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**Attorney Fees Amendments**  
 2026 GENERAL SESSION  
 STATE OF UTAH  
**Chief Sponsor: Anthony E. Loubet**  
 Senate Sponsor:

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**LONG TITLE**

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**General Description:**

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This bill addresses attorney fees.

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**Highlighted Provisions:**

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This bill:

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▸ clarifies the meaning of "bad faith" throughout the Utah Code with regard to attorney fees;

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▸ amends the requirements for awarding reasonable attorney fees in a civil action; and

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▸ makes technical and conforming changes.

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**Money Appropriated in this Bill:**

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None

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**Other Special Clauses:**

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None

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**Utah Code Sections Affected:**

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AMENDS:

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**18-1-4**, as last amended by Laws of Utah 2024, Chapter 158

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**31A-22-305**, as last amended by Laws of Utah 2025, Chapter 261

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**31A-22-305.3**, as last amended by Laws of Utah 2025, Chapter 261

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**31A-22-321**, as last amended by Laws of Utah 2024, Chapter 158

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**38-1a-308**, as last amended by Laws of Utah 2024, Chapter 158

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**78B-5-825**, as last amended by Laws of Utah 2022, Chapter 272

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**78B-10a-108**, as enacted by Laws of Utah 2011, Chapter 197

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*Be it enacted by the Legislature of the state of Utah:*

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Section 1. Section **18-1-4** is amended to read:

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**18-1-4 . Use of arbitration in personal injury from dog attack cases.**

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(1) A person injured as a result of a dog attack may elect to submit all third party bodily

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injury claims to arbitration by filing a notice of the submission of the claim to binding

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arbitration in a court if:

- 31 (a) the claimant or the claimant's representative has:
- 32 (i) previously and timely filed a complaint in a court that includes a third party bodily
- 33 injury claim; and
- 34 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
- 35 has been answered; and
- 36 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
- 37 Subsection (1)(a)(i) is still pending.
- 38 (2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
- 39 party submitting the claim or the party's representative is limited to an arbitration
- 40 award that may not exceed \$50,000 in addition to any medical premise benefits and
- 41 any claim for property damage.
- 42 (b) A party who elects to proceed against a defendant under this section:
- 43 (i) waives the right to obtain a judgment against the personal assets of the defendant;
- 44 and
- 45 (ii) is limited to recovery only against available limits of insurance coverage.
- 46 (3) A claim for punitive damages may not be made in an arbitration proceeding under
- 47 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through
- 48 a trial de novo under Subsection (11).
- 49 (4)(a) A party who has elected arbitration under this section may rescind the party's
- 50 election if the rescission is made within:
- 51 (i) 90 days after the election to arbitrate; and
- 52 (ii) no less than 30 days before any scheduled arbitration hearing.
- 53 (b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:
- 54 (i) file a notice of the rescission of the election to arbitrate with the court in which the
- 55 matter was filed; and
- 56 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
- 57 of record to the action.
- 58 (c) All discovery completed in anticipation of the arbitration hearing shall be available
- 59 for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah
- 60 Rules of Evidence.
- 61 (d) A party who has elected to arbitrate under this section and then rescinded the
- 62 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim
- 63 under this section again.
- 64 (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration

- 65 process elected under this section is subject to Rule 26, Utah Rules of Civil  
66 Procedure.
- 67 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be  
68 completed within 150 days after the date arbitration is elected under this section or  
69 the date the answer is filed, whichever is longer.
- 70 (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
71 arbitration under this section shall be resolved by a single arbitrator.
- 72 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall  
73 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the  
74 answer of the defendant.
- 75 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
76 (6)(b), the parties shall select a panel of three arbitrators.
- 77 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):  
78 (i) each side shall select one arbitrator; and  
79 (ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional  
80 arbitrator to be included in the panel.
- 81 (7) Unless otherwise agreed to in writing:  
82 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
83 under Subsection (6)(a); and  
84 (b) if an arbitration panel is selected under Subsection (6)(d):  
85 (i) each party shall pay the fees and costs of the arbitrator selected by that party's  
86 side; and  
87 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
88 under Subsection (6)(d)(ii).
- 89 (8) Except as otherwise provided in this section and unless otherwise agreed to in writing  
90 by the parties, an arbitration proceeding conducted under this section shall be governed  
91 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 92 (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the  
93 Utah Rules of Evidence apply to the arbitration proceeding.
- 94 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied  
95 liberally with the intent of concluding the claim in a timely and cost-efficient manner.
- 96 (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure  
97 and shall be subject to the jurisdiction of the court in which the matter is filed.
- 98 (d) Dispositive motions shall be filed, heard, and decided by the court prior to the

99 arbitration proceeding in accordance with the court's scheduling order.

100 (10) A written decision by a single arbitrator or by a majority of the arbitration panel shall  
101 constitute a final decision.

102 (11) An arbitration award issued under this section shall be the final resolution of all bodily  
103 injury claims between the parties and may be reduced to judgment by the court upon  
104 motion and notice unless:

105 (a) either party, within 20 days after service of the arbitration award:

106 (i) files a notice requesting a trial de novo in the court; and

107 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo  
108 under Subsection (11)(a)(i); or

109 (b) the arbitration award has been satisfied.

110 (12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):

111 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional  
112 90 days shall be allowed for further discovery;

113 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice  
114 of appeal; and

115 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the  
116 Utah Rules of Civil Procedure and the Utah Rules of Evidence in the court.

117 (b) In accordance with the Utah Rules of Civil Procedure, either party may request a jury  
118 trial with a request for trial de novo filed under Subsection (11).

119 (13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection  
120 (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than  
121 the arbitration award, the plaintiff is responsible for all of the nonmoving party's  
122 costs.

123 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall  
124 include:

125 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

126 (ii) the costs of expert witnesses and depositions.

127 (c) An award of costs under this Subsection (13) may not exceed \$6,000.

128 (14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection  
129 (11), does not obtain a verdict that is at least 30% less than the arbitration award, the  
130 defendant is responsible for all of the nonmoving party's costs.

131 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall  
132 include:

- 133 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and  
 134 (ii) the costs of expert witnesses and depositions.
- 135 (c) An award of costs under this Subsection (14) may not exceed \$6,000.
- 136 (15) For purposes of determining whether a party's verdict is greater or less than the  
 137 arbitration award under Subsections (13) and (14), a court may not consider any  
 138 recovery or other relief granted on a claim for damages if the claim for damages was not  
 139 disclosed in:
- 140 (a) writing prior to the arbitration proceeding; or  
 141 (b) response to discovery contrary to the Utah Rules of Civil Procedure.
- 142 [~~(16) If a court determines, upon a motion of the nonmoving party, that the moving party's~~  
 143 ~~use of the trial de novo process was filed in bad faith, as described in Section 78B-5-825,~~  
 144 ~~the court may award reasonable attorney fees to the nonmoving party.]~~
- 145 (16) Upon a motion of the nonmoving party, the court may award reasonable attorney fees  
 146 to the nonmoving party if the court determines that:
- 147 (a) the moving party lacked an honest belief that the request for a trial de novo was  
 148 proper;
- 149 (b) the moving party intended to take unconscionable advantage of another by  
 150 requesting a trial de novo; or
- 151 (c) the moving party intended to, or acted with, the knowledge that the request for a trial  
 152 de novo would hinder, delay, or defraud another.
- 153 (17) Nothing in this section is intended to affect or prevent any first party claim from later  
 154 being brought under any first party insurance policy under which the injured person is a  
 155 covered person.
- 156 (18)(a) If a defendant requests a trial de novo under Subsection (11), the total verdict at  
 157 trial may not exceed \$15,000 above any available limits of insurance coverage and  
 158 the total verdict may not exceed \$65,000.
- 159 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may  
 160 not exceed \$50,000.
- 161 (19) All arbitration awards issued under this section shall bear postjudgment interest [  
 162 ~~pursuant to~~] in accordance with Section 15-1-4.
- 163 Section 2. Section **31A-22-305** is amended to read:
- 164 **31A-22-305 . Uninsured motorist coverage.**
- 165 (1) As used in this section, "covered persons" includes:
- 166 (a) the named insured;

- 167 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor  
168 children;
- 169 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,  
170 who are residents of the named insured's household, including those who usually  
171 make their home in the same household but temporarily live elsewhere;
- 172 (d) any person occupying or using a motor vehicle:  
173 (i) referred to in the policy; or  
174 (ii) owned by a self-insured; and
- 175 (e) any person who is entitled to recover damages against the owner or operator of the  
176 uninsured or underinsured motor vehicle because of bodily injury to or death of  
177 persons under Subsection (1)(a), (b), (c), or (d).
- 178 (2) As used in this section, "uninsured motor vehicle" includes:
- 179 (a)(i) a motor vehicle, the operation, maintenance, or use of which is not covered  
180 under a liability policy at the time of an injury-causing occurrence; or  
181 (ii)(A) a motor vehicle covered with lower liability limits than required by Section  
182 31A-22-304; and  
183 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the  
184 extent of the deficiency;
- 185 (b) an unidentified motor vehicle that left the scene of an accident proximately caused  
186 by the motor vehicle operator;
- 187 (c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed  
188 by the liability insurer for more than 60 days or continues to be disputed for more  
189 than 60 days; or
- 190 (d)(i) an insured motor vehicle if, before or after the accident, the liability insurer of  
191 the motor vehicle is declared insolvent by a court of competent jurisdiction; and  
192 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent  
193 that the claim against the insolvent insurer is not paid by a guaranty association or  
194 fund.
- 195 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for  
196 covered persons who are legally entitled to recover damages from owners or operators  
197 of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
- 198 (4)(a) For new policies written on or after January 1, 2001, the limits of uninsured  
199 motorist coverage shall be equal to the lesser of the limits of the named insured's  
200 motor vehicle liability coverage or the maximum uninsured motorist coverage limits

- 201 available by the insurer under the named insured's motor vehicle policy, unless a  
202 named insured rejects or purchases coverage in a lesser amount by signing an  
203 acknowledgment form that:
- 204 (i) is filed with the department;
  - 205 (ii) is provided by the insurer;
  - 206 (iii) waives the higher coverage;
  - 207 (iv) need only state in this or similar language that uninsured motorist coverage  
208 provides benefits or protection to you and other covered persons for bodily injury  
209 resulting from an accident caused by the fault of another party where the other  
210 party has no liability insurance; and
  - 211 (v) discloses the additional premiums required to purchase uninsured motorist  
212 coverage with limits equal to the lesser of the limits of the named insured's motor  
213 vehicle liability coverage or the maximum uninsured motorist coverage limits  
214 available by the insurer under the named insured's motor vehicle policy.
- 215 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the  
216 liability coverage until the insured requests, in writing, a change of uninsured  
217 motorist coverage from that liability insurer.
- 218 (c)(i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after  
219 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written  
220 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 221 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)  
222 clarifies the application of law and does not enlarge, eliminate, or destroy vested  
223 rights.
- 224 (d) For purposes of this Subsection (4), "new policy" means:
- 225 (i) any policy that is issued which does not include a renewal or reinstatement of an  
226 existing policy; or
  - 227 (ii) a change to an existing policy that results in:
    - 228 (A) a named insured being added to or deleted from the policy; or
    - 229 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 230 (e)(i) As used in this Subsection (4)(e), "additional motor vehicle" means a change  
231 that increases the total number of vehicles insured by the policy, and does not  
232 include replacement, substitute, or temporary vehicles.
- 233 (ii) The adding of an additional motor vehicle to an existing personal lines or  
234 commercial lines policy does not constitute a new policy for purposes of

- 235 Subsection (4)(d).
- 236 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured  
237 motorist coverage has been rejected, or where uninsured motorist limits are lower  
238 than the named insured's motor vehicle liability limits, the insurer shall provide a  
239 notice to a named insured within 30 days that:
- 240 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose  
241 of uninsured motorist coverage; and
- 242 (B) encourages the named insured to contact the insurance company or insurance  
243 producer for quotes as to the additional premiums required to purchase  
244 uninsured motorist coverage with limits equal to the lesser of the limits of the  
245 named insured's motor vehicle liability coverage or the maximum uninsured  
246 motorist coverage limits available by the insurer under the named insured's  
247 motor vehicle policy.
- 248 (f) A change in policy number resulting from any policy change not identified under  
249 Subsection (4)(d)(ii) does not constitute a new policy.
- 250 (g)(i) Subsection (4)(d) applies retroactively to any claim arising on or after January  
251 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand  
252 for arbitration or filed a complaint in a court of competent jurisdiction.
- 253 (ii) The Legislature finds that the retroactive application of this Subsection (4):
- 254 (A) does not enlarge, eliminate, or destroy vested rights; and
- 255 (B) clarifies the application of law.
- 256 (h) A self-insured, including a governmental entity, may elect to provide uninsured  
257 motorist coverage in an amount that is less than its maximum self-insured retention  
258 under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy  
259 statement from the chief financial officer or chief risk officer that declares the:
- 260 (i) self-insured entity's coverage level; and
- 261 (ii) process for filing an uninsured motorist claim.
- 262 (i) Uninsured motorist coverage may not be sold with limits that are less than the  
263 minimum bodily injury limits for motor vehicle liability policies under Section  
264 31A-22-304.
- 265 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the  
266 uninsured motorist coverage until the named insured requests, in writing, different  
267 uninsured motorist coverage from the insurer.
- 268 (k)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for

- 269 policies existing on that date, the insurer shall disclose in the same medium as the  
270 premium renewal notice, an explanation of:
- 271 (A) the purpose of uninsured motorist coverage in the same manner as described  
272 in Subsection (4)(a)(iv); and
  - 273 (B) a disclosure of the additional premiums required to purchase uninsured  
274 motorist coverage with limits equal to the lesser of the limits of the named  
275 insured's motor vehicle liability coverage or the maximum uninsured motorist  
276 coverage limits available by the insurer under the named insured's motor  
277 vehicle policy.
- 278 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named  
279 insureds that carry uninsured motorist coverage limits in an amount less than the  
280 named insured's motor vehicle liability policy limits or the maximum uninsured  
281 motorist coverage limits available by the insurer under the named insured's motor  
282 vehicle policy.
- 283 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in  
284 a household constitutes notice or disclosure to all insureds within the household.
- 285 (5)(a)(i) Except as provided in Subsection (5)(b), the named insured may reject  
286 uninsured motorist coverage by an express writing to the insurer that provides  
287 liability coverage under Subsection 31A-22-302(1)(a).
- 288 (ii) This rejection shall be on a form provided by the insurer that includes a  
289 reasonable explanation of the purpose of uninsured motorist coverage.
  - 290 (iii) This rejection continues for that issuer of the liability coverage until the insured  
291 in writing requests uninsured motorist coverage from that liability insurer.
- 292 (b)(i) All persons, including governmental entities, that are engaged in the business  
293 of, or that accept payment for, transporting natural persons by motor vehicle, and  
294 all school districts that provide transportation services for their students, shall  
295 provide coverage for all motor vehicles used for that purpose, by purchase of a  
296 policy of insurance or by self-insurance, uninsured motorist coverage of at least  
297 \$25,000 per person and \$500,000 per accident.
- 298 (ii) This coverage is secondary to any other insurance covering an injured covered  
299 person.
- 300 (c) Uninsured motorist coverage:
- 301 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,  
302 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah

303 Occupational Disease Act, provided by the workers' compensation insurance  
304 carrier, uninsured employer, the Uninsured Employers' Fund created in Section  
305 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,  
306 except that:

- 307 (A) the covered person is credited an amount described in Subsection  
308 34A-2-106(5); and
- 309 (B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before  
310 an uninsured motorist claim may be pursued and resolved;
- 311 (ii) may not be subrogated by the workers' compensation insurance carrier, uninsured  
312 employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the  
313 Employers' Reinsurance Fund created in Section 34A-2-702;
- 314 (iii) may not be reduced by any benefits provided by the workers' compensation  
315 insurance carrier, uninsured employer, the Uninsured Employers' Fund created in  
316 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section  
317 34A-2-702;
- 318 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health  
319 insurance subrogation only after the covered person has been made whole;
- 320 (v) may not be collected for bodily injury or death sustained by a person:
  - 321 (A) while committing a violation of Section 41-1a-1314;
  - 322 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being  
323 operated in violation of Section 41-1a-1314; or
  - 324 (C) while committing a felony; and
- 325 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:
  - 326 (A) for a person under 18 years old who is injured within the scope of Subsection  
327 (5)(c)(v) but limited to medical and funeral expenses; or
  - 328 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured  
329 within the course and scope of the law enforcement officer's duties.
- 330 (d) As used in this Subsection (5), "motor vehicle" means the same as that term is  
331 defined in Section 41-1a-102.
- 332 (6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b)  
333 proximately caused an accident without touching the covered person or the motor  
334 vehicle occupied by the covered person, the covered person shall show the existence of  
335 the uninsured motor vehicle by clear and convincing evidence consisting of more than  
336 the covered person's testimony.

- 337 (7)(a) The limit of liability for uninsured motorist coverage for two or more motor  
338 vehicles may not be added together, combined, or stacked to determine the limit of  
339 insurance coverage available to an injured person for any one accident.
- 340 (b)(i) Subsection (7)(a) applies to all persons except a covered person as defined  
341 under Subsection (8)(b).
- 342 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest  
343 limits of uninsured motorist coverage afforded for any one motor vehicle that the  
344 covered person is the named insured or an insured family member.
- 345 (iii) This coverage shall be in addition to the coverage on the motor vehicle the  
346 covered person is occupying.
- 347 (iv) Neither the primary nor the secondary coverage may be set off against the other.
- 348 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary  
349 coverage, and the coverage elected by a person described under Subsections (1)(a)  
350 through (c) shall be secondary coverage.
- 351 (8)(a) Uninsured motorist coverage under this section applies to bodily injury, sickness,  
352 disease, or death of covered persons while occupying or using a motor vehicle only if  
353 the motor vehicle is described in the policy under which a claim is made, or if the  
354 motor vehicle is a newly acquired or replacement motor vehicle covered under the  
355 terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a  
356 covered person injured in a motor vehicle described in a policy that includes  
357 uninsured motorist benefits may not elect to collect uninsured motorist coverage  
358 benefits from any other motor vehicle insurance policy under which the person is a  
359 covered person.
- 360 (b) Each of the following persons may also recover uninsured motorist benefits under  
361 any one other policy in which they are described as a "covered person" as defined in  
362 Subsection (1):
- 363 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and  
364 (ii) except as provided in Subsection (8)(c), a covered person injured while  
365 occupying or using a motor vehicle that is not owned, leased, or furnished:
- 366 (A) to the covered person;  
367 (B) to the covered person's spouse; or  
368 (C) to the covered person's resident parent or resident sibling.
- 369 (c)(i) A covered person may recover benefits from no more than two additional  
370 policies, one additional policy from each parent's household if the covered person

- 371 is:
- 372 (A) a dependent minor of parents who reside in separate households; and
- 373 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
- 374 furnished:
- 375 (I) to the covered person;
- 376 (II) to the covered person's resident parent; or
- 377 (III) to the covered person's resident sibling.
- 378 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage
- 379 of the damages that the limit of liability of each parent's policy of uninsured
- 380 motorist coverage bears to the total of both parents' uninsured coverage applicable
- 381 to the accident.
- 382 (d) A covered person's recovery under any available policies may not exceed the full
- 383 amount of damages.
- 384 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
- 385 elections if recovery is unavailable under previous elections.
- 386 (f)(i) As used in this section, "interpolicy stacking" means recovering benefits for a
- 387 single incident of loss under more than one insurance policy.
- 388 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
- 389 interpolicy stacking is prohibited for uninsured motorist coverage.
- 390 (9)(a) When a claim is brought by a named insured or a person described in Subsection
- 391 (1) and is asserted against the covered person's uninsured motorist carrier, the
- 392 claimant may elect to resolve the claim:
- 393 (i) by submitting the claim to binding arbitration; or
- 394 (ii) through litigation.
- 395 (b) Unless otherwise provided in the policy under which uninsured benefits are claimed,
- 396 the election provided in Subsection (9)(a) is available to the claimant only, except
- 397 that if the policy under which insured benefits are claimed provides that either an
- 398 insured or the insurer may elect arbitration, the insured or the insurer may elect
- 399 arbitration and that election to arbitrate shall stay the litigation of the claim under
- 400 Subsection (9)(a)(ii).
- 401 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the
- 402 claimant may not elect to resolve the claim through binding arbitration under this
- 403 section without the written consent of the uninsured motorist carrier.
- 404 (d) For purposes of the statute of limitations applicable to a claim described in

- 405 Subsection (9)(a), if the claimant does not elect to resolve the claim through  
406 litigation, the claim is considered filed when the claimant submits the claim to  
407 binding arbitration in accordance with this Subsection (9).
- 408 (e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
409 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single  
410 arbitrator.
- 411 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).  
412 (iii) If the parties are unable to agree on a single arbitrator as required under  
413 Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.
- 414 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):  
415 (i) each side shall select one arbitrator; and  
416 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional  
417 arbitrator to be included in the panel.
- 418 (g) Unless otherwise agreed to in writing:  
419 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
420 under Subsection (9)(e)(i); or  
421 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):  
422 (A) each party shall pay the fees and costs of the arbitrator selected by that party;  
423 and  
424 (B) each party shall pay an equal share of the fees and costs of the arbitrator  
425 selected under Subsection (9)(f)(ii).
- 426 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing  
427 by the parties, an arbitration proceeding conducted under this section shall be  
428 governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 429 (i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through  
430 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the  
431 requirements of Subsections (10)(a) through (c) are satisfied.  
432 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil  
433 Procedure shall be determined based on the claimant's specific monetary amount  
434 in the written demand for payment of uninsured motorist coverage benefits as  
435 required in Subsection (10)(a)(i)(A).  
436 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to  
437 arbitration claims under this part.
- 438 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

- 439 (k) A written decision by a single arbitrator or by a majority of the arbitration panel shall  
440 constitute a final decision.
- 441 (l)(i) Except as provided in Subsection (10), the amount of an arbitration award may  
442 not exceed the uninsured motorist policy limits of all applicable uninsured  
443 motorist policies, including applicable uninsured motorist umbrella policies.
- 444 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all  
445 applicable uninsured motorist policies, the arbitration award shall be reduced to an  
446 amount equal to the combined uninsured motorist policy limits of all applicable  
447 uninsured motorist policies.
- 448 (m) The arbitrator or arbitration panel may not decide the issues of coverage or  
449 extra-contractual damages, including:
- 450 (i) whether the claimant is a covered person;  
451 (ii) whether the policy extends coverage to the loss; or  
452 (iii) any allegations or claims asserting consequential damages or bad faith liability.
- 453 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or  
454 class-representative basis.
- 455 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or  
456 defended in good faith, the arbitrator or arbitration panel may award reasonable  
457 attorney fees and costs against the party that failed to bring, pursue, or defend the  
458 claim in good faith.
- 459 (p) An arbitration award issued under this section shall be the final resolution of all  
460 claims not excluded by Subsection (9)(m) between the parties unless:
- 461 (i) the award was procured by corruption, fraud, or other undue means; and  
462 (ii) within 20 days after service of the arbitration award, a party:
- 463 (A) files a complaint requesting a trial de novo in a court with jurisdiction under  
464 Title 78A, Judiciary and Judicial Administration; and  
465 (B) serves the nonmoving party with a copy of the complaint requesting a trial de  
466 novo under Subsection (9)(p)(ii)(A).
- 467 (q)(i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim  
468 shall proceed through litigation in accordance with the Utah Rules of Civil  
469 Procedure and Utah Rules of Evidence.
- 470 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, a party may request a  
471 jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).
- 472 (r)(i) If the claimant, as the moving party in a trial de novo requested under

- 473 Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least  
474 20% greater than the arbitration award, the claimant is responsible for all of the  
475 nonmoving party's costs.
- 476 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested  
477 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the  
478 arbitration award, the uninsured motorist carrier is responsible for all of the  
479 nonmoving party's costs.
- 480 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)  
481 shall include:
- 482 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and  
483 (B) the costs of expert witnesses and depositions.
- 484 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless  
485 Subsection (10)(h)(iii) applies.
- 486 (s) For purposes of determining whether a party's verdict is greater or less than the  
487 arbitration award under Subsection (9)(r), a court may not consider any recovery or  
488 other relief granted on a claim for damages if the claim for damages:
- 489 (i) was not fully disclosed in writing prior to the arbitration proceeding; or  
490 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
491 Procedure.
- 492 ~~[(t) If a court determines, upon a motion of the nonmoving party, that the moving party's  
493 use of the trial de novo process was filed in bad faith in accordance with Section  
494 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.]~~
- 495 (t) Upon a motion of the nonmoving party, the court may award reasonable attorney fees  
496 to the nonmoving party if the court determines that:
- 497 (i) the moving party lacked an honest belief that the request for a trial de novo was  
498 proper;
- 499 (ii) the moving party intended to take unconscionable advantage of another by  
500 requesting a trial de novo; or
- 501 (iii) the moving party intended to, or acted with, the knowledge that the request for a  
502 trial de novo would hinder, delay, or defraud another.
- 503 (u) Nothing in this section is intended to limit any claim under any other portion of an  
504 applicable insurance policy.
- 505 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the  
506 claimant may elect to arbitrate in one hearing the claims against all the uninsured

507 motorist carriers.

508 (10)(a) Within 30 days after a covered person elects to submit a claim for uninsured  
509 motorist benefits to binding arbitration or files litigation, the covered person shall  
510 provide to the uninsured motorist carrier:

511 (i) a written demand for payment of uninsured motorist coverage benefits, setting  
512 forth:

513 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,  
514 including a computation of the covered person's claimed past medical  
515 expenses, claimed past lost wages, and the other claimed past economic  
516 damages; and

517 (B) the factual and legal basis and any supporting documentation for the demand;

518 (ii) a written statement under oath disclosing:

519 (A)(I) the names and last known addresses of all health care providers who  
520 have rendered health care services to the covered person that are material to  
521 the claims for which uninsured motorist benefits are sought for a period of  
522 five years preceding the date of the event giving rise to the claim for  
523 uninsured motorist benefits up to the time the election for arbitration or  
524 litigation has been exercised; and

525 (II) the names and last known addresses of the health care providers who have  
526 rendered health care services to the covered person, which the covered  
527 person claims are immaterial to the claims for which uninsured motorist  
528 benefits are sought, for a period of five years preceding the date of the event  
529 giving rise to the claim for uninsured motorist benefits up to the time the  
530 election for arbitration or litigation has been exercised that have not been  
531 disclosed under Subsection (10)(a)(ii)(A)(I);

532 (B)(I) the names and last known addresses of all health insurers or other  
533 entities to whom the covered person has submitted claims for health care  
534 services or benefits material to the claims for which uninsured motorist  
535 benefits are sought, for a period of five years preceding the date of the event  
536 giving rise to the claim for uninsured motorist benefits up to the time the  
537 election for arbitration or litigation has been exercised; and

538 (II) the names and last known addresses of the health insurers or other entities  
539 to whom the covered person has submitted claims for health care services or  
540 benefits, which the covered person claims are immaterial to the claims for

541 which uninsured motorist benefits are sought, for a period of five years  
542 preceding the date of the event giving rise to the claim for uninsured  
543 motorist benefits up to the time the election for arbitration or litigation have  
544 not been disclosed;

545 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all  
546 employers of the covered person for a period of five years preceding the date  
547 of the event giving rise to the claim for uninsured motorist benefits up to the  
548 time the election for arbitration or litigation has been exercised;

549 (D) other documents to reasonably support the claims being asserted; and

550 (E) all state and federal statutory lienholders including a statement as to whether  
551 the covered person is a recipient of Medicare or Medicaid benefits or Utah  
552 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,  
553 Utah Children's Health Insurance Program, or if the claim is subject to any  
554 other state or federal statutory liens; and

555 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain  
556 records and billings from the individuals or entities disclosed under Subsections  
557 (10)(a)(ii)(A)(I), (B)(I), and (C).

558 (b)(i) If the uninsured motorist carrier determines that the disclosure of undisclosed  
559 health care providers or health care insurers under Subsection (10)(a)(ii) is  
560 reasonably necessary, the uninsured motorist carrier may:

561 (A) make a request for the disclosure of the identity of the health care providers or  
562 health care insurers; and

563 (B) make a request for authorizations to allow the uninsured motorist carrier to  
564 only obtain records and billings from the individuals or entities not disclosed.

565 (ii) If the covered person does not provide the requested information within 10 days:

566 (A) the covered person shall disclose, in writing, the legal or factual basis for the  
567 failure to disclose the health care providers or health care insurers; and

568 (B) either the covered person or the uninsured motorist carrier may request the  
569 arbitrator or arbitration panel to resolve the issue of whether the identities or  
570 records are to be provided if the covered person has elected arbitration.

571 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution  
572 of the dispute concerning the disclosure and production of records of the health  
573 care providers or health care insurers.

574 (c)(i) An uninsured motorist carrier that receives an election for arbitration or a notice

575 of filing litigation and the demand for payment of uninsured motorist benefits  
576 under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days  
577 from the date of the demand and receipt of the items specified in Subsections  
578 (10)(a)(i) through (iii), to:

579 (A) provide a written response to the written demand for payment provided for in  
580 Subsection (10)(a)(i);

581 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of  
582 the uninsured motorist carrier's determination of the amount owed to the  
583 covered person; and

584 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
585 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,  
586 Utah Children's Health Insurance Program, or if the claim is subject to any  
587 other state or federal statutory liens, tender the amount, if any, of the uninsured  
588 motorist carrier's determination of the amount owed to the covered person less:

589 (I) if the amount of the state or federal statutory lien is established, the amount  
590 of the lien; or

591 (II) if the amount of the state or federal statutory lien is not established, two  
592 times the amount of the medical expenses subject to the state or federal  
593 statutory lien until such time as the amount of the state or federal statutory  
594 lien is established.

595 (ii) If the amount tendered by the uninsured motorist carrier under Subsection  
596 (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered  
597 amount shall be accepted by the covered person.

598 (d) A covered person who receives a written response from an uninsured motorist carrier  
599 as provided for in Subsection (10)(c)(i), may:

600 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of  
601 all uninsured motorist claims; or

602 (ii) elect to:

603 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all  
604 uninsured motorist claims; and

605 (B) continue to litigate or arbitrate the remaining claim in accordance with the  
606 election made under Subsections (9)(a) through (c).

607 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)  
608 as partial payment of all uninsured motorist claims, the final award obtained through

- 609 arbitration, litigation, or later settlement shall be reduced by any payment made by  
610 the uninsured motorist carrier under Subsection (10)(c)(i).
- 611 (f) In an arbitration proceeding on the remaining uninsured claims:
- 612 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid  
613 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and  
614 (ii) the parties may not disclose the amount of the limits of uninsured motorist  
615 benefits provided by the policy.
- 616 (g) If the final award obtained through arbitration or litigation is greater than the average  
617 of the covered person's initial written demand for payment provided for in Subsection  
618 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in  
619 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:
- 620 (i) the final award obtained through arbitration or litigation, except that if the award  
621 exceeds the policy limits of the subject uninsured motorist policy by more than  
622 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus  
623 \$15,000; and  
624 (ii) any of the following applicable costs:
- 625 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;  
626 (B) the arbitrator or arbitration panel's fee; and  
627 (C) the reasonable costs of expert witnesses and depositions used in the  
628 presentation of evidence during arbitration or litigation.
- 629 (h)(i) The covered person shall provide an affidavit of costs within five days of an  
630 arbitration award.
- 631 (ii)(A) Objection to the affidavit of costs shall specify with particularity the costs  
632 to which the uninsured motorist carrier objects.  
633 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 634 (iii) The award of costs by the arbitrator or arbitration panel under Subsection  
635 (10)(g)(ii) may not exceed \$5,000.
- 636 (i)(i) A covered person shall disclose all material information, other than rebuttal  
637 evidence, within 30 days after a covered person elects to submit a claim for  
638 uninsured motorist coverage benefits to binding arbitration or files litigation as  
639 specified in Subsection (10)(a).
- 640 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person  
641 may not recover costs or any amounts in excess of the policy under Subsection  
642 (10)(g).

- 643 (j) This Subsection (10) does not limit any other cause of action that arose or may arise  
 644 against the uninsured motorist carrier from the same dispute.
- 645 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that  
 646 occur on or after March 30, 2010.
- 647 (l)(i)(A) The written demand requirement in Subsection (10)(a)(i)(A) does not  
 648 affect the covered person's requirement to provide a computation of any other  
 649 economic damages claimed, and the one or more respondents shall have a  
 650 reasonable time after the receipt of the computation of any other economic  
 651 damages claimed to conduct fact and expert discovery as to any additional  
 652 damages claimed.
- 653 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and[-] [  
 654 ]Chapter 300, Section 10, to this Subsection (10)(l) and Subsection  
 655 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through  
 656 litigation on or after May 13, 2014.
- 657 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter[-] [  
 658 ]300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any  
 659 claim submitted to binding arbitration or through litigation on or after May 13,  
 660 2014.
- 661 (11)(a) A person shall commence an action on a written policy or contract for uninsured  
 662 motorist coverage within four years after the inception of loss.
- 663 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by  
 664 Subsection 31A-21-313(1)(a) as of May 14, 2019.
- 665 Section 3. Section **31A-22-305.3** is amended to read:  
 666 **31A-22-305.3 . Underinsured motorist coverage.**
- 667 (1) As used in this section:
- 668 (a) "Covered person" means the same as that term is defined in Section 31A-22-305.
- 669 (b)(i) "Underinsured motor vehicle" includes a motor vehicle, the operation,  
 670 maintenance, or use of which is covered under a liability policy at the time of an  
 671 injury-causing occurrence, but which has insufficient liability coverage to  
 672 compensate fully the injured party for all special and general damages.
- 673 (ii) The term "underinsured motor vehicle" does not include:
- 674 (A) a motor vehicle that is covered under the liability coverage of the same policy  
 675 that also contains the underinsured motorist coverage;
- 676 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

- 677 (C) a motor vehicle owned or leased by:
- 678 (I) a named insured;
- 679 (II) a named insured's spouse; or
- 680 (III) a dependent of a named insured.
- 681 (2)(a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
- 682 coverage for a covered person who is legally entitled to recover damages from an
- 683 owner or operator of an underinsured motor vehicle because of bodily injury,
- 684 sickness, disease, or death.
- 685 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished to
- 686 the covered person, the covered person's spouse, or covered person's resident relative
- 687 may recover underinsured benefits only if the motor vehicle is:
- 688 (i) described in the policy under which a claim is made; or
- 689 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
- 690 policy.
- 691 (3)(a) For purposes of this Subsection (3), "new policy" means:
- 692 (i) any policy that is issued that does not include a renewal or reinstatement of an
- 693 existing policy; or
- 694 (ii) a change to an existing policy that results in:
- 695 (A) a named insured being added to or deleted from the policy; or
- 696 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 697 (b) For new policies written on or after January 1, 2001, the limits of underinsured
- 698 motorist coverage shall be equal to the lesser of the limits of the named insured's
- 699 motor vehicle liability coverage or the maximum underinsured motorist coverage
- 700 limits available by the insurer under the named insured's motor vehicle policy, unless
- 701 a named insured rejects or purchases coverage in a lesser amount by signing an
- 702 acknowledgment form that:
- 703 (i) is filed with the department;
- 704 (ii) is provided by the insurer;
- 705 (iii) waives the higher coverage;
- 706 (iv) need only state in this or similar language that "underinsured motorist coverage
- 707 provides benefits or protection to you and other covered persons for bodily injury
- 708 resulting from an accident caused by the fault of another party where the other
- 709 party has insufficient liability insurance"; and
- 710 (v) discloses the additional premiums required to purchase underinsured motorist

- 711 coverage with limits equal to the lesser of the limits of the named insured's motor  
712 vehicle liability coverage or the maximum underinsured motorist coverage limits  
713 available by the insurer under the named insured's motor vehicle policy.
- 714 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the  
715 liability coverage until the insured requests, in writing, a change of underinsured  
716 motorist coverage from that liability insurer.
- 717 (d)(i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after  
718 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written  
719 demand for arbitration or filed a complaint in a court of competent jurisdiction.
- 720 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)  
721 clarifies the application of law and does not enlarge, eliminate, or destroy vested  
722 rights.
- 723 (e)(i) As used in this Subsection (3)(e), "additional motor vehicle" means a change  
724 that increases the total number of vehicles insured by the policy, and does not  
725 include replacement, substitute, or temporary vehicles.
- 726 (ii) The adding of an additional motor vehicle to an existing personal lines or  
727 commercial lines policy does not constitute a new policy for purposes of  
728 Subsection (3)(a).
- 729 (iii) If an additional motor vehicle is added to a personal lines policy where  
730 underinsured motorist coverage has been rejected, or where underinsured motorist  
731 limits are lower than the named insured's motor vehicle liability limits, the insurer  
732 shall provide a notice to a named insured within 30 days that:
- 733 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of  
734 underinsured motorist coverage; and
- 735 (B) encourages the named insured to contact the insurance company or insurance  
736 producer for quotes as to the additional premiums required to purchase  
737 underinsured motorist coverage with limits equal to the lesser of the limits of  
738 the named insured's motor vehicle liability coverage or the maximum  
739 underinsured motorist coverage limits available by the insurer under the named  
740 insured's motor vehicle policy.
- 741 (f) A change in policy number resulting from any policy change not identified under  
742 Subsection (3)(a)(ii) does not constitute a new policy.
- 743 (g)(i) Subsection (3)(a) applies retroactively to any claim arising on or after January  
744 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand

- 745 for arbitration or filed a complaint in a court of competent jurisdiction.
- 746 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):
- 747 (A) does not enlarge, eliminate, or destroy vested rights; and
- 748 (B) clarifies legislative intent.
- 749 (h) A self-insured, including a governmental entity, may elect to provide underinsured
- 750 motorist coverage in an amount that is less than its maximum self-insured retention
- 751 under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy
- 752 statement from the chief financial officer or chief risk officer that declares the:
- 753 (i) self-insured entity's coverage level; and
- 754 (ii) process for filing an underinsured motorist claim.
- 755 (i) Underinsured motorist coverage may not be sold with limits that are less than:
- 756 (i) \$10,000 for one person in any one accident; and
- 757 (ii) at least \$20,000 for two or more persons in any one accident.
- 758 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
- 759 underinsured motorist coverage until the named insured, in writing, requests different
- 760 underinsured motorist coverage from the insurer.
- 761 (k)(i) The named insured's underinsured motorist coverage, as described in
- 762 Subsection (2), is secondary to the liability coverage of an owner or operator of an
- 763 underinsured motor vehicle, as described in Subsection (1).
- 764 (ii) Underinsured motorist coverage may not be set off against the liability coverage
- 765 of the owner or operator of an underinsured motor vehicle, but shall be added to,
- 766 combined with, or stacked upon the liability coverage of the owner or operator of
- 767 the underinsured motor vehicle to determine the limit of coverage available to the
- 768 injured person.
- 769 (l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for
- 770 policies existing on that date, the insurer shall disclose in the same medium as the
- 771 premium renewal notice, an explanation of:
- 772 (A) the purpose of underinsured motorist coverage in the same manner as
- 773 described in Subsection (3)(b)(iv); and
- 774 (B) a disclosure of the additional premiums required to purchase underinsured
- 775 motorist coverage with limits equal to the lesser of the limits of the named
- 776 insured's motor vehicle liability coverage or the maximum underinsured
- 777 motorist coverage limits available by the insurer under the named insured's
- 778 motor vehicle policy.

- 779 (ii) The disclosure required under this Subsection (3)(1) shall be sent to all named  
780 insureds that carry underinsured motorist coverage limits in an amount less than  
781 the named insured's motor vehicle liability policy limits or the maximum  
782 underinsured motorist coverage limits available by the insurer under the named  
783 insured's motor vehicle policy.
- 784 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in  
785 a household constitutes notice or disclosure to all insureds within the household.
- 786 (4)(a)(i) Except as provided in this Subsection (4), a covered person injured in a  
787 motor vehicle described in a policy that includes underinsured motorist benefits  
788 may not elect to collect underinsured motorist coverage benefits from another  
789 motor vehicle insurance policy.
- 790 (ii) The limit of liability for underinsured motorist coverage for two or more motor  
791 vehicles may not be added together, combined, or stacked to determine the limit  
792 of insurance coverage available to an injured person for any one accident.
- 793 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described  
794 under Subsections (4)(b)(i) and (ii).
- 795 (b)(i) A covered person injured as a pedestrian by an underinsured motor vehicle may  
796 recover underinsured motorist benefits under any one other policy in which they  
797 are described as a covered person.
- 798 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while  
799 occupying, using, or maintaining a motor vehicle that is not owned, leased, or  
800 furnished to the covered person, the covered person's spouse, or the covered  
801 person's resident parent or resident sibling, may also recover benefits under any  
802 one other policy under which the covered person is also a covered person.
- 803 (iii)(A) A covered person may recover benefits from no more than two additional  
804 policies, one additional policy from each parent's household if the covered  
805 person is:
- 806 (I) a dependent minor of parents who reside in separate households; and  
807 (II) injured while occupying or using a motor vehicle that is not owned, leased,  
808 or furnished to the covered person, the covered person's resident parent, or  
809 the covered person's resident sibling.
- 810 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the  
811 percentage of the damages that the limit of liability of each parent's policy of  
812 underinsured motorist coverage bears to the total of both parents' underinsured

- 813 coverage applicable to the accident.
- 814 (iv) A covered person's recovery under any available policies may not exceed the full  
815 amount of damages.
- 816 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is  
817 primary coverage, and the coverage elected by a person described under  
818 Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.
- 819 (vi) The primary and the secondary coverage may not be set off against the other.
- 820 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the  
821 highest limits of underinsured motorist coverage under only one additional policy  
822 per household applicable to that covered person as a named insured, spouse, or  
823 relative.
- 824 (viii) A covered injured person is not barred against making subsequent elections if  
825 recovery is unavailable under previous elections.
- 826 (ix)(A) As used in this section, "interpolicy stacking" means recovering benefits  
827 for a single incident of loss under more than one insurance policy.
- 828 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is  
829 prohibited for underinsured motorist coverage.
- 830 (c) Underinsured motorist coverage:
- 831 (i) in order to avoid double recovery, does not cover any benefit under Title 34A,  
832 Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah  
833 Occupational Disease Act, provided by the workers' compensation insurance  
834 carrier, uninsured employer, the Uninsured Employers' Fund created in Section  
835 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702,  
836 except that:
- 837 (A) the covered person is credited an amount described in Subsection  
838 34A-2-106(5); and
- 839 (B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before  
840 an underinsured motorist claim may be pursued and resolved[-] ;
- 841 (ii) may not be subrogated by a workers' compensation insurance carrier, uninsured  
842 employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the  
843 Employers' Reinsurance Fund created in Section 34A-2-702;
- 844 (iii) may not be reduced by benefits provided by the workers' compensation insurance  
845 carrier, uninsured employer, the Uninsured Employers' Fund created in Section  
846 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

- 847 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health  
848 insurance subrogation only after the covered person is made whole;
- 849 (v) may not be collected for bodily injury or death sustained by a person:  
850 (A) while committing a violation of Section 41-1a-1314;  
851 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being  
852 operated in violation of Section 41-1a-1314; or  
853 (C) while committing a felony; and
- 854 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:  
855 (A) for a person younger than 18 years old who is injured within the scope of  
856 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or  
857 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured  
858 within the course and scope of the law enforcement officer's duties.
- 859 (5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for  
860 underinsured motorist coverage shall be commenced within four years after the  
861 inception of loss.
- 862 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist  
863 claims occurs upon the date of the settlement check representing the last liability  
864 policy payment.
- 865 (6) An underinsured motorist insurer does not have a right of reimbursement against a  
866 person liable for the damages resulting from an injury-causing occurrence if the person's  
867 liability insurer has tendered the policy limit and the limits have been accepted by the  
868 claimant.
- 869 (7) Except as otherwise provided in this section, a covered person may seek, subject to the  
870 terms and conditions of the policy, additional coverage under any policy:  
871 (a) that provides coverage for damages resulting from motor vehicle accidents; and  
872 (b) that is not required to conform to Section 31A-22-302.
- 873 (8)(a) When a claim is brought by a named insured or a person described in Subsection  
874 31A-22-305(1) and is asserted against the covered person's underinsured motorist  
875 carrier, the claimant may elect to resolve the claim:  
876 (i) by submitting the claim to binding arbitration; or  
877 (ii) through litigation.
- 878 (b) Unless otherwise provided in the policy under which underinsured benefits are  
879 claimed, the election provided in Subsection (8)(a) is available to the claimant only,  
880 except that if the policy under which insured benefits are claimed provides that either

- 881 an insured or the insurer may elect arbitration, the insured or the insurer may elect  
882 arbitration and that election to arbitrate shall stay the litigation of the claim under  
883 Subsection (8)(a)(ii).
- 884 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the  
885 claimant may not elect to resolve the claim through binding arbitration under this  
886 section without the written consent of the underinsured motorist coverage carrier.
- 887 (d) For purposes of the statute of limitations applicable to a claim described in  
888 Subsection (8)(a), if the claimant does not elect to resolve the claim through  
889 litigation, the claim is considered filed when the claimant submits the claim to  
890 binding arbitration in accordance with this Subsection (8).
- 891 (e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
892 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single  
893 arbitrator.
- 894 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).
- 895 (iii) If the parties are unable to agree on a single arbitrator as required under  
896 Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.
- 897 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):
- 898 (i) each side shall select one arbitrator; and
- 899 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional  
900 arbitrator to be included in the panel.
- 901 (g) Unless otherwise agreed to in writing:
- 902 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
903 under Subsection (8)(e)(i); or
- 904 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
- 905 (A) each party shall pay the fees and costs of the arbitrator selected by that party;  
906 and
- 907 (B) each party shall pay an equal share of the fees and costs of the arbitrator  
908 selected under Subsection (8)(f)(ii).
- 909 (h) Except as otherwise provided in this section or unless otherwise agreed to in writing  
910 by the parties, an arbitration proceeding conducted under this section is governed by  
911 Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 912 (i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through  
913 (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the  
914 requirements of Subsections (9)(a) through (c) are satisfied.

- 915 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil  
916 Procedure shall be determined based on the claimant's specific monetary amount  
917 in the written demand for payment of uninsured motorist coverage benefits as  
918 required in Subsection (9)(a)(i)(A).
- 919 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to  
920 arbitration claims under this part.
- 921 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.
- 922 (k) A written decision by a single arbitrator or by a majority of the arbitration panel  
923 constitutes a final decision.
- 924 (l)(i) Except as provided in Subsection (9), the amount of an arbitration award may  
925 not exceed the underinsured motorist policy limits of all applicable underinsured  
926 motorist policies, including applicable underinsured motorist umbrella policies.
- 927 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of  
928 all applicable underinsured motorist policies, the arbitration award shall be  
929 reduced to an amount equal to the combined underinsured motorist policy limits  
930 of all applicable underinsured motorist policies.
- 931 (m) The arbitrator or arbitration panel may not decide an issue of coverage or  
932 extra-contractual damages, including:
- 933 (i) whether the claimant is a covered person;
- 934 (ii) whether the policy extends coverage to the loss; or
- 935 (iii) an allegation or claim asserting consequential damages or bad faith liability.
- 936 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or  
937 class-representative basis.
- 938 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,  
939 or defended in good faith, the arbitrator or arbitration panel may award reasonable  
940 attorney fees and costs against the party that failed to bring, pursue, or defend the  
941 arbitration in good faith.
- 942 (p) An arbitration award issued under this section shall be the final resolution of all  
943 claims not excluded by Subsection (8)(m) between the parties unless:
- 944 (i) the award is procured by corruption, fraud, or other undue means; or
- 945 (ii) either party, within 20 days after service of the arbitration award:
- 946 (A) files a complaint requesting a trial de novo in the a court with jurisdiction  
947 under Title 78A, Judiciary and Judicial Administration; and
- 948 (B) serves the nonmoving party with a copy of the complaint requesting a trial de

- 949                    novo under Subsection (8)(p)(ii)(A).
- 950            (q)(i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim  
 951                    shall proceed through litigation in accordance with the Utah Rules of Civil  
 952                    Procedure and Utah Rules of Evidence.
- 953            (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may  
 954                    request a jury trial with a complaint requesting a trial de novo under Subsection  
 955                    (8)(p)(ii)(A).
- 956            (r)(i) If the claimant, as the moving party in a trial de novo requested under  
 957                    Subsection (8)(p), does not obtain a verdict that is at least \$5,000 and is at least  
 958                    20% greater than the arbitration award, the claimant is responsible for all of the  
 959                    nonmoving party's costs.
- 960            (ii) If the underinsured motorist carrier, as the moving party in a trial de novo  
 961                    requested under Subsection (8)(p), does not obtain a verdict that is at least 20%  
 962                    less than the arbitration award, the underinsured motorist carrier is responsible for  
 963                    all of the nonmoving party's costs.
- 964            (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)  
 965                    shall include:  
 966                    (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and  
 967                    (B) the costs of expert witnesses and depositions.
- 968            (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless  
 969                    Subsection (9)(h)(iii) applies.
- 970            (s) For purposes of determining whether a party's verdict is greater or less than the  
 971                    arbitration award under Subsection (8)(r), a court may not consider any recovery or  
 972                    other relief granted on a claim for damages if the claim for damages:  
 973                    (i) was not fully disclosed in writing prior to the arbitration proceeding; or  
 974                    (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
 975                    Procedure.
- 976            ~~[(t) If a court determines, upon a motion of the nonmoving party, that a moving party's  
 977                    use of the trial de novo process is filed in bad faith in accordance with Section  
 978                    78B-5-825, the court may award reasonable attorney fees to the nonmoving party.]~~
- 979            (t) Upon a motion of the nonmoving party, the court may award reasonable attorney fees  
 980                    to the nonmoving party if the court determines that:  
 981                    (i) the moving party lacked an honest belief that the request for a trial de novo was  
 982                    proper;

- 983           (ii) the moving party intended to take unconscionable advantage of another by  
984           requesting a trial de novo; or
- 985           (iii) the moving party intended to, or acted with, the knowledge that the request for a  
986           trial de novo would hinder, delay, or defraud another.
- 987           (u) Nothing in this section is intended to limit a claim under another portion of an  
988           applicable insurance policy.
- 989           (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the  
990           claimant may elect to arbitrate in one hearing the claims against all the underinsured  
991           motorist carriers.
- 992           (9)(a) Within 30 days after a covered person elects to submit a claim for underinsured  
993           motorist benefits to binding arbitration or files litigation, the covered person shall  
994           provide to the underinsured motorist carrier:
- 995               (i) a written demand for payment of underinsured motorist coverage benefits, setting  
996               forth:
- 997                   (A) subject to Subsection (9)(1), the specific monetary amount of the demand,  
998                   including a computation of the covered person's claimed past medical  
999                   expenses, claimed past lost wages, and all other claimed past economic  
1000                  damages; and
- 1001                  (B) the factual and legal basis and any supporting documentation for the demand;
- 1002               (ii) a written statement under oath disclosing:
- 1003                   (A)(I) the names and last known addresses of all health care providers who  
1004                   have rendered health care services to the covered person that are material to  
1005                   the claims for which the underinsured motorist benefits are sought for a  
1006                   period of five years preceding the date of the event giving rise to the claim  
1007                   for underinsured motorist benefits up to the time the election for arbitration  
1008                   or litigation has been exercised; and
- 1009                   (II) the names and last known addresses of the health care providers who have  
1010                   rendered health care services to the covered person, which the covered  
1011                   person claims are immaterial to the claims for which underinsured motorist  
1012                   benefits are sought, for a period of five years preceding the date of the event  
1013                   giving rise to the claim for underinsured motorist benefits up to the time the  
1014                   election for arbitration or litigation has been exercised that have not been  
1015                   disclosed under Subsection (9)(a)(ii)(A)(I);
- 1016                  (B)(I) the names and last known addresses of all health insurers or other

- 1017 entities to whom the covered person has submitted claims for health care  
1018 services or benefits material to the claims for which underinsured motorist  
1019 benefits are sought, for a period of five years preceding the date of the event  
1020 giving rise to the claim for underinsured motorist benefits up to the time the  
1021 election for arbitration or litigation has been exercised; and
- 1022 (II) the names and last known addresses of the health insurers or other entities  
1023 to whom the covered person has submitted claims for health care services or  
1024 benefits, which the covered person claims are immaterial to the claims for  
1025 which underinsured motorist benefits are sought, for a period of five years  
1026 preceding the date of the event giving rise to the claim for underinsured  
1027 motorist benefits up to the time the election for arbitration or litigation have  
1028 not been disclosed;
- 1029 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all  
1030 employers of the covered person for a period of five years preceding the date  
1031 of the event giving rise to the claim for underinsured motorist benefits up to the  
1032 time the election for arbitration or litigation has been exercised;
- 1033 (D) other documents to reasonably support the claims being asserted; and
- 1034 (E) all state and federal statutory lienholders including a statement as to whether  
1035 the covered person is a recipient of Medicare or Medicaid benefits or Utah  
1036 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,  
1037 Utah Children's Health Insurance Program, or if the claim is subject to any  
1038 other state or federal statutory liens; and
- 1039 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain  
1040 records and billings from the individuals or entities disclosed under Subsections  
1041 (9)(a)(ii)(A)(I), (B)(I), and (C).
- 1042 (b)(i) If the underinsured motorist carrier determines that the disclosure of  
1043 undisclosed health care providers or health care insurers under Subsection  
1044 (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:
- 1045 (A) make a request for the disclosure of the identity of the health care providers or  
1046 health care insurers; and
- 1047 (B) make a request for authorizations to allow the underinsured motorist carrier to  
1048 only obtain records and billings from the individuals or entities not disclosed.
- 1049 (ii) If the covered person does not provide the requested information within 10 days:
- 1050 (A) the covered person shall disclose, in writing, the legal or factual basis for the

- 1051 failure to disclose the health care providers or health care insurers; and
- 1052 (B) either the covered person or the underinsured motorist carrier may request the
- 1053 arbitrator or arbitration panel to resolve the issue of whether the identities or
- 1054 records are to be provided if the covered person has elected arbitration.
- 1055 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
- 1056 the dispute concerning the disclosure and production of records of the health care
- 1057 providers or health care insurers.
- 1058 (c)(i) An underinsured motorist carrier that receives an election for arbitration or a
- 1059 notice of filing litigation and the demand for payment of underinsured motorist
- 1060 benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60
- 1061 days from the date of the demand and receipt of the items specified in Subsections
- 1062 (9)(a)(i) through (iii), to:
- 1063 (A) provide a written response to the written demand for payment provided for in
- 1064 Subsection (9)(a)(i);
- 1065 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
- 1066 underinsured motorist carrier's determination of the amount owed to the
- 1067 covered person; and
- 1068 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
- 1069 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9,
- 1070 Utah Children's Health Insurance Program, or if the claim is subject to any
- 1071 other state or federal statutory liens, tender the amount, if any, of the
- 1072 underinsured motorist carrier's determination of the amount owed to the
- 1073 covered person less:
- 1074 (I) if the amount of the state or federal statutory lien is established, the amount
- 1075 of the lien; or
- 1076 (II) if the amount of the state or federal statutory lien is not established, two
- 1077 times the amount of the medical expenses subject to the state or federal
- 1078 statutory lien until such time as the amount of the state or federal statutory
- 1079 lien is established.
- 1080 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
- 1081 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the
- 1082 tendered amount shall be accepted by the covered person.
- 1083 (d) A covered person who receives a written response from an underinsured motorist
- 1084 carrier as provided for in Subsection (9)(c)(i), may:

- 1085 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all  
1086 underinsured motorist claims; or
- 1087 (ii) elect to:
- 1088 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all  
1089 underinsured motorist claims; and
- 1090 (B) continue to litigate or arbitrate the remaining claim in accordance with the  
1091 election made under Subsections (8)(a) through (c).
- 1092 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as  
1093 partial payment of all underinsured motorist claims, the final award obtained through  
1094 arbitration, litigation, or later settlement shall be reduced by any payment made by  
1095 the underinsured motorist carrier under Subsection (9)(c)(i).
- 1096 (f) In an arbitration proceeding on the remaining underinsured claims:
- 1097 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid  
1098 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and
- 1099 (ii) the parties may not disclose the amount of the limits of underinsured motorist  
1100 benefits provided by the policy.
- 1101 (g) If the final award obtained through arbitration or litigation is greater than the average  
1102 of the covered person's initial written demand for payment provided for in Subsection  
1103 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for  
1104 in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:
- 1105 (i) the final award obtained through arbitration or litigation, except that if the award  
1106 exceeds the policy limits of the subject underinsured motorist policy by more than  
1107 \$15,000, the amount shall be reduced to an amount equal to the policy limits plus  
1108 \$15,000; and
- 1109 (ii) any of the following applicable costs:
- 1110 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 1111 (B) the arbitrator or arbitration panel's fee; and
- 1112 (C) the reasonable costs of expert witnesses and depositions used in the  
1113 presentation of evidence during arbitration or litigation.
- 1114 (h)(i) The covered person shall provide an affidavit of costs within five days of an  
1115 arbitration award.
- 1116 (ii)(A) Objection to the affidavit of costs shall specify with particularity the costs  
1117 to which the underinsured motorist carrier objects.
- 1118 (B) The objection shall be resolved by the arbitrator or arbitration panel.

- 1119 (iii) The award of costs by the arbitrator or arbitration panel under Subsection  
1120 (9)(g)(ii) may not exceed \$5,000.
- 1121 (i)(i) A covered person shall disclose all material information, other than rebuttal  
1122 evidence, within 30 days after a covered person elects to submit a claim for  
1123 underinsured motorist coverage benefits to binding arbitration or files litigation as  
1124 specified in Subsection (9)(a).
- 1125 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person  
1126 may not recover costs or any amounts in excess of the policy under Subsection  
1127 (9)(g).
- 1128 (j) This Subsection (9) does not limit any other cause of action that arose or may arise  
1129 against the underinsured motorist carrier from the same dispute.
- 1130 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that  
1131 occur on or after March 30, 2010.
- 1132 (l)(i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the  
1133 covered person's requirement to provide a computation of any other economic  
1134 damages claimed, and the one or more respondents shall have a reasonable time  
1135 after the receipt of the computation of any other economic damages claimed to  
1136 conduct fact and expert discovery as to any additional damages claimed. The  
1137 changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300,  
1138 Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim  
1139 submitted to binding arbitration or through litigation on or after May 13, 2014.
- 1140 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter  
1141 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted  
1142 to binding arbitration or through litigation on or after May 13, 2014.
- 1143 Section 4. Section **31A-22-321** is amended to read:
- 1144 **31A-22-321 . Use of arbitration in third party motor vehicle accident cases.**
- 1145 (1) A person injured as a result of a motor vehicle accident may elect to submit all third  
1146 party bodily injury claims to arbitration by filing a notice of the submission of the claim  
1147 to binding arbitration in a court with jurisdiction under Title 78A, Judiciary and Judicial  
1148 Administration, if:
- 1149 (a) the claimant or the claimant's representative has:
- 1150 (i) previously and timely filed a complaint in a court that includes a third party bodily  
1151 injury claim; and
- 1152 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint

- 1153 has been answered; and
- 1154 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under  
1155 Subsection (1)(a)(i) is still pending.
- 1156 (2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the  
1157 party submitting the claim or the party's representative is limited to an arbitration  
1158 award that does not exceed \$75,000 or the defendant's per person limits of third party  
1159 bodily insurance, whichever is less, in addition to any available personal injury  
1160 protection benefits and any claim for property damage.
- 1161 (b) A claim for reimbursement of personal injury protection benefits is to be resolved  
1162 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).
- 1163 (c) A claim for property damage may not be made in an arbitration proceeding under  
1164 Subsection (1) unless agreed upon by the parties in writing.
- 1165 (d) A party who elects to proceed against a defendant under this section:
- 1166 (i) waives the right to obtain a judgment against the personal assets of the defendant;  
1167 and
- 1168 (ii) is limited to recovery only against available limits of insurance , plus a maximum  
1169 \$15,000 in excess of policy limits, and available costs if appealed.
- 1170 (e)(i) This section does not prevent a party from pursuing an underinsured motorist  
1171 claim as set out in Section 31A-22-305.3.
- 1172 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to  
1173 the defendant's per person limits of third party bodily insurance coverage or the  
1174 \$75,000 limit.
- 1175 (iii) There shall be no right of subrogation on the part of the underinsured motorist  
1176 carrier for a claim submitted to arbitration under this section.
- 1177 (3) A claim for punitive damages may not be made in an arbitration proceeding under  
1178 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through  
1179 a trial de novo under Subsection (11).
- 1180 (4)(a) A person who has elected arbitration under this section may rescind the person's  
1181 election if the rescission is made within:
- 1182 (i) 90 days after the election to arbitrate; and  
1183 (ii) no less than 30 days before any scheduled arbitration hearing.
- 1184 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:
- 1185 (i) file a notice of the rescission of the election to arbitrate with the court in which the  
1186 matter was filed; and

- 1187 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel  
1188 of record to the action.
- 1189 (c) All discovery completed in anticipation of the arbitration hearing shall be available  
1190 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah  
1191 Rules of Evidence.
- 1192 (d) A party who has elected to arbitrate under this section and then rescinded the  
1193 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim  
1194 under this section again.
- 1195 (5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration  
1196 process elected under this section is subject to Rule 26, Utah Rules of Civil  
1197 Procedure.
- 1198 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be  
1199 completed within 150 days after the date arbitration is elected under this section or  
1200 the date the answer is filed, whichever is longer.
- 1201 (6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
1202 arbitration under this section shall be resolved by a single arbitrator.
- 1203 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall  
1204 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the  
1205 answer of the defendant.
- 1206 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
1207 (6)(b), the parties shall select a panel of three arbitrators.
- 1208 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):  
1209 (i) each side shall select one arbitrator; and  
1210 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional  
1211 arbitrator to be included in the panel.
- 1212 (7) Unless otherwise agreed to in writing:  
1213 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1214 under Subsection (6)(a); and  
1215 (b) if an arbitration panel is selected under Subsection (6)(d):  
1216 (i) each party shall pay the fees and costs of the arbitrator selected by that party's  
1217 side; and  
1218 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1219 under Subsection (6)(d)(ii).
- 1220 (8) Except as otherwise provided in this section and unless otherwise agreed to in writing

- 1221 by the parties, an arbitration proceeding conducted under this section shall be governed  
1222 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 1223 (9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and  
1224 Utah Rules of Evidence apply to the arbitration proceeding.
- 1225 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied  
1226 liberally with the intent of concluding the claim in a timely and cost-efficient manner.
- 1227 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah  
1228 Rules of Civil Procedure and shall be subject to the jurisdiction of the court in which  
1229 the matter is filed.
- 1230 (d) Dispositive motions shall be filed, heard, and decided by the court prior to the  
1231 arbitration proceeding in accordance with the court's scheduling order.
- 1232 (10) A written decision by a single arbitrator or by a majority of the arbitration panel shall  
1233 constitute a final decision.
- 1234 (11) An arbitration award issued under this section shall be the final resolution of all bodily  
1235 injury claims between the parties and may be reduced to judgment by the court upon  
1236 motion and notice unless:
- 1237 (a) either party, within 20 days after service of the arbitration award:  
1238 (i) files a notice requesting a trial de novo in the court; and  
1239 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo  
1240 under Subsection (11)(a)(i); or
- 1241 (b) the arbitration award has been satisfied.
- 1242 (12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):  
1243 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional  
1244 120 days shall be allowed for further discovery;  
1245 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice  
1246 of appeal; and  
1247 (iii) the claim shall proceed through litigation in accordance with the Utah Rules of  
1248 Civil Procedure and Utah Rules of Evidence.
- 1249 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request  
1250 a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).
- 1251 (13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection  
1252 (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than  
1253 the damages awarded in arbitration, excluding the items listed in Subsection (19), the  
1254 plaintiff is responsible for all of the nonmoving party's costs.

- 1255 (b) The costs described in Subsection (13)(a) include:
- 1256 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 1257 (ii) the costs of expert witnesses and depositions;
- 1258 (iii) the arbitration costs paid by the prevailing party under Subsection (7);
- 1259 (iv) prejudgment interest described in Section 78B-5-824; and
- 1260 (v) postjudgment interest described in Section 15-1-4.
- 1261 (14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection
- 1262 (11), does not obtain a verdict that is at least 30% less than the damages awarded in
- 1263 arbitration, excluding the items described in Subsection (19), the defendant is
- 1264 responsible for all of the nonmoving party's costs.
- 1265 (b) The costs described in Subsection (14)(a) include:
- 1266 (i) costs described in Rule 54(d), Utah Rules of Civil Procedure;
- 1267 (ii) the costs of expert witnesses and depositions;
- 1268 (iii) the arbitration costs paid by the prevailing party under Subsection (7);
- 1269 (iv) prejudgment interest described in Section 78B-5-824; and
- 1270 (v) postjudgment interest described in Section 15-1-4.
- 1271 (15) For purposes of determining whether a party's verdict is greater or less than the
- 1272 arbitration award under Subsections (13) and (14), a court may not consider any
- 1273 recovery or other relief granted on a claim for damages if the claim for damages:
- 1274 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
- 1275 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
- 1276 Procedure.
- 1277 [~~(16) If a court determines, upon a motion of the nonmoving party, that the moving party's~~
- 1278 ~~use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825,~~
- 1279 ~~the court may award reasonable attorney fees to the nonmoving party.]~~
- 1280 (16) Upon a motion of the nonmoving party, the court may award reasonable attorney fees
- 1281 to the nonmoving party if the court determines that:
- 1282 (a) the moving party lacked an honest belief that the request for a trial de novo was
- 1283 proper;
- 1284 (b) the moving party intended to take unconscionable advantage of another by
- 1285 requesting a trial de novo; or
- 1286 (c) the moving party intended to, or acted with, the knowledge that the request for a trial
- 1287 de novo would hinder, delay, or defraud another.
- 1288 (17) Nothing in this section is intended to affect or prevent any first party claim from later

1289 being brought under any first party insurance policy under which the injured person is a  
 1290 covered person.

1291 (18)(a) If a defendant requests a trial de novo under Subsection (11), the total damages  
 1292 award at trial may not exceed \$15,000 above any available per person limits of  
 1293 insurance coverage, not including the costs described in Subsection (14)(b).

1294 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may  
 1295 not exceed \$75,000, or the per person limits of insurance coverage, whichever is less.

1296 (19) All arbitration awards issued under this section shall include:

1297 (a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;

1298 (b) the arbitration costs paid by the prevailing party under Subsection (7);

1299 (c) prejudgment interest described in Section 78B-5-824; and

1300 (d) postjudgment interest described in Section 15-1-4.

1301 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of  
 1302 the notice requesting a trial de novo with the commissioner notifying the commissioner  
 1303 of the party's request for a trial de novo under Subsection (11).

1304 Section 5. Section **38-1a-308** is amended to read:

1305 **38-1a-308 . Intentional submission of excessive lien notice -- Criminal and civil**  
 1306 **liability.**

1307 (1) As used in this section, "residential project" means a project on real property:

1308 (a) for which a preconstruction service or construction work is provided; and

1309 (b) that consists of:

1310 (i) one single-family residence; or

1311 (ii) one multi-family residence that contains no more than four units.

1312 (2) A person is guilty of a class B misdemeanor if:

1313 (a) the person intentionally submits for recording a notice of preconstruction lien or  
 1314 notice of construction lien against any property containing a greater demand than the  
 1315 sum due; and

1316 (b) by submitting the notice, the person intends:

1317 (i) to cloud the title;

1318 (ii) to exact from the owner or person liable by means of the excessive notice of  
 1319 preconstruction or construction lien more than is due; or

1320 (iii) to procure any unjustified advantage or benefit.

1321 (3)(a) As used in this Subsection (3), "third party" means an owner, original contractor,  
 1322 or subcontractor.

- 1323 (b) In addition to any criminal penalty under Subsection (2), a person who submits a  
1324 notice of preconstruction lien or notice of construction lien as described in  
1325 Subsection (2) is liable to a third party who is affected by the notice of  
1326 preconstruction lien or the notice of construction lien for twice the amount by which  
1327 the lien notice exceeds the amount actually due or the actual damages incurred by the  
1328 owner, original contractor, or subcontractor, whichever is greater.
- 1329 (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim  
1330 shall arbitrate in accordance with Subsections (5) through (15) if the notice of  
1331 preconstruction lien, or the notice of construction lien, that is the subject of the claim is:  
1332 (a) for a residential project; and  
1333 (b) for \$50,000 or less.
- 1334 (5)(a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration  
1335 under this section shall be resolved by a single arbitrator.
- 1336 (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within  
1337 60 days after the day on which an answer is filed.
- 1338 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
1339 (5)(b), the parties shall select a panel of three arbitrators.
- 1340 (d) If the parties select a panel of three arbitrators under Subsection (5)(c):  
1341 (i) each side shall select one arbitrator; and  
1342 (ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional  
1343 arbitrator to be included in the panel.
- 1344 (6) Unless otherwise agreed to in writing:  
1345 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1346 under Subsection (5)(b); or  
1347 (b) if an arbitration panel is selected under Subsection (5)(d):  
1348 (i) each party shall pay the fees and costs of that party's selected arbitrator; and  
1349 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1350 under Subsection (5)(d)(ii).
- 1351 (7) Except as otherwise provided in this section or otherwise agreed to by the parties, an  
1352 arbitration proceeding conducted under this section shall be governed by Title 78B,  
1353 Chapter 11, Utah Uniform Arbitration Act.
- 1354 (8)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the  
1355 Utah Rules of Evidence shall apply to an arbitration proceeding under this section.  
1356 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied

- 1357 liberally with the intent of resolving the claim in a timely and cost-efficient manner.
- 1358 (c) Subject to the provisions of this section, the parties shall conduct discovery in  
1359 accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.
- 1360 (d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an  
1361 arbitration proceeding under this section shall be limited to the discovery available in  
1362 a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.
- 1363 (9) A written decision by a single arbitrator or by a majority of the arbitration panel shall  
1364 constitute a final decision.
- 1365 (10) An arbitration award issued under this section:
- 1366 (a) shall be the final resolution of all excessive notice claims described in Subsection  
1367 (3)(b) that are:
- 1368 (i) between the parties;
- 1369 (ii) for a residential project; and
- 1370 (iii) for \$50,000 or less; and
- 1371 (b) may be reduced to judgment by the court upon motion and notice, unless:
- 1372 (i) any party, within 20 days after the day on which the arbitration award is served,  
1373 files a notice requesting a trial de novo in a court with jurisdiction under Title  
1374 78A, Judiciary and Judicial Administration; or
- 1375 (ii) the arbitration award has been satisfied.
- 1376 (11)(a) Upon filing a notice requesting a trial de novo under Subsection (10)(b)(i):
- 1377 (i) unless otherwise stipulated to by the parties or ordered by the court, the parties are  
1378 allowed an additional 60 days for discovery; and
- 1379 (ii) the claim shall proceed through litigation in accordance with the Utah Rules of  
1380 Civil Procedure and the Utah Rules of Evidence.
- 1381 (b) The additional discovery time described in Subsection (11)(a)(i) shall run from the  
1382 day on which the notice requesting a trial de novo is filed.
- 1383 (12) If the plaintiff, as the moving party in a trial de novo requested under Subsection  
1384 (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration  
1385 award, the plaintiff is responsible for all of the nonmoving party's costs, including expert  
1386 witness fees.
- 1387 (13) If a defendant, as the moving party in a trial de novo requested under Subsection  
1388 (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,  
1389 the defendant is responsible for all of the nonmoving party's costs, including expert  
1390 witness fees.

- 1391 ~~[(14) If a court determines, upon a motion of the nonmoving party, that the moving party's~~  
 1392 ~~use of the trial de novo process was filed in bad faith, as defined in Section 78B-5-825,~~  
 1393 ~~the court may award reasonable attorney fees to the nonmoving party.]~~
- 1394 (14) Upon a motion of the nonmoving party, the court may award reasonable attorney fees  
 1395 to the nonmoving party if the court determines that:
- 1396 (a) the moving party lacked an honest belief that the request for a trial de novo was  
 1397 proper;
- 1398 (b) the moving party intended to take unconscionable advantage of another by  
 1399 requesting a trial de novo; or
- 1400 (c) the moving party intended to, or acted with, the knowledge that the request for a trial  
 1401 de novo would hinder, delay, or defraud another.
- 1402 (15) All arbitration awards issued under this section shall bear postjudgment interest [  
 1403 pursuant to] in accordance with Section 15-1-4.
- 1404 Section 6. Section **78B-5-825** is amended to read:
- 1405 **78B-5-825 . Award of reasonable attorney fees in civil action -- Exceptions.**
- 1406 ~~[(1) In civil actions, the court shall award reasonable attorney fees to a prevailing party if~~  
 1407 ~~the court determines that the action or defense to the action was without merit and not~~  
 1408 ~~brought or asserted in good faith, except under Subsection (2).]~~
- 1409 (1) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a  
 1410 prevailing party in a civil action if the court determines that:
- 1411 (a) the nonprevailing party's civil action, or defense to the civil action, was frivolous or  
 1412 of little weight or importance having no basis in law or fact; and
- 1413 (b)(i) the nonprevailing party lacked an honest belief that the action or defense was  
 1414 proper;
- 1415 (ii) the nonprevailing party intended to take unconscionable advantage of another by  
 1416 bringing the action or defense; or
- 1417 (iii) the nonprevailing party intended to, or acted with, the knowledge that the action  
 1418 or defense would hinder, delay, or defraud another.
- 1419 (2) Except as provided in Subsection (3), the court shall award reasonable attorney fees to a  
 1420 party in a civil action if:
- 1421 (a) the party incurred attorney fees in defense of a motion brought by the opposing  
 1422 party; and
- 1423 (b) the court determines that:
- 1424 (i) the opposing party's motion was frivolous or of little weight or importance having

- 1425 no basis in law or fact; and  
 1426 (ii)(A) the opposing party lacked an honest belief that the action or defense was  
 1427 proper;  
 1428 (B) the opposing party intended to take unconscionable advantage of another by  
 1429 bringing the motion; or  
 1430 (C) the opposing party intended to, or acted with, the knowledge that the motion  
 1431 would hinder, delay, or defraud another.

1432 [~~2~~] (3) The court, in the court's discretion, may award no fees or limited fees against a  
 1433 party under Subsection (1) [~~, but only if the court~~] or (2) if the court:

- 1434 (a) finds the party has filed an affidavit of indigency under Section 78A-2-302 in the  
 1435 action before the court; or  
 1436 (b) [~~the court~~] enters in the record the reason for not awarding fees under the provisions  
 1437 of Subsection (1) or (2).

1438 Section 7. Section **78B-10a-108** is amended to read:

1439 **78B-10a-108 . Trial de novo.**

1440 (1)(a) Upon filing a notice requesting a trial de novo in accordance with Subsection  
 1441 78B-10a-107(2):

- 1442 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional  
 1443 90 days shall be allowed for further discovery;  
 1444 (ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice  
 1445 of the request for a trial de novo; and  
 1446 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the  
 1447 Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

1448 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request  
 1449 a jury trial with a request for trial de novo filed in accordance with Subsection  
 1450 78B-10a-107(2)(a)(i).

1451 (2)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection  
 1452 78B-10a-107(2), does not obtain a verdict that is at least \$5,000 and 30% greater than  
 1453 the arbitration award, the plaintiff is responsible for all of the nonmoving party's  
 1454 costs.

1455 (b) Except as provided in Subsection (2)(c), the costs under Subsection (2)(a) shall  
 1456 include:

- 1457 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and  
 1458 (ii) the costs of expert witnesses and depositions.

- 1459 (c) An award of costs under this Subsection (2) may not exceed \$6,000.
- 1460 (3)(a) If a defendant, as the moving party in a trial de novo requested in accordance with  
 1461 Subsection 78B-10a-107(2), does not obtain a verdict that is at least 30% less than  
 1462 the arbitration award, the defendant is responsible for all of the nonmoving party's  
 1463 costs.
- 1464 (b) Except as provided in Subsection (3)(c), the costs under Subsection (3)(a) shall  
 1465 include:
- 1466 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and  
 1467 (ii) the costs of expert witnesses and depositions.
- 1468 (c) An award of costs in accordance with this Subsection (3) may not exceed \$6,000.
- 1469 (4) For purposes of determining whether a party's verdict is greater or less than the  
 1470 arbitration award under Subsections (2) and (3), a court may not consider any recovery  
 1471 or other relief granted on a claim for damages if the claim for damages:
- 1472 (a) was not fully disclosed in writing prior to the arbitration proceeding; or  
 1473 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
 1474 Procedure.
- 1475 [~~(5) If a district court determines, upon a motion of the nonmoving party, that the moving  
 1476 party's use of the trial de novo process was filed in bad faith as defined in Section  
 1477 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.]~~
- 1478 (5) Upon a motion of the nonmoving party, the district court may award reasonable attorney  
 1479 fees to the nonmoving party if the district court determines that:
- 1480 (a) the moving party lacked an honest belief that the request for a trial de novo was  
 1481 proper;
- 1482 (b) the moving party intended to take unconscionable advantage of another by  
 1483 requesting a trial de novo; or
- 1484 (c) the moving party intended to, or acted with, the knowledge that the request for a trial  
 1485 de novo would hinder, delay, or defraud another.
- 1486 (6)(a) If a defendant requests a trial de novo under Subsection 78B-10a-107(2), the total  
 1487 verdict at trial may not exceed \$15,000 above any available limits of insurance  
 1488 coverage and the total verdict may not exceed \$65,000.
- 1489 (b) If a plaintiff requests a trial de novo under Subsection 78B-10a-107(2), the verdict at  
 1490 trial may not exceed \$50,000.

1491 **Section 8. Effective Date.**

1492 This bill takes effect on May 6, 2026.