

AMENDED IN SENATE MARCH 26, 2001

AMENDED IN SENATE MARCH 14, 2001

**SENATE BILL**

**No. 81**

---

---

**Introduced by Senator Speier**

January 11, 2001

---

---

An act to amend Section 11580.2 of the Insurance Code, relating to motor vehicle insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 81, as amended, Speier. Motor vehicle insurance.

Existing law requires a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle to include uninsured motorist coverage. Existing law provides that bodily injury to an insured who is struck by his or her own vehicle is not covered by uninsured motorist coverage.

This bill would require that uninsured motorist coverage include coverage for bodily injury to an insured that is caused by a person operating the insured's vehicle without the consent of the insured in connection with criminal activity that *has been reported to the police and that* the insured is not a party to.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11580.2 of the Insurance Code is  
2 amended to read:

1 11580.2. (a) (1) No policy of bodily injury liability  
2 insurance covering liability arising out of the ownership,  
3 maintenance, or use of any motor vehicle, except for policies  
4 which provide insurance in the Republic of Mexico issued or  
5 delivered in this state by nonadmitted Mexican insurers, shall be  
6 issued or delivered in this state to the owner or operator of a motor  
7 vehicle, or shall be issued or delivered by any insurer licensed in  
8 this state upon any motor vehicle then principally used or  
9 principally garaged in this state, unless the policy contains, or has  
10 added to it by endorsement, a provision with coverage limits at  
11 least equal to the limits specified in subdivision (m) and in no case  
12 less than the financial responsibility requirements specified in  
13 Section 16056 of the Vehicle Code insuring the insured, the  
14 insured's heirs or legal representative for all sums within the limits  
15 which he, she, or they, as the case may be, shall be legally entitled  
16 to recover as damages for bodily injury or wrongful death from the  
17 owner or operator of an uninsured motor vehicle. The insurer and  
18 any named insured, prior to or subsequent to the issuance or  
19 renewal of a policy, may, by agreement in writing, in the form  
20 specified in paragraph (2) or paragraph (3), (1) delete the provision  
21 covering damage caused by an uninsured motor vehicle  
22 completely, or (2) delete the coverage when a motor vehicle is  
23 operated by a natural person or persons designated by name, or (3)  
24 agree to provide the coverage in an amount less than that required  
25 by subdivision (m) but not less than the financial responsibility  
26 requirements specified in Section 16056 of the Vehicle Code. Any  
27 of these agreements by any named insured or agreement for the  
28 amount of coverage shall be binding upon every insured to whom  
29 the policy or endorsement provisions apply while the policy is in  
30 force, and shall continue to be so binding with respect to any  
31 continuation or renewal of the policy or with respect to any other  
32 policy which extends, changes, supersedes, or replaces the policy  
33 issued to the named insured by the same insurer, or with respect to  
34 reinstatement of the policy within 30 days of any lapse thereof. A  
35 policy shall be excluded from the application of this section if the  
36 automobile liability coverage is provided only on an excess or  
37 umbrella basis. Nothing in this section shall require that uninsured  
38 motorist coverage be offered or provided in any homeowner  
39 policy, personal and residents' liability policy, comprehensive  
40 personal liability policy, manufacturers' and contractors' policy,



1 premises liability policy, special multiperil policy, or any other  
2 policy or endorsement where automobile liability coverage is  
3 offered as incidental to some other basic coverage,  
4 notwithstanding that the policy may provide automobile or motor  
5 vehicle liability coverage on insured premises or the ways  
6 immediately adjoining.

7 (2) The agreement specified in paragraph (1) to delete the  
8 provision covering damage caused by an uninsured motor vehicle  
9 completely or delete the coverage when a motor vehicle is  
10 operated by a natural person or persons designated by name shall  
11 be in the following form:

12 “The California Insurance Code requires an insurer to provide  
13 uninsured motorists coverage in each bodily injury liability  
14 insurance policy it issues covering liability arising out of the  
15 ownership, maintenance, or use of a motor vehicle. Those  
16 provisions also permit the insurer and the applicant to delete the  
17 coverage completely or to delete the coverage when a motor  
18 vehicle is operated by a natural person or persons designated by  
19 name. Uninsured motorists coverage insures the insured, his or her  
20 heirs, or legal representatives for all sums within the limits  
21 established by law, which the person or persons are legally entitled  
22 to recover as damages for bodily injury, including any resulting  
23 sickness, disease, or death, to the insured from the owner or  
24 operator of an uninsured motor vehicle not owned or operated by  
25 the insured or a resident of the same household. An uninsured  
26 motor vehicle includes an underinsured motor vehicle as defined  
27 in subdivision (p) of Section 11580.2 of the Insurance Code.”

28 The agreement may contain additional statements not in  
29 derogation of or in conflict with the foregoing. The execution of  
30 the agreement shall relieve the insurer of liability under this  
31 section while the agreement remains in effect.

32 (3) The agreement specified in paragraph (1) to provide  
33 coverage in an amount less than that required by subdivision (m)  
34 shall be in the following form:

35 “The California Insurance Code requires an insurer to provide  
36 uninsured motorists coverage in each bodily injury liability  
37 insurance policy it issues covering liability arising out of the  
38 ownership, maintenance, or use of a motor vehicle. Those  
39 provisions also permit the insurer and the applicant to agree to  
40 provide the coverage in an amount less than that required by



1 subdivision (m) of Section 11580.2 of the Insurance Code but not  
2 less than the financial responsibility requirements. Uninsured  
3 motorists coverage insures the insured, his or her heirs, or legal  
4 representatives for all sums within the limits established by law,  
5 which the person or persons are legally entitled to recover as  
6 damages for bodily injury, including any resulting sickness,  
7 disease, or death, to the insured from the owner or operator of an  
8 uninsured motor vehicle not owned or operated by the insured or  
9 a resident of the same household. An uninsured motor vehicle  
10 includes an underinsured motor vehicle as defined in subdivision  
11 (p) of Section 11580.2 of the Insurance Code.”

12 The agreement may contain additional statements not in  
13 derogation of or in conflict with this paragraph. However, it shall  
14 be presumed that an application for a policy of bodily injury  
15 liability insurance containing uninsured motorist coverage in an  
16 amount less than that required by subdivision (m), signed by the  
17 named insured and approved by the insurer, with a policy effective  
18 date after January 1, 1985, shall be a valid agreement as to the  
19 amount of uninsured motorist coverage to be provided.

20 (b) As used in subdivision (a), “bodily injury” includes  
21 sickness or disease, including death, resulting therefrom; “named  
22 insured” means only the individual or organization named in the  
23 declarations of the policy of motor vehicle bodily injury liability  
24 insurance referred to in subdivision (a); as used in subdivision (a)  
25 if the named insured is an individual “insured” means the named  
26 insured and the spouse of the named insured and, while residents  
27 of the same household, relatives of either while occupants of a  
28 motor vehicle or otherwise, heirs and any other person while in or  
29 upon or entering into or alighting from an insured motor vehicle  
30 and any person with respect to damages he or she is entitled to  
31 recover for care or loss of services because of bodily injury to  
32 which the policy provisions or endorsement apply; as used in  
33 subdivision (a), if the named insured is an entity other than an  
34 individual, “insured” means any person while in or upon or  
35 entering into or alighting from an insured motor vehicle and any  
36 person with respect to damages he or she is entitled to recover for  
37 care or loss of services because of bodily injury to which the policy  
38 provisions or endorsement apply. As used in this subdivision,  
39 “individual” shall not include persons doing business as  
40 corporations, partnerships, or associations. As used in this



1 subdivision, “insured motor vehicle” means the motor vehicle  
2 described in the underlying insurance policy of which the  
3 uninsured motorist endorsement or coverage is a part, a temporary  
4 substitute automobile for which liability coverage is provided in  
5 the policy or a newly acquired automobile for which liability  
6 coverage is provided in the policy if the motor vehicle is used by  
7 the named insured or with his or her permission or consent, express  
8 or implied, and any other automobile not owned by or furnished  
9 for the regular use of the named insured or any resident of the same  
10 household, or by a natural person or persons for whom coverage  
11 has been deleted in accordance with subdivision (a) while being  
12 operated by the named insured or his or her spouse if a resident of  
13 the same household, but “insured motor vehicle” shall not include  
14 any automobile while used as a public or livery conveyance. As  
15 used in this section, “uninsured motor vehicle” means a motor  
16 vehicle with respect to the ownership, maintenance or use of which  
17 there is no bodily injury liability insurance or bond applicable at  
18 the time of the accident, or there is the applicable insurance or bond  
19 but the company writing the insurance or bond denies coverage  
20 thereunder or refuses to admit coverage thereunder except  
21 conditionally or with reservation, or an “underinsured motor  
22 vehicle” as defined in subdivision (p), or a motor vehicle used  
23 without the permission of the owner thereof if there is no bodily  
24 injury liability insurance or bond applicable at the time of the  
25 accident with respect to the owner or operator thereof, or the owner  
26 or operator thereof be unknown, provided that, with respect to an  
27 “uninsured motor vehicle” whose owner or operator is unknown:  
28 (1) The bodily injury has arisen out of physical contact of the  
29 automobile with the insured or with an automobile which the  
30 insured is occupying.

31 (2) The insured or someone on his or her behalf has reported the  
32 accident within 24 hours to the police department of the city where  
33 the accident occurred or, if the accident occurred in  
34 unincorporated territory then either to the sheriff of the county  
35 where the accident occurred or to the local headquarters of the  
36 California Highway Patrol, and has filed with the insurer within  
37 30 days thereafter a statement under oath that the insured or his or  
38 her legal representative has or the insured’s heirs have a cause of  
39 action arising out of the accident for damages against a person or  
40 persons whose identity is unascertainable and set forth facts in



1 support thereof. As used in this section, “uninsured motor  
2 vehicle” shall not include a motor vehicle owned or operated by  
3 the named insured or any resident of the same household or  
4 self-insured within the meaning of the Financial Responsibility  
5 Law of the state in which the motor vehicle is registered or which  
6 is owned by the United States of America, Canada, a state or  
7 political subdivision of any such government or an agency of any  
8 of the foregoing, or a land motor vehicle or trailer while located  
9 for use as a residence or premises and not as a vehicle, or any  
10 equipment or vehicle designed or modified for use primarily off  
11 public roads, except while actually upon public roads.

12 As used in this section, “uninsured motor vehicle” also means  
13 an insured motor vehicle where the liability insurer thereof is  
14 unable to make payment with respect to the legal liability of its  
15 insured within the limits specified therein because of insolvency.  
16 An insurer’s solvency protection shall be applicable only to  
17 accidents occurring during a policy period in which its insured’s  
18 motor vehicle coverage is in effect where the liability insurer of the  
19 tortfeasor becomes insolvent within one year of the accident. In the  
20 event of payment to any person under the coverage required by this  
21 section and subject to the terms and conditions of the coverage, the  
22 insurer making the payment, shall to the extent thereof, be entitled  
23 to any proceeds which may be recoverable from the assets of the  
24 insolvent insurer through any settlement or judgment of the person  
25 against the insolvent insurer.

26 Nothing in this section is intended to exclude from the definition  
27 of an uninsured motor vehicle any motorcycle or private  
28 passenger-type four-wheel drive motor vehicle if that vehicle was  
29 subject to and failed to comply with the Financial Responsibility  
30 Law of this state.

31 (c) The insurance coverage provided for in this section does not  
32 apply either as primary or as excess coverage:

33 (1) To property damage sustained by the insured.

34 (2) To bodily injury of the insured while in or upon or while  
35 entering into or alighting from a motor vehicle other than the  
36 described motor vehicle if the owner thereof has insurance similar  
37 to that provided in this section.

38 (3) To bodily injury of the insured with respect to which the  
39 insured or his or her representative shall, without the written  
40 consent of the insurer, make any settlement with or prosecute to



1 judgment any action against any person who may be legally liable  
2 therefor.

3 (4) In any instance where it would inure directly or indirectly  
4 to the benefit of any workers' compensation carrier or to any  
5 person qualified as a self-insurer under any workers'  
6 compensation law, or directly to the benefit of the United States,  
7 or any state or any political subdivision thereof.

8 (5) To establish proof of financial responsibility as provided in  
9 subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

10 (6) To bodily injury of the insured while occupying a motor  
11 vehicle owned by an insured or leased to an insured under a written  
12 contract for a period of six months or longer, unless the occupied  
13 vehicle is an insured motor vehicle. "Motor vehicle" as used in  
14 this paragraph means any self-propelled vehicle.

15 (7) To bodily injury of the insured when struck by a vehicle  
16 owned by an insured, except when the insured's vehicle is being  
17 operated, or caused to be operated, by a person without the  
18 insured's consent in connection with criminal activity *that has*  
19 *been reported to the police and* that the insured is not a party to.

20 (8) To bodily injury of the insured while occupying a motor  
21 vehicle rented or leased to the insured for public or livery  
22 purposes.

23 (d) Subject to paragraph (2) of subdivision (c), the policy or  
24 endorsement may provide that if the insured has insurance  
25 available to the insured under more than one uninsured motorist  
26 coverage provision, any damages shall not be deemed to exceed  
27 the higher of the applicable limits of the respective coverages, and  
28 the damages shall be prorated between the applicable coverages as  
29 the limits of each coverage bear to the total of the limits.

30 (e) The policy or endorsement added thereto may provide that  
31 if the insured has valid and collectible automobile medical  
32 payment insurance available to him or her, the damages which the  
33 insured shall be entitled to recover from the owner or operator of  
34 an uninsured motor vehicle shall be reduced for purposes of  
35 uninsured motorist coverage by the amounts paid or due to be paid  
36 under the automobile medical payment insurance.

37 (f) The policy or an endorsement added thereto shall provide  
38 that the determination as to whether the insured shall be legally  
39 entitled to recover damages, and if so entitled, the amount thereof,  
40 shall be made by agreement between the insured and the insurer



1 or, in the event of disagreement, by arbitration. The arbitration  
2 shall be conducted by a single neutral arbitrator. An award or a  
3 judgment confirming an award shall not be conclusive on any  
4 party in any action or proceeding between (i) the insured, his or her  
5 insurer, his or her legal representative, or his or her heirs and (ii)  
6 the uninsured motorist to recover damages arising out of the  
7 accident upon which the award is based. If the insured has or may  
8 have rights to benefits, other than nonoccupational disability  
9 benefits, under any workers' compensation law, the arbitrator shall  
10 not proceed with the arbitration until the insured's physical  
11 condition is stationary and ratable. In those cases in which the  
12 insured claims a permanent disability, the claims shall, unless good  
13 cause be shown, be adjudicated by award or settled by compromise  
14 and release before the arbitration may proceed. Any demand or  
15 petition for arbitration shall contain a declaration, under penalty  
16 of perjury, stating whether (i) the insured has a workers'  
17 compensation claim; (ii) the claim has proceeded to findings and  
18 award or settlement on all issues reasonably contemplated to be  
19 determined in that claim; and (iii) if not, what reasons amounting  
20 to good cause are grounds for the arbitration to proceed  
21 immediately. The arbitration shall be deemed to be a proceeding  
22 and the hearing before the arbitrator shall be deemed to be the trial  
23 of an issue therein for purposes of issuance of a subpoena by an  
24 attorney of a party to the arbitration under Section 1985 of the  
25 Code of Civil Procedure. Article 3 (commencing with Section  
26 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil  
27 Procedure shall be applicable to these determinations, and all  
28 rights, remedies, obligations, liabilities and procedures set forth in  
29 Article 3 shall be available to both the insured and the insurer at  
30 any time after the accident, both before and after the  
31 commencement of arbitration, if any, with the following  
32 limitations:

33 (1) Whenever in Article 3, reference is made to the court in  
34 which the action is pending, or provision is made for application  
35 to the court or obtaining leave of court or approval by the court,  
36 the court which shall have jurisdiction for the purposes of this  
37 section shall be the superior court of the State of California, in and  
38 for any county which is a proper county for the filing of a suit for  
39 bodily injury arising out of the accident, against the uninsured



1 motorist, or any county specified in the policy or an endorsement  
2 added thereto as a proper county for arbitration or action thereon.

3 (2) Any proper court to which application is first made by  
4 either the insured or the insurer under Article 3 for any discovery  
5 or other relief or remedy, shall thereafter be the only court to which  
6 either of the parties shall make any applications under Article 3  
7 with respect to the same accident, subject, however, to the right of  
8 the court to grant a change of venue after a hearing upon notice,  
9 upon any of the grounds upon which change of venue might be  
10 granted in an action filed in the superior court.

11 (3) A deposition pursuant to Section 2016 of the Code of Civil  
12 Procedure may be taken without leave of court, except that leave  
13 of court, granted with or without notice and for good cause shown,  
14 must be obtained if the notice of the taking of the deposition is  
15 served by either party within 20 days after the accident.

16 (4) Paragraph (4) of subdivision (a) of Section 2019 of the  
17 Code of Civil Procedure is not applicable to discovery under this  
18 section.

19 (5) For the purposes of discovery under this section, the insured  
20 and the insurer shall each be deemed to be “a party to the record  
21 of any civil action or proceedings,” where that phrase is used in  
22 paragraph (2) of subdivision (b) of Section 2019 of the Code of  
23 Civil Procedure.

24 (6) Interrogatories under Section 2030 of the Code of Civil  
25 Procedure and requests for admission under Section 2033 of the  
26 Code of Civil Procedure may be served by either the insured or the  
27 insurer upon the other at any time more than 20 days after the  
28 accident without leave of court.

29 (7) Nothing in this section limits the rights of any party to  
30 discovery in any action pending or which may hereafter be  
31 pending in any court.

32 (g) The insurer paying a claim under an uninsured motorist  
33 endorsement or coverage shall be entitled to be subrogated to the  
34 rights of the insured to whom the claim was paid against any  
35 person legally liable for the injury or death to the extent that  
36 payment was made. The action may be brought within three years  
37 from the date that payment was made hereunder.

38 (h) An insured entitled to recovery under the uninsured  
39 motorist endorsement or coverage shall be reimbursed within the  
40 conditions stated herein without being required to sign any release



1 or waiver of rights to which he or she may be entitled under any  
2 other insurance coverage applicable; nor shall payment under this  
3 section to the insured be delayed or made contingent upon the  
4 decisions as to liability or distribution of loss costs under other  
5 bodily injury liability insurance or any bond applicable to the  
6 accident. Any loss payable under the terms of the uninsured  
7 motorist endorsement or coverage to or for any person may be  
8 reduced:

9 (1) By the amount paid and the present value of all amounts  
10 payable to him or her, his or her executor, administrator, heirs, or  
11 legal representative under any workers' compensation law,  
12 exclusive of nonoccupational disability benefits.

13 (2) By the amount the insured is entitled to recover from any  
14 other person insured under the underlying liability insurance  
15 policy of which the uninsured motorist endorsement or coverage  
16 is a part, including any amounts tendered to the insured as advance  
17 payment on behalf of the other person by the insurer providing the  
18 underlying liability insurance.

19 (i) (1) No cause of action shall accrue to the insured under any  
20 policy or endorsement provision issued pursuant to this section  
21 unless one of the following actions have been taken within one  
22 year from the date of the accident:

23 (A) Suit for bodily injury has been filed against the uninsured  
24 motorist, in a court of competent jurisdiction.

25 (B) Agreement as to the amount due under the policy has been  
26 concluded.

27 (C) The insured has formally instituted arbitration proceedings  
28 by notifying the insurer in writing sent by certified mail, return  
29 receipt requested. Notice shall be sent to the insurer or to the agent  
30 for process designated by the insurer filed with the department.

31 (2) Any arbitration instituted pursuant to this section shall be  
32 concluded either:

33 (A) Within five years from the institution of the arbitration  
34 proceeding.

35 (B) If the insured has a workers' compensation claim arising  
36 from the same accident, within three years of the date the claim is  
37 concluded, or within the five-year period set forth in subparagraph

38 (A), whichever occurs later.

39 (3) The doctrines of estoppel, waiver, impossibility,  
40 impracticality, and futility apply to excuse a party's



1 noncompliance with the statutory timeframe, as determined by the  
2 court.

3 (4) Parties to the insurance contract may stipulate in writing to  
4 extending the time to conclude arbitration.

5 (j) Notwithstanding subdivisions (b) and (i), in the event the  
6 accident occurs in any other state or foreign jurisdiction to which  
7 coverage is extended under the policy and the insurer of the  
8 tortfeasor becomes insolvent, any action authorized pursuant to  
9 this section may be maintained within three months of the  
10 insolvency of the tortfeasor's insurer, but in no event later than the  
11 pertinent period of limitation of the jurisdiction in which the  
12 accident occurred.

13 (k) Notwithstanding subdivision (i), any insurer whose insured  
14 has made a claim under his or her uninsured motorist coverage, and  
15 the claim is pending, shall, at least 30 days before the expiration  
16 of the applicable statute of limitation, notify its insured in writing  
17 of the statute of limitation applicable to the injury or death. Failure  
18 of the insurer to provide the written notice shall operate to toll any  
19 applicable statute of limitation or other time limitation for a period  
20 of 30 days from the date the written notice is actually given. The  
21 notice shall not be required if the insurer has received notice that  
22 the insured is represented by an attorney.

23 (l) As used in subdivision (b), "public or livery conveyance,"  
24 or terms of similar import, shall not include the operation or use  
25 of a motor vehicle by the named insured in the performance of  
26 volunteer services for a nonprofit charitable organization or  
27 governmental agency by providing social service transportation as  
28 defined in subdivision (f) of Section 11580.1. This subdivision  
29 shall apply only to policies of insurance issued, amended, or  
30 renewed on or after January 1, 1976.

31 (m) Coverage provided under an uninsured motorist  
32 endorsement or coverage shall be offered with coverage limits  
33 equal to the limits of liability for bodily injury in the underlying  
34 policy of insurance, but shall not be required to be offered with  
35 limits in excess of the following amounts:

36 (1) A limit of thirty thousand dollars (\$30,000) because of  
37 bodily injury to or death of one person in any one accident.

38 (2) Subject to the limit for one person set forth in paragraph (1),  
39 a limit of sixty thousand dollars (\$60,000) because of bodily injury  
40 to or death of two or more persons in any one accident.



1 (n) Underinsured motorist coverage shall be offered with limits  
2 equal to the limits of liability for the insured's uninsured motorist  
3 limits in the underlying policy, and may be offered with limits in  
4 excess of the uninsured motorist coverage. For the purposes of this  
5 section, uninsured and underinsured motorist coverage shall be  
6 offered as a single coverage. However, an insurer may offer  
7 coverage for damages for bodily injury or wrongful death from the  
8 owner or operator of an underinsured motor vehicle at greater  
9 limits than an uninsured motor vehicle.

10 (o) If an insured has failed to provide an insurer with wage loss  
11 information or medical treatment record releases within 15 days  
12 of the insurer's request or has failed to submit to a medical  
13 examination arranged by the insurer within 20 days of the insurer's  
14 request, the insurer may, at any time prior to 30 days before the  
15 actual arbitration proceedings commence, request, and the insured  
16 shall furnish, wage loss information or medical treatment record  
17 releases, and the insurer may require the insured, except during  
18 periods of hospitalization, to make himself or herself available for  
19 a medical examination. The wage loss information or medical  
20 treatment record releases shall be submitted by the insured within  
21 10 days of request and the medical examination shall be arranged  
22 by the insurer no sooner than 10 days after request, unless the  
23 insured agrees to an earlier examination date, and not later than 20  
24 days after the request. If the insured fails to comply with the  
25 requirements of this subdivision, the actual arbitration  
26 proceedings shall be stayed for at least 30 days following  
27 compliance by the insured. The proceedings shall be scheduled as  
28 soon as practicable following expiration of the 30-day period.

29 (p) This subdivision applies only when bodily injury, as  
30 defined in subdivision (b), is caused by an underinsured motor  
31 vehicle. If the provisions of this subdivision conflict with  
32 subdivisions (a) through (o), the provisions of this subdivision  
33 shall prevail.

34 (1) As used in this subdivision, "an insured motor vehicle" is  
35 one that is insured under a motor vehicle liability policy, or  
36 automobile liability insurance policy, self-insured, or for which a  
37 cash deposit or bond has been posted to satisfy a financial  
38 responsibility law.

39 (2) "Underinsured motor vehicle" means a motor vehicle that  
40 is an insured motor vehicle but insured for an amount that is less



1 than the uninsured motorist limits carried on the motor vehicle of  
2 the injured person.

3 (3) This coverage does not apply to any bodily injury until the  
4 limits of bodily injury liability policies applicable to all insured  
5 motor vehicles causing the injury have been exhausted by payment  
6 of judgments or settlements, and proof of the payment is submitted  
7 to the insurer providing the underinsured motorist coverage.

8 (4) When bodily injury is caused by one or more motor  
9 vehicles, whether insured, underinsured, or uninsured, the  
10 maximum liability of the insurer providing the underinsured  
11 motorist coverage shall not exceed the insured's underinsured  
12 motorist coverage limits, less the amount paid to the insured by or  
13 for any person or organization that may be held legally liable for  
14 the injury.

15 (5) The insurer paying a claim under this subdivision shall, to  
16 the extent of the payment, be entitled to reimbursement or credit  
17 in the amount received by the insured from the owner or operator  
18 of the underinsured motor vehicle or the insurer of the owner or  
19 operator.

20 (6) If the insured brings an action against the owner or operator  
21 of an underinsured motor vehicle, he or she shall forthwith give to  
22 the insurer providing the underinsured motorist coverage a copy  
23 of the complaint by personal service or certified mail. All  
24 pleadings and depositions shall be made available for copying or  
25 copies furnished the insurer, at the insurer's expense, within a  
26 reasonable time.

27 (7) Underinsured motorist coverage shall be included in all  
28 policies of bodily injury liability insurance providing uninsured  
29 motorist coverage issued or renewed on or after July 1, 1985.  
30 Notwithstanding this section, an agreement to delete uninsured  
31 motorist coverage completely, or with respect to a person or  
32 persons designated by name, executed prior to July 1, 1985, shall  
33 remain in full force and effect.

34 (q) Regardless of the number of vehicles involved whether  
35 insured or not, persons covered, claims made, premiums paid or  
36 the number of premiums shown on the policy, in no event shall the  
37 limit of liability for two or more motor vehicles or two or more



- 1 policies be added together, combined, or stacked to determine the
- 2 limit of insurance coverage available to injured persons.

O

