative regulations in accordance with  
 20 KRS Chapter 13A to establish a single form, to be signed by the insured, for  
 21 rejection of any coverage required pursuant to this section.