

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1321

Short Title: Allow UM/UIM Coverage Choice. (Public)

Sponsors: Representatives Starnes; Frye and Setzer.

Referred to: Insurance, if favorable, Ways and Means/Broadband Connectivity.

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTORE MOTORIST CHOICE WITH RESPECT TO UNINSURED AND
3 UNDERINSURED MOTOR VEHICLE COVERAGE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 20-279.21(b)(3) and (b)(4) read as rewritten:

6 "**§ 20-279.21. "Motor vehicle liability policy" defined.**

7 ...

8 (b) Such owner's policy of liability insurance:

9 ...

10 (3) No policy of bodily injury liability insurance, covering liability arising out of
11 the ownership, maintenance, or use of any motor vehicle, shall be delivered
12 or issued for delivery in this State with respect to any motor vehicle
13 registered or principally garaged in this State unless coverage is provided
14 therein or supplemental thereto, under provisions filed with and approved by
15 the Commissioner of Insurance, for the protection of persons insured
16 thereunder who are legally entitled to recover damages from owners or
17 operators of uninsured motor vehicles and hit-and-run motor vehicles
18 because of bodily injury, sickness or disease, including death, resulting
19 therefrom, with limits equal to the highest limits of bodily injury liability
20 coverage for any one vehicle insured under the policy.

21 ~~The named insured may purchase uninsured motorist bodily injury coverage~~
22 ~~with greater limits, subject to the limitation that in no event shall uninsured~~
23 ~~motorist bodily injury coverage limits exceed one million dollars~~
24 ~~(\$1,000,000) per person and one million dollars (\$1,000,000) per accident.~~
25 ~~The insurer shall notify the named insured of his or her right to purchase~~
26 ~~uninsured motorist bodily injury coverage with greater limits, when the~~
27 ~~policy is issued and renewed, as provided in subsection (m) of this section.~~
28 ~~The provisions shall include coverage for the protection of persons insured~~
29 ~~thereunder who are legally entitled to recover damages from owners or~~
30 ~~operators of uninsured motor vehicles because of injury to or destruction of~~
31 ~~the property of such insured, with a limit in the aggregate for all insureds in~~
32 ~~any one accident equal to the highest limits of property damage liability~~
33 ~~coverage for any one vehicle insured in the owner's policy of liability~~
34 ~~insurance, and subject, for each insured, to an exclusion of the first one~~
35 ~~hundred dollars (\$100.00) of such damages. The provision shall further~~
36 ~~provide that a written statement by the liability insurer, whose name appears~~
37 ~~on the certification of financial responsibility made by the owner of any~~



1 ~~vehicle involved in an accident with the insured, that the other motor vehicle~~
2 ~~was not covered by insurance at the time of the accident with the insured~~
3 ~~shall operate as a prima facie presumption that the operator of the other~~
4 ~~motor vehicle was uninsured at the time of the accident with the insured for~~
5 ~~the purposes of recovery under this provision of the insured's liability~~
6 ~~insurance policy.~~

7 a. Rejection of coverage by the insured. – The coverage required under
8 this subdivision is not applicable where any insured named in the
9 policy rejects the coverage. An insured named in the policy may
10 select different coverage limits as provided in sub-subdivision b. of
11 this subdivision. Rejection of uninsured motorist coverage for
12 policies under the jurisdiction of the North Carolina Rate Bureau
13 shall be made in writing by a named insured on a form promulgated
14 by the Bureau and approved by the Commissioner of Insurance.

15 b. Selection of different coverage limits by the insured. – The named
16 insured may purchase uninsured motorist bodily injury coverage with
17 greater or lesser limits, subject to the limitation that in no event shall
18 uninsured motorist bodily injury coverage limits exceed one million
19 dollars (\$1,000,000) per person and one million dollars (\$1,000,000)
20 per accident. The insurer shall notify the named insured of his or her
21 right to purchase uninsured motorist bodily injury coverage with
22 greater or lesser limits, when the policy is issued and renewed, as
23 provided in subsection (m) of this section. If the named insured in the
24 policy does not reject uninsured motorist coverage and does not
25 select different coverage limits, the amount of uninsured motorist
26 coverage shall be equal to the highest limit of bodily injury and
27 property damage liability coverage for any one vehicle in the policy.
28 Selection of different coverage limits for uninsured motorist
29 coverage for policies under the jurisdiction of the North Carolina
30 Rate Bureau shall be made in writing by a named insured on a form
31 promulgated by the Bureau and approved by the Commissioner of
32 Insurance.

33 c. Required provisions. – The provisions shall include coverage for the
34 protection of persons insured thereunder who are legally entitled to
35 recover damages from owners or operators of uninsured motor
36 vehicles because of injury to or destruction of the property of such
37 insured, with a limit in the aggregate for all insureds in any one
38 accident equal to the highest limits of property damage liability
39 coverage for any one vehicle insured in the owner's policy of liability
40 insurance, and subject, for each insured, to an exclusion of the first
41 one hundred dollars (\$100.00) of such damages. The provision shall
42 further provide that a written statement by the liability insurer, whose
43 name appears on the certification of financial responsibility made by
44 the owner of any vehicle involved in an accident with the insured,
45 that the other motor vehicle was not covered by insurance at the time
46 of the accident with the insured shall operate as a prima facie
47 presumption that the operator of the other motor vehicle was
48 uninsured at the time of the accident with the insured for the
49 purposes of recovery under this provision of the insured's liability
50 insurance policy.

1 d. Combination of coverage limits. – If a person who is legally entitled
2 to recover damages from the owner or operator of an uninsured
3 motor vehicle is an insured under the uninsured motorist coverage of
4 a policy that insures more than one motor vehicle, that person shall
5 not be permitted to combine the uninsured motorist limit applicable
6 to any one motor vehicle with the uninsured motorist limit applicable
7 to any other motor vehicle to determine the total amount of uninsured
8 motorist coverage available to that person. If a person who is legally
9 entitled to recover damages from the owner or operator of an
10 uninsured motor vehicle is an insured under the uninsured motorist
11 coverage of more than one policy, that person may combine the
12 highest applicable uninsured motorist limit available under each
13 policy to determine the total amount of uninsured motorist coverage
14 available to that person. The previous sentence shall apply only to
15 insurance on nonfleet private passenger motor vehicles as described
16 in G.S. 58-40-10(1) and (2).

17 e. Provisions applicable to actions against or concerning uninsured
18 motorists. – In addition to the above requirements relating to
19 uninsured motorist insurance, every policy of bodily injury liability
20 insurance covering liability arising out of the ownership,
21 maintenance or use of any motor vehicle, which policy is delivered
22 or issued for delivery in this State, shall be subject to the following
23 provisions which need not be contained therein.

24 ~~a~~1. A provision that the insurer shall be bound by a final
25 judgment taken by the insured against an uninsured motorist
26 if the insurer has been served with copy of summons,
27 complaint or other process in the action against the uninsured
28 motorist by registered or certified mail, return receipt
29 requested, or in any manner provided by law; provided
30 however, that the determination of whether a motorist is
31 uninsured may be decided only by an action against the
32 insurer alone. The insurer, upon being served as herein
33 provided, shall be a party to the action between the insured
34 and the uninsured motorist though not named in the caption
35 of the pleadings and may defend the suit in the name of the
36 uninsured motorist or in its own name. The insurer, upon
37 being served with copy of summons, complaint or other
38 pleading, shall have the time allowed by statute in which to
39 answer, demur or otherwise plead (whether the pleading is
40 verified or not) to the summons, complaint or other process
41 served upon it. The consent of the insurer shall not be
42 required for the initiation of suit by the insured against the
43 uninsured motorist: Provided, however, no action shall be
44 initiated by the insured until 60 days following the posting of
45 notice to the insurer at the address shown on the policy or
46 after personal delivery of the notice to the insurer or its agent
47 setting forth the belief of the insured that the prospective
48 defendant or defendants are uninsured motorists. No default
49 judgment shall be entered when the insurer has timely filed an
50 answer or other pleading as required by law. The failure to
51 post notice to the insurer 60 days in advance of the initiation

1 of suit shall not be grounds for dismissal of the action, but
2 shall automatically extend the time for the filing of an answer
3 or other pleadings to 60 days after the time of service of the
4 summons, complaint, or other process on the insurer.

5 b.2. Where the insured, under the uninsured motorist coverage,
6 claims that he has sustained bodily injury as the result of
7 collision between motor vehicles and asserts that the identity
8 of the operator or owner of a vehicle (other than a vehicle in
9 which the insured is a passenger) cannot be ascertained, the
10 insured may institute an action directly against the insurer:
11 Provided, in that event, the insured, or someone in his behalf,
12 shall report the accident within 24 hours or as soon thereafter
13 as may be practicable, to a police officer, peace officer, other
14 judicial officer, or to the Commissioner of Motor Vehicles.
15 The insured shall also within a reasonable time give notice to
16 the insurer of his injury, the extent thereof, and shall set forth
17 in the notice the time, date and place of the injury. Thereafter,
18 on forms to be mailed by the insurer within 15 days following
19 receipt of the notice of the accident to the insurer, the insured
20 shall furnish to insurer any further reasonable information
21 concerning the accident and the injury that the insurer
22 requests. If the forms are not furnished within 15 days, the
23 insured is deemed to have complied with the requirements for
24 furnishing information to the insurer. Suit may not be
25 instituted against the insurer in less than 60 days from the
26 posting of the first notice of the injury or accident to the
27 insurer at the address shown on the policy or after personal
28 delivery of the notice to the insurer or its agent. The failure to
29 post notice to the insurer 60 days before the initiation of the
30 suit shall not be grounds for dismissal of the action, but shall
31 automatically extend the time for filing of an answer or other
32 pleadings to 60 days after the time of service of the summons,
33 complaint, or other process on the insurer.

34 f. Insolvency of insurers. – ~~Provided under~~ Under this section the term
35 "uninsured motor vehicle" shall include, but not be limited to, an
36 insured motor vehicle where the liability insurer thereof is unable to
37 make payment with respect to the legal liability within the limits
38 specified therein because of insolvency.

39 An insurer's insolvency protection shall be applicable only to
40 accidents occurring during a policy period in which its insured's
41 uninsured motorist coverage is in effect where the liability insurer of
42 the tort-feasor becomes insolvent within three years after such an
43 accident. Nothing herein shall be construed to prevent any insurer
44 from affording insolvency protection under terms and conditions
45 more favorable to the insured than is provided herein.

46 In the event of payment to any person under the coverage
47 required by this section and subject to the terms and conditions of
48 coverage, the insurer making payment shall, to the extent thereof, be
49 entitled to the proceeds of any settlement for judgment resulting from
50 the exercise of any limits of recovery of that person against any
51 person or organization legally responsible for the bodily injury for

1 which the payment is made, including the proceeds recoverable from
2 the assets of the insolvent insurer.

3 g. Definitions; exclusions. – For the purpose of this section, an
4 "uninsured motor vehicle" shall be a motor vehicle as to which there
5 is no bodily injury liability insurance and property damage liability
6 insurance in at least the amounts specified in subsection (c) of
7 G.S. 20-279.5, or there is that insurance but the insurance company
8 writing the insurance denies coverage thereunder, or has become
9 bankrupt, or there is no bond or deposit of money or securities as
10 provided in G.S. 20-279.24 or 20-279.25 in lieu of the bodily injury
11 and property damage liability insurance, or the owner of the motor
12 vehicle has not qualified as a self-insurer under the provisions of
13 G.S. 20-279.33, or a vehicle that is not subject to the provisions of
14 the Motor Vehicle Safety and Financial Responsibility Act; but the
15 term "uninsured motor vehicle" shall not include:

16 a. 1. A motor vehicle owned by the named insured;

17 b. 2. A motor vehicle that is owned or operated by a self-insurer
18 within the meaning of any motor vehicle financial
19 responsibility law, motor carrier law or any similar law;

20 e. 3. A motor vehicle that is owned by the United States of
21 America, Canada, a state, or any agency of any of the
22 foregoing (excluding, however, political subdivisions
23 thereof);

24 d. 4. A land motor vehicle or trailer, if operated on rails or
25 crawler-treads or while located for use as a residence or
26 premises and not as a vehicle; or

27 e. 5. A farm-type tractor or equipment designed for use principally
28 off public roads, except while actually upon public roads.

29 For purposes of this section "persons insured" means the named
30 insured and, while resident of the same household, the spouse of any
31 named insured and relatives of either, while in a motor vehicle or
32 otherwise, and any person who uses with the consent, expressed or
33 implied, of the named insured, the motor vehicle to which the policy
34 applies and a guest in the motor vehicle to which the policy applies
35 or the personal representative of any of the above or any other person
36 or persons in lawful possession of the motor vehicle.

37 ~~Notwithstanding the provisions of this subsection, no policy of motor~~
38 ~~vehicle liability insurance applicable solely to commercial motor vehicles as~~
39 ~~defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be~~
40 ~~required to provide uninsured motorist coverage. Any motor vehicle liability~~
41 ~~policy that insures both commercial motor vehicles as defined in~~
42 ~~G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide uninsured~~
43 ~~motorist coverage in accordance with the provisions of this subsection in~~
44 ~~amounts equal to the highest limits of bodily injury and property damage~~
45 ~~liability coverage for any one noncommercial motor vehicle insured under~~
46 ~~the policy, subject to the right of the insured to purchase higher uninsured~~
47 ~~motorist bodily injury liability coverage limits as set forth in this subsection.~~
48 ~~For the purpose of the immediately preceding sentence, noncommercial~~
49 ~~motor vehicle shall mean any motor vehicle that is not a commercial motor~~
50 ~~vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the~~
51 ~~requirements of this subsection.~~

1 (4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this
2 subsection, provide underinsured motorist coverage, to be used only with a
3 policy that is written at limits that exceed those prescribed by subdivision (2)
4 of this section, with limits equal to the highest limits of bodily injury liability
5 coverage for any one vehicle insured under the policy. If the named insured
6 does not reject underinsured motorist coverage as provided in
7 sub-subdivision a. of this subdivision and does not select different coverage
8 limits as provided in sub-subdivision b. of this subdivision, the amount of
9 underinsured motorist coverage shall be equal to the highest limit of bodily
10 injury liability coverage for any one vehicle in the policy. Once the option to
11 reject underinsured motorist coverage or to select different coverage limits is
12 offered by the insurer, the insurer is not required to offer the option in any
13 renewal, reinstatement, substitute, amended, altered, modified, transfer, or
14 replacement policy unless a named insured makes a written request to
15 exercise a different option. The selection or rejection of underinsured
16 motorist coverage by a named insured or the failure to select or reject is
17 valid and binding on all insureds and vehicles under the policy.

18 a. Rejection of coverage by the insured. – The coverage required under
19 this subdivision shall not be applicable where any insured named in
20 the policy rejects the coverage. An insured named in the policy may
21 select different coverage limits as provided in sub-subdivision b. of
22 this subdivision. Rejection of coverage limits for underinsured
23 motorist coverage for policies under the jurisdiction of the North
24 Carolina Rate Bureau shall be made in writing by the named insured
25 on a form promulgated by the Bureau and approved by the
26 Commissioner of Insurance.

27 b. Selection of different coverage limits by the insured. – The named
28 insured may purchase underinsured motorist coverage with greater
29 limits, subject to the limitation that in no event shall the underinsured
30 motorist coverage limits exceed one million dollars (\$1,000,000) per
31 person and one million dollars (\$1,000,000) per accident. The insurer
32 shall notify the named insured of his or her right to purchase
33 underinsured motorist coverage with greater limits, when the policy
34 is issued and renewed, as provided in subsection (m) of this section.
35 Selection of different coverage limits for underinsured motorist
36 coverage for policies under the jurisdiction of the North Carolina
37 Rate Bureau shall be made in writing by the named insured on a form
38 promulgated by the Bureau and approved by the Commissioner of
39 Insurance.

40 c. Definitions. – An "uninsured motor vehicle," as described in
41 subdivision (3) of this subsection, includes an "underinsured highway
42 vehicle," which means a highway vehicle with respect to the
43 ownership, maintenance, or use of which, the sum of the limits of
44 liability under all bodily injury liability bonds and insurance policies
45 applicable at the time of the accident is less than the applicable limits
46 of underinsured motorist coverage for the vehicle involved in the
47 accident and insured under the owner's policy. For purposes of an
48 underinsured motorist claim asserted by a person injured in an
49 accident where more than one person is injured, a highway vehicle
50 will also be an "underinsured highway vehicle" if the total amount
51 actually paid to that person under all bodily injury liability bonds and

1 insurance policies applicable at the time of the accident is less than
2 the applicable limits of underinsured motorist coverage for the
3 vehicle involved in the accident and insured under the owner's
4 policy. Notwithstanding the immediately preceding sentence, a
5 highway vehicle shall not be an "underinsured motor vehicle" for
6 purposes of an underinsured motorist claim under an owner's policy
7 insuring that vehicle unless the owner's policy insuring that vehicle
8 provides underinsured motorist coverage with limits that are greater
9 than that policy's bodily injury liability limits. For the purposes of
10 this subdivision, the term "highway vehicle" means a land motor
11 vehicle or trailer other than (i) a farm-type tractor or other vehicle
12 designed for use principally off public roads and while not upon
13 public roads, (ii) a vehicle operated on rails or crawler-treads, or (iii)
14 a vehicle while located for use as a residence or premises.

15 d. Scope and limits of underinsured motorist coverage. – The provisions
16 of subdivision (3) of this subsection shall apply to the coverage
17 required by this subdivision. Underinsured motorist coverage is
18 deemed to apply when, by reason of payment of judgment or
19 settlement, all liability bonds or insurance policies providing
20 coverage for bodily injury caused by the ownership, maintenance, or
21 use of the underinsured highway vehicle have been exhausted.
22 Exhaustion of that liability coverage for the purpose of any single
23 liability claim presented for underinsured motorist coverage is
24 deemed to occur when either (a) the limits of liability per claim have
25 been paid upon the claim, or (b) by reason of multiple claims, the
26 aggregate per occurrence limit of liability has been paid.
27 Underinsured motorist coverage is deemed to apply to the first dollar
28 of an underinsured motorist coverage claim beyond amounts paid to
29 the claimant under the exhausted liability policy.

30 In any event, the limit of underinsured motorist coverage
31 applicable to any claim is determined to be the difference between
32 the amount paid to the claimant under the exhausted liability policy
33 or policies and the limit of underinsured motorist coverage applicable
34 to the motor vehicle involved in the accident. Furthermore, if a
35 claimant is an insured under the underinsured motorist coverage on
36 separate or additional policies, the limit of underinsured motorist
37 coverage applicable to the claimant is the difference between the
38 amount paid to the claimant under the exhausted liability policy or
39 policies and the total limits of the claimant's underinsured motorist
40 coverages as determined by combining the highest limit available
41 under each policy; provided that this sentence shall apply only to
42 insurance on nonfleet private passenger motor vehicles as described
43 in G.S. 58-40-15(9) and (10). The underinsured motorist limits
44 applicable to any one motor vehicle under a policy shall not be
45 combined with or added to the limits applicable to any other motor
46 vehicle under that policy.

47 e. Assignment and subrogation. – An underinsured motorist insurer
48 may at its option, upon a claim pursuant to underinsured motorist
49 coverage, pay moneys without there having first been an exhaustion
50 of the liability insurance policy covering the ownership, use, and
51 maintenance of the underinsured highway vehicle. In the event of

1 payment, the underinsured motorist insurer shall be either: (a)
2 entitled to receive by assignment from the claimant any right or (b)
3 subrogated to the claimant's right regarding any claim the claimant
4 has or had against the owner, operator, or maintainer of the
5 underinsured highway vehicle, provided that the amount of the
6 insurer's right by subrogation or assignment shall not exceed
7 payments made to the claimant by the insurer. No insurer shall
8 exercise any right of subrogation or any right to approve settlement
9 with the original owner, operator, or maintainer of the underinsured
10 highway vehicle under a policy providing coverage against an
11 underinsured motorist where the insurer has been provided with
12 written notice before a settlement between its insured and the
13 underinsured motorist and the insurer fails to advance a payment to
14 the insured in an amount equal to the tentative settlement within 30
15 days following receipt of that notice. Further, the insurer shall have
16 the right, at its election, to pursue its claim by assignment or
17 subrogation in the name of the claimant, and the insurer shall not be
18 denominated as a party in its own name except upon its own election.
19 Assignment or subrogation as provided in this subdivision shall not,
20 absent contrary agreement, operate to defeat the claimant's right to
21 pursue recovery against the owner, operator, or maintainer of the
22 underinsured highway vehicle for damages beyond those paid by the
23 underinsured motorist insurer. The claimant and the underinsured
24 motorist insurer may join their claims in a single suit without
25 requiring that the insurer be named as a party. Any claimant who
26 intends to pursue recovery against the owner, operator, or maintainer
27 of the underinsured highway vehicle for moneys beyond those paid
28 by the underinsured motorist insurer shall before doing so give notice
29 to the insurer and give the insurer, at its expense, the opportunity to
30 participate in the prosecution of the claim. Upon the entry of
31 judgment in a suit upon any such claim in which the underinsured
32 motorist insurer and claimant are joined, payment upon the
33 judgment, unless otherwise agreed to, shall be applied pro rata to the
34 claimant's claim beyond payment by the insurer of the owner,
35 operator or maintainer of the underinsured highway vehicle and the
36 claim of the underinsured motorist insurer.

37 A party injured by the operation of an underinsured highway
38 vehicle who institutes a suit for the recovery of moneys for those
39 injuries and in such an amount that, if recovered, would support a
40 claim under underinsured motorist coverage shall give notice of the
41 initiation of the suit to the underinsured motorist insurer as well as to
42 the insurer providing primary liability coverage upon the
43 underinsured highway vehicle. Upon receipt of notice, the
44 underinsured motorist insurer shall have the right to appear in
45 defense of the claim without being named as a party therein, and
46 without being named as a party may participate in the suit as fully as
47 if it were a party. The underinsured motorist insurer may elect, but
48 may not be compelled, to appear in the action in its own name and
49 present therein a claim against other parties; provided that
50 application is made to and approved by a presiding superior court
51 judge, in any such suit, any insurer providing primary liability

1 insurance on the underinsured highway vehicle may upon payment of
2 all of its applicable limits of liability be released from further liability
3 or obligation to participate in the defense of such proceeding.
4 However, before approving any such application, the court shall be
5 persuaded that the owner, operator, or maintainer of the underinsured
6 highway vehicle against whom a claim has been made has been
7 apprised of the nature of the proceeding and given his right to select
8 counsel of his own choice to appear in the action on his separate
9 behalf. If an underinsured motorist insurer, following the approval of
10 the application, pays in settlement or partial or total satisfaction of
11 judgment moneys to the claimant, the insurer shall be subrogated to
12 or entitled to an assignment of the claimant's rights against the
13 owner, operator, or maintainer of the underinsured highway vehicle
14 and, provided that adequate notice of right of independent
15 representation was given to the owner, operator, or maintainer, a
16 finding of liability or the award of damages shall be res judicata
17 between the underinsured motorist insurer and the owner, operator,
18 or maintainer of underinsured highway vehicle.

19 As consideration for payment of policy limits by a liability
20 insurer on behalf of the owner, operator, or maintainer of an
21 underinsured motor vehicle, a party injured by an underinsured motor
22 vehicle may execute a contractual covenant not to enforce against the
23 owner, operator, or maintainer of the vehicle any judgment that
24 exceeds the policy limits. A covenant not to enforce judgment shall
25 not preclude the injured party from pursuing available underinsured
26 motorist benefits, unless the terms of the covenant expressly provide
27 otherwise, and shall not preclude an insurer providing underinsured
28 motorist coverage from pursuing any right of subrogation.

29 ~~Notwithstanding the provisions of this subsection, no policy of motor~~
30 ~~vehicle liability insurance applicable solely to commercial motor vehicles as~~
31 ~~defined in G.S. 20 4.01(3d) or applicable solely to fleet vehicles shall be~~
32 ~~required to provide underinsured motorist coverage. Any motor vehicle~~
33 ~~liability policy that insures both commercial motor vehicles as defined in~~
34 ~~G.S. 20 4.01(3d) and noncommercial motor vehicles shall provide~~
35 ~~underinsured motorist coverage in accordance with the provisions of this~~
36 ~~subsection in an amount equal to the highest limits of bodily injury liability~~
37 ~~coverage for any one noncommercial motor vehicle insured under the policy,~~
38 ~~subject to the right of the insured to purchase higher underinsured motorist~~
39 ~~bodily injury liability coverage limits as set forth in this subsection. For the~~
40 ~~purpose of the immediately preceding sentence, noncommercial motor~~
41 ~~vehicle shall mean any motor vehicle that is not a commercial motor vehicle~~
42 ~~as defined in G.S. 20 4.01(3d), but that is otherwise subject to the~~
43 ~~requirements of this subsection."~~

44 **SECTION 2.** This act becomes effective January 1, 2010, and applies to policies
45 issued or renewed on or after that date.