

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1090

Introduced by Lathrop, 12.

Read first time January 22, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 44-6412, Reissue
2 Revised Statutes of Nebraska; to change provisions
3 relating to underinsured motorist coverage; and to repeal
4 the original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-6412, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-6412 (1) In the event of payment under the uninsured
4 or underinsured motorist coverage, the insurer making such payment
5 shall, to the extent of such payment, be entitled to the proceeds
6 of any settlement or judgment to the extent such settlement or
7 judgment exceeds the amount paid under any applicable bodily injury
8 liability policy or bond.

9 (2) If a tentative agreement to settle ~~for liability~~
10 ~~limits~~ has been reached with the owner or operator of an
11 underinsured motor vehicle, written notice shall be given
12 by certified or registered mail to the underinsured motorist
13 coverage insurer by its insured. Such notice shall include
14 written documentation of lost wages, medical bills, and written
15 authorization to obtain reports from all employers and medical
16 providers. Within thirty days of receipt of such notice,
17 the underinsured motorist coverage insurer may substitute its
18 payment to the insured for the tentative settlement amount. The
19 underinsured motorist coverage insurer shall then be subrogated to
20 the insured's right of recovery to the extent of such payment and
21 any settlement under the underinsured motorist coverage. If the
22 underinsured motorist coverage insurer fails to pay the insured the
23 amount of the tentative settlement within thirty days of receipt of
24 such notice, the underinsured motorist coverage insurer shall have
25 no right of subrogation for any amount paid under the underinsured

1 motorist coverage.

2 (3) No underinsured motorist coverage shall require the
3 exhaustion of applicable bodily injury liability policies or bonds
4 as a prerequisite for payment under underinsured motorist coverage.
5 However, if settlement is made with the owner or operator of an
6 underinsured motor vehicle for less than the policy limits of
7 applicable bodily injury liability policies or bonds, the insured
8 may recover under the underinsured motorist coverage only the
9 difference between the policy limits of the applicable bodily
10 injury liability policies or bonds and the damages sustained by the
11 insured subject to the limit set forth in section 44-6409.

12 ~~(3)~~ (4) Whenever an insurer makes payment under uninsured
13 or underinsured motorist coverage because of an insurer insolvency,
14 as described in section 44-2403, the paying insurer's right of
15 recovery or reimbursement shall not include any rights either
16 against the insured of such insolvent insurer, except for the
17 amount which is in excess of the limits of liability of the policy
18 of the insolvent insurer, or against a guaranty account established
19 pursuant to the Nebraska Property and Liability Insurance Guaranty
20 Association Act.

21 Sec. 2. Original section 44-6412, Reissue Revised
22 Statutes of Nebraska, is repealed.