



March 26, 2013

ENGROSSED HOUSE BILL No. 1190

DIGEST OF HB 1190 (Updated March 21, 2013 2:02 pm - DI 97)

Citations Affected: IC 27-7.

Synopsis: Uninsured and underinsured motorist coverage. Specifies that uninsured and underinsured motorist coverage is not required to be made available under a personal umbrella or excess liability policy. Requires notice of a removal or reduction of the coverage. Allows the insurer to determine the coverage limits if made available.

Effective: July 1, 2013.

Mahan, Lehman, Stemler, Mayfield
(SENATE SPONSORS — HOLDMAN, PAUL)

January 10, 2013, read first time and referred to Committee on Insurance.
January 31, 2013, amended, reported — Do Pass.
February 4, 2013, read second time, ordered engrossed. Engrossed.
February 5, 2013, read third time, passed. Yeas 65, nays 33.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Insurance.
March 25, 2013, amended, reported favorably — Do Pass.

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EH 1190—LS 6721/DI 97+



March 26, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1190

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-7-5-2, AS AMENDED BY P.L.125-2012,
2 SECTION 403, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Except as provided in
4 subsections (d), ~~and (f), and (h)~~, the insurer shall make available, in
5 each automobile liability or motor vehicle liability policy of insurance
6 which is delivered or issued for delivery in this state with respect to any
7 motor vehicle registered or principally garaged in this state, insuring
8 against loss resulting from liability imposed by law for bodily injury or
9 death suffered by any person and for injury to or destruction of property
10 to others arising from the ownership, maintenance, or use of a motor
11 vehicle, or in a supplement to such a policy, the following types of
12 coverage:
13 (1) in limits for bodily injury or death and for injury to or
14 destruction of property not less than those set forth in IC 9-25-4-5
15 under policy provisions approved by the commissioner of
16 insurance, for the protection of persons insured under the policy
17 who are legally entitled to recover damages from owners or

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1 operators of uninsured or underinsured motor vehicles because of
 2 bodily injury, sickness or disease, including death, and for the
 3 protection of persons insured under the policy who are legally
 4 entitled to recover damages from owners or operators of
 5 uninsured motor vehicles for injury to or destruction of property
 6 resulting therefrom; or

7 (2) in limits for bodily injury or death not less than those set forth
 8 in IC 9-25-4-5 under policy provisions approved by the
 9 commissioner of insurance, for the protection of persons insured
 10 under the policy provisions who are legally entitled to recover
 11 damages from owners or operators of uninsured or underinsured
 12 motor vehicles because of bodily injury, sickness or disease,
 13 including death resulting therefrom.

14 The uninsured and underinsured motorist coverages must be provided
 15 by insurers for either a single premium or for separate premiums, in
 16 limits at least equal to the limits of liability specified in the bodily
 17 injury liability provisions of an insured's policy, unless such coverages
 18 have been rejected in writing by the insured. However, underinsured
 19 motorist coverage must be made available in limits of not less than fifty
 20 thousand dollars (\$50,000). At the insurer's option, the bodily injury
 21 liability provisions of the insured's policy may be required to be equal
 22 to the insured's underinsured motorist coverage. Insurers may not sell
 23 or provide underinsured motorist coverage in an amount less than fifty
 24 thousand dollars (\$50,000). Insurers must make underinsured motorist
 25 coverage available to all existing policyholders on the date of the first
 26 renewal of existing policies that occurs on or after January 1, 1995, and
 27 on any policies newly issued or delivered on or after January 1, 1995.
 28 Uninsured motorist coverage or underinsured motorist coverage may
 29 be offered by an insurer in an amount exceeding the limits of liability
 30 specified in the bodily injury and property damage liability provisions
 31 of the insured's policy.

32 (b) A named insured of an automobile or motor vehicle liability
 33 policy has the right, in writing, to:

- 34 (1) reject both the uninsured motorist coverage and the
- 35 underinsured motorist coverage provided for in this section; or
- 36 (2) reject either the uninsured motorist coverage alone or the
- 37 underinsured motorist coverage alone, if the insurer provides the
- 38 coverage not rejected separately from the coverage rejected.

39 A rejection of coverage under this subsection by a named insured is a
 40 rejection on behalf of all other named insureds, all other insureds, and
 41 all other persons entitled to coverage under the policy. No insured may
 42 have uninsured motorist property damage liability insurance coverage

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1 under this section unless the insured also has uninsured motorist bodily
 2 injury liability insurance coverage under this section. Following
 3 rejection of either or both uninsured motorist coverage or underinsured
 4 motorist coverage, unless later requested in writing, the insurer need
 5 not offer uninsured motorist coverage or underinsured motorist
 6 coverage in or supplemental to a renewal or replacement policy issued
 7 to the same insured by the same insurer or a subsidiary or an affiliate
 8 of the originally issuing insurer. Renewals of policies issued or
 9 delivered in this state which have undergone interim policy
 10 endorsement or amendment do not constitute newly issued or delivered
 11 policies for which the insurer is required to provide the coverages
 12 described in this section.

13 (c) A rejection under subsection (b) must specify:

14 (1) that the named insured is rejecting:

15 (A) the uninsured motorist coverage;

16 (B) the underinsured motorist coverage; or

17 (C) both the uninsured motorist coverage and the underinsured
 18 motorist coverage;

19 that would otherwise be provided under the policy; and

20 (2) the date on which the rejection is effective.

21 (d) An insurer is not required to make available the coverage
 22 described in subsection (a) in a commercial umbrella or excess liability
 23 policy, including a commercial umbrella or excess liability policy that
 24 is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10)
 25 that is in compliance with the minimum levels of financial
 26 responsibility set forth in 49 CFR Part 387.

27 (e) A rejection under subsection (b) of uninsured motorist coverage
 28 or underinsured motorist coverage in an underlying commercial policy
 29 of insurance is also a rejection of uninsured motorist coverage or
 30 underinsured motorist coverage in a commercial umbrella or excess
 31 liability policy.

32 (f) An insurer is not required to make available the coverage
 33 described in subsection (a) in connection with coverage that:

34 (1) is related to or included in a commercial policy of property
 35 and casualty insurance described in Class 2 or Class 3 of
 36 IC 27-1-5-1; and

37 (2) covers a loss related to a motor vehicle:

38 (A) of which the insured is not the owner; and

39 (B) that is used:

40 (i) by the insured or an agent of the insured; and

41 (ii) for purposes authorized by the insured.

42 (g) For purposes of subsection (f), "owner" means:

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- 1 (1) a person who holds the legal title to a motor vehicle;
- 2 (2) a person who rents or leases a motor vehicle and has exclusive
- 3 use of the motor vehicle for more than thirty (30) days;
- 4 (3) the conditional vendee or lessee under an agreement for the
- 5 conditional sale or lease of a motor vehicle; or
- 6 (4) the mortgagor under an agreement for the conditional sale or
- 7 lease of a motor vehicle under which the mortgagor has:
- 8 (A) the right to purchase; and
- 9 (B) an immediate right of possession of;
- 10 the motor vehicle upon the performance of the conditions stated
- 11 in the agreement.

12 **(h) The following apply to the coverage described in subsection**
 13 **(a) in relation to a personal umbrella or excess liability policy:**

- 14 (1) An insurer is not required to make available the coverage
- 15 described in subsection (a) under a personal umbrella or
- 16 excess liability policy.
- 17 (2) An insurer that reduces or removes, through a rider or an
- 18 endorsement, coverage described in subsection (a) under a
- 19 personal umbrella or excess liability policy shall:
- 20 (A) through the United States mail; or
- 21 (B) by electronic means;
- 22 provide to the named insured written notice of the reduction
- 23 or removal.
- 24 (3) An insurer that makes available the coverage described in
- 25 subsection (a) under a personal umbrella or excess liability
- 26 policy:
- 27 (A) may make available the coverage in limits determined
- 28 by the insurer; and
- 29 (B) is not required to make available the coverage in limits
- 30 equal to the limits specified in the personal umbrella or
- 31 excess liability policy.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1190, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 12, after "(h)" insert "**The following apply to the coverage described in subsection (a) in relation to a personal umbrella or excess liability policy:**

(1)".

Page 4, line 14, delete "If an insurer makes available the coverage".

Page 4, delete lines 15 through 18, begin a new line block indented and insert:

"(2) An insurer that reduces or removes, through a rider or an endorsement, coverage described in subsection (a) under a personal umbrella or excess liability policy shall:

(A) through the United States mail; or

(B) by electronic means;

provide to the named insured written notice of the reduction or removal.

(3) An insurer that makes available the coverage described in subsection (a) under a personal umbrella or excess liability policy:

(A) may make available the coverage in limits determined by the insurer; and

(B) is not required to make available the coverage in limits equal to the limits specified in the personal umbrella or excess liability policy."

and when so amended that said bill do pass.

(Reference is to HB 1190 as introduced.)

LEHMAN, Chair

Committee Vote: yeas 9, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance, to which was referred House Bill No. 1190, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, after "(d)" insert ",".

Page 1, line 4, strike "and".

Page 1, line 4, after "(f)," insert "**and (h),**".

and when so amended that said bill do pass.

(Reference is to HB 1190 as printed February 1, 2013.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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