

AN ACT

Bill 20-365
Act 20-339
effective
May 28, 2014

To amend the Compulsory/No-Fault Motor Vehicle Insurance Act of 1982 to require action by an underinsured motorist insurer when liability insurance is exhausted.

Codification
District of
Columbia
Official Code
2001 Edition

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Underinsured Motorist Carrier Fairness Amendment Act of 2014".

Underinsured
Motorist
Carrier
Fairness
Amendment
Act of 2014

Sec. 2. The Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2401 *et seq.*), is amended by adding a new section 8a to read as follows:

“Sec. 8a. Notice of proposed settlement for policy limits to underinsured motorist coverage carrier; waiver of subrogation; time limits.

New
§ 31-2407.01

“(a) When a tortfeasor’s insurer offers to pay its full policy limits of coverage for bodily injury or death to a claimant, conditioned upon the claimant’s insurer waiving its rights of subrogation against the tortfeasor, the claimant or the tortfeasor’s insurer shall give to the claimant’s insurer notice in writing that an offer to settle for policy limits has been made by the tortfeasor’s insurer.

“(b) The written notice shall be sent by certified mail, return receipt requested, to the claimant’s insurer, and shall include the following information:

“(1) Any one of the following:

“(A) The name and address of the claimant;

“(B) The claim number created by the claimant’s insurer for the vehicle accident; or

“(C) The policy number of the claimant’s insurer;

“(2) The name of the tortfeasor;

“(3) The name of the tortfeasor’s insurer and the policy number for the tortfeasor’s insurance policy under which an offer to settle for policy limits has been made;

“(4) A statement that the tortfeasor’s insurer has offered to settle with the claimant for policy limits; and

“(5) A statement that under the law the claimant’s insurer has 60 days to either:

“(A) Preserve its subrogation rights against the tortfeasor by providing written notice of its intention to do so and by paying to the claimant an amount equal to the policy limits that have been offered to the claimant by the tortfeasor’s insurer; or

“(B) Allow the claimant to accept the settlement offer from the tortfeasor’s

insurer and execute appropriate releases.

“(c)(1) The claimant’s insurer is considered to have fully waived its right of subrogation against the tortfeasor, unless within 60 days from receipt of the notice described in subsection (b) of this section, the claimant’s insurer sends, by certified mail, return receipt requested, to the claimant and to the tortfeasor’s insurer written notice that it does not waive its rights of subrogation against the tortfeasor.

“(2) The notice of claimant’s insurer is not effective unless the notice to the claimant is accompanied by payment to the claimant of an amount equal to the policy limits offered by the tortfeasor’s insurer.

“(3)(A) If the claimant’s insurer fails to send the notice provided for in paragraph (1) of this subsection and fails to pay the sum required by paragraph (2) of this subsection within the 60-day time period, the claimant’s insurer is considered to have waived its subrogation rights against the tortfeasor, and the claimant may consummate the settlement.

“(B) Any consent to settle or waiver of subrogation by the claimant’s insurer may not be construed to limit the right of the claimant’s insurer to raise any issue or defense relating to liability and damages in an action against the claimant’s insurer and does not constitute an admission by the claimant’s insurer as to any issue, claim, or defense raised in an action against the claimant’s insurer.”.

“(d) If the claimant’s insurer gives notice and tenders payment to the claimant as provided for in subsection (c) of this section, the claimant’s insurer is and remains subrogated to the rights of the claimant as to the tortfeasor to the extent of any and all sums paid by the claimant’s insurer to the claimant. The payment by the claimant’s insurer of the amount equal to the policy limits offered by the tortfeasor’s insurer shall not serve in any way to waive, change, or increase the amount of the claimant’s underinsured motorist coverage beyond the underlying underinsured motorist coverage policy limits.

“(e) For the purposes of this section, the term:

“(1) “Claimant” means the victim having underinsured motorist coverage as provided in section 7(c-1) or survivors of the victim.

“(2) “Claimant’s insurer” means the company providing underinsured motorist coverage to the claimant.

“(3) “Tortfeasor” means the owner or operator of an underinsured motor vehicle who causes injury or damage.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.