

HOUSE BILL No. 2210

By Committee on Judiciary

2-8

1 AN ACT concerning insurance; relating to automobile liability insurance;
2 uninsured motorist coverage and underinsured motorist coverage;
3 amending K.S.A. 40-284 and repealing the existing section.
4

5 WHEREAS, The provisions of K.S.A. 40-284, as amended by this act,
6 shall be known as the UIM transparency in insurance act.

7 Now, therefore:

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 40-284 is hereby amended to read as follows: 40-
10 284. (a) No automobile liability insurance policy covering liability arising
11 out of the ownership, maintenance, or use of any motor vehicle shall be
12 *renewed*, delivered or issued for delivery in this state *on or after January*
13 *1, 2020*, with respect to any motor vehicle registered or principally
14 garaged in this state, unless the policy contains or has endorsed thereon, a
15 provision with coverage limits equal to the limits of liability coverage for
16 bodily injury or death in such automobile liability insurance policy sold to
17 the named insured for payment of part or all sums ~~which~~ *that* the insured
18 or the insured's legal representative shall be legally entitled to recover as
19 damages from the uninsured owner or operator of a motor vehicle because
20 of bodily injury, sickness or disease, including death, resulting therefrom,
21 sustained by the insured, caused by accident and arising out of ownership,
22 maintenance or use of such motor vehicle, or providing for such payment
23 irrespective of legal liability of the insured or any other person or
24 organization. No insurer shall be required to offer, provide or make
25 available coverage conforming to this section in connection with any
26 excess policy, umbrella policy or any other policy ~~which~~ *that* does not
27 provide primary motor vehicle insurance for liabilities arising out of the
28 ownership, maintenance, operation or use of a specifically insured motor
29 vehicle.

30 (b) Any uninsured motorist coverage shall include an underinsured
31 motorist provision ~~which enables~~ *that has coverage limits equal to the*
32 *limits of liability provided by such uninsured motorist coverage enabling*
33 *the insured or the insured's legal representative to recover from the insurer*
34 *the amount of damages for bodily injury or death to which the insured is*
35 *legally entitled from the owner or operator of another motor vehicle* ~~with~~
36 ~~coverage limits equal to the limits of liability provided by such uninsured~~

1 ~~motorist coverage~~ to the extent such ~~coverage exceeds the limits of~~
2 ~~damages exceed the proceeds reasonably available to the insured from the~~
3 bodily injury coverage carried by the owner or operator of the other motor
4 vehicle. *In no event shall the amount of underinsured motorist coverage*
5 *be reduced because of any liability limit or payment by or on behalf of the*
6 *owner or operator of the other motor vehicle or any third party.*

7 (c) The insured named in the policy shall have the right to reject, in
8 writing, the uninsured motorist coverage required by subsections (a) and
9 (b) ~~which~~ that is in excess of the limits for bodily injury or death set forth
10 in K.S.A. 40-3107, and amendments thereto. A rejection by an insured
11 named in the policy of the uninsured motorist coverage shall be a rejection
12 on behalf of all parties insured by the policy. Unless the insured named in
13 the policy requests such coverage in writing, such coverage need not be
14 provided in any subsequent policy issued by the same insurer for motor
15 vehicles owned by the named insured, including, but not limited to,
16 supplemental, renewal, reinstated, transferred or substitute policies where
17 the named insured had rejected the coverage in connection with a policy
18 previously issued to the insured by the same insurer.

19 (d) Coverage under the policy shall be limited to the extent that the
20 total limits available cannot exceed the highest limits of any single
21 applicable policy, regardless of the number of policies involved, persons
22 covered, claims made, vehicles or premiums shown on the policy or
23 premiums paid or vehicles involved in an accident.

24 (e) Any insurer may provide for the exclusion or limitation of
25 coverage:

26 (1) When the insured is occupying or struck by an uninsured
27 automobile or trailer owned or provided for the insured's regular use;

28 (2) when the uninsured automobile is owned by a self-insurer or any
29 governmental entity;

30 (3) when there is no evidence of physical contact with the uninsured
31 motor vehicle and when there is no reliable competent evidence to prove
32 the facts of the accident from a disinterested witness not making claim
33 under the policy;

34 (4) to the extent that workers' compensation benefits apply;

35 (5) when suit is filed against the uninsured motorist without notice to
36 the insurance carrier; and

37 (6) to the extent that personal injury protection benefits apply.

38 (f) An underinsured motorist coverage insurer shall have subrogation
39 rights under the provisions of K.S.A. 40-287, and amendments thereto. If a
40 tentative agreement to settle for liability limits has been reached with an
41 underinsured tortfeasor, written notice ~~must~~ *shall* be given by certified
42 mail to the underinsured motorist coverage insurer by its insured. Such
43 written notice shall include written documentation of pecuniary losses

1 incurred, including copies of all medical bills and written authorization or
2 a court order to obtain reports from all employers and medical providers.
3 Within 60 days of receipt of this written notice, the underinsured motorist
4 coverage insurer may substitute its payment to the insured for the tentative
5 settlement amount. The underinsured motorist coverage insurer ~~is~~ *shall*
6 then *be* subrogated to the insured's right of recovery to the extent of such
7 payment and any settlement under the underinsured motorist coverage. If
8 the underinsured motorist coverage insurer fails to pay the insured the
9 amount of the tentative tort settlement within 60 days, the underinsured
10 motorist coverage insurer ~~has~~ *shall have* no right of subrogation for any
11 amount paid under the underinsured motorist coverage.

12 Sec. 2. K.S.A. 40-284 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after
14 January 1, 2020, and its publication in the statute book.