

SHB 2415 - S COMM AMD

By Committee on Financial Institutions, Housing & Consumer  
Protection

ADOPTED 02/28/2006

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 48.22.030 and 2004 c 90 s 1 are each amended to read  
4 as follows:

5 (1) "Underinsured motor vehicle" means a motor vehicle with respect  
6 to the ownership, maintenance, or use of which either no bodily injury  
7 or property damage liability bond or insurance policy applies at the  
8 time of an accident, or with respect to which the sum of the limits of  
9 liability under all bodily injury or property damage liability bonds  
10 and insurance policies applicable to a covered person after an accident  
11 is less than the applicable damages which the covered person is legally  
12 entitled to recover.

13 (2) No new policy or renewal of an existing policy insuring against  
14 loss resulting from liability imposed by law for bodily injury, death,  
15 or property damage, suffered by any person arising out of the  
16 ownership, maintenance, or use of a motor vehicle shall be issued with  
17 respect to any motor vehicle registered or principally garaged in this  
18 state unless coverage is provided therein or supplemental thereto for  
19 the protection of persons insured thereunder who are legally entitled  
20 to recover damages from owners or operators of underinsured motor  
21 vehicles, hit-and-run motor vehicles, and phantom vehicles because of  
22 bodily injury, death, or property damage, resulting therefrom, except  
23 while operating or occupying a motorcycle or motor-driven cycle, and  
24 except while operating or occupying a motor vehicle owned or available  
25 for the regular use by the named insured or any family member, and  
26 which is not insured under the liability coverage of the policy. The  
27 coverage required to be offered under this chapter is not applicable to  
28 general liability policies, commonly known as umbrella policies, or  
29 other policies which apply only as excess to the insurance directly  
30 applicable to the vehicle insured.

1 (3) Except as to property damage, coverage required under  
2 subsection (2) of this section shall be in the same amount as the  
3 insured's third party liability coverage unless the insured rejects all  
4 or part of the coverage as provided in subsection (4) of this section.  
5 Coverage for property damage need only be issued in conjunction with  
6 coverage for bodily injury or death. Property damage coverage required  
7 under subsection (2) of this section shall mean physical damage to the  
8 insured motor vehicle unless the policy specifically provides coverage  
9 for the contents thereof or other forms of property damage.

10 (4) A named insured or spouse may reject, in writing, underinsured  
11 coverage for bodily injury or death, or property damage, and the  
12 requirements of subsections (2) and (3) of this section shall not  
13 apply. If a named insured or spouse has rejected underinsured  
14 coverage, such coverage shall not be included in any supplemental or  
15 renewal policy unless a named insured or spouse subsequently requests  
16 such coverage in writing. The requirement of a written rejection under  
17 this subsection shall apply only to the original issuance of policies  
18 issued after July 24, 1983, and not to any renewal or replacement  
19 policy.

20 (5) The limit of liability under the policy coverage may be defined  
21 as the maximum limits of liability for all damages resulting from any  
22 one accident regardless of the number of covered persons, claims made,  
23 or vehicles or premiums shown on the policy, or premiums paid, or  
24 vehicles involved in an accident.

25 (6) The policy may provide that if an injured person has other  
26 similar insurance available to him under other policies, the total  
27 limits of liability of all coverages shall not exceed the higher of the  
28 applicable limits of the respective coverages.

29 (7)(a) The policy may provide for a deductible of not more than  
30 three hundred dollars for payment for property damage when the damage  
31 is caused by a hit-and-run driver or a phantom vehicle.

32 (b) In all other cases of underinsured property damage coverage,  
33 the policy may provide for a deductible of not more than one hundred  
34 dollars.

35 (8) For the purposes of this chapter, a "phantom vehicle" shall  
36 mean a motor vehicle which causes bodily injury, death, or property  
37 damage to an insured and has no physical contact with the insured or

1 the vehicle which the insured is occupying at the time of the accident  
2 if:

3 (a) The facts of the accident can be corroborated by competent  
4 evidence other than the testimony of the insured or any person having  
5 an underinsured motorist claim resulting from the accident; and

6 (b) The accident has been reported to the appropriate law  
7 enforcement agency within seventy-two hours of the accident.

8 (9) An insurer who elects to write motorcycle or motor-driven cycle  
9 insurance in this state must provide information to prospective  
10 insureds about the coverage.

11 (10) If the covered person seeking underinsured motorist coverage  
12 under this section was the intended victim of the tortfeasor, the  
13 incident must be reported to the appropriate law enforcement agency and  
14 the covered person must cooperate with any related law enforcement  
15 investigation.

16 (11) The purpose of this section is to protect innocent victims of  
17 motorists of underinsured motor vehicles. Covered persons are entitled  
18 to coverage without regard to whether an incident was intentionally  
19 caused. A person is not entitled to coverage if the insurer can  
20 demonstrate that the covered person intended to cause the damage for  
21 which underinsured motorists' coverage is sought. As used in this  
22 section, and in the section of policies providing the underinsured  
23 motorist coverage described in this section, "accident" means an  
24 occurrence that is unexpected and unintended from the standpoint of the  
25 covered person.

26 (12) "Underinsured coverage," for the purposes of this section,  
27 means coverage for "underinsured motor vehicles," as defined in  
28 subsection (1) of this section."

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29 On page 1, line 2 of the title, after "motorists;" strike the  
30 remainder of the title and insert "and amending RCW 48.22.030."

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