

SENATE BILL 403

C4, R7

7lr0657
CF HB 5

By: **Senators Astle, Benson, Feldman, Klausmeier, Manno, Mathias, and Rosapepe**

Introduced and read first time: January 27, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2017

CHAPTER _____

1 AN ACT concerning

2 **Private Passenger Motor Vehicle Liability Insurance – ~~Supplemental~~ Enhanced**
3 **Underinsured Motorist Coverage**

4 FOR the purpose of authorizing a certain insured to obtain certain ~~supplemental~~ enhanced
5 underinsured motorist coverage, instead of certain uninsured motorist coverage,
6 under a private passenger motor vehicle liability insurance policy under certain
7 circumstances; requiring certain insurers to offer certain ~~supplemental~~ enhanced
8 underinsured motorist coverage under certain circumstances; providing for the
9 characteristics of the ~~supplemental~~ enhanced underinsured motorist coverage,
10 including the amounts of the coverage, what an insurer may exclude from the
11 coverage, and the limits of liability under the coverage; ~~authorizing a certain insured~~
12 ~~to waive the right to obtain supplemental underinsured motorist coverage in a~~
13 ~~certain manner; providing that a certain waiver is not effective unless, prior to the~~
14 ~~waiver, the insurer gives the first named insured a certain notice; providing for the~~
15 ~~form of a certain waiver; providing for the effective period of a certain waiver;~~
16 ~~prohibiting an insurer from refusing to underwrite a person because the person~~
17 ~~refuses to make a certain waiver, subject to certain penalties; requiring an injured~~
18 ~~person and a certain insurer to take certain actions regarding a certain settlement~~
19 ~~offer under certain circumstances; establishing a certain exception to a certain~~
20 ~~limitation on duplicate or supplemental recovery of certain benefits~~ altering a certain
21 prohibition on the recovery of benefits under certain coverages; prohibiting, with a
22 certain exception, a person from recovering benefits under certain coverages from
23 more than one motor vehicle liability insurance policy or insurer on a supplemental
24 basis; defining a certain term; ~~providing for the application of this Act; providing for~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~a delayed effective date~~, and generally relating to private passenger motor vehicle liability insurance and ~~supplemental~~ enhanced underinsured motorist coverage.

BY renumbering

Article – Insurance

Section 19–509.1

to be Section 19–509.2

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 19–509, 19–510, 19–511, and 19–513

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY adding to

Article – Insurance

Section 19–509.1, ~~19–510.1~~, and 19–511.1

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 19–509.2

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 17–103(b)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That Section(s) 19–509.1 of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 19–509.2.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read

as follows:

Article – Insurance

19–509.

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

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

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

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

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

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

(1) that insures a motor vehicle that:

[(1)] (I) is not subject to registration under § 13-402 of the Transportation Article because it is not driven on a highway; or

[(2)] (II) is exempt from registration under § 13-402(c)(10) of the Transportation Article; OR

(2) IF THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS ~~NOT WAIVED THE RIGHT ELECTED TO OBTAIN SUPPLEMENTAL ENHANCED UNDERINSURED MOTORIST COVERAGE IN ACCORDANCE WITH § 19-510.1 OF THIS SUBTITLE~~ UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER THIS SECTION.

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

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

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

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

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

(i) shall at least equal:

1. the amounts required by Title 17 of the Transportation Article; and

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

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

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

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

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

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

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

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

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

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

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

19-509.1.

(A) IN THIS SECTION, "UNDERINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS LIABILITY COVERAGE IN AN AMOUNT LESS THAN, MORE THAN, OR EQUAL TO THE UNINSURED MOTORIST COVERAGE PROVIDED UNDER THE INSURED PARTY'S MOTOR VEHICLE LIABILITY INSURANCE POLICY.

(B) THE ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE ~~PROVIDED FOR~~ REQUIRED BY THIS SECTION DOES NOT APPLY TO A MOTOR VEHICLE LIABILITY INSURANCE POLICY:

(1) THAT INSURES A MOTOR VEHICLE THAT:

(i) IS NOT SUBJECT TO REGISTRATION UNDER § 13-402 OF THE TRANSPORTATION ARTICLE BECAUSE IT IS NOT DRIVEN ON A HIGHWAY; OR

(ii) IS EXEMPT FROM REGISTRATION UNDER § 13-402(C)(10) OF THE TRANSPORTATION ARTICLE; OR

(2) ~~IF~~ WHEN A FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS ~~WAIVED THE RIGHT NOT ELECTED~~ TO OBTAIN ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE ~~IN ACCORDANCE WITH § 19-510.1~~ UNDER THIS SECTION INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

(C) (1) AN INSURER SHALL OFFER ENHANCED UNDERINSURED MOTORIST COVERAGE AT THE TIME OF PURCHASE OF A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY.

(2) THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE MAY ELECT TO OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

(3) UNLESS THE FIRST NAMED INSURED AFFIRMATIVELY MAKES A CHANGE IN WRITING, THE ELECTION TO OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE APPLIES TO ALL SUBSEQUENT RENEWALS OF COVERAGE AND TO ALL OTHER POLICIES OR ENDORSEMENTS THAT EXTEND, CHANGE, SUPERSEDE, OR REPLACE AN EXISTING PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICY ISSUED TO THE FIRST NAMED INSURED.

~~(C)~~ (D) IN ADDITION TO ANY OTHER COVERAGE REQUIRED BY THIS SUBTITLE, EACH PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED, SOLD, OR DELIVERED IN THE STATE ON OR AFTER JULY 1, 2018, TO AN INSURED THAT ~~DOES NOT WAIVE THE RIGHT~~ ELECTS TO OBTAIN SUPPLEMENTAL ENHANCED UNDERINSURED MOTORIST COVERAGE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE SHALL CONTAIN COVERAGE FOR DAMAGES, SUBJECT TO THE POLICY LIMITS, THAT:

(1) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE OF BODILY INJURIES SUSTAINED IN A MOTOR VEHICLE ACCIDENT ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE UNDERINSURED MOTOR VEHICLE; AND

(2) A SURVIVING RELATIVE OF THE INSURED, WHO IS DESCRIBED IN § 3-904 OF THE COURTS ARTICLE, IS ENTITLED TO RECOVER FROM THE OWNER OR OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE THE INSURED DIED AS THE RESULT OF A MOTOR VEHICLE ACCIDENT ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE UNDERINSURED MOTOR VEHICLE.

~~(D)~~ (E) THE OFFER OF SUPPLEMENTAL ENHANCED UNDERINSURED MOTORIST COVERAGE PROVIDED FOR REQUIRED BY THIS SECTION SHALL BE IN ON THE FORM AND SUBJECT TO THE CONDITIONS THAT THE COMMISSIONER APPROVES REQUIRES.

~~(E)~~ (F) (1) THE ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE CONTAINED IN A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY:

(I) SHALL AT LEAST EQUAL:

1. THE AMOUNTS REQUIRED BY TITLE 17 OF THE TRANSPORTATION ARTICLE; AND

1 2. THE COVERAGE PROVIDED TO A QUALIFIED PERSON
2 UNDER TITLE 20, SUBTITLE 6 OF THIS ARTICLE; AND

3 (II) MAY NOT EXCEED THE AMOUNT OF LIABILITY COVERAGE
4 PROVIDED UNDER THE POLICY, ~~EXCEPT IN ITS APPLICATION.~~

5 (2) ~~UNLESS WAIVED IN ACCORDANCE WITH § 19-510.1 OF THIS~~
6 ~~SUBTITLE, THE~~ THE AMOUNT OF ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED
7 MOTORIST COVERAGE PROVIDED UNDER A PRIVATE PASSENGER MOTOR VEHICLE
8 LIABILITY INSURANCE POLICY SHALL EQUAL THE AMOUNT OF LIABILITY COVERAGE
9 PROVIDED UNDER THE POLICY.

10 ~~(F)~~ (G) AN INSURER MAY EXCLUDE FROM THE ~~SUPPLEMENTAL~~
11 ENHANCED UNDERINSURED MOTORIST COVERAGE ~~PROVIDED FOR~~ REQUIRED BY
12 THIS SECTION BENEFITS FOR:

13 (1) THE NAMED INSURED OR A FAMILY MEMBER OF THE NAMED
14 INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD FOR AN INJURY
15 THAT OCCURS WHEN THE NAMED INSURED OR FAMILY MEMBER IS OCCUPYING OR IS
16 STRUCK AS A PEDESTRIAN BY AN UNDERINSURED MOTOR VEHICLE THAT IS OWNED
17 BY THE NAMED INSURED OR AN IMMEDIATE FAMILY MEMBER OF THE NAMED
18 INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD; AND

19 (2) THE NAMED INSURED, A FAMILY MEMBER OF THE NAMED
20 INSURED WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD, AND ANY OTHER
21 INDIVIDUAL WHO HAS OTHER APPLICABLE MOTOR VEHICLE INSURANCE FOR AN
22 INJURY THAT OCCURS WHEN THE NAMED INSURED, FAMILY MEMBER, OR OTHER
23 INDIVIDUAL IS OCCUPYING OR IS STRUCK AS A PEDESTRIAN BY THE INSURED MOTOR
24 VEHICLE WHILE THE MOTOR VEHICLE IS OPERATED OR USED BY AN INDIVIDUAL
25 WHO IS EXCLUDED FROM COVERAGE UNDER § 27-609 OF THIS ARTICLE.

26 ~~(G)~~ (H) THE LIMIT OF LIABILITY FOR AN INSURER THAT PROVIDES
27 ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE UNDER THIS
28 SECTION:

29 (1) IS SUBJECT TO § 19-511.1 OF THIS SUBTITLE; AND

30 (2) IS THE AMOUNT OF THAT COVERAGE WITHOUT ANY REDUCTION
31 FOR THE AMOUNT PAID TO THE INSURED, THAT EXHAUSTS ANY APPLICABLE
32 LIABILITY INSURANCE POLICIES, BONDS, AND SECURITIES, ON BEHALF OF ANY
33 PERSON THAT MAY BE HELD LIABLE FOR THE BODILY INJURIES OR DEATH OF THE
34 INSURED.

~~(H)~~ (I) (1) A POLICY THAT, AS ITS PRIMARY PURPOSE, PROVIDES COVERAGE IN EXCESS OF OTHER VALID AND COLLECTIBLE INSURANCE OR QUALIFIED SELF-INSURANCE MAY INCLUDE THE ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE PROVIDED FOR IN THIS SECTION.

(2) THE ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE ~~PROVIDED FOR IN~~ REQUIRED BY THIS SECTION IS PRIMARY TO ANY RIGHT TO RECOVERY FROM THE MARYLAND AUTOMOBILE INSURANCE FUND UNDER TITLE 20, SUBTITLE 6 OF THIS ARTICLE.

~~(H)~~ (J) AN ENDORSEMENT OR A PROVISION THAT PROTECTS THE INSURED AGAINST DAMAGES CAUSED BY AN UNDERINSURED MOTOR VEHICLE THAT IS CONTAINED IN A POLICY ISSUED AND DELIVERED IN THE STATE IS DEEMED TO COVER DAMAGES CAUSED BY A MOTOR VEHICLE INSURED BY A LIABILITY INSURER THAT IS INSOLVENT OR OTHERWISE UNABLE TO PAY CLAIMS TO THE SAME EXTENT AND IN THE SAME MANNER AS IF THE DAMAGES WERE CAUSED BY AN UNDERINSURED MOTOR VEHICLE.

~~(H)~~ (K) A PROVISION IN A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED ON OR AFTER JULY 1, 2018, ABOUT COVERAGE FOR DAMAGES SUSTAINED BY THE INSURED AS A RESULT OF THE OPERATION OF AN UNDERINSURED MOTOR VEHICLE THAT REQUIRES A DISPUTE BETWEEN THE INSURED AND THE INSURER TO BE SUBMITTED TO BINDING ARBITRATION IS PROHIBITED AND IS OF NO LEGAL EFFECT.

19-509.2.

(A) A final judgment in an action for personal injury protection coverage under a motor vehicle liability insurance policy does not preclude a subsequent action for uninsured or underinsured motorist coverage arising out of the same motor vehicle accident or occurrence.

(B) A FINAL JUDGMENT IN AN ACTION FOR PERSONAL INJURY PROTECTION COVERAGE UNDER A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY DOES NOT PRECLUDE A SUBSEQUENT ACTION FOR ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE ARISING OUT OF THE SAME MOTOR VEHICLE ACCIDENT OR OCCURRENCE.

19-510.

(a) This section applies only when:

(1) the liability coverage under a policy or binder of private passenger motor vehicle liability insurance exceeds the amount required under § 17-103 of the Transportation Article; AND

(2) THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE HAS ~~WAIVED THE RIGHT TO OBTAIN SUPPLEMENTAL~~ NOT ELECTED TO OBTAIN ENHANCED UNDERINSURED MOTORIST COVERAGE ~~IN ACCORDANCE WITH § 19-510.1~~ UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

(b) (1) If the first named insured under a policy or binder of private passenger motor vehicle liability insurance does not wish to obtain uninsured motorist coverage in the same amount as the liability coverage provided under the policy or binder, the first named insured shall make an affirmative written waiver of having uninsured motorist coverage in the same amount as the liability coverage.

(2) If the first named insured does not make an affirmative written waiver under this section, the insurer shall provide uninsured motorist coverage in an amount equal to the amount of the liability coverage provided under the policy or binder.

(c) A waiver made under this section is not effective unless, prior to the waiver, the insurer gives the first named insured written notice of the nature, extent, benefit, and cost of the level of the uninsured motorist coverage being waived.

(d) (1) A waiver made under this section shall be made on the form that the Commissioner requires.

(2) The form may be part of the insurance contract.

(3) The form shall clearly and concisely explain in 10 point boldface type:

(i) the nature, extent, benefit, and cost of the level of the uninsured motorist coverage that would be provided under the policy if not waived by the first named insured;

(ii) that a failure of the first named insured to make a waiver requires an insurer to provide uninsured motorist coverage in an amount equal to the amount of the liability coverage provided under the policy or binder of private passenger motor vehicle liability insurance;

(iii) that an insurer may not refuse to underwrite a person because the person refuses to waive the excess uninsured motorist coverage under this section; and

(iv) that a waiver made under this section must be an affirmative written waiver.

(4) Subject to the Commissioner's approval, a waiver made under this section may be made on the same form as the waiver made under § 19-506 of this subtitle.

(e) A waiver made under this section by a person that is insured continuously by an insurer or by the Maryland Automobile Insurance Fund is effective until the waiver is withdrawn in writing.

(f) (1) An insurer may not refuse to underwrite a person because the person refuses to waive the excess uninsured motorist coverage under this section.

(2) An insurer that violates this subsection is subject to the penalties provided by §§ 4-113 and 4-114 of this article.

~~19-510.1.~~

~~(A) (1) IF THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE DOES NOT WISH TO OBTAIN SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE, THE FIRST NAMED INSURED SHALL MAKE AN AFFIRMATIVE WRITTEN WAIVER OF HAVING SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE.~~

~~(2) IF THE FIRST NAMED INSURED DOES NOT MAKE AN AFFIRMATIVE WRITTEN WAIVER UNDER THIS SECTION, THE INSURER SHALL PROVIDE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE IN ACCORDANCE WITH § 19-509.1 OF THIS SUBTITLE.~~

~~(B) A WAIVER MADE UNDER THIS SECTION IS NOT EFFECTIVE UNLESS, PRIOR TO THE WAIVER, THE INSURER GIVES THE FIRST NAMED INSURED WRITTEN NOTICE OF THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF THE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE BEING WAIVED.~~

~~(C) (1) A WAIVER MADE UNDER THIS SECTION SHALL BE MADE ON THE FORM THAT THE COMMISSIONER REQUIRES.~~

~~(2) THE FORM MAY BE PART OF THE INSURANCE CONTRACT.~~

~~(3) THE FORM SHALL CLEARLY AND CONCISELY EXPLAIN IN AT LEAST 10 POINT BOLDFACE TYPE:~~

~~(i) THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF THE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE THAT WOULD BE PROVIDED UNDER THE POLICY IF NOT WAIVED BY THE FIRST NAMED INSURED;~~

~~(H) THAT A FAILURE OF THE FIRST NAMED INSURED TO MAKE A WAIVER REQUIRES AN INSURER TO PROVIDE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE;~~

~~(HH) THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON BECAUSE THE PERSON REFUSES TO WAIVE THE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE UNDER THIS SECTION; AND~~

~~(IV) THAT A WAIVER MADE UNDER THIS SECTION MUST BE AN AFFIRMATIVE WRITTEN WAIVER.~~

~~(4) SUBJECT TO THE COMMISSIONER'S APPROVAL, A WAIVER MADE UNDER THIS SECTION MAY BE MADE ON THE SAME FORM AS THE WAIVER MADE UNDER § 19-506 OF THIS SUBTITLE.~~

~~(D) A WAIVER MADE UNDER THIS SECTION BY A PERSON THAT IS INSURED CONTINUOUSLY BY AN INSURER OR BY THE MARYLAND AUTOMOBILE INSURANCE FUND IS EFFECTIVE UNTIL THE WAIVER IS WITHDRAWN IN WRITING.~~

~~(E) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON BECAUSE THE PERSON REFUSES TO WAIVE THE SUPPLEMENTAL UNDERINSURED MOTORIST COVERAGE UNDER THIS SECTION.~~

~~(2) AN INSURER THAT VIOLATES THIS SUBSECTION IS SUBJECT TO THE PENALTIES PROVIDED BY §§ 4-113 AND 4-114 OF THIS ARTICLE.~~

19-511.

(A) THIS SECTION ~~APPLIES ONLY~~ DOES NOT APPLY WHEN THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE ~~HAS WAIVED THE RIGHT~~ HAS ELECTED TO OBTAIN ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE ~~IN ACCORDANCE WITH § 19-510.1~~ UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

[(a)] (B) If an injured person receives a written offer from a motor vehicle insurance liability insurer or that insurer's authorized agent to settle a claim for bodily injury or death, and the amount of the settlement offer, in combination with any other settlements arising out of the same occurrence, would exhaust the bodily injury or death limits of the applicable liability insurance policies, bonds, and securities, the injured person shall send by certified mail, to any insurer that provides uninsured motorist coverage for the bodily injury or death, a copy of the liability insurer's written settlement offer.

1 **[(b)] (C)** Within 60 days after receipt of the notice required under subsection
2 **[(a)] (B)** of this section, the uninsured motorist insurer shall send to the injured person:

3 (1) written consent to acceptance of the settlement offer and to the
4 execution of releases; or

5 (2) written refusal to consent to acceptance of the settlement offer.

6 **[(c)] (D)** Within 30 days after a refusal to consent to acceptance of a settlement
7 offer under subsection **[(b)(2)] (C)(2)** of this section, the uninsured motorist insurer shall
8 pay to the injured person the amount of the settlement offer.

9 **[(d)] (E)** (1) Payment as described in subsection **[(c)] (D)** of this section shall
10 preserve the uninsured motorist insurer's subrogation rights against the liability insurer
11 and its insured.

12 (2) Receipt by the injured person of the payment described in subsection
13 **[(c)] (D)** of this section shall constitute the assignment, up to the amount of the payment,
14 of any recovery on behalf of the injured person that is subsequently paid from the applicable
15 liability insurance policies, bonds, and securities.

16 **[(e)] (F)** The injured person may accept the liability insurer's settlement offer
17 and execute releases in favor of the liability insurer and its insured without prejudice to
18 any claim the injured person may have against the uninsured motorist insurer:

19 (1) on receipt of written consent to acceptance of the settlement offer and
20 to the execution of releases; or

21 (2) if the uninsured motorist insurer has not met the requirements of
22 subsection **[(b)] (C)** or subsection **[(c)] (D)** of this section.

23 **[(f)] (G)** Written consent by an uninsured motorist insurer to acceptance of a
24 settlement offer under subsection **[(b)(1)] (C)(1)** of this section:

25 (1) may not be construed to limit the right of the uninsured motorist
26 insurer to raise any issue relating to liability or damages in an action against the uninsured
27 motorist insurer; and

28 (2) does not constitute an admission by the uninsured motorist insurer as
29 to any issue raised in an action against the uninsured motorist insurer.

30 **19-511.1.**

31 **(A) THIS SECTION APPLIES ONLY WHEN THE FIRST NAMED INSURED UNDER**
32 **A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY**
33 **INSURANCE HAS ~~NOT WAIVED THE RIGHT~~ ELECTED TO OBTAIN ~~SUPPLEMENTAL~~**

1 ~~ENHANCED~~ UNDERINSURED MOTORIST COVERAGE ~~IN ACCORDANCE WITH §~~
2 ~~19-510.1~~ UNDER § 19-509.1 OF THIS SUBTITLE INSTEAD OF THE UNINSURED
3 MOTORIST COVERAGE REQUIRED UNDER § 19-509 OF THIS SUBTITLE.

4 (B) IF AN INJURED PERSON RECEIVES A WRITTEN OFFER FROM A MOTOR
5 VEHICLE LIABILITY INSURER OR THAT INSURER'S AUTHORIZED AGENT TO SETTLE A
6 CLAIM FOR BODILY INJURY OR DEATH, AND THE AMOUNT OF THE SETTLEMENT
7 OFFER, IN COMBINATION WITH ANY OTHER SETTLEMENTS ARISING OUT OF THE
8 SAME OCCURRENCE, WOULD EXHAUST THE BODILY INJURY OR DEATH LIMITS OF
9 THE APPLICABLE LIABILITY INSURANCE POLICIES, BONDS, AND SECURITIES, THE
10 INJURED PERSON SHALL SEND BY CERTIFIED MAIL, TO ANY INSURER THAT
11 PROVIDES ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST COVERAGE FOR
12 THE BODILY INJURY OR DEATH, A COPY OF THE LIABILITY INSURER'S WRITTEN
13 SETTLEMENT OFFER.

14 (C) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER
15 SUBSECTION (B) OF THIS SECTION, THE ~~SUPPLEMENTAL~~ ENHANCED
16 UNDERINSURED MOTORIST INSURER SHALL SEND TO THE INJURED PERSON:

17 (1) WRITTEN CONSENT TO ACCEPTANCE OF THE SETTLEMENT OFFER
18 AND TO THE EXECUTION OF RELEASES; OR

19 (2) WRITTEN REFUSAL TO CONSENT TO ACCEPTANCE OF THE
20 SETTLEMENT OFFER.

21 (D) WITHIN 30 DAYS AFTER A REFUSAL TO CONSENT TO ACCEPTANCE OF A
22 SETTLEMENT OFFER UNDER SUBSECTION (C)(2) OF THIS SECTION, THE
23 ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST INSURER SHALL PAY TO
24 THE INJURED PERSON THE AMOUNT OF THE SETTLEMENT OFFER.

25 (E) (1) PAYMENT AS DESCRIBED IN SUBSECTION (D) OF THIS SECTION
26 SHALL PRESERVE THE EXTENDED ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED
27 MOTORIST INSURER'S SUBROGATION RIGHTS AGAINST THE MOTOR VEHICLE
28 LIABILITY INSURER AND ITS INSURED.

29 (2) RECEIPT BY THE INJURED PERSON OF THE PAYMENT DESCRIBED
30 IN SUBSECTION (D) OF THIS SECTION SHALL CONSTITUTE THE ASSIGNMENT, UP TO
31 THE AMOUNT OF THE PAYMENT, OF ANY RECOVERY ON BEHALF OF THE INJURED
32 PERSON THAT IS SUBSEQUENTLY PAID FROM THE APPLICABLE LIABILITY
33 INSURANCE POLICIES, BONDS, AND SECURITIES.

34 (F) THE INJURED PERSON MAY ACCEPT THE MOTOR VEHICLE LIABILITY
35 INSURER'S SETTLEMENT OFFER AND EXECUTE RELEASES IN FAVOR OF THE
36 LIABILITY INSURER AND ITS INSURED WITHOUT PREJUDICE TO ANY CLAIM THE

1 INJURED PERSON MAY HAVE AGAINST THE ~~SUPPLEMENTAL~~ ENHANCED
2 UNDERINSURED MOTORIST INSURER:

3 (1) ON RECEIPT OF WRITTEN CONSENT TO ACCEPTANCE OF THE
4 SETTLEMENT OFFER AND TO THE EXECUTION OF RELEASES; OR

5 (2) IF THE ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST
6 INSURER HAS NOT MET THE REQUIREMENTS OF SUBSECTION (C) OR (D) OF THIS
7 SECTION.

8 (G) WRITTEN CONSENT BY ~~A SUPPLEMENTAL~~ AN ENHANCED
9 UNDERINSURED MOTORIST INSURER TO ACCEPTANCE OF A SETTLEMENT OFFER
10 UNDER SUBSECTION (C)(1) OF THIS SECTION:

11 (1) MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF THE
12 ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST INSURER TO RAISE ANY
13 ISSUE RELATING TO LIABILITY OR DAMAGES IN AN ACTION AGAINST THE
14 ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST INSURER; AND

15 (2) DOES NOT CONSTITUTE AN ADMISSION BY THE UNINSURED
16 MOTORIST INSURER AS TO ANY ISSUE RAISED IN AN ACTION AGAINST THE
17 ~~SUPPLEMENTAL~~ ENHANCED UNDERINSURED MOTORIST INSURER.

18 19-513.

19 (a) This section does not prohibit a nonprofit health service plan or an authorized
20 insurer, with the approval of the Commissioner, from providing medical, hospital, and
21 disability benefits in connection with motor vehicle accidents.

22 (b) (1) ~~[Notwithstanding] EXCEPT AS PROVIDED IN § 19-509.1 OF THIS~~
23 ~~SUBTITLE, AND NOTWITHSTANDING~~ any other provision of this subtitle, a person may
24 not recover benefits under the coverages described in §§ 19-504, 19-505, 19-509,
25 19-509.1, and 19-512 of this subtitle from more than one motor vehicle liability insurance
26 policy or insurer on a duplicative ~~or supplemental~~ basis.

27 (2) EXCEPT AS PROVIDED IN § 19-509.1 OF THIS SUBTITLE, AND
28 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PERSON MAY NOT
29 RECOVER BENEFITS UNDER THE COVERAGES DESCRIBED IN §§ 19-504, 19-505,
30 19-509, AND 19-512 OF THIS SUBTITLE FROM MORE THAN ONE MOTOR VEHICLE
31 LIABILITY INSURANCE POLICY OR INSURER ON A SUPPLEMENTAL BASIS.

32 (c) (1) The insurer of a motor vehicle for which the coverage described in §
33 19-505 of this subtitle is in effect shall pay the benefits described in § 19-505 of this subtitle
34 to an individual who is injured in a motor vehicle accident:

(i) while occupying the insured motor vehicle; or

(ii) by the insured motor vehicle as a pedestrian, while in, on, or alighting from a vehicle powered by animal or muscular power, or while on or alighting from an animal.

(2) An insurer may not pay benefits under paragraph (1) of this subsection to an individual who is in violation of § 17–103 of the Transportation Article.

(d) (1) The insurer under a policy that contains the coverages described in §§ 19–505 and 19–509 of this subtitle shall pay the benefits described in §§ 19–505 and 19–509 to an individual insured under the policy who is injured in a motor vehicle accident;

(i) while occupying a motor vehicle for which the coverages described in §§ 19–505 and 19–509 of this subtitle are not in effect; or

(ii) by a motor vehicle for which the coverages described in §§ 19–505 and 19–509 of this subtitle are not in effect as a pedestrian, while in, on, or alighting from a vehicle powered by animal or muscular power, or while on or alighting from an animal.

(2) Benefits payable under paragraph (1) of this subsection shall be reduced to the extent of any medical or disability benefits coverage that is:

(i) applicable to the motor vehicle for which the coverages described in §§ 19–505 and 19–509 of this subtitle are not in effect; and

(ii) collectible from the insurer of that motor vehicle.

(e) Benefits payable under the coverages described in §§ 19–505 and 19–509 of this subtitle shall be reduced to the extent that the recipient has recovered benefits under the workers' compensation laws of a state or the federal government for which the provider of the workers' compensation benefits has not been reimbursed.

Article – Transportation

17–103.

(b) The security required under this subtitle shall provide for at least:

(1) The payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs;

(2) The payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;

(3) Unless waived under § 19–506 of the Insurance Article or rejected under § 19–506.1 of the Insurance Article, the benefits described under § 19–505 of the Insurance Article as to basic required primary coverage;

(4) The benefits required under § 19–509 **OR § 19–509.1** of the Insurance Article as to required additional coverage; and

(5) For vehicles subject to the provisions of § 25–111.1 of this article, the security requirements adopted under 49 C.F.R., Part 387.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to each policy of private passenger motor vehicle insurance issued, sold, or delivered in the State on or after July 1, 2018.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2018 ~~2017~~.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.