

FEB 23 1998  
COMMERCE AND REGULATION

HOUSE FILE  
BY HEATON

2404

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to underinsured or uninsured motor vehicle  
2 insurance coverage for damages to property.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2404

1 Section 1. Section 516A.1, Code 1997, is amended to read  
2 as follows:

3 516A.1 COVERAGE INCLUDED IN EVERY LIABILITY POLICY --  
4 REJECTION BY INSURED.

5 No An automobile liability or motor vehicle liability  
6 insurance policy insuring against liability for bodily injury  
7 or death arising out of the ownership, maintenance, or use of  
8 a motor vehicle shall not be delivered or issued for delivery  
9 in this state with respect to any motor vehicle registered or  
10 principally garaged in this state, unless coverage is provided  
11 in such policy or supplemental ~~thereto~~ to such policy, for the  
12 protection of persons insured under such policy who are  
13 legally entitled to recover damages from the owner or operator  
14 of an uninsured motor vehicle or a hit-and-run motor vehicle  
15 or an underinsured motor vehicle because of bodily injury,  
16 sickness, or disease, including death resulting therefrom, or  
17 because of property damage, caused by accident and arising out  
18 of the ownership, maintenance, or use of such uninsured or  
19 underinsured motor vehicle, or arising out of physical contact  
20 of such hit-and-run motor vehicle with the person insured or  
21 with a motor vehicle which the person insured is occupying at  
22 the time of the accident. Both the uninsured motor vehicle or  
23 hit-and-run motor vehicle coverage, and the underinsured motor  
24 vehicle coverage shall include limits for bodily injury or  
25 death, and for property damage, at least equal to those stated  
26 in section 321A.1, subsection 10. The form and provisions of  
27 such coverage shall be examined and approved by the  
28 commissioner of insurance.

29 Coverage provided under this section for property damage  
30 caused by an uninsured motor vehicle, a hit-and-run motor  
31 vehicle, or an underinsured motor vehicle, at the option of  
32 the insurer, may be conditioned on the identification of the  
33 operator of the vehicle causing the damage. An insurer  
34 providing coverage for property damage under this section  
35 shall make available a nondeductible option, in addition to

1 any other deductible option the insurer decides to offer.

2 Coverage provided under this section for property damage  
3 shall also include coverage for damages caused by an accident  
4 involving a wild animal struck by the vehicle. A claim  
5 arising under such coverage for damage caused by an accident  
6 involving a wild animal struck by the vehicle shall not be  
7 considered by an insurer in determining the premium rate to be  
8 charged the insured driver for any coverage.

9 However, the named insured may reject all of such coverage,  
10 or reject the uninsured motor vehicle (hit-and-run motor  
11 vehicle) coverage for bodily injury or death, or reject the  
12 uninsured motor vehicle (hit-and-run motor vehicle) coverage  
13 for property damage, or reject the underinsured motor vehicle  
14 coverage for bodily injury or death, or reject the  
15 underinsured motor vehicle coverage for property damage, by  
16 written rejections signed by the named insured. If rejection  
17 is made on a form or document furnished by an insurance  
18 company or insurance agent, it shall be on a separate sheet of  
19 paper which contains only the rejection and information  
20 directly related to it. Such coverage need not be provided in  
21 or supplemental to a renewal policy if the named insured has  
22 rejected the coverage in connection with a policy previously  
23 issued to the named insured by the same insurer.

24 Sec. 2. Section 516A.2, subsection 1, unnumbered paragraph  
25 1, Code 1997, is amended to read as follows:

26 Except with respect to a policy containing both  
27 underinsured motor vehicle coverage and uninsured or hit-and-  
28 run motor vehicle coverage, nothing contained in this chapter  
29 shall be construed as requiring forms of coverage provided  
30 pursuant hereto to this chapter, whether alone or in  
31 combination with similar coverage afforded under other  
32 automobile liability or motor vehicle liability policies, to  
33 afford limits in excess of those that would be afforded had  
34 the insured thereunder under such liability policy been  
35 involved in an accident with a motorist who was insured under

1 a policy of liability insurance with the minimum limits for  
2 bodily injury or death, or for property damage, prescribed in  
3 subsection 10 of section 321A.1. Such forms of coverage may  
4 include terms, exclusions, limitations, conditions, and  
5 offsets which are designed to avoid duplication of insurance  
6 or other benefits.

7 Sec. 3. Section 516A.4, Code 1997, is amended to read as  
8 follows:

9 516A.4 INSURER MAKING PAYMENT -- REIMBURSEMENT.

10 In the event of payment to any person under the coverage  
11 required by this chapter and subject to the terms and  
12 conditions of such coverage, the insurer making such payment  
13 ~~shall~~, to the extent ~~thereof~~ of the payment, shall be entitled  
14 to the proceeds of any settlement or judgment resulting from  
15 the exercise of any rights of recovery of such person against  
16 any person or organization legally responsible for the bodily  
17 injury or property damage for which such payment is made,  
18 including the proceeds recoverable from the assets of the  
19 insolvent insurer. The person to whom ~~said~~ the payment is  
20 made under the insolvency protection required by this chapter,  
21 ~~shall~~ to the extent ~~thereof~~ of the payment, shall be deemed to  
22 have waived any right to proceed to enforce such a judgment  
23 against the assets of the judgment debtor who was insured by  
24 the insolvent insurer whose insolvency resulted in ~~said~~ the  
25 payment being made, other than assets recovered or recoverable  
26 by ~~such~~ the judgment debtor from ~~such~~ the insolvent insurer.

27 EXPLANATION

28 This bill provides that an automobile liability or motor  
29 vehicle liability insurance policy insuring against liability  
30 for bodily injury or death arising out of the ownership,  
31 maintenance, or use of a motor vehicle which is delivered or  
32 issued for delivery in this state with respect to any motor  
33 vehicle registered or principally garaged in this state must  
34 provide coverage for the protection of persons insured under  
35 the policy who are legally entitled to recover damages from

1 the owner or operator of an uninsured motor vehicle or a hit-  
2 and-run motor vehicle or an underinsured motor vehicle because  
3 of property damage in the same manner as is provided for  
4 bodily injury or death. Such coverage may be conditioned on  
5 the identification of the operator of the vehicle causing the  
6 damage. The bill provides that an insurer providing such  
7 coverage is to make available a nondeductible option in  
8 addition to any other deductible option offered. The named  
9 insured must be able to reject such coverage by written  
10 rejection signed by the named insured.

11 The bill provides that coverage provided under this section  
12 for property damage, shall also include coverage for damages  
13 caused by an accident involving a wild animal struck by the  
14 vehicle. The bill prohibits an insurer from considering a  
15 claim arising under such coverage for damage caused by an  
16 accident involving a wild animal struck by the vehicle in  
17 determining the premium rate to be charged the insured driver  
18 for any coverage.

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