

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 678

Short Title: Make UM/UIM Insurance Optional Again. (Public)

Sponsors: Representatives Allen, Allred (Primary Sponsors); Frye and Gillespie.

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

March 19, 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 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 limits, when the policy is issued and renewed, as provided in
23 subsection (m) of this section. If the named insured in the policy does
24 not reject uninsured motorist coverage and does not select different
25 coverage limits, the amount of uninsured motorist coverage shall be
26 equal to the highest limit of bodily injury and property damage
27 liability coverage for any one vehicle in the policy. Once the option
28 to reject the uninsured motorist coverage or to select different
29 coverage limits is offered by the insurer, the insurer is not required to
30 offer the option in any renewal, reinstatement, substitute, amended,
31 altered, modified, transfer, or replacement policy unless the named
32 insured makes a written request to exercise a different option. The
33 selection or rejection of uninsured motorist coverage or the failure to
34 select or reject by a named insured is valid and binding on all
35 insureds and vehicles under the policy. Selection of different
36 coverage limits for uninsured motorist coverage for policies under
37 the jurisdiction of the North Carolina Rate Bureau shall be made in
38 writing by a named insured on a form promulgated by the Bureau
39 and approved by the Commissioner of Insurance.

40 c. The provisions shall include coverage for the protection of persons
41 insured thereunder who are legally entitled to recover damages from
42 owners or operators of uninsured motor vehicles because of injury to
43 or destruction of the property of such insured, with a limit in the
44 aggregate for all insureds in any one accident equal to the highest
45 limits of property damage liability coverage for any one vehicle
46 insured in the owner's policy of liability insurance, and subject, for
47 each insured, to an exclusion of the first one hundred dollars
48 (\$100.00) of such damages. The provision shall further provide that a
49 written statement by the liability insurer, whose name appears on the
50 certification of financial responsibility made by the owner of any
51 vehicle involved in an accident with the insured, that the other motor

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

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

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

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

1 setting forth the belief of the insured that the prospective
2 defendant or defendants are uninsured motorists. No default
3 judgment shall be entered when the insurer has timely filed an
4 answer or other pleading as required by law. The failure to
5 post notice to the insurer 60 days in advance of the initiation
6 of suit shall not be grounds for dismissal of the action, but
7 shall automatically extend the time for the filing of an answer
8 or other pleadings to 60 days after the time of service of the
9 summons, complaint, or other process on the insurer.

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

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

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

1 In the event of payment to any person under the coverage
2 required by this section and subject to the terms and conditions of
3 coverage, the insurer making payment shall, to the extent thereof, be
4 entitled to the proceeds of any settlement for judgment resulting from
5 the exercise of any limits of recovery of that person against any
6 person or organization legally responsible for the bodily injury for
7 which the payment is made, including the proceeds recoverable from
8 the assets of the insolvent insurer.

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

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

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

26 e.3. A motor vehicle that is owned by the United States of
27 America, Canada, a state, or any agency of any of the
28 foregoing (excluding, however, political subdivisions
29 thereof);

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

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

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

43 ~~Notwithstanding the provisions of this subsection, no policy of motor~~
44 ~~vehicle liability insurance applicable solely to commercial motor vehicles as~~
45 ~~defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be~~
46 ~~required to provide uninsured motorist coverage. Any motor vehicle liability~~
47 ~~policy that insures both commercial motor vehicles as defined in~~
48 ~~G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide uninsured~~
49 ~~motorist coverage in accordance with the provisions of this subsection in~~
50 ~~amounts equal to the highest limits of bodily injury and property damage~~
51 ~~liability coverage for any one noncommercial motor vehicle insured under~~

1 the policy, subject to the right of the insured to purchase higher uninsured
2 motorist bodily injury liability coverage limits as set forth in this subsection.
3 ~~For the purpose of the immediately preceding sentence, noncommercial~~
4 ~~motor vehicle shall mean any motor vehicle that is not a commercial motor~~
5 ~~vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the~~
6 ~~requirements of this subsection.~~

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

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

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

46 c. Definitions. – An "uninsured motor vehicle," as described in
47 subdivision (3) of this subsection, includes an "underinsured highway
48 vehicle," which means a highway vehicle with respect to the
49 ownership, maintenance, or use of which, the sum of the limits of
50 liability under all bodily injury liability bonds and insurance policies
51 applicable at the time of the accident is less than the applicable limits

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

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

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

1 combined with or added to the limits applicable to any other motor
2 vehicle under that policy.

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

44 A party injured by the operation of an underinsured highway
45 vehicle who institutes a suit for the recovery of moneys for those
46 injuries and in such an amount that, if recovered, would support a
47 claim under underinsured motorist coverage shall give notice of the
48 initiation of the suit to the underinsured motorist insurer as well as to
49 the insurer providing primary liability coverage upon the
50 underinsured highway vehicle. Upon receipt of notice, the
51 underinsured motorist insurer shall have the right to appear in

1 defense of the claim without being named as a party therein, and
2 without being named as a party may participate in the suit as fully as
3 if it were a party. The underinsured motorist insurer may elect, but
4 may not be compelled, to appear in the action in its own name and
5 present therein a claim against other parties; provided that
6 application is made to and approved by a presiding superior court
7 judge, in any such suit, any insurer providing primary liability
8 insurance on the underinsured highway vehicle may upon payment of
9 all of its applicable limits of liability be released from further liability
10 or obligation to participate in the defense of such proceeding.
11 However, before approving any such application, the court shall be
12 persuaded that the owner, operator, or maintainer of the underinsured
13 highway vehicle against whom a claim has been made has been
14 apprised of the nature of the proceeding and given his right to select
15 counsel of his own choice to appear in the action on his separate
16 behalf. If an underinsured motorist insurer, following the approval of
17 the application, pays in settlement or partial or total satisfaction of
18 judgment moneys to the claimant, the insurer shall be subrogated to
19 or entitled to an assignment of the claimant's rights against the
20 owner, operator, or maintainer of the underinsured highway vehicle
21 and, provided that adequate notice of right of independent
22 representation was given to the owner, operator, or maintainer, a
23 finding of liability or the award of damages shall be res judicata
24 between the underinsured motorist insurer and the owner, operator,
25 or maintainer of underinsured highway vehicle.

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

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

1 **SECTION 2.** This act becomes effective January 1, 2009, and applies to policies
2 issued or renewed on or after that date.