

2009 DRAFTING REQUEST

Bill

Received: **01/28/2010**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Kathleen Vinehout (608) 266-8546**

By/Representing: **Linda Kleinschmidt**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters: **agary**

Subject: **Insurance - auto
Transportation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Vinehout@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various modifications to auto insurance provisions

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 01/28/2010	jdye 02/12/2010		_____			
	agary 01/29/2010			_____			
	pkahler 02/02/2010			_____			
/P1			jfrantze 02/12/2010	_____	sbasford 02/12/2010		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2	pkahler 02/16/2010	jdyer 02/17/2010	phenry 02/18/2010	_____	sbasford 02/18/2010		
/1	pkahler 03/02/2010	jdyer 03/02/2010	rschluet 03/02/2010	_____	sbasford 03/02/2010	cduerst 03/04/2010	

FE Sent For:

none needed

<END>

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Pre Topic:

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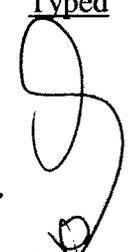
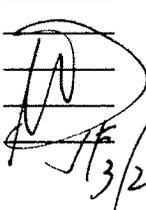
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/P1			jfrantze 02/12/2010		sbasford 02/12/2010		

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Handwritten notes: P2 2/17, PH, and a large signature.

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1?	pkahler	PI 2/11 JLD	JLD 2/12	PK/pk 2/12			

FE Sent For:

<END>

Kahler, Pam

From: Kleinschmidt, Linda
Sent: Wednesday, January 20, 2010 12:48 PM
To: Kahler, Pam
Subject: Draft language for auto insurance

Attachments: Amendment to auto insurance law.pdf

Hi Pam,

Attached is the draft language I mentioned in my voice message. I am not sure if we want to draft all language as a single amendment or as multiple amendments. I will get an answer to that question and get back in touch.

Thanks,

Linda Kleinschmidt
Chief of Staff
Office of State Senator Kathleen Vinehout
104 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

start w/ preliminary
draft



Amendment to auto insurance la...

bill or bills?

not #1 or #11
#2
↑
a bill w/1

per linda by phone
1-28

later → include #11 (but not #1)

**PROPOSED AMENDMENTS TO
WISCONSIN AUTO INSURANCE LAW
(INCLUDING 2009 WISCONSIN ACT 28 CHANGES)**

Leave out for now
①

Stacking of Umbrella/Excess Policy Limits - § 632.32(4r)(f) (Act 28). It is not clear that it was the intent of the stacking provisions in new § 632.32(6)(d) (e) and (f) to apply to umbrella/excess policies. An umbrella/excess policy covers the insured's general liability that includes the insured's liability arising out of any number of situations, including homeowners and auto. Many umbrella/excess policies do not even list motor vehicles on the policy. The nature of an umbrella/excess policy is very different from a primary automobile policy, and the limits on umbrella/excess policies are structured in a very different way from a primary automobile policy.

Suggested language to clear the ambiguities on the medical payments offer on umbrella/excess policies described in paragraph 2 above and stacking of umbrella/excess policy limits in paragraph 3 could be new § 632.32(4r)(f) as follows:

(f) Subsection (4) and pars. (6)(d), (e) and (f) do not apply to umbrella or excess liability policies.

dependent

✓ 2. **Stacking of UM/UIM/Med Pay Policy Limits - § 632.32(6)(d), (e) and (f) (Act 28):**
Modify the provisions that prohibit stacking except for three vehicles.

(a) Renumber § 632.32(6)(d) (Act 28) to § 632.32(5)(f) of the statutes and amend as follows:

former law
632.32(5)(f) A policy may provide that, regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy, or premiums paid, the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine the limit of insurance coverage available for bodily injury or death suffered by a person in any one accident.

Deleted: No

Deleted: uninsured motorist coverage or underinsured motorist

Deleted: , except that a policy may limit the number of motor vehicles for which the limits for coverage may be added to 3 vehicles

(b) Renumber § 632.32(6)(e) (Act 28) to § 632.32(5)(g) and amend as follows:

former law
632.32(5)(g) A policy may provide that the maximum amount of uninsured motorist coverage or underinsured motorist coverage available for bodily injury or death suffered by a person who was not using a motor vehicle at the time of an accident is the highest single limit of uninsured motorist coverage or underinsured motorist

Deleted: No

Deleted: any

coverage, whichever is applicable, for any motor vehicle with respect to which the person is insured.

Deleted: , except that a policy may limit the number of motor vehicles for which coverage limits may be added to 3 vehicles

(c) Renumber § 632.32(6)(f) (Act 28) to § 632.32(5)(h) and amend as follows:

Deleted: No

former law

632.32(5)(h) A policy may provide that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person who was not using a motor vehicle at the time of an accident is the highest single limit of medical payments coverage for any motor vehicle with respect to which the person is insured.

Deleted: any

Deleted: , except that a policy may limit the number of motor vehicles for which medical payments coverage limits may be added to 3 vehicles

In conjunction with the elimination of stacking, Wis. Stat. § 631.43(3) should be amended as follows:

former law

631.43(3) EXCEPTION. Subsection (1) does not affect the rights of insurers to limit or restrict coverage under s. 632.32(5)(b), (c) or (f) or (j).

Deleted: or

Deleted: 1

3. **Definition of Uninsured Motor Vehicle - § 632.32(2)(g) (Act 28).** This change will clarify that (a) that a motor vehicle which is self-insured does not fall within the definition of "uninsured motor vehicle" and (b) that a motor vehicle that is owned by a governmental unit or agency does not fall within the definition of "uninsured motor vehicle." Section 632.32(2)(g) (2009 Wisconsin Act 28) should be amended as follows:

(g) "Uninsured motor vehicle" means a motor vehicle with respect to which, at the time of the accident, a bodily injury liability insurance policy is not in effect, the owner or operator has not furnished proof of financial responsibility for the future under subch. III of ch. 344, the motor vehicle is not owned or operated by a self-insurer under any applicable motor vehicle law, and the motor vehicle is not owned by any governmental unit or agency. "Uninsured motor vehicle" also includes any of the following motor vehicles involved in an accident with a person who has uninsured motorist coverage:

Deleted: that is involved in an accident with a person who has uninsured motorist coverage and

Deleted: and

See 0172

1. An insured motor vehicle if before or after the accident the liability insurer or self-insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction.

2. Except as provided in subd. 3, an unidentified motor vehicle, provided that an independent 3rd party provides evidence in support of the unidentified motor vehicle's involvement in the accident.

Deleted: 1

3. An unidentified motor vehicle involved in a hit-and-run accident, where that vehicle makes contact with the person or the vehicle the person is occupying.

Deleted: with the person

I have also cleaned up the language in (g) a bit, since whether or not a motor vehicle is an uninsured motor vehicle does not depend on whether the other driver has uninsured motorist insurance. It depends simply on whether there is an auto liability policy covering the motor vehicle, whether the owner/operator has complied with Wisconsin's proof of financial responsibility requirements, (as amended) whether the vehicle is covered under a program of self-insurance and whether the vehicle is owned by a governmental entity. The suggested clean-up changes simply make the provision more readable; they do not change the application of uninsured motorist coverage in any way.

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4. **Definition of Underinsured Motor Vehicle - § 632.32(2)(e) (Act 28):** The same changes that are noted above in the definition of "uninsured motor vehicle" arise with respect to the definition of "underinsured motor vehicle." The definition of "uninsured motor vehicle" excludes a motor vehicle for which proof of financial responsibility for the future has been filed. So what happens if the motor vehicle has proof of financial responsibility at the required limits but it's not enough to cover the damages - it must be then underinsured. This won't come up much, since most drivers satisfy the financial responsibility requirement with insurance. Nevertheless, just to fill in the gaps. In addition, if the prohibition against reducing clauses is retained, the definition of underinsured motor vehicle should be changed to compare the at-fault driver's liability limit with the insured's UIM limit to determine if the at-fault driver is underinsured.

(e) "Underinsured motor vehicle" means a motor vehicle to which all of the following apply:

2. A bodily injury liability insurance policy applies to the motor vehicle at the time of the accident or the owner or operator of the motor vehicle has furnished proof of financial responsibility for the future under subch. III of ch. 344 which is effective at the time of the accident.

Deleted: 1. The motor vehicle is involved in an accident with a person who has underinsured motorist coverage.

3. The limits under the bodily injury liability insurance policy or the proof of financial responsibility are less than the insured's underinsured motorist coverage limit.

Deleted: amount needed to fully compensate the insured for his or her damages

4. The motor vehicle is not owned or operated by a self-insurer under any applicable motor vehicle law or owned by any governmental unit or agency.

5. **Renewal with Altered Terms - § 631.36(5).** The renewal with altered terms statute has created an issue as it applies to altered terms and increased premiums that are a result of

statutory changes and not a result of any action by the insurer. We suggest the following amendment to § 631.36(5)(b) to make it clear that a renewal with altered terms notice is not required if the increase in premium is the result of a statutory change.

(b) *Exception.* Paragraph (a) does not apply if the only change that is adverse to the policyholder is a premium increase and if either of the following applies to the premium increase:

1. The premium increase is less than 25% and is generally applicable to the class of business to which the policy belongs.

2. The premium increase results from a change based on action by the insured that alters the nature or extent of the risk insured against, including but not limited to a change in the classification or the units of exposure or increased policy coverage, or a change based on statutory, regulatory authority or case law.

6. UM/UIM Limits - § 632.32(4) (Act 28). It makes no sense to have mandatory UM limits that are greater than the limits drivers are required to have that insure against their liability for injuring others.

(4) REQUIRED UNINSURED MOTORIST, UNDERINSURED, MOTORIST AND MEDICAL PAYMENTS COVERAGES. . .

1. Excluding a policy written by a town mutual organized under ch. 612, uninsured motorist coverage, in limits of at least \$50,000 per person and \$100,000 per accident.

Deleted: 100,000

Deleted: 300,000

Note: If the amendment described in paragraph 6 above is enacted with respect to the comparison of an at-fault driver's liability limit with the insured's UIM limit to determine if the at-fault driver is underinsured, then the UIM limit would need to remain at something above \$50,000/\$100,000 in order for there to be meaningful UIM coverage. I therefore suggest changing only the UM limit requirement. However, if the change in the definition of underinsured motor vehicle is not made, then the required UIM limit should also be reduced to \$50,000/\$100,000.

7. Mandatory UIM - § 632.32(4)(bc). Consumers should be given a choice of whether to purchase at least those coverages that protect themselves. Until 2009 Wisconsin Act 28, UIM was an elective coverage in Wisconsin. The following amendment will change UIM back to an elective coverage.

632.32(4)(bc) Notwithstanding par. (a) 2m and 3m, the named insured may reject underinsured motorist coverage and medical payments coverage. If the named insured rejects either or both of the coverages, the rejected coverage need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing.

8. Medical Payments Limit - § 632.32(4)(a)3m (Act 28). It makes little sense to have a required medical payments limit of \$10,000. The higher limit may force some insureds to reject the coverage where they would have purchased it at \$2,000 or \$5,000. The medical payments limit should be determined by the insured.

3m. Medical payments coverage. Coverage written under this subdivision may be excess coverage over any other source of reimbursement to which the insured person has a legal right.

Deleted: in the amount of at least \$10,000 per person

9. General Intent of Wis. Stat. § 632.32. The better argument is that the legislative intent of Wis. Stat. § 632.32 was that it apply to motor vehicle policies. The title "Provisions of motor vehicle insurance policies" accurately, I believe, states the types of policies the section was intended to cover. Less than artful drafting unintentionally broadened the language so that it arguably includes policies that are not "motor vehicle insurance policies." Suggested language could be as follows:

632.32 Provisions of motor vehicle insurance policies. (1) SCOPE. Except as otherwise provided, this section applies to every motor vehicle insurance policy as defined in s. 344.61(2) issued or delivered in this state against the insured's liability for loss or damage resulting from accident caused by any motor vehicle, whether the loss or damage is to property or to a person.

Deleted: of insurance

* * *

632.32(2)(cm) "Umbrella or excess liability policy" means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying coverage under a motor vehicle liability insurance policy or a specified amount of self-insured retention.

Deleted: coverage

* * *

(4) REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES. Every motor vehicle insurance policy subject to this section that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto the following provisions:

Deleted: of insurance

10. Indexing of Required Liability Limits - §§ 344.01(2)(am)5, 344.11 (Act 28). Repeal the indexing feature of liability limits as unworkable.

✓
Aaron

Section 344.01(2)(am)5 is repealed.

Section 344.11 is repealed.

include

11. **Umbrella/Excess Policies - § 632.32(4r)**. Umbrella and excess policies are liability policies. As such, they should not be required to provide first party coverages. The following amendments repeal § 632.32(4r) requiring a UM/UIM offer and clarify that § 632.32(4) does not apply to umbrella/excess policies.

See

(a) Repeal of § 632.32(4r):

Section 632.32(4r) is repealed.

1.

(b) Creation of § 632.32(4)(d) to clarification that § 632.32(4) does not apply to umbrella/excess policies.

632.32(4)(d) This section does not apply to umbrella or excess liability policies.

✓ 12. **Prohibited Bases for Assessing Risk - § 632.355**. The intent of this section was to not penalize people who were driving without insurance immediately before the June 1, 2010 effective date of mandatory auto. It was not intended to give a break to people who intentionally go without insurance for any period of time after mandatory auto becomes effective. The language suggested below clarifies this intent.

632.355 Prohibited bases for assessing risk. In issuing or renewing a motor vehicle insurance policy, an insurer may not do any of the following:

(1) Place the applicant or insured in a high-risk category on the basis that the applicant or insured has not previously had motor vehicle insurance.

This section does not apply to policies issued on or after January 1, 2011 to persons who are in violation of s. 344.62 at the time of application.

de w/ Aaron

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FRIDAY

PI
*ARG Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D note
(in 2-2)

gen cost
motor vehicle insurance ✓ and proof of
financial responsibility.

① ✓

AN ACT relating to: ~~???~~

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Insert
AG-ANAL ✓
Insert
PJK-A ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert
AG 1-2 ✓

2

SECTION 1. 631.36 (5) (b) (intro.)[✓] of the statutes is amended to read:

3

631.36 (5) (b) *Exception.* (intro.) Paragraph (a) does not apply if the only

4

change that is adverse to the policyholder is a premium increase and if either[✓] any of

5

the following applies to the premium increase:

History: 1975 c. 375, 421; 1977 c. 444 s. 11; 1979 c. 102; 1979 c. 110 s. 60 (11); 1981 c. 83; 1985 a. 335; 1989 a. 187, 332, 359; 1991 a. 315; 1995 a. 259; 1997 a. 27; 1999 a. 9; 2007 a. 168.

6

SECTION 2. 631.36 (5) (b) 3.[✓] of the statutes is created to read:

7

631.36 (5) (b) 3. The premium increase results from a statutory or regulatory

8

change or a change based on case law.

9

SECTION 3. 631.43 (3)[✓] of the statutes, as affected by 2009 Wisconsin Act 28, is

10

amended to read:

1 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to
2 exclude, limit, or restrict coverage under s. 632.32 (5) (b) ~~or~~, (c), or (f) to (j).

3 History: 1975 c. 375; 1979 c. 102; 1995 a. 21; 2009 a. 28.

3 SECTION 4. 632.32 (1) of the statutes is amended to read:

4 632.32 (1) SCOPE. Except as otherwise provided, this section applies to every
5 motor vehicle liability policy of insurance issued or delivered in this state against the
6 insured's liability for loss or damage resulting from accident caused by any motor
7 vehicle, whether the loss or damage is to property or to a person.

8 History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

8 SECTION 5. 632.32 (2) (bc) of the statutes is created to read:

9 632.32 (2) (bc) "Motor vehicle liability policy" has the meaning given in s.
10 344.61 (2).

11 SECTION 6. 632.32 (2) (cm) of the statutes, as created by 2009 Wisconsin Act 28,
12 is amended to read:

13 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance
14 contract providing at least \$1,000,000 of liability coverage per person or per
15 occurrence in excess of certain required underlying motor vehicle liability insurance
16 policy coverage or a specified amount of self-insured retention.

17 History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

17 SECTION 7. 632.32 (2) (g) 3. of the statutes, as created by 2009 Wisconsin Act
18 28, is amended to read:

19 632.32 (2) (g) 3. An unidentified motor vehicle involved in a hit-and-run
20 accident with the person that makes contact, in the accident, with the person or the
21 vehicle that the person is occupying.

22 History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

22 SECTION 8. 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin
23 Act 28, is amended to read:

Insert 2-16 ✓

1 632.32 (4) (a) (intro.) ~~Every~~ [✓] Except as provided in par. (d), every motor vehicle
 2 liability policy of insurance subject to this section that insures with respect to any
 3 motor vehicle registered or principally garaged in this state against loss resulting
 4 from liability imposed by law for bodily injury or death suffered by any person arising
 5 out of the ownership, maintenance, or use of a motor vehicle shall contain therein or
 6 supplemental thereto provisions for all of the following coverages:

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

7 **SECTION 9.** 632.32 (4) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
 8 28, is amended to read:

9 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under
 10 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 [✓] \$50,000 per
 11 person and ~~\$300,000~~ [✓] \$100,000 per accident.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

12 **SECTION 10.** 632.32 (4) (a) 3m. [✓] of the statutes, as affected by 2009 Wisconsin
 13 Act 28, is amended to read:

14 632.32 (4) (a) 3m. Medical payments coverage, [✓] ~~in the amount of at least \$10,000~~
 15 ~~per person~~. Coverage written under this subdivision may be excess coverage over
 16 any other source of reimbursement to which the insured person has a legal right.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

17 **SECTION 11.** 632.32 (4) (bc) of the statutes, as created by 2009 Wisconsin Act
 18 28, is amended to read:

19 632.32 (4) (bc) Notwithstanding par. (a) 2m. [✓] and 3m., the named insured may
 20 reject underinsured motorist coverage or medical payments coverage. [✓] ~~If the named~~
 21 ~~insured rejects the coverage, the or both.~~ Any rejected coverage need not be provided

21

↑ check
△

1 in a subsequent renewal policy issued by the same insurer unless the insured
2 requests it in writing.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

3 SECTION 12. 632.32 (4) (d) of the statutes is created to read:

4 632.32 (4) (d) This subsection does not apply to umbrella or excess liability
5 policies.

****NOTE: Is an umbrella or excess liability policy a "motor vehicle liability policy" as defined in this draft? If not, this provision is not necessary in light of the change to s. 632.32 (4) (a) (intro.).

6 SECTION 13. 632.32 (4r) of the statutes is repealed.

7 SECTION 14. 632.355 (intro.) and (1) of the statutes, as created by 2009
8 Wisconsin Act 28, are consolidated, renumbered 632.355 (1c) and amended to read:

9 632.355 (1c) ~~Prohibited bases for assessing risk.~~ (Intro.) In issuing or
10 renewing a motor vehicle insurance policy, an insurer may not do any of the
11 following: ~~632.355 (1)~~ Place the applicant or insured in a high-risk category
12 on the basis that the applicant or insured has not previously had motor vehicle
13 insurance.

History: 2009 a. 28.

14 SECTION 15. 632.355 (2) of the statutes is created to read:

15 632.355 (2) Subsection (1) does not apply to a person who applies for a motor
16 vehicle insurance policy on or after January 1, 2011, and who is in violation of s.
17 344.62 at the time of application.

18 (END)

Insert 4 - 6
Insert 4 - 17
move

Insert 4 - 17

SECTION #. 632.355 (title) as created by 2009 Wisconsin Act 28, is amended to read:
632.355 (title) Prohibited bases basis for assessing risk.

INSERT PJK-A

Miscellaneous motor vehicle insurance provisions

This bill makes a number of changes to the current law provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

1. Current law, as a result of provisions in the ²⁰⁰⁹⁻¹¹ biennial budget act, makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores some of former law by making the following provisions permissible in a motor vehicle liability insurance policy: (budget act) *

a. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

b. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is the highest single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

c. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is the highest single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

2. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. Under former law, all motor vehicle liability insurance policies were required to include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. As a result of provisions in the biennial budget act, the level of uninsured motorist coverage that motor vehicle liability insurance policies, except for those written by town mutuals, must include is increased to \$100,000 per person and \$300,000 per accident and the level of medical payments coverage that those policies must include is increased to \$10,000. The bill reduces the minimum required limits for uninsured motorist coverage to \$50,000 per person and \$100,000 per accident and eliminates any minimum required limit for medical payments coverage. *

3. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. Former law did not require motor vehicle liability insurance policies to include underinsured motorist coverage but required insurers to provide written notice of the availability of that coverage. If an insured accepted underinsured motorist coverage after receiving notice of its availability, the policy had to include the coverage in limits of at least \$50,000 per person and \$100,000 per



accident. Current law, as a result of provisions in the biennial budget act, requires every motor vehicle liability insurance policy, except for those written by town mutuals, to include underinsured motorist coverage in limits of at least \$100,000 per person and \$300,000 per accident. The bill allows an insured to reject underinsured motorist coverage, which is the case under both former and current law for medical payments coverage.

4. Current law defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages. An uninsured motor vehicle is defined as a motor vehicle that is involved in an accident with an insured and with respect to which, at the time of the accident, no bodily injury liability insurance policy was in effect and the owner or operator had not furnished proof of financial responsibility. An uninsured motor vehicle includes an unidentified motor vehicle involved in a hit-and-run accident with the insured person. The bill excludes from the definitions of uninsured and underinsured motor vehicles, motor vehicles that are owned by a governmental entity; excludes from the definition of an uninsured motor vehicle, in addition to one that is owned or operated by a person who has furnished proof of financial responsibility, one that is owned or operated by a person who is self-insured under any other applicable motor vehicle law; and includes in the definition of an underinsured motor vehicle, one that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than needed to compensate the insured for his or her damages. In addition, the bill specifies that an unidentified motor vehicle involved in a hit-and-run accident with the insured person is an uninsured motor vehicle if the vehicle makes contact with the insured person or the vehicle the insured person is occupying.

5. Current law, as a result of provisions in the biennial budget act, requires an insurer, except for a town mutual, that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. An applicant or insured may reject the coverage, but must do so in writing. If an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. The bill eliminates the requirement that an insurer writing an umbrella or excess liability policy make a written offer of uninsured motorist coverage and underinsured motorist coverage. In addition, the bill explicitly excludes umbrella and excess liability policies from the requirements that apply to motor vehicle insurance policies with respect to uninsured, underinsured, and medical payments coverage.

6. Current law, as a result of provisions in the biennial budget act, prohibits an insurer from placing an applicant for insurance in a high risk category on the basis

*

that

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that the applicant has not previously had motor vehicle insurance. The bill provides that this does not apply to a person who applies for motor vehicle insurance on or after January 1, 2011, and who, at the time of application, is in violation of the requirement beginning June 1, 2010, to have motor vehicle liability insurance as a condition for operating a motor vehicle.

7. Under current law, an insurer must provide at least 60 days' notice to an insured if the insured's policy will be renewed with increased premiums. The bill provides that this does not apply if the premium increase results from a statutory or regulatory change or a change based on case law.

(END OF INSERT PJK-A)

INSERT 4-17

SECTION 1. Initial applicability.

(1) LIMITS, REQUIRED COVERAGE, AND POLICY PROVISIONS. The treatment of sections 631.43 (3) and 632.32 (4) (a) 1. and 3m. and (bc), (4r), and (6) (d), (e), and (f) of the statutes first applies to motor vehicle insurance policies and umbrella and excess liability policies that are issued or renewed on the effective date of this subsection.

(2) RENEWAL WITH INCREASED PREMIUM. The treatment of section 631.36 (5) (b) 3. of the statutes first applies to policies that renewed on the first day of the 3rd month beginning after the effective date of this subsection.

(3) UNINSURED AND UNDERINSURED MOTOR VEHICLE DEFINITIONS. If a motor vehicle insurance policy that is in effect on the effective date of this subsection contains a provision that is inconsistent with the treatment of section 632.32 (2) (e) (intro.), 2., or 3. or (g) (intro.), 1., or 3. or (4) (a) (intro.) or (d) of the statutes, the treatment of section 632.32 (2) (e) (intro.), 2., or 3. or (g) (intro.), 1., or 3. or (4) (a) (intro.) or (d) of the statutes, whichever is applicable, first applies to that motor vehicle insurance policy on the date on which it is renewed.

(END OF INSERT 4-17)

BILL

insert 4-6 102

1 **SECTION 32.** ^x 632.32 (6) (d) of the statutes, as affected by 2009 Wisconsin Act 28,
 2 is renumbered 632.32 (5) (f) and amended to read:

3 632.32 (5) (f) [✓] ~~No~~ A policy may provide that, regardless of the number of policies
 4 involved, vehicles involved, persons covered, claims made, vehicles or premiums
 5 shown on the policy, or premiums paid, the limits for any [✓] ~~uninsured motorist~~
 6 ~~coverage or underinsured motorist~~ coverage under the policy may not be added to the
 7 limits for similar coverage applying to other motor vehicles to determine the limit of
 8 insurance coverage available for bodily injury or death suffered by a person in any
 9 one accident, ~~except that a policy may limit the number of motor vehicles for which~~
 10 ~~the limits for coverage may be added to 3 vehicles.~~ [✓]

11 **SECTION 33.** ^x 632.32 (6) (e) of the statutes, as affected by 2009 Wisconsin Act 28,
 12 is renumbered 632.32 (5) (g) and amended to read:

13 632.32 (5) (g) [✓] ~~No~~ A policy may provide that the maximum amount of uninsured
 14 motorist coverage or underinsured motorist coverage available for bodily injury or
 15 death suffered by a person who was not using a motor vehicle at the time of an
 16 accident is ~~any~~ the highest [✓] single limit of uninsured motorist coverage or
 17 underinsured motorist coverage, whichever is applicable, for any motor vehicle with
 18 respect to which the person is insured, ~~except that a policy may limit the number of~~
 19 ~~motor vehicles for which coverage limits may be added to 3 vehicles.~~ [✓]

20 **SECTION 34.** ^x 632.32 (6) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
 21 is renumbered 632.32 (5) (h) and amended to read:

22 632.32 (5) (h) [✓] ~~No~~ A policy may provide that the maximum amount of medical
 23 payments coverage available for bodily injury or death suffered by a person who was
 24 not using a motor vehicle at the time of an accident is ~~any~~ the highest [✓] single limit of
 25 medical payments coverage for any motor vehicle with respect to which the person



BILL

Ins 4-6 cont'd 20/2

1 is insured, except that a policy may limit the number of motor vehicles for which
2 medical payments coverage limits may be added to 3 vehicles. ✓

3 **SECTION 35.** 632.32 (6) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is renumbered 632.32 (5) (i), and 632.32 (5) (i) (intro.), as renumbered, is amended
5 to read:

6 632.32 (5) (i) (intro.) ~~No~~ A policy may provide that the limits under the policy
7 for uninsured motorist coverage or underinsured motorist coverage for bodily injury
8 or death resulting from any one accident shall be reduced by any of the following that
9 apply:

10 **SECTION 36. Initial applicability.**

11 (1) This act first applies to motor vehicle insurance policies issued or renewed
12 on the effective date of this subsection.

13 **SECTION 37. Effective date.**

14 (1) This act takes effect on November 1, 2009, or on the day after publication,
15 whichever is later.

16

(END) *ins 4-6*

BILL

Insert 2-16

1082

2

1 a single unit with the motor vehicle. "Motor vehicle" does not include farm tractors,
2 well drillers, road machinery, or snowmobiles.

3 SECTION 24. 632.32 (2) (be) of the statutes is created to read:

4 632.32 (2) (be) "Owned motor vehicle" means a motor vehicle that is owned by
5 the insured or that is leased by the insured for a term of 6 months or longer.

6 SECTION 25. 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin
7 Act 28, is amended to read:

8 632.32 (2) (e) (intro.) "Underinsured motor vehicle" means a motor vehicle,
9 other than a motor vehicle owned by a governmental unit, to which all of the
10 following apply:

11 SECTION 26. 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act
12 28, is amended to read:

13 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance
14 policy applies to the motor vehicle at the time of the accident or the owner or operator
15 of the motor vehicle has furnished proof of financial responsibility for the future
16 under subch. III of ch. 344 and it is in effect or is a self-insurer under another
17 applicable motor vehicle law.

18 SECTION 27. 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
19 28, is amended to read:

20 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
21 with respect to the proof of financial responsibility or self-insurance are less than
22 the amount needed to fully compensate the insured for his or her damages.

23 SECTION 28. 632.32 (2) (g) (intro.) of the statutes, as created by 2009 Wisconsin
24 Act 28, is amended to read:



BILL

Insert 2-16 contd 202

1 632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other[✓]
 2 than a motor vehicle owned by a governmental unit,[✓] that is involved in an accident
 3 with a person who has uninsured motorist coverage and with respect to which, at the
 4 time of the accident, a bodily injury liability insurance policy is not in effect and the
 5 owner or operator has not furnished proof of financial responsibility for the future
 6 under subch. III of ch. 344 and is not a self-insurer[✓]under any other applicable motor
 7 vehicle law. "Uninsured motor vehicle" also includes any of the following motor
 8 vehicles, other than a motor vehicle owned by governmental unit,[✓] involved in an
 9 accident with a person who has uninsured motorist coverage:

10 **SECTION 29.** 632.32 (2) (g) 1. [✓]of the statutes, as created by 2009 Wisconsin Act
 11 28, is amended to read:

12 632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to
 13 which the owner or operator is a self-insurer[✓]under any applicable motor vehicle law,
 14 if before or after the accident the liability insurer of the motor vehicle,[✓] or the
 15 self-insurer, is declared insolvent by a court of competent jurisdiction.

16 **SECTION 30.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin
 17 Act 28, is amended to read:

18 632.32 (4) (a) (intro.) ~~Every~~ Except as provided in par. (d), every policy of
 19 insurance subject to this section that insures with respect to any owned motor vehicle
 20 registered or principally garaged in this state against loss resulting from liability
 21 imposed by law for bodily injury or death suffered by any person arising out of the
 22 ownership, maintenance, or use of a motor vehicle shall contain therein or
 23 supplemental thereto provisions for all of the following coverages:

24 **SECTION 31.** 632.32 (4) (d) of the statutes is created to read:

(and of ins 2-16)

1

INSERT AG- ANAL:

Motor vehicle policy liability limits

Under current law, if a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount determined by DOT to be sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum liability limits for any single accident:

1. Before January 1, 2010, \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage.
2. From January 1, 2010, to December 31, 2016, \$50,000 for bodily injury to or death of one person, \$100,000 for bodily injury to or death of more than one person, and \$15,000 for property damage.
3. After December 31, 2016, the limits specified in item 2., above, adjusted for inflation by DOT, and published by DOT, at five-year intervals.

Also under current law, beginning on June 1, 2010, subject to certain exceptions, a person cannot operate a motor vehicle in this state unless the owner or operator of the vehicle has in effect a motor vehicle liability policy with respect to the vehicle being operated. The policy must provide coverage in at least the minimum liability limits specified immediately above.

This bill eliminates DOT's inflation adjustment of required minimum liability limits. The bill eliminates item 3., above, so that, for purposes of both mandatory liability insurance and proof of financial responsibility, the minimum liability limits after January 1, 2010, remain as specified in item 2., above.

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INSERT AG 1-2:

SECTION 1. 227.01 (13) (zz) of the statutes is repealed.

SECTION 2. 344.01 (2) (am) 5. and 344.11 of the statutes are repealed.

, as created by 2009 Wisconsin Act 28,

SECTION #. 344.11 of the statutes, as created by 2009 Wisconsin Act 28, is repealed.

(end ins AG 1-2)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

date

LRB-4221/dn

PJK:....

PI
Jld

You have requested that the term "motor vehicle *insurance* policy" as defined in s. 344.61 (2) be included in three places in s. 632.32. (The actual term that is defined in s. 344.61 (2) is "motor vehicle *liability* policy.") That specific term and definition should not be necessary because in both s. 632.32 (1) and (4) (a) (intro.), the type of policy is described (i.e., insuring against loss or damage resulting from accident caused by any motor vehicle or arising out of the ownership, maintenance, or use of a motor vehicle, etc.). Also, there are numerous other references to policies in the section that were not changed. Do you want all or any of them changed to "motor vehicle *liability* policy"? See s. 632.32 (3) (intro.) and (a); (4) (a) 1. and 2m. and (bc); (5) (a), (b), (c), (d), (e), and (j); and (6) (b) (intro.), (c), (d), (e), (f), and (g).

Do you want to delay the effective date?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4221/P1dn
PJK:jld:jf

February 12, 2010

You requested that the term “motor vehicle *insurance* policy” as defined in s. 344.61 (2) be included in three places in s. 632.32. (The actual term that is defined in s. 344.61 (2) is “motor vehicle *liability* policy.”) That specific term and definition should not be necessary because in both s. 632.32 (1) and (4) (a) (intro.), the type of policy is described (i.e., insuring against loss or damage resulting from accident caused by any motor vehicle or arising out of the ownership, maintenance, or use of a motor vehicle, etc.). Also, there are numerous other references to policies in the section that were not changed. Do you want all or any of them changed to “motor vehicle liability policy”? See s. 632.32 (3) (intro.) and (a), (4) (a) 1. and 2m. and (bc), (5) (a), (b), (c), (d), (e), and (j), and (6) (b) (intro.), (c), (d), (e), (f), and (g).

Do you want to delay the effective date?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kleinschmidt, Linda
Sent: Tuesday, February 16, 2010 10:22 AM
To: Kahler, Pam
Subject: LRB 4221

Hi Pam,

Here are answers to your questions and edits to the bill language:

- ✓1. We do not need to change all the other references to policies in the section to "motor vehicle liability policy"
as is
- ✓2. The normal effective date is OK
as is
- ✓3. Page 6, line 8 – delete words: other than a motor vehicle owned by a governmental unit.
(This is covered by the OCI technical change bill)
- ✓4. Page 6, line 21 – delete language - ... amount needed to fully compensate the insured for his or her damages.
Replace that language with - ...insured's underinsured motorist coverage limit.
With changes line 21 would read: the insured's under insured motorist coverage limit.
- ✓5. Page 6 line 24 -- delete word: other
- ✓6. Page 6 line 25 -- delete words: than a motor vehicle owned by a governmental unit.
(OCI technical bill)
- ✓7. Page 7 line 4 – delete words: ...and is not a self-insured under any other applicable motor
- ✓8. Page 7 line 5 – delete words: vehicle law.
- ✓9. Page 7 line 6 – delete words: ,other than a motor vehicle owned by governmental unit.
(OCI technical bill)
- ✓10. Page 8 – in answer to your note – leave as you have drafted.

Please feel free to give Noreen Parrett a call with questions; she is familiar with this bill.

Thanks Pam,

Linda Kleinschmidt
Chief of Staff
Office of State Senator Kathleen Vinehout
104 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 2-16)

✓ regenerate ↓

1 AN ACT *to repeal* 227.01 (13) (zz), 344.01 (2) (am) 5., 344.11 and 632.32 (4r); *to*

2 *renumber and amend* 632.32 (6) (d), 632.32 (6) (e) and 632.32 (6) (f); *to*

3 *consolidate, renumber and amend* 632.355 (intro.) (except 632.355 (title)

4 and (1); *to amend* 631.36 (5) (b) (intro.), 631.43 (3), 632.32 (1), 632.32 (2) (cm),

5 632.32 (2) (e) (intro.), 632.32 (2) (e) 2., 632.32 (2) (e) 3., 632.32 (2) (g) (intro.),

6 632.32 (2) (g) 1., 632.32 (2) (g) 3., 632.32 (4) (a) (intro.), 632.32 (4) (a) 1., 632.32

7 (4) (a) 3m., 632.32 (4) (bc) and 632.355 (title); and *to create* 631.36 (5) (b) 3.,

8 632.32 (2) (bc), 632.32 (4) (d) and 632.355 (2) of the statutes; **relating to:** motor

9 vehicle insurance and proof of financial responsibility.

Analysis by the Legislative Reference Bureau

Motor vehicle policy liability limits

Under current law, if a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount determined by DOT to be sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after

this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum liability limits for any single accident:

1. Before January 1, 2010, \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage.

2. From January 1, 2010, to December 31, 2016, \$50,000 for bodily injury to or death of one person, \$100,000 for bodily injury to or death of more than one person, and \$15,000 for property damage.

3. After December 31, 2016, the limits specified in item 2., above, adjusted for inflation by DOT, and published by DOT, at five-year intervals.

Also under current law, beginning on June 1, 2010, subject to certain exceptions, a person cannot operate a motor vehicle in this state unless the owner or operator of the vehicle has in effect a motor vehicle liability policy with respect to the vehicle being operated. The policy must provide coverage in at least the minimum liability limits specified immediately above.

This bill eliminates DOT's inflation adjustment of required minimum liability limits. The bill eliminates item 3., above, so that, for purposes of both mandatory liability insurance and proof of financial responsibility, the minimum liability limits after January 1, 2010, remain as specified in item 2., above.

Miscellaneous motor vehicle insurance provisions

This bill makes a number of changes to the current law provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

1. Current law, as a result of provisions in the 2009-11 biennial budget act (budget act), makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores some of former law by making the following provisions permissible in a motor vehicle liability insurance policy:

a. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

b. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is the highest single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

c. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is the highest single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

2. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. Under former law, all motor vehicle liability insurance policies were required to include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. As a result of provisions in the budget act, the level of uninsured motorist coverage that motor vehicle liability insurance policies, except for those written by town mutuals, must include is increased to \$100,000 per person and \$300,000 per accident and the level of medical payments coverage that those policies must include is increased to \$10,000 per person. The bill reduces the minimum required limits for uninsured motorist coverage to \$50,000 per person and \$100,000 per accident and eliminates any minimum required limit for medical payments coverage.

3. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. Former law did not require motor vehicle liability insurance policies to include underinsured motorist coverage but required insurers to provide written notice of the availability of that coverage. If an insured accepted underinsured motorist coverage after receiving notice of its availability, the policy had to include the coverage in limits of at least \$50,000 per person and \$100,000 per accident. Current law, as a result of provisions in the budget act, requires every motor vehicle liability insurance policy, except for those written by town mutuals, to include underinsured motorist coverage coverage in limits of at least \$100,000 per person and \$300,000 per accident. The bill allows an insured to reject underinsured motorist coverage, which is the case under both former and current law for medical payments coverage.

4. Current law defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages. An uninsured motor vehicle is defined as a motor vehicle that is involved in an accident with an insured and with respect to which, at the time of the accident, no bodily injury liability insurance policy was in effect and the owner or operator had not furnished proof of financial responsibility. An uninsured motor vehicle includes an unidentified motor vehicle involved in a hit-and-run accident with the insured person. The bill excludes from the definitions of uninsured and underinsured motor vehicles, motor vehicles that are owned by a governmental entity; excludes from the definition of an uninsured motor vehicle, in addition to one that is owned or operated by a person who has furnished proof of financial responsibility, one that is owned or

Event 3-A

operated by a person who is self-insured under any other applicable motor vehicle law, and includes in the definition of an underinsured motor vehicle, one that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than needed to compensate the insured for his or her damages. In addition, the bill specifies that an unidentified motor vehicle involved in a hit-and-run accident with the insured person is an uninsured motor vehicle if the vehicle makes contact with the insured person or the vehicle that the insured person is occupying.

5. Current law, as a result of provisions in the budget act, requires an insurer, except for a town mutual, that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. An applicant or insured may reject the coverage, but must do so in writing. If an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. The bill eliminates the requirement that an insurer writing an umbrella or excess liability policy make a written offer of uninsured motorist coverage and underinsured motorist coverage. In addition, the bill explicitly excludes umbrella and excess liability policies from the requirements that apply to motor vehicle insurance policies with respect to uninsured, underinsured, and medical payments coverage.

6. Current law, as a result of provisions in the budget act, prohibits an insurer from placing an applicant for insurance in a high-risk category on the basis that the applicant has not previously had motor vehicle insurance. The bill provides that this does not apply to a person who applies for motor vehicle insurance on or after January 1, 2011, and who, at the time of application, is in violation of the requirement beginning June 1, 2010, to have motor vehicle liability insurance as a condition for operating a motor vehicle.

7. Under current law, an insurer must provide at least 60 days' notice to an insured if the insured's policy will be renewed with increased premiums. The bill provides that this does not apply if the premium increase results from a statutory or regulatory change or a change based on case law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X

1 SECTION 1. 227.01 (13) (zz) of the statutes, as created by 2009 Wisconsin Act
2 28, is repealed.

1 **SECTION 2.** 344.01 (2) (am) 5. of the statutes, as created by 2009 Wisconsin Act
2 28, is repealed.

3 **SECTION 3.** 344.11 of the statutes, as created by 2009 Wisconsin Act 28, is
4 repealed.

5 **SECTION 4.** 631.36 (5) (b) (intro.) of the statutes is amended to read:

6 631.36 (5) (b) *Exception.* (intro.) Paragraph (a) does not apply if the only
7 change that is adverse to the policyholder is a premium increase and if either any of
8 the following applies to the premium increase:

9 **SECTION 5.** 631.36 (5) (b) 3. of the statutes is created to read:

10 631.36 (5) (b) 3. The premium increase results from a statutory or regulatory
11 change or a change based on case law.

12 **SECTION 6.** 631.43 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is
13 amended to read:

14 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to
15 exclude, limit, or restrict coverage under s. 632.32 (5) (b) ~~or~~, (c), or (f) to (j).

16 **SECTION 7.** 632.32 (1) of the statutes is amended to read:

17 632.32 (1) SCOPE. Except as otherwise provided, this section applies to every
18 motor vehicle liability policy of insurance issued or delivered in this state against the
19 insured's liability for loss or damage resulting from accident caused by any motor
20 vehicle, whether the loss or damage is to property or to a person.

21 **SECTION 8.** 632.32 (2) (bc) of the statutes is created to read:

22 632.32 (2) (bc) "Motor vehicle liability policy" has the meaning given in s.
23 344.61 (2).

24 **SECTION 9.** 632.32 (2) (cm) of the statutes, as created by 2009 Wisconsin Act 28,
25 is amended to read:

1 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance
2 contract providing at least \$1,000,000 of liability coverage per person or per
3 occurrence in excess of certain required underlying motor vehicle liability insurance
4 policy coverage or a specified amount of self-insured retention.

5 **SECTION 10.** 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin
6 Act 28, is amended to read:

7 632.32 (2) (e) (intro.) "Underinsured motor vehicle" means a motor vehicle,
8 other than a motor vehicle owned by a governmental unit, to which all of the
9 following apply:

10 **SECTION 11.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act
11 28, is amended to read:

12 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance
13 policy applies to the motor vehicle at the time of the accident or the owner or operator
14 of the motor vehicle has furnished proof of financial responsibility for the future
15 under subch. III of ch. 344 and it is in effect or is a self-insurer under another
16 applicable motor vehicle law.

17 **SECTION 12.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
18 28, is amended to read:

19 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
20 with respect to the proof of financial responsibility or self-insurance are less than
21 the amount needed to fully compensate the insured for his or her damages.

22 **SECTION 13.** 632.32 (2) (g) (intro.) of the statutes, as created by 2009 Wisconsin
23 Act 28, is amended to read:

24 632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other
25 than a motor vehicle owned by a governmental unit, that is involved in an accident

1 with a person who has uninsured motorist coverage and with respect to which, at the
 2 time of the accident, a bodily injury liability insurance policy is not in effect and the
 3 owner or operator has not furnished proof of financial responsibility for the future
 4 under subch. III of ch. 344 and is not a self-insurer under any other applicable motor
 5 vehicle law. "Uninsured motor vehicle" also includes any of the following motor
 6 vehicles, other than a motor vehicle owned by governmental unit, involved in an
 7 accident with a person who has uninsured motorist coverage:

Insert 7-7 ✓

8 **SECTION 14.** 632.32 (2) (g) 1. [✓] of the statutes, as created by 2009 Wisconsin Act
 9 28, is amended to read:

10 632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to
 11 which the owner or operator is a self-insurer under any applicable motor vehicle law,
 12 if before or after the accident the liability insurer of the motor vehicle, or the
 13 self-insurer, is declared insolvent by a court of competent jurisdiction.

Insert 7-13 ✓

14 **SECTION 15.** 632.32 (2) (g) 3. [✓] of the statutes, as created by 2009 Wisconsin Act
 15 28, is amended to read:

16 632.32 (2) (g) 3. An unidentified motor vehicle involved in a hit-and-run
 17 accident with the person that makes contact, in the accident, with the person or the
 18 vehicle that the person is occupying.

19 **SECTION 16.** 632.32 (4) (a) (intro.) [✓] of the statutes, as affected by 2009 Wisconsin
 20 Act 28, is amended to read:

21 632.32 (4) (a) (intro.) Every Except as provided in par. (d), every motor vehicle
 22 liability policy of insurance subject to this section that insures with respect to any
 23 motor vehicle registered or principally garaged in this state against loss resulting
 24 from liability imposed by law for bodily injury or death suffered by any person arising

1 out of the ownership, maintenance, or use of a motor vehicle shall contain therein or
2 supplemental thereto provisions for all of the following coverages:

3 SECTION 17. 632.32 (4) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

5 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under
6 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 \$50,000 per
7 person and ~~\$300,000~~ \$100,000 per accident.

8 SECTION 18. 632.32 (4) (a) 3m. of the statutes, as affected by 2009 Wisconsin
9 Act 28, is amended to read:

10 632.32 (4) (a) 3m. Medical payments coverage, ~~in the amount of at least \$10,000~~
11 ~~per person.~~ Coverage written under this subdivision may be excess coverage over
12 any other source of reimbursement to which the insured person has a legal right.

13 SECTION 19. 632.32 (4) (bc) of the statutes, as created by 2009 Wisconsin Act
14 28, is amended to read:

15 632.32 (4) (bc) Notwithstanding par. (a) 2m. and 3m., the named insured may
16 reject underinsured motorist coverage or medical payments coverage. ~~If the named~~
17 ~~insured rejects the coverage, the or both.~~ Any rejected coverage need not be provided
18 in a subsequent renewal policy issued by the same insurer unless the insured
19 requests it in writing.

20 SECTION 20. 632.32 (4) (d) of the statutes is created to read:

21 632.32 (4) (d) This subsection does not apply to umbrella or excess liability
22 policies.

****NOTE: Is an umbrella or excess liability policy a "motor vehicle liability policy"
as defined in this draft? If not, this provision is not necessary in light of the change to
s. 632.32 (4) (a) (intro.).

1 **SECTION 21.** 632.32 (4r) ^X of the statutes, as created by 2009 Wisconsin Act 28,
2 is repealed.

3 **SECTION 22.** 632.32 (6) (d) ^X of the statutes, as affected by 2009 Wisconsin Act 28,
4 is renumbered 632.32 (5) (f) and amended to read:

5 632.32 (5) (f) ~~No~~ A policy may provide that, regardless of the number of policies
6 involved, vehicles involved, persons covered, claims made, vehicles or premiums
7 shown on the policy, or premiums paid, the limits for any ~~uninsured motorist~~
8 ~~coverage or underinsured motorist~~ coverage under the policy may not be added to the
9 limits for similar coverage applying to other motor vehicles to determine the limit of
10 insurance coverage available for bodily injury or death suffered by a person in any
11 one accident, ~~except that a policy may limit the number of motor vehicles for which~~
12 ~~the limits for coverage may be added to 3 vehicles.~~

13 **SECTION 23.** 632.32 (6) (e) ^X of the statutes, as affected by 2009 Wisconsin Act 28,
14 is renumbered 632.32 (5) (g) and amended to read:

15 632.32 (5) (g) ~~No~~ A policy may provide that the maximum amount of uninsured
16 motorist coverage or underinsured motorist coverage available for bodily injury or
17 death suffered by a person who was not using a motor vehicle at the time of an
18 accident is ~~any~~ the highest single limit of uninsured motorist coverage or
19 underinsured motorist coverage, whichever is applicable, for any motor vehicle with
20 respect to which the person is insured, ~~except that a policy may limit the number of~~
21 ~~motor vehicles for which coverage limits may be added to 3 vehicles.~~

22 **SECTION 24.** 632.32 (6) (f) ^X of the statutes, as affected by 2009 Wisconsin Act 28,
23 is renumbered 632.32 (5) (h) and amended to read:

24 632.32 (5) (h) ~~No~~ A policy may provide that the maximum amount of medical
25 payments coverage available for bodily injury or death suffered by a person who was

1 not using a motor vehicle at the time of an accident is ~~any~~ the highest single limit of
2 medical payments coverage for any motor vehicle with respect to which the person
3 is insured, ~~except that a policy may limit the number of motor vehicles for which~~
4 ~~medical payments coverage limits may be added to 3 vehicles.~~

5 SECTION 25. 632.355 (title) ^X of the statutes, as created by 2009 Wisconsin Act
6 28, is amended to read:

7 **632.355 (title) Prohibited bases basis for assessing risk.**

8 SECTION 26. 632.355 (intro.) (except 632.355 (title)) and (1) of the statutes, as
9 created by 2009 Wisconsin Act 28, are consolidated, renumbered 632.355 (1c) and
10 amended to read:

11 632.355 (1c) In issuing or renewing a motor vehicle insurance policy, an insurer
12 may not ~~do any of the following: (1) Place~~ place the applicant or insured in a
13 high-risk category on the basis that the applicant or insured has not previously had
14 motor vehicle insurance.

15 SECTION 27. 632.355 (2) of the statutes is created to read:

16 632.355 (2) Subsection [✓] (1) ^{→ 1c} does not apply to a person who applies for a motor
17 vehicle insurance policy on or after January 1, 2011, and who is in violation of s.
18 344.62 at the time of application.

19 **SECTION 28. Initial applicability.**

20 (1) LIMITS, REQUIRED COVERAGE, AND POLICY PROVISIONS. The treatment of sections
21 631.43 (3) and 632.32 (4) (a) 1. and 3m. and (bc), (4r), and (6) (d), (e), and (f) of the
22 statutes first applies to motor vehicle insurance policies and umbrella and excess
23 liability policies that are issued or renewed on the effective date of this subsection.

1 (2) RENEWAL WITH INCREASED PREMIUM. The treatment of section 631.36 (5) (b)
2 3. of the statutes first applies to policies that renewed on the first day of the 3rd
3 month beginning after the effective date of this subsection.

4 (3) UNINSURED AND UNDERINSURED MOTOR VEHICLE DEFINITIONS. If a motor vehicle
5 insurance policy that is in effect on the effective date of this subsection contains a
6 provision that is inconsistent with the treatment of section 632.32 (2) (e) (intro.), 2,
7 or 3. or (g) (intro.), 1, or 3. or (4) (a) (intro.) or (d) of the statutes, the treatment of
8 section 632.32 (2) (e) (intro.), 2, or 3. or (g) (intro.), 1, or 3. or (4) (a) (intro.) or (d) of
9 the statutes, whichever is applicable, first applies to that motor vehicle insurance
10 policy on the date on which it is renewed.

11 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4221/P2ins
PJK/CAR/jc

INSERT 3-A

not
The bill defines an underinsured motor vehicle as one that is involved in an accident with an insured person who has underinsured motorist coverage and which vehicle, at the time of an accident, was covered by a motor vehicle liability insurance policy with limits that are less than the limits of that insured person's underinsured motorist coverage. The definition also includes a motor vehicle that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than the limits of the insured person's underinsured motorist coverage.

(END OF INSERT 3-A)

INSERT 7-7

1 SECTION 1. 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
2 28, is amended to read:

3 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
4 with respect to the proof of financial responsibility or self-insurance are less than
5 the amount needed to fully compensate the insured for his or her damages limits of
6 the person's underinsured motorist coverage under subd 1.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

****NOTE: I have reworded this from the suggested language to clarify which driver's underinsured motorist coverage is being referred to, in case both drivers have underinsured motorist coverage.

(END OF INSERT 7-7)

INSERT 7-13

****NOTE: This provision (s. 632.32 (2) (g) 1.) is also identically amended in OCI's "technical" bill. Do you want to delete it from this bill? (Incidentally, s. 632.32 (2) (e) 2. is also identically amended in OCI's "technical" bill, but you need to retain it in this bill for purposes of the amendment to s. 632.32 (2) (e) 3., which is not identically amended in OCI's bill.)

(END OF INSERT 7-13)

Kahler, Pam

From: Kleinschmidt, Linda
Sent: Tuesday, March 02, 2010 12:44 PM
To: Kahler, Pam
Subject: FW: Draft 2 Auto Insurance

Hi Pam,

I fell behind with my email and this one got overlooked until now. Below is a note from Noreen that Andy Franken forwarded to me which addresses the question you had in draft 2 of LRB 4221. I think with this questions answered we are ready to go. Let me know if you have any additional questions.

Thanks,

Linda Kleinschmidt

Chief of Staff
Office of State Senator Kathleen Vinehout
104 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

From: Noreen Parrett [mailto:nparrett@parrettoconnell.com]
Sent: Friday, February 19, 2010 8:38 AM
To: afranken@wial.com
Subject: RE: Draft 2 Auto Insurance

Andy, I assume that the amendments to sec. 632.32(2)(g) (intro.) was deleted because that's in the OCI's bill and not because we didn't want it. It's the inclusion of government vehicles as vehicles that are not considered uninsured (as opposed to underinsured) motor vehicles. If that's right, and if we have consistently eliminated anything that's in the OCI's bill, then Pam is right in her note and we should eliminate Section 12 as well because it's in the OCI's bill.

Otherwise I think we're good to go.

Noreen Parrett

**Parrett &
O'Connell, LLP**

ATTORNEYS AT LAW

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From: afranken@wial.com [mailto:afranken@wial.com]
Sent: Thursday, February 18, 2010 5:43 PM
To: Noreen Parrett
Subject: Fw: Draft 2 Auto Insurance

Sent from my BlackBerry® wireless device from U.S. Cellular

From: "Kleinschmidt, Linda" <Linda.Kleinschmidt@legis.wisconsin.gov>
Date: Thu, 18 Feb 2010 17:20:51 -0600
To: <afranken@wial.com>
Subject: Draft 2 Auto Insurance

Hi Andy,

Attached is draft 2 of the auto insurance bill. Take a look and let me know if you have changes or if it is ready for circulating.

Thanks,

Linda Kleinschmidt
Chief of Staff
Office of State Senator Kathleen Vinehout
104 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

<<09-4221P2 Motor Vehicle Insurance Changes draft 2.pdf>>

Information from ESET NOD32 Antivirus, version of virus signature database 4878
(20100218)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

03/02/2010



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4221/94
PJK&ARG:jld:rb
r m i s r u n

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

(in 3-2)
SOON

✓

regenerate ↓

1 AN ACT *to repeal* 227.01 (13) (zz), 344.01 (2) (am) 5., 344.11 and 632.32 (4r); *to*
2 *renumber and amend* 632.32 (6) (d), 632.32 (6) (e) and 632.32 (6) (f); *to*
3 *consolidate, renumber and amend* 632.355 (intro.) (except 632.355 (title))
4 and (1); *to amend* 631.36 (5) (b) (intro.), 631.43 (3), 632.32 (1), 632.32 (2) (cm),
5 632.32 (2) (e) 2., 632.32 (2) (e) 3., 632.32 (2) (g) 1., 632.32 (2) (g) 3., 632.32 (4)
6 (a) (intro.), 632.32 (4) (a) 1., 632.32 (4) (a) 3m., 632.32 (4) (bc) and 632.355 (title);
7 and *to create* 631.36 (5) (b) 3., 632.32 (2) (bc), 632.32 (4) (d) and 632.355 (2) of
8 the statutes; **relating to:** motor vehicle insurance and proof of financial
9 responsibility. ✓

Analysis by the Legislative Reference Bureau

Motor vehicle policy liability limits

Under current law, if a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount determined by DOT to be sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after

this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum liability limits for any single accident:

1. Before January 1, 2010, \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage.

2. From January 1, 2010, to December 31, 2016, \$50,000 for bodily injury to or death of one person, \$100,000 for bodily injury to or death of more than one person, and \$15,000 for property damage.

3. After December 31, 2016, the limits specified in item 2., above, adjusted for inflation by DOT, and published by DOT, at five-year intervals.

Also under current law, beginning on June 1, 2010, subject to certain exceptions, a person cannot operate a motor vehicle in this state unless the owner or operator of the vehicle has in effect a motor vehicle liability policy with respect to the vehicle being operated. The policy must provide coverage in at least the minimum liability limits specified immediately above.

This bill eliminates DOT's inflation adjustment of required minimum liability limits. The bill eliminates item 3., above, so that, for purposes of both mandatory liability insurance and proof of financial responsibility, the minimum liability limits after January 1, 2010, remain as specified in item 2., above.

Miscellaneous motor vehicle insurance provisions

This bill makes a number of changes to the current law provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

1. Current law, as a result of provisions in the 2009-11 biennial budget act (budget act), makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores some of former law by making the following provisions permissible in a motor vehicle liability insurance policy:

a. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

b. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is the highest single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

c. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is the highest single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

2. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. Under former law, all motor vehicle liability insurance policies were required to include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. As a result of provisions in the budget act, the level of uninsured motorist coverage that motor vehicle liability insurance policies, except for those written by town mutuals, must include is increased to \$100,000 per person and \$300,000 per accident and the level of medical payments coverage that those policies must include is increased to \$10,000 per person. The bill reduces the minimum required limits for uninsured motorist coverage to \$50,000 per person and \$100,000 per accident and eliminates any minimum required limit for medical payments coverage.

3. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. Former law did not require motor vehicle liability insurance policies to include underinsured motorist coverage but required insurers to provide written notice of the availability of that coverage. If an insured accepted underinsured motorist coverage after receiving notice of its availability, the policy had to include the coverage in limits of at least \$50,000 per person and \$100,000 per accident. Current law, as a result of provisions in the budget act, requires every motor vehicle liability insurance policy, except for those written by town mutuals, to include underinsured motorist coverage coverage in limits of at least \$100,000 per person and \$300,000 per accident. The bill allows an insured to reject underinsured motorist coverage, which is the case under both former and current law for medical payments coverage.

4. Current law defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

An uninsured motor vehicle is defined as a motor vehicle that is involved in an accident with an insured and with respect to which, at the time of the accident, no bodily injury liability insurance policy was in effect and the owner or operator had not furnished proof of financial responsibility.

An uninsured motor vehicle includes an unidentified motor vehicle involved in a hit-and-run accident with the insured person.

The bill defines an underinsured motor vehicle as one that is involved in an accident with an insured person who has underinsured motorist coverage and which vehicle, at the time of an accident, was covered by a motor vehicle liability insurance policy with limits that are less than the limits of that insured person's underinsured

Insert A-5 (move to next page)

✓

Q

motorist coverage. The definition also includes a motor vehicle that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than the limits of the insured person's underinsured motorist coverage. The bill excludes from the definition of an uninsured motor vehicle, in addition to one that is owned or operated by a person who has furnished proof of financial responsibility, one that is owned or operated by a person who is self-insured under any other applicable motor vehicle law. In addition, the bill specifies that an unidentified motor vehicle involved in a hit-and-run accident with the insured person is an uninsured motor vehicle if the vehicle makes contact with the insured person or the vehicle that the insured person is occupying.

Current law, as a result of provisions in the budget act, requires an insurer, except for a town mutual, that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. An applicant or insured may reject the coverage, but must do so in writing. If an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. The bill eliminates the requirement that an insurer writing an umbrella or excess liability policy make a written offer of uninsured motorist coverage and underinsured motorist coverage. In addition, the bill explicitly excludes umbrella and excess liability policies from the requirements that apply to motor vehicle insurance policies with respect to uninsured, underinsured, and medical payments coverage.

Current law, as a result of provisions in the budget act, prohibits an insurer from placing an applicant for insurance in a high-risk category on the basis that the applicant has not previously had motor vehicle insurance. The bill provides that this does not apply to a person who applies for motor vehicle insurance on or after January 1, 2011, and who, at the time of application, is in violation of the requirement beginning June 1, 2010, to have motor vehicle liability insurance as a condition for operating a motor vehicle.

Under current law, an insurer must provide at least 60 days' notice to an insured if the insured's policy will be renewed with increased premiums. The bill provides that this does not apply if the premium increase results from a statutory or regulatory change or a change based on case law.

4
5. Under current law, (insert A-5) (see p. 3)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 227.01 (13) (zz) of the statutes, as created by 2009 Wisconsin Act
2 28, is repealed.

3 **SECTION 2.** 344.01 (2) (am) 5. of the statutes, as created by 2009 Wisconsin Act
4 28, is repealed.

5 **SECTION 3.** 344.11 of the statutes, as created by 2009 Wisconsin Act 28, is
6 repealed.

7 **SECTION 4.** 631.36 (5) (b) (intro.) of the statutes is amended to read:

8 631.36 (5) (b) *Exception.* (intro.) Paragraph (a) does not apply if the only
9 change that is adverse to the policyholder is a premium increase and if either any of
10 the following applies to the premium increase:

11 **SECTION 5.** 631.36 (5) (b) 3. of the statutes is created to read:

12 631.36 (5) (b) 3. The premium increase results from a statutory or regulatory
13 change or a change based on case law.

14 **SECTION 6.** 631.43 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is
15 amended to read:

16 631.43 (3) **EXCEPTION.** Subsection (1) does not affect the rights of insurers to
17 exclude, limit, or restrict coverage under s. 632.32 (5) (b) ~~or~~, (c), or (f) to (j).

18 **SECTION 7.** 632.32 (1) of the statutes is amended to read:

19 632.32 (1) **SCOPE.** Except as otherwise provided, this section applies to every
20 motor vehicle liability policy of insurance issued or delivered in this state against the
21 insured's liability for loss or damage resulting from accident caused by any motor
22 vehicle, whether the loss or damage is to property or to a person.

23 **SECTION 8.** 632.32 (2) (bc) of the statutes is created to read:

24 632.32 (2) (bc) "Motor vehicle liability policy" has the meaning given in s.
25 344.61 (2).

1 **SECTION 9.** 632.32 (2) (cm) of the statutes, as created by 2009 Wisconsin Act 28,
2 is amended to read:

3 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance
4 contract providing at least \$1,000,000 of liability coverage per person or per
5 occurrence in excess of certain required underlying motor vehicle liability insurance
6 policy coverage or a specified amount of self-insured retention.

7 **SECTION 10.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act
8 28, is amended to read:

9 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance
10 policy applies to the motor vehicle at the time of the accident or the owner or operator
11 of the motor vehicle has furnished proof of financial responsibility for the future
12 under subch. III of ch. 344 and it is in effect or is a self-insurer under another
13 applicable motor vehicle law.

14 **SECTION 11.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
15 28, is amended to read:

16 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
17 with respect to the proof of financial responsibility or self-insurance are less than
18 the amount needed to fully compensate the insured for his or her damages limits of
19 the person's underinsured motorist coverage under subd. 1.

****NOTE: I have reworded this from the suggested language to clarify which driver's underinsured motorist coverage is being referred to, in case both drivers have underinsured motorist coverage.

20 **SECTION 12.** 632.32 (2) (g) 1. of the statutes, as created by 2009 Wisconsin Act
21 28, is amended to read:

22 632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to
23 which the owner or operator is a self-insurer under any applicable motor vehicle law.

1 if before or after the accident the liability insurer of the motor vehicle, or the
2 self-insurer, is declared insolvent by a court of competent jurisdiction.

****NOTE: This provision (s. 632.32 (2) (g) 1.) is also identically amended in OCI's "technical" bill. Do you want to delete it from this bill? (Incidentally, s. 632.32 (2) (e) 2. is also identically amended in OCI's "technical" bill, but you need to retain it in this bill for purposes of the amendment to s. 632.32 (2) (e) 3., which is not identically amended in OCI's bill.)

3 SECTION 13. 632.32 (2) (g) 3. of the statutes, as created by 2009 Wisconsin Act
4 28, is amended to read:

5 632.32 (2) (g) 3. An unidentified motor vehicle involved in a hit-and-run
6 accident with the person that makes contact, in the accident, with the person or the
7 vehicle that the person is occupying.

8 SECTION 14. 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin
9 Act 28, is amended to read:

10 632.32 (4) (a) (intro.) Every Except as provided in par. (d), every motor vehicle
11 liability policy of insurance subject to this section that insures with respect to any
12 motor vehicle registered or principally garaged in this state against loss resulting
13 from liability imposed by law for bodily injury or death suffered by any person arising
14 out of the ownership, maintenance, or use of a motor vehicle shall contain therein or
15 supplemental thereto provisions for all of the following coverages:

16 SECTION 15. 632.32 (4) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
17 28, is amended to read:

18 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under
19 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 \$50,000 per
20 person and \$300,000 \$100,000 per accident.

21 SECTION 16. 632.32 (4) (a) 3m. of the statutes, as affected by 2009 Wisconsin
22 Act 28, is amended to read:

1 632.32 (4) (a) 3m. Medical payments coverage, ~~in the amount of at least \$10,000~~
2 ~~per person~~. Coverage written under this subdivision may be excess coverage over
3 any other source of reimbursement to which the insured person has a legal right.

4 **SECTION 17.** 632.32 (4) (bc) of the statutes, as created by 2009 Wisconsin Act
5 28, is amended to read:

6 632.32 (4) (bc) Notwithstanding par. (a) 2m. and 3m., the named insured may
7 reject underinsured motorist coverage or medical payments coverage. ~~If the named~~
8 ~~insured rejects the coverage, the or both.~~ Any rejected coverage need not be provided
9 in a subsequent renewal policy issued by the same insurer unless the insured
10 requests it in writing.

11 **SECTION 18.** 632.32 (4) (d) of the statutes is created to read:

12 632.32 (4) (d) This subsection does not apply to umbrella or excess liability
13 policies.

14 **SECTION 19.** 632.32 (4r) of the statutes, as created by 2009 Wisconsin Act 28,
15 is repealed.

16 **SECTION 20.** 632.32 (6) (d) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is renumbered 632.32 (5) (f) and amended to read:

18 632.32 (5) (f) ~~No~~ A policy may provide that, regardless of the number of policies
19 involved, vehicles involved, persons covered, claims made, vehicles or premiums
20 shown on the policy, or premiums paid, the limits for any ~~uninsured motorist~~
21 ~~coverage or underinsured motorist~~ coverage under the policy may not be added to the
22 limits for similar coverage applying to other motor vehicles to determine the limit of
23 insurance coverage available for bodily injury or death suffered by a person in any
24 one accident, ~~except that a policy may limit the number of motor vehicles for which~~
25 ~~the limits for coverage may be added to 3 vehicles.~~

1 **SECTION 21.** 632.32 (6) (e) [✓] of the statutes, as affected by 2009 Wisconsin Act 28,
2 is renumbered 632.32 (5) (g) and amended to read:

3 632.32 (5) (g) ~~No~~ A policy may provide that the maximum amount of uninsured
4 motorist coverage or underinsured motorist coverage available for bodily injury or
5 death suffered by a person who was not using a motor vehicle at the time of an
6 accident is ~~any~~ the highest single limit of uninsured motorist coverage or
7 underinsured motorist coverage, whichever is applicable, for any motor vehicle with
8 respect to which the person is insured, ~~except that a policy may limit the number of~~
9 ~~motor vehicles for which coverage limits may be added to 3 vehicles.~~

10 **SECTION 22.** 632.32 (6) (f) [✓] of the statutes, as affected by 2009 Wisconsin Act 28,
11 is renumbered 632.32 (5) (h) and amended to read:

12 632.32 (5) (h) ~~No~~ A policy may provide that the maximum amount of medical
13 payments coverage available for bodily injury or death suffered by a person who was
14 not using a motor vehicle at the time of an accident is ~~any~~ the highest single limit of
15 medical payments coverage for any motor vehicle with respect to which the person
16 is insured, ~~except that a policy may limit the number of motor vehicles for which~~
17 ~~medical payments coverage limits may be added to 3 vehicles.~~

18 **SECTION 23.** 632.355 (title) [✓] of the statutes, as created by 2009 Wisconsin Act
19 28, is amended to read:

20 **632.355 (title) Prohibited bases basis for assessing risk.**

21 **SECTION 24.** 632.355 (intro.) (except 632.355 (title)) [✓] and (1) of the statutes, as
22 created by 2009 Wisconsin Act 28, are consolidated, renumbered 632.355 (1c) and
23 amended to read:

24 632.355 (1c) In issuing or renewing a motor vehicle insurance policy, an insurer
25 may not ~~do any of the following:~~ (1) ~~Place~~ place the applicant or insured in a

1 high-risk category on the basis that the applicant or insured has not previously had
2 motor vehicle insurance.

3 SECTION 25. 632.355 (2) of the statutes is created to read:

4 632.355 (2) Subsection (1c) does not apply to a person who applies for a motor
5 vehicle insurance policy on or after January 1, 2011, and who is in violation of s.
6 344.62 at the time of application.

7 SECTION 26. Initial applicability.

8 (1) LIMITS, REQUIRED COVERAGE, AND POLICY PROVISIONS. The treatment of sections
9 631.43 (3) and 632.32 (4) (a) 1. and 3m. and (bc), (4r), and (6) (d), (e), and (f) of the
10 statutes first applies to motor vehicle insurance policies and umbrella and excess
11 liability policies that are issued or renewed on the effective date of this subsection.

12 (2) RENEWAL WITH INCREASED PREMIUM. The treatment of section 631.36 (5) (b)
13 3. of the statutes first applies to policies that renewed on the first day of the 3rd
14 month beginning after the effective date of this subsection.

15 (3) UNINSURED AND UNDERINSURED MOTOR VEHICLE DEFINITIONS. If a motor vehicle
16 insurance policy that is in effect on the effective date of this subsection contains a
17 provision that is inconsistent with the treatment of section 632.32 (2) (e) 2. or 3. or

18 (g) 1. or 3. or (4) (a) (intro.) or (d) of the statutes, the treatment of section 632.32 (2)
19 (e) 2. or 3. or (g) 1. or 3. or (4) (a) (intro.) or (d) of the statutes, whichever is applicable,
20 first applies to that motor vehicle insurance policy on the date on which it is renewed.

21 (END)

Parisi, Lori

From: Kleinschmidt, Linda
Sent: Thursday, March 04, 2010 12:07 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4221/1 Topic: Various modifications to auto insurance provisions

Please Jacket LRB 09-4221/1 for the SENATE.